



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

SELECT COMMITTEE ON CARETAKER CONVENTIONS

(Reference: [Inquiry into Caretaker Conventions](#))

Members:

**MR S RATTENBURY (Chair)
MS L CASTLEY (Deputy Chair)
MR T WERNER-GIBBINGS**

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 2 OCTOBER 2025

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**Secretary to the committee:
Ms K Langham (Ph: 620 75498)**

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.

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Amended 20 May 2013

The committee met at 2.00 pm.

BARR, Mr Andrew, Chief Minister, Minister for Economic Development and Minister for Tourism and Trade

CAMPBELL, Mr Ross, Acting Head of Service, Chief Minister, Treasury and Economic Development Directorate

GARRISSON, Mr Peter, Solicitor-General for the ACT, Justice and Community Safety Directorate

YOUNG, Mr Michael, Acting Deputy Director-General, Office of Industrial Relations and Workforce Strategy, Chief Minister, Treasury and Economic Development Directorate

THE CHAIR: Good afternoon and welcome to this public hearing of the Select Committee on Caretaker Conventions for its inquiry into caretaker conventions. The committee will today hear from the Chief Minister and officials. Thank you all for attending.

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

This hearing is a legal proceeding of the Assembly and has the same standing as proceedings of the Assembly itself. Therefore, today's evidence attracts parliamentary privilege. Giving false or misleading evidence is a serious matter and may be regarded as contempt of the Assembly. The hearing is being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and web-streamed live. If anybody takes a question on notice, it would be useful to use the usual framing of "I will take that question on notice" so that everyone can be clear about that.

I welcome Mr Andrew Barr MLA, the Chief Minister, and officials. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

We are not taking opening statements, as is the practice of the Assembly these days, so we will jump straight to the questions. I start by tabling a document which I have given to the secretariat. I will provide a copy to the Chief Minister so that we have the same information. For the benefit of the *Hansard*, this is an extract of the Chief Minister, Treasury and Economic Development Directorate's FOI 2024-408. Chief Minister, could I confirm that my understanding is correct—that this is the letter from the Head of Service which was contained with your incoming government brief, congratulating you on your re-election.

Mr Barr: It looks to be—yes.

THE CHAIR: This letter is dated 19 October, which was actually election day. When did you actually receive it?

Mr Barr: I will need to take on notice when that was. The briefing pack probably would not have come over until the Monday after the election.

THE CHAIR: For the purpose of this hearing, we could probably presume it was either Sunday or Monday.

Mr Barr: It was not Sunday.

THE CHAIR: Fair enough. Everyone deserves a rest.

Mr Barr: Yes.

THE CHAIR: Indeed. At the same time, that came with the incoming briefing pack attached to it?

Mr Barr: I believe so—yes.

THE CHAIR: The incoming briefing contained a range of briefs with issues for immediate consideration. Is it correct that you signed off on all of those briefs by 27 October?

Mr Barr: Quite likely, but I will need to check the dates in relation to that.

THE CHAIR: Were those briefs purely for noting or did some of them require agreement to action?

Mr Barr: I imagine most would have been for noting, but I can again take on notice whether any involved a decision.

THE CHAIR: In the FOI document, there is also a table of issues for immediate consideration. I will give it to the secretariat and I am happy to distribute copies. Many of them contain a critical date, or a return date—commonly on briefs it says “critical date”—of well after 27 October. Assuming they are the same briefs that came in that incoming government brief pack, why did you sign them by 27 October?

Mr Barr: I will need to check as to why I signed the overall noting pack or briefs before—

THE CHAIR: I am interested in the timeline for each of them.

Mr Barr: Each of the briefs—okay. I will need to look at each of them and provide an answer on each. Some obviously have particular timelines associated with a meeting—attendance at a Local Government Ministers’ Forum, for example. Others would have related to particular decisions around, for example, the National Skills Agreement or consideration of a bid for the Rugby World Cup. Those would appear to be a couple at the top of the list. Everything else was later in that email.

THE CHAIR: In your mind, what date did the ACT government come out of caretaker mode?

Mr Barr: In a formal sense, you come out of caretaker mode upon the election of a Chief Minister on the floor of the Assembly. However, in an informal sense, it is when a negotiation concludes or an outcome has been reached, in terms of certainty of who would be elected Chief Minister.

THE CHAIR: For clarity of the record here today, that sitting of the Assembly was on 6 November.

Mr Barr: Yes.

THE CHAIR: You and I both know, but, for the community's benefit, those negotiations continued until late on 5 November.

Mr Barr: Yes. Obviously, some indications had been given earlier in the piece, and the nature of those negotiations, which extended over many days, were heading in a particular direction, otherwise both of us would not have invested the amount of time that we did in the minutiae of that. For the public record, it involved probably 20-plus hours of meetings over multiple days on more than 280 items that were within the Greens' manifesto, let alone the ones that we brought to the table. It was the most detailed post-election negotiation that I can recall—certainly more so than the previous ones. You and I have obviously undertaken these sorts of negotiations on more than one occasion. That process evolved over multiple post-election negotiations. I would say that it would be fair to observe that they became more and more detailed in each election cycle.

THE CHAIR: Yes. In your experience, is it common for the Head of Service to send an incoming government brief, particularly in the ACT's experience of having minority governments, on the day of the election?

