



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**SELECT COMMITTEE ON FINANCIAL MANAGEMENT
AND GOVERNMENT PROCUREMENT
LEGISLATIVE COMPLIANCE**

(Reference: [Inquiry into Financial Management and Government Procurement
Legislative Compliance](#))

Members:

**MS F CARRICK (Chair)
MR A BRADDOCK (Deputy Chair)
MS D MORRIS
MR T WERNER-GIBBINGS**

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 23 APRIL 2026

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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 11.00 am

LARNACH, MR TIM, Assistant Auditor-General, Financial Audits, ACT Audit Office

SHARMA, MR AJAY, Auditor-General, ACT Audit Office

STANTON, MR BRETT, Assistant Auditor-General, Performance Audits, ACT Audit Office

THE CHAIR: Good morning and welcome to the public hearings of the Select Committee on Financial Management and Government Procurement Legislative Compliance for its Inquiry into Financial Management and Government Procurement Legislative Compliance.

The committee will today hear from the ACT Auditor-General; Mr Peter Bradbury; and the Master Builders Association ACT—

You keep going, Mr Braddock—

MR BRADDOCK: And from the Yarralumla Residents Association, Mr Robert Herrick.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. We wish to acknowledge and respect the continuing culture and contribution they make to the life of the 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.

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. The giving of 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. When taking a question on notice, it will be useful 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 Ajay Sharma, the ACT Auditor-General, and officials.

MR BRADDOCK: 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. As we are not inviting opening statements, we will now proceed to questions.

THE CHAIR: Thank you for that Mr Braddock. I would like to ask about value for money to start with. We have had a submission that talks about procurements and that, where you have multiple procurements, it can obscure the total cost of a procurement—so, we have multiple packages to procure, and we have contract variations and you get

scope-creep, budget blowouts and time blowouts. We asked the government, and there does not appear to be anywhere where they report all the contracts that make up a procurement, so to get the total cost of a project is very difficult. Do you find that too?

Mr Sharma: Based on our financial audit report, we have reported that there is no central reporting of projects, and where there is reporting in terms of quarterly reports to the Assembly, there is information lacking in terms of the original budget. There is information available in terms of budget and quarterly reporting by Treasury to the Assembly; however, it does not have complete information that would allow the readers to have a look at the timeliness and the total cost of those projects.

THE CHAIR: In the quarterly reports—there is the financial statements quarterly report—the government also provides an infrastructure quarterly report. So between those two documents, do you think that there is room for them to expand the amount of reporting that is done? Those are primarily infrastructure projects, but across the board for big procurement, it is not necessarily infrastructure—MyWay+. Do you think that there should be maybe something in the procurement act or the FMA act that could require better reporting?

Mr Sharma: Absolutely. I think it is a case of looking at the guidance. The procurement act and the Financial Management Act have broad requirements in terms of achieving better practice, achieving value for money and having complete transparency and fairness in terms of reporting to the readers. It sets the framework; however, there are policy and guidelines that are issued under this legislation that allow for better practice. There are also requirements in terms of the annual reports directions and annual reports guidelines in terms of reporting. From 2024-25, we are starting to see a bit more reporting in the agencies' annual reports.

There are two aspects of reporting: one is in relation to whether there are any breaches of the procurement act—so agencies have to do some sort of self-assessment and identify and report on those—and the second aspect is reporting on the projects. I think there are opportunities to further improve reporting on the projects themselves, because it does not include information, as you say, on multiple projects over multiple years—so it does not have information on what the original budget for the project was and how that has been varied to the current year and what is the year-to-date reporting. That sort of information would allow the readers to make an assessment on whether the project is being delivered in accordance with the original budget and the timeframes that were set, and also in terms of being able to then compare with the capital injection that has been provided to the agency. Often, you will see the capital injection has information from year to year as to how much has been provided and how the capital injection has been varied through the year; however there is not information, if you like, in terms of the rollover that has happened from the start of that project, because the capital injection in the current year reporting in the financial statements talks about how much funding has been drawn in that particular year and not what has been rolled over.

I think in terms of the explanation it can also be improved as to why funding has not been accessed in a particular year—what were the reasons for delays. I think expanding on that in a fulsome way for the readers will provide a bit more insight in terms of the total information about that project. I think, at the moment, because it is total funding and it comprises a number of projects, there is less visibility for readers on the projects

they might be interested in. Through the financial statements and annual report, most of the information is at that aggregate level as opposed to on a project-by-project basis.

THE CHAIR: The budget is in a difficult position with debt and the interest payments, so do you think a further breakdown would be better for scrutiny and decision-making in the context of both expense expenditure and asset expenditure—capital expenditure—and to be able to provide more informed scrutinisation and decision-making with better reporting?