Mr Barr: I would have to check that. Certain election results have been very clear and opposition leaders have conceded defeat on election night, as I think Ms Lee did—not fully, but she did congratulate the Labor Party on election night on winning more seats and more votes. There has been the experience, certainly in elections prior to 2024, where the most likely government outcome has been clear on election night, but there has not been a pathway or the then opposition have said they would not seek to form a government.

THE CHAIR: To confirm: that is a question you are taking on notice—the experience in previous years.

Mr Barr: I will take on notice when an incoming ministerial brief has arrived in previous election cycles.

MS CASTLEY: I have a question about that. I think Ms Lee acknowledged that we did not have the numbers, but at that point the Brindabella electorate had not been decided. I am wondering how the Head of Service was in a position to judge the outcome of the election or possibly even judge the outcome of any conversations between the Greens and the Liberals, and you got the documents.

Mr Barr: I cannot answer for the Head of Service in that regard. In her absence, we

will take that on notice and she can provide an answer as to her understanding. I imagine documents would have been prepared in advance. There were really only three options. I am not sure that there was an incoming chief ministerial brief for the Leader of the Greens.

THE CHAIR: I do not imagine so.

Mr Barr: So there was really only going to be a red book or a blue book,

MS CASTLEY: Chief Minister, the first line of this letter says:

Congratulations on your re-election to the Legislative Assembly and on your forthcoming re-election as Chief Minister ...

How could she possibly have been in a position to state that and send you briefs?

Mr Barr: She certainly would easily have been in a position to congratulate me on my re-election to the Assembly, because I was the only candidate to receive a quota and I was elected on the night.

MS CASTLEY: I think Parto got quota.

Mr Barr: No; he did not. He fell just short.

MS CASTLEY: Anyway, how could she have been in that position?

Mr Barr: Certainly, the second—which I think indicated that it had not happened on that night—

MS CASTLEY: No; it did not happen until 6 November.

Mr Barr: That is correct.

THE CHAIR: I am ruminating on why the Head of Service felt the need—and clearly, in her absence, we will not be able to canvass this—to send such a letter on election night.

Mr Barr: We will seek an explanation in that regard.

THE CHAIR: That would helpful.

MS CASTLEY: I would like to talk about an email sent by an executive branch manager in the Cabinet, Assembly and Government Business unit at CMTEDD to your then chief of staff on 28 October. This was about a week after the Head of Service letter. It says: “Good afternoon. Following provision of hard copy folders last week, for ease of reference I am providing the full Chief Minister’s incoming government brief and election commitment packs electronically.” I know you are taking the briefs on notice. Are you taking the hard copy folders on notice?

Mr Barr: If you would like me to—

MS CASTLEY: Yes; I would.

Mr Barr: What exactly am I taking on notice—when we received a—

MS CASTLEY: The four hard copy folders with the incoming government brief.

Mr Barr: When they arrived—

MS CASTLEY: Yes.

Mr Barr: as distinct from that electronic version that was—

MS CASTLEY: Yes; that is right. This is saying that the electronic version was coming, but I would like to know the date you received the hard copy briefs. And I am wondering how the person emailing your office believed you were the incoming government.

Mr Barr: I will have to check on the degree of public commentary there was. There were certainly some public statements made. I was not commenting extensively at that time, other than that negotiations were ongoing, but there may have been some public commentary that they may have relied on in that regard. Again, I will need to check with that individual as to what took—

MS CASTLEY: I would like to understand what the legal basis for that decision was, because we were technically in caretaker mode, whether we all assumed you would be Chief Minister or not. There is a question about why you received those documents when you did, and whether it was premature to provide the brief to you, given that you did not actually have the majority at that time. We were still in a position of flux, I would say. You had not been re-elected as Chief Minister.

Mr Barr: Sure. There will be a—

MS CASTLEY: I believe that even your Facebook post said something along the lines of: “I’ve been re-elected but have not formed government yet.” There was some kind of social media post in that period.

Mr Barr: Yes; indeed. Obviously, initial negotiations had taken place to give an understanding of whether it would be possible to form a government. The question of what kind of government was obviously a matter of negotiation. Ultimately, as I said publicly on many occasions, the Greens party would make a decision as to whether an agreement would be reached that it would be like the previous terms, where there was a Greens presence in the executive government or whether there would be a parliamentary agreement or a confidence and supply agreement. Over several terms of government, there have been all of those models. In one term of government, the Greens were in the executive government and had no crossbench role, because there was only one Green. There was a period when the Greens had been in the executive government and on the crossbench, with a significant degree of freedom for a Greens crossbench member. And there have been periods of government when there has just been a parliamentary agreement.

MS CASTLEY: Is it acceptable, then, that the Head of Service made a determination that no other government could be formed and it was assumed that it would automatically go to you? Based on this letter and the information we have, it would seem as though the Head of Service made this determination.

Mr Barr: I think the Head of Service would act on precedent and available advice to her, but, as I have indicated, I will take that on—

MS CASTLEY: So history and assumptions, but there is no legal basis for it?

Mr Barr: I will need to take that on notice. Again, I cannot answer for the Head of Service, but I am sure she will have acted in accordance with precedent and a legal basis on which to do so.

MR BRADDOCK: Chief Minister, I want to go back to where you said that the caretaker period finishes formally with the election of the Chief Minister on the floor or informally when negotiations cease or certainty is reached. We, the Greens, did not provide a supply and confidence agreement until 5 November. Would you accept that as the date at which there was that degree of certainty?

Mr Barr: Absolutely, because I had something in writing. In all my experience in negotiating with Mr Rattenbury and your party, I have found that your word and your indication through a process can be trusted. We undertook several weeks of detailed negotiation on the basis of forming a government and a shared policy agenda. The exact form of that government and shared agenda was the subject of detailed negotiation, but at no point during that process was there a suggestion that your negotiating team made to ours that this was a fruitless exercise and that this was different from previous negotiations where we were determining a parliamentary and governing agenda for the next four years. What was in question, obviously, was the extent of that agenda and the level of involvement that the Greens political party wanted to have in executive government.

If you had opened negotiations by saying, “This is an open auction between either of the major parties and we are contemplating supporting a Liberal government, and this negotiation is in those terms,” there obviously would have been a different set of conversations. But the negotiation was around forming a progressive government between our two parties, and, frankly, until the very last moment, my expectation was that you would seek ministerial roles, because your party was asking for them and wanted me to determine, in advance, which portfolios they would be.

MR BRADDOCK: Going to those negotiations, you had access to the incoming government briefs when you began those negotiations for supply and confidence. Is that correct?

Mr Barr: We would have seen some of them. We would already have known about them because they are our own policies.

MR BRADDOCK: Did any other party participating in those negotiations have access to any of that incoming government brief?

Mr Barr: They would have had access to our policies, and we, in the context of our negotiations, sought further advice on particular matters. You asked for it. They were mostly political questions, so they were resolved between officers at a political level, but, in some instances, factual information was sought, as is allowed under the caretaker conventions.

MR BRADDOCK: Did any of the incoming government brief include analysis of Greens' commitments?

Mr Barr: I do not believe so. I will need to take that on notice for you.

THE CHAIR: In that vein, I note that—

Mr Barr: I mean, you certainly put some things in for costing, so there was an independent Treasury assessment of some of your policies—not all of them but some of them.

THE CHAIR: In the letter from Ms Lee to you, which we have circulated, on the second page, under “Register of Election Commitments”, she talks about the package including a compilation of briefs and the party’s election commitments, and then says, “These briefs provide preliminary advice on options for implementation of these commitments.” That is the public service analysis of your election pledges. Presumably, they said, “These things work fine. For these things we have advice on how to perhaps do it differently.” You do not need to answer that question. That is the nature of public service advice.

Mr Barr: From memory, I do not think many of them would have indicated implementation advice that we had already outlined.

THE CHAIR: It does say “preliminary advice and options for implementation”.

Mr Barr: Sure, but they would already have been known by us, because we would not be making election commitments that we did not know how we were going to operationalise.

THE CHAIR: Chief Minister, this might be for the officials. I think the public service track Liberal commitments in the same way they track the Greens’ commitments. Has that been a practice in recent elections?

Mr Campbell: That is correct.

THE CHAIR: Were those briefings on Greens’ commitments shared with the Labor Party or the Chief Minister during the period of negotiations?

Mr Campbell: Did you say the briefing of them?

THE CHAIR: Yes. I am trying to work out exactly what the nature of that analysis is.

Mr Campbell: In terms of the tracking—I will triple-check this on notice for you—it

is largely: this is the nature of the commitment made, where it was made and timeframes. It is more a compilation rather than an assessment. I will take on notice whether there is anything further around briefings in the broader sense that you mentioned.

THE CHAIR: That would be helpful. Ms Lee's letter refers to preliminary advice on options for implementations of these commitments. In that case, she is talking about the Labor Party ones. I am interested in understanding whether that same level of analysis is done on the commitments of other parties. If so, was that information provided to the Chief Minister? And, if so, when?

Mr Barr: I do not believe so. All I would have had to go on was the submitted costings that were published on the Treasury website, plus, of course, 20 years of experience and discussion with you and your team. As you know, we needed to spend a lot of time understanding exactly what you meant on some things. There was often misunderstanding around the nature of a commitment, and, in other instances, when we had very similar commitments, we had to talk through how they might intersect. That is why it took nearly five or six hours a day, every day for two weeks, plus the preparation time. It was the most extensive negotiation that I imagine has ever taken place to form a government in the territory.

THE CHAIR: What I am trying to understand in the particular context of caretaking conventions is the symmetry of information provided by the public service.

Mr Barr: All that was available to us were the Treasury costings and your explanation of your policy, plus our interpretation of that, when we sought it to understand those matters.

THE CHAIR: That answers the question. Thank you.

MS CASTLEY: So that I am clear in my mind: you had won your seat, you were not sure about the outcome of the Brindabella electorate, you were getting briefings and you were acting as the Chief Minister at a time when you were not the Chief Minister.

Mr Barr: No. The incumbent Chief Minister remains the Chief Minister until a new—

MS CASTLEY: What would have occurred if the negotiations between the Greens and the Liberals had changed? How would we undo all of that time, given caretaker conventions are serious—

Mr Barr: If, one day before the first sitting of the Assembly, the negotiations that we had undertaken had not reached an agreement and the Greens party had instead determined to vote for Ms Lee as Chief Minister, then on the Thursday, after that vote, she would have been elected Chief Minister and would receive an incoming brief based—

MS CASTLEY: Everything that you had received and had been working on for the few weeks beforehand?