Mr Sharma: I think the value of decision-making comes from the information that is available to the central agency in the first instance, in terms of Treasury looking at the budget process and setting policy directions and how much funding is allocated to a particular project and determining the priorities. And then the second aspect is the accountability, from the public perspective, on the information that is available through that budget process and to the committees, such as the estimates committee and the annual reports committees, to question the relevant directors and ministers on the information that has been provided.

In terms of deciding on the priorities as well, I guess, in the first instance, a lot of that questioning needs to happen at the time of setting of the budget process, because once the projects have been allocated and provided funding, I think there are fewer opportunities then to discontinue with projects, and the cost-benefit analysis would need to be done to assess what priorities the government would want to pursue and what the important ones are for the community.

THE CHAIR: Thank you.

MRS MORRIS: Could I ask a supplementary, if that is all right?

THE CHAIR: Yes, sure.

MRS MORRIS: I am just, I guess, trying to summarise all of that so that I understand it. Let's say, light rail stage 1A—looking at any project or a project like that, would you be able to say, "That cost ACT taxpayers X amount"?

Mr Sharma: I think to get the total cost, looking at the budget papers, you will be able to see what funding was allocated, so that is the first information on the cost that is available for that project. The information that is not available is the cumulative information to say at a particular point in time, over say two years, how much money was spent. There is the money aspect, and there are also the administration and contract management and other costs that could be attributed to that project, and that information is not available at all. So even getting to the amount of appropriation and capital injection, you will only be able to tell how much money was drawn in that particular year and what was spent.

MRS MORRIS: Okay.

Mr Sharma: So if you wanted to know to-date how much we have spent, you would actually have to go through the two budget processes and look at the actual cost from the financial statements and capital injection drawdown to draw the picture in terms of

being able to answer that question.

MRS MORRIS: Okay. And do you find that you can do that, or if you are looking at a major project are there blind spots on how much any given major project is costing taxpayers?

Mr Sharma: I think with the technical expertise we have as auditors, we find it difficult, but we can pull that information together. For the readers out there, I do not think they will be able to do that exercise easily because it is quite nuanced in terms of where that information would be contained to be able to pull that together. So I would say no, and I think that would be the reasonableness test I would use from a public perspective—whether the reader out there can find that information easily and be able to come up with a number.

MRS MORRIS: Okay. Thank you.

THE CHAIR: Mr Braddock?

MR BRADDOCK: Mr Cocks in his evidence was referring to 16B authorisations that were occurring after invoices or payments had been made for the Fitzroy Pavilion. I just want to check in terms of your understanding: is there a requirement for a 16B to be authorised before the invoice is incurred or the payment is made?

Mr Sharma: Under the FMA, no payment can be made without authorisation of appropriation. If section 16B allows for rollover funding then to be spent, then certainly I think you need a legislative instrument to be approved, similar to how the appropriation is approved, to be able to spend funding against it. That would be my broad understanding, without going into the specifics of section 16 and how that rollover was made.

MR BRADDOCK: As part of the Auditor-General's review of the financial statements for this 2024-25 year, did you identify any concerns where there had been authorisations that were after payment or invoice dates?

Mr Sharma: As part of a financial statements audit, we do not undertake that exercise. What we are looking for when we are testing the statement of appropriation is we are simply looking to see whether the instruments that have varied the appropriation were approved. So we are looking for the signatures and the date.

MR BRADDOCK: Yes.

Mr Sharma: We do not then do this additional exercise in terms of the drawdown against that rollover. So we are looking at the total appropriation and then comparing with what has been drawn down.

MR BRADDOCK: Is there a reason why you do not go to that next level of detail?

Mr Sharma: It is not required under the auditing standards for us to pursue it to that extent. The reason for the statement appropriation to be included in the financial statements is through the Appropriation Act, and it is reporting against that to say that

whatever amount was appropriated was the amount drawn down against it—less than what was appropriated; if you draw down more, then you get a breach. So that was what we were trying to capture and report against.

Since then, there has been variations made to the original appropriation, either through an Appropriation Act or the instruments. When there is a variation from the instruments, we are checking to see whether the instrument was approved, and it is in the context of the whole financial year rather than the timing of when that particular instrument was approved and when the drawdowns would be made against it.

MR BRADDOCK: Okay. Thank you.

THE CHAIR: Mrs Morris?

MRS MORRIS: I want to follow up on that line of questioning, so if I have misunderstood anything, perhaps you can help clarify that. In the hearings yesterday, the government accepted that, certainly in the case of the Fitzroy Pavilion, they had made the payments before the 16B rollover was authorised. Can you elaborate a bit more on what authority they are actually