Mr Barr: Yes.

MS CASTLEY: The ACT Public Sector Code of Conduct includes several requirements. Section 35 says:

Public employees have a duty to act with reasonable care and skill ...

It includes:

- observing legal requirements ...
- taking all reasonable steps to check that the information upon which decisions or actions are based is factually correct ...

Do you have a comment on how the Head of Service has complied with that duty?

Mr Barr: I have no basis at the moment to suggest anything other than compliance with that duty. Obviously, in the absence of the Head of Service at the moment, I have taken on notice a question around her rationale for providing information post the election.

MS CASTLEY: The Westminster system and public confidence in the ACT government depends on professionalism and independence. You are happy to say that her conduct was consistent with respect for Westminster principles in this case?

Mr Barr: I have no reason to think otherwise.

MS CASTLEY: Would you approve if the Head of Service were to determine, on election night in 2028, that Labor would not be returned to government and immediately began a process of onboarding a new government before all seats were finalised and before all negotiations had commenced?

Mr Barr: If the election result were clear, I imagine that, on election night or shortly thereafter, the party that would not be able to form government would concede defeat. That has been the case in previous changes of government. I note, obviously, that there are some elements of both our electoral system and potential results that may not be known on election night or close thereafter. The Hare-Clark system has been known to produce the odd surprise, but there were some expectations based on some incorrect information that was put into the immediate election night data. For example, one booth in Brindabella included no votes for any other party other than the Liberal Party. The data for all the other candidates was not entered, so—

MS CASTLEY: So it was not clear on election night.

Mr Barr: It was corrected later on election night. There was people's perception at, for example, 8 o'clock as opposed to 9.30. The inclusion in the database of the other votes changed the situation in Brindabella.

MS CASTLEY: Chief Minister, my point is: do you believe it was clear on election night—

Mr Barr: If you understand how the Hare-Clark system works and preferences flow,

then you would easily have surmised that the Liberal Party was not going to reach a third quota in Brindabella, because it did not have a sufficient flow of preferences, and that the final seat was likely to be won by either an Independent, a Green or someone from Labor, which is where the final count ended.

MS CASTLEY: Thanks.

MR BRADDOCK: Coming to certainty, because Labor had suffered its lowest primary ever—

Mr Barr: Not its lowest primary ever.

THE CHAIR: This century.

MR BRADDOCK: This century; okay, I will add that caveat—and Brindabella had not been determined, why did you accept the incoming government brief?

Mr Barr: On election night, it was clear that the Labor Party would win 10 seats, if not 11—we were in the race for 11; that the Liberal Party could win a maximum of 10 but was likely to win nine; the Greens party certainly had three seats and could have won four—and did in the end—and two Independents were likely to be elected. So there were a number of pathways to government for the Labor Party, and negotiations were such that it was reasonable to expect that they would reach a positive conclusion.

MR BRADDOCK: Did you violate the caretaker conventions by accepting that incoming government brief?

Mr Barr: I do not believe so—no.

MS CASTLEY: Because it would have been totally viable for the Liberals—

MR BRADDOCK: Did your office request that incoming government brief?

Mr Barr: No. I believe it would be standard practice for the public service to have prepared incoming government briefs for both—a red book and a blue book.

MR BRADDOCK: Did the Head of Service violate the caretaker conventions by offering you that incoming government brief before there was certainty?

Mr Barr: Again, I do not believe so. I will take that on notice on behalf of the Head of Service.

THE CHAIR: Mr Garrison, did the Head of Service ever seek advice from you on what is considered to be the caretaker period and, following on from Mr Braddock's questions, when one should make a call or an assumption about the outcome?

Mr Garrison: Not in the context of this correspondence, Chair.

THE CHAIR: Generally, in terms of the preparation of the caretaker conventions? We know there were documents issued back in September 2024, for example, through the

public service. I think Mr Young's area is responsible for administering those conventions. Was advice sought from you at all on the definition of caretaker mode—when it ends and when it is appropriate to start engaging a party or a leader?

Mr Garrison: No; not those issues. Those are regarded as “small P” political issues. I have, of course, given advice from time to time in relation to the operation of the caretaker conventions, where they inform on some decision-making processes within government or within the public service—the traditional heads of the operation of caretaker contracts, appointments and things of that nature which are relatively conventional and non-contentious.

MS CASTLEY: Chief Minister, you said that you accepted the incoming brief because you had more paths to government than the Liberal Party, so is the government determined based on paths to government or the Assembly vote, which was on 6 November?

Mr Barr: Obviously, ultimately by an Assembly vote, but we often know in advance what the outcome of that would be. To be clear, media reporting on 19 October on the ABC was that the Canberra Liberals leader, Elizabeth Lee, conceded defeat in the ACT election. We did not ask for the briefs; they arrived. Hard copy folders arrived on 21 October. To confirm and answer the questions I took on notice, we were not briefed on opposition or Greens' policy.

MS CASTLEY: Thank you. I will move on to some land sale questions. Chief Minister, do you recall receiving a ministerial briefing from the CEO of the City Renewal Authority and the Under Treasurer on 24 October 2024 in relation to the CRA finalising a significant contract for block 1, section 121, which is the north-west cloverleaf?

Mr Barr: Yes. That process commenced prior to the caretaker period. It was part of a budget and a land release program. The sale is independent of ministerial engagement and they were simply briefing me on the outcome of that process.

MS CASTLEY: That is your recollection—that the main point was to just to let you know where that was up to?

Mr Barr: Yes. It was certainly not for a decision from me. The decision to release the land occurred prior to the caretaker period.

MS CASTLEY: It says that the critical reason for the brief was to advise you that the City Renewal Authority is finalising a significant contract for the sale of that block. Do you agree that that is what the briefing was about?

Mr Barr: Yes. That sounds correct. The Indicative Land Release Program, as part of the budget, indicated that the block was for sale. I believe it was by a public auction process. They would have been advising me of the conclusion of that process.

MS CASTLEY: Just before you received the briefing, there was an email chain from a directorate liaison officer in EPSDD, on 8 October 2024. They appeared to have saved a briefing for review. It was to advise the Leader of the Opposition on the same contract finalisation, with a critical date of 10 October 2024. Was the Leader of the Opposition

meant to be briefed on this contract?

Mr Barr: I do not know. I am not sure about the timing of the conclusion of that process. The CRA may well have sought extra time to conclude that. I will need to take that on notice and seek some advice from them. But, to be clear, no minister and no minister's office is involved in the sale of land in that regard.

MS CASTLEY: An email sent later on 8 October indicates that the CRA requested to withdraw the briefing pack to the Leader of the Opposition and that they would consider resubmitting it after the election. Why did the CRA withdraw the briefing?

Mr Barr: I will need to take that on notice and seek advice from the CRA.

MS CASTLEY: I would like to know why it was important to wait until after the election. Did you or anyone in your government provide an instruction to EPSDD to withdraw the briefing pack or hold off providing a brief to Ms Lee until after the election?

Mr Barr: I do not believe so, but I will absolutely check the record for you. I will take that on notice.

MS CASTLEY: Would you agree that, if the directorate was preparing a brief for the Leader of the Opposition to advise them of the deal, it would imply the contract was a major undertaking that required consultation with the opposition?

Mr Barr: The outcome of that process is obviously going to be made public. I do not believe there would have been a decision associated with that. It would simply have been a notification. If, in the end, it was not necessary to notify until sometime later that month, then it is entirely reasonable to have done so. But, again, I have no involvement in the sale process, so I will need to take that on notice, regarding the CRA's timelines at that point.

MS CASTLEY: It appears that a brief on this issue was never sent to the Leader of the Opposition after the election. Does that align with your understanding? Is that something you can take on notice?

Mr Barr: I will need to take that on notice.

MS CASTLEY: It seems logical to me that, if the intent of the CRA was to brief the Leader of the Opposition before the election and they changed their mind on the same day, they would brief the leader after the election. Why was the brief never sent?

Mr Barr: Again, I will need to ask them and take that on notice, but I imagine that it was because a public announcement in relation to the process was going to be made, but I will confirm that with the CRA.

MS CASTLEY: It considered it to be a significant undertaking. EPSDD intended to brief the Leader of the Opposition on the undertaking. CRA requested briefing packs. They were withdrawn and reconsidered after the election. The Leader of the Opposition was never briefed, and this was all during the caretaker period. How is this compliant

with the caretaker period?

Mr Barr: I will take that on notice and seek the information from the CRA.

MS CASTLEY: Thank you.

THE CHAIR: There are two FOI documents relating to this. I will table them and give them to the secretariat. Document 38 in the FOI pack shows a full brief on the same subject matter—the sale of this piece of land. It is dated 24 October and a decision was to be made by 30 October. Both of those dates are well within the caretaker period. It was signed by you on 27 October. It is a noting, not an agreement. They are certainly clear about that. I am interested in understanding why the agency, during this caretaker period, provided it only to you and did not follow the caretaker conventions of informing others.

Mr Barr: I would need to seek that information from them. In the end, during this period there is still a minister.

THE CHAIR: Yes; there is.

Mr Barr: You do not cease to be a minister.

THE CHAIR: I am familiar with it.

Mr Barr: A couple of MLAs lost their seats in the Assembly and continued to be ministers until 6 November.

THE CHAIR: Correct. That is a matter of the self-government act.

Mr Barr: Indeed; yes.

THE CHAIR: The caretaker conventions, if I put them in layman's terms, say that the key intent of the caretaker provisions is to ensure symmetry of information to prospective governments during the caretaker period. Most simply, that is the intent.

Mr Barr: I guess so, but there are obviously certain matters that would be considered routine government business. The conventions talk about matters that significantly limit future governments or bind them to something. In this instance, a process began well before the caretaker period and this was simply a brief on the conclusion of it. The Assembly voted in favour of that land release program and that budget earlier, so I guess, from the CRA's perspective, there was support.

THE CHAIR: The decision was already taken, in your mind?

Mr Barr: Yes.

THE CHAIR: That is your analysis.

Mr Barr: I do not believe there was any view expressed at that time that the land should not have been released. It was not a contested political issue and the Assembly had

voted on it. But, again, for the purposes of the record, these are not decisions I made. I will seek advice from the relevant agency. We will take that question on notice.

MR WERNER-GIBBINGS: I want to be absolutely clear. The briefs that you received were noted briefs. No decision was taken and nothing that you signed would bind a government.

Mr Barr: No. As you can see from the immediate consideration brief, there were some that required a decision on attendance, for example. The majority of these issues for immediate consideration commenced after the first sitting of the Assembly.

THE CHAIR: That goes back to my other question. We are interested in understanding which of these were signed. This is from the page of “Issues for Immediate Consideration”. For example, item 36 speaks to a disallowable instrument about the ambulance levy for 2025. As members may recall, that was a point of policy discussion and so—

Mr Barr: I think the critical date for that was December.

THE CHAIR: It was, but you returned this pack on 27 October, which is why we are interested.

Mr Barr: It was noted. It is not that I made a decision on everything.

THE CHAIR: This is what we are trying to understand. Mr Werner-Gibbings, do you have any other questions?

MR WERNER-GIBBINGS: Just one more. Regarding the letter from the Head of Service, is it safe for me to assume that there is probably an equivalent letter signed on the same day that would have gone to an alternative leader?

Mr Barr: I believe so, but, again—

MR WERNER-GIBBINGS: From my experience of red books and blue books, exactly the same letter—

Mr Barr: Yes. I would imagine so.

MS CASTLEY: Could you take that on notice?

Mr Campbell: We will take that on notice.

MR BRADDOCK: Coming back to the incoming government briefing and the conduct of negotiations, was it only you or did anyone in your staff or caucus also have access to that incoming government brief?

Mr Barr: Obviously my staff would have, because I do not receive all the mail in the office. It would have come to the office and staff would have seen it. The other directorates would not have had a minister at that point, so the briefings for anyone else would have waited until the administrative arrangements and the appointment of

ministers. I am aware that a small number of items would have gone to ministers who were still holding responsibilities. I understand that to be a handful. I was given some information in that regard. I understand that, for example, then Minister Rattenbury received a number of briefs and one piece of correspondence during the caretaker period. I think the total was 14. Also, then Minister Davidson received about six items and then Minister Vassarotti received one.

There were ministers still receiving information updates during the time, because we do not go without a minister for eight or nine weeks. We have a very long period—which is a point I made in the previous hearing—so there would be some flow of information. But, in terms of incoming government briefs, only that one pack went to me. Incoming ministerial briefs would not have been provided until ministers were announced and appointed.

MR BRADDOCK: Coming back to that incoming government brief, which you stated your staff probably had access to, did anyone else in the Labor Party—staff or other caucus members—have access to it?

Mr Barr: I would doubt it, but I will check. I do not know that there were multiple copies. There may have been only one hard copy. That would have sat in my office.

MR BRADDOCK: The caretaker period ended for you at an earlier undefined date but was still in place for the remainder of ministers. Is that correct?

Mr Barr: No. A caretaker period is still in operation—

MR BRADDOCK: But not for you, Chief Minister.

Mr Barr: Receiving factual information is part of the caretaker period—

MR BRADDOCK: Yes, but the incoming government brief—

Mr Barr: and multiple ministers would have been receiving that information.

MR BRADDOCK: Factual information, yes, but, Chief Minister, we were talking about the incoming government brief.

Mr Barr: Which is full of factual information.

MR BRADDOCK: Absolutely, but it is not the information that would be routine business of a minister that needed to be undertaken because of time imperatives and their responsibilities.

Mr Barr: A lot of it was. It has been FOIed. There is nothing in there that is particularly new or interesting; they are all known things. Being briefed on your own policies, when you have already announced them and already published them and already had them costed, is not a revelation.

MR BRADDOCK: If it is just factual information, why didn't you share it with other parties that you were negotiating with to form government?

Mr Barr: We did. A number of points at issue came up in our negotiation and information was shared. You requested it—

MR BRADDOCK: Yes.

Mr Barr: and we came back and provided it.

MR BRADDOCK: So why didn't you share the incoming government brief?

Mr Barr: You never requested the incoming government brief. You requested information on specific items but not the totality of every single thing that the public service might put in an information pack. But you did ask for a lot of information.

MR BRADDOCK: But can you see the power differential operating here during the course of negotiations?

Mr Barr: No, because half of your team, as ministers, knew more about certain areas than we did. In some instances, there had not been a Labor minister in a portfolio for 10 years.

MR BRADDOCK: So why didn't the Greens receive a green book, if it is just factual information?

Mr Barr: If the Greens wanted a book of information in relation to their own policies—they had that on the Treasury assessment of the things you submitted.

MR BRADDOCK: Why doesn't Labor just go off the Treasury costings of the things that it submitted? Why does it need more when it is conducting negotiations?

Mr Barr: Ultimately, we probably do not, Mr Braddock.

MR BRADDOCK: This is what the committee is trying to get to the bottom of: during the caretaker period, what briefing information the public service should provide to—

Mr Barr: If it is the committee's view that incoming ministerial briefs should not be provided until after the first sitting day of the Assembly, so be it.

MR BRADDOCK: That is not what I was implying.

Mr Barr: I do not think it would make any particular difference in that period, frankly. If you want to make that recommendation, I would probably support it.

THE CHAIR: We might be able to find you an efficiency, Chief Minister!

Mr Barr: Yes!

MS CASTLEY: I have a question for the Solicitor-General. Is there any legal basis for the Head of Service to provide an incoming government brief before the Assembly has elected a Chief Minister or before the caretaker period has finished? Could you give

some legal thoughts on that?

Mr Garrison: The whole operation of the caretaker conventions is that they are political conventions, not a set of legal rules. That is clear in every jurisdiction and in all the commentaries about the way the caretaker conventions operate. They operate differently in different jurisdictions. Some jurisdictions have certain elements that are reduced to statutes, as indeed they are here—for example, with the PEBU and other related matters—and decisions made about the operation of the caretaker conventions are a matter of judgement, because it is not a legally enforceable document. Perhaps that assists you.

Mr Young: The guidance itself defines the period of the caretaker provision. It is provided at a high level for the production of incoming government briefs, but it also provides that procedural guidance would be prepared separately by the Head of Service and issued prior to the election. That guidance was issued in September. It provides a quite detailed procedural arrangement for the production and transmission of those briefs immediately upon the result of the election being known. In large respect—although, as Mr Garrison pointed out, it is not codified—it did follow a quite detailed procedural outline that was in place prior to the election.

MS CASTLEY: This is probably a question for the Chief Minister. You could take this on notice. On which date did the incoming government briefs land in 2012, 2016 and 2020?

Mr Barr: I will need to take that on notice.

THE CHAIR: Not unreasonably.

MR BRADDOCK: I want to go to the opening of the Carlotta restaurant.

Mr Barr: “Restaurantgate”.

MR BRADDOCK: Do you acknowledge that identity recognition in the context of an election campaign, whether it is your name, your face or brand recognition, is fundamental to a Hare-Clark campaign here in the ACT?

Mr Barr: I guess that is a matter of political debate. I am not sure that awareness of me was any further enhanced by cutting the ribbon in front of a small bunch of media who already knew who I was. I think there is an argument, Mr Braddock, that I lost 15 minutes of campaign time by performing that ribbon-cutting ceremony.

MR BRADDOCK: How many journalists were at the opening?

Mr Barr: I understand there were three or four, including Jasper from the *Canberra Times*. He already knew me and had reported extensively on the campaign at that point. I note that it was not a political event. I did not make any political content in my speech, and I was there for literally 15 minutes before having to go somewhere else.

MR BRADDOCK: But, still, your attendance in the capacity of Chief Minister offered you some form of electoral advantage.

Mr Barr: No. I would say it was electoral disadvantage, because I was not campaigning at that time. I lost a block of time. I could otherwise have been—as I think I was that week—standing outside supermarkets and catching voters making last-minute decisions.

MS CASTLEY: Some would say advertising on TV is better.

Mr Barr: You cannot advertise on TV on the Thursday.

MS CASTLEY: But you had that opportunity rather than standing at the shops.

MR BRADDOCK: You were still out communicating with the electorate. What about the Queer Pavilion at the Canberra Art Biennial on 17 October, later in the evening, and also two days before the election? These were also opportunities where you had the opportunity to meet with either media or residents—potential voters of the ACT.

Mr Barr: I had no official role at that event; I was simply invited. I guess I was invited in my capacity as Chief Minister, but I did not have any official role at that event. There were people there, but I did not speak. I spent a small amount of time at the event. Perhaps like nearly everyone at the end of that marathon campaign, I was really quite tired and then went home and slept.

MR BRADDOCK: Why did you need public service support to basically spend 15 minutes to cut a ribbon?

Mr Barr: In relation to the restaurant opening, I was invited in my capacity as Chief Minister. An arrangements brief was prepared based on information that, I imagine, the restaurant's PR company provided to the public service.

MR BRADDOCK: Did any other members here get arrangements briefs to attend events during the campaign period?

MS CASTLEY: Not me.

Mr Barr: Was any other member invited in the capacity as Chief Minister to open it? It was a private—

MR WERNER-GIBBINGS: That would have been my question.

Mr Barr: I do not know the extent to which any Greens minister attended any event in an official capacity during the caretaker period. Your diaries were not published for that period because you ceased to be ministers. It is interesting. They probably should be for the period until—

THE CHAIR: That is probably right, yes. That is a slight glitch in the system, I suspect.

Mr Barr: It probably is. Perhaps we can find out. There is clearly a distinction, Mr Braddock, between a campaign event and an official event. I know—because I saw other MLAs there—that the Olympic and Paralympic Welcome Home event that was held on 17 September involved representatives from other political parties. People were

there. Not every official event was organised by the government and I do not control who is invited to those events. The caretaker conventions give a very clear sense of any government event, but private events, where invitations are issued, are matters for the event organisers.

MR BRADDOCK: It is interesting that you say that. You mentioned that you attended some other events in a private capacity. Did you receive arrangements briefs for those from the public service, even whilst attending in a private capacity?

Mr Barr: Not whilst attending in a private capacity. In an official capacity, there was a citizenship ceremony. I read the words you have to read, as decreed by law. They were provided to me. There was the Olympic and Paralympic Welcome Home event, but I did not have a speaking role at that event. The Royal Thai Embassy had their annual event in September and I was invited there, but I understand that so too were other MLAs, because I saw them there. And there was the Pearcey Foundation and Chief Minister's annual entrepreneur award. I presented that award. The arrangements brief and speaking notes announced the winner. I was provided with the information on whom I was presenting the award to.

MR WERNER-GIBBINGS: This is a question perhaps for officials. With these sorts of events, where the Chief Minister is invited as the Chief Minister and presumably an arrangements brief or similar would be discussed within the context of the caretaker conventions, is there a mechanism by which these decisions are made and requests or opportunities for a briefing are determined to be appropriate or not?

Mr Young: Indeed. As you pointed out, the caretaker provisions provide for the continuation of government and for the public service to continue to provide support where the matters in question are of a routine administrative type nature. That would include arrangements briefs for events that fall within those criteria. Further to that, I would note that, while the caretaker provisions were in operation, there was an expert network where people with expertise in the guidelines regularly engaged with directorates and provided advice. So, while the guidelines provide for situations such as that, if there was an event on the margins, there was also a mechanism by which people were able to access that and act on authoritative advice.

THE CHAIR: Chief Minister, I will now table another two documents. They will be circulated to everyone as well. One is a picture and the other is a piece of correspondence that I will come back to. Firstly, I go to the picture. Can you confirm this is a Facebook post by then Labor candidate Mallika Raj featuring you and her in the refurbished Fitzroy Pavilion on 11 October, and on the reverse is a similar post by you?

Mr Barr: Yes.

THE CHAIR: The document is taken from the CMTEDD FOI 2025-088 and is reference No 73 on its schedule. It shows correspondence between directorate officials asking for input into a weekly briefing for you as Chief Minister and a response advising that the Fitzroy Pavilion's refurbishment has concluded. Is that a fair assessment of the document?

Mr Barr: Yes.

THE CHAIR: Did you receive a briefing from CMTEDD containing that information?

Mr Barr: I imagine so, but it was already public. I had responded to a question on notice from Mr Cain earlier that year, indicating the timeframe for construction and anticipating completion of that work. We issued a media release in June that year that the Fitzroy Pavilion—

THE CHAIR: The content of that media release said that you expected it to be finished—

Mr Barr: Yes. The question from Mr Cain was question 1555, which I answered on 15 March. The question was: “What is the timeline for when the Fitzroy Pavilion upgrades are expected to commence and subsequently be finalised?” My answer was: “Upgrade works are programmed to begin in May, with estimated completion by the end of August.”

THE CHAIR: Given the notorious nature of ACT government projects not meeting their deadlines—it seems to happen quite often—how would you expect other parties or candidates to be aware that the Fitzroy Pavilion’s refurbishment had actually been completed?

Mr Barr: Because there was interest in the project. I answered that question at that time. Obviously, the shadow minister was interested in the timeframes. The media release, which I think was associated with the budget in June, indicated that work was underway and there was a timeframe associated with that. I understand it was the subject of discussion in the estimates period. The shadow minister expressed outrage in relation to the project, so it was the subject of considerable political debate. It was hardly a secret that the refurbishment works were underway, with an expected completion date towards the end of August.

THE CHAIR: The only actual confirmation of the completion of the works was through a ministerial briefing that you received?

Mr Barr: We did not undertake an official opening of the venue until after the caretaker period, precisely for reasons to be consistent with the caretaker conventions. The first event that was held in a government capacity was the Chief Minister’s Diwali reception. Mr Braddock attended that event, and I understand MLAs were invited—

MR BRADDOCK: On 6 November, I believe, so we would have—

Mr Barr: It may well have been.

MR BRADDOCK: We were back and functioning as a parliament.

Mr Barr: Indeed. It may well have been, so—

THE CHAIR: I appreciate the sentiment of that answer. How is that consistent with you and Ms Raj having your photo taken in the facility in an election period—saying, “Look at this terrific new project the government has just completed”—and no other

party had access to that?

Mr Barr: Any other party could have sought to—

THE CHAIR: How would they have known that it was complete, given you were the only one briefed on its completion?

Mr Barr: I was surprised, in fact, that Mr Cain was not saying, every day from 1 September, “Why isn’t it complete?” He had asked, wanting to know when it was complete. There were requests. Consistent with the caretaker guidelines, you can formally request to utilise a facility as a backdrop to a media conference for photos and to film. That is allowed. The caretaker convention process was followed. I assume, given the particular interest in the Fitzroy Pavilion expressed by some—particularly the shadow minister and members for Yerrabi—that the opportunity to have a photo at the pavilion, if they had chosen to, was available to them.

MR BRADDOCK: If only I had known.

MS CASTLEY: Same.

Mr Barr: You did know the project was underway. I presume you follow the answers to questions on notice—maybe not as closely as—

MR BRADDOCK: Estimated completion was at the end of August.

Mr Barr: Sure. The post we are talking about here is in the middle of October. That is six weeks after the estimated completion date.

MR BRADDOCK: Compared to how long government projects take, that is nothing.

Mr Barr: I am not sure there was a massive electoral advantage. If you believe that, then I am not going to convince you otherwise.

THE CHAIR: As there are no further questions, on behalf of the committee I thank you, Chief Minister, and officials for your attendance today. A number of questions were taken on notice.

Mr Barr: I answered three or four of them.

THE CHAIR: You did. The secretariat will track those. Thank you.

The remainder of the answers need to be provided to the committee secretary within five business days of receiving the uncorrected proof *Hansard*, as is the normal process. On behalf of the committee, I thank witnesses who assisted the committee today with their experience, knowledge and insights. We also thank broadcasting and Hansard staff for their support. There is, of course, an opportunity for members to ask questions on notice. If you wish to do so, please upload them to the parliamentary portal as soon as possible and no later than five business days from today. Thank you.

The committee adjourned at 3.02 pm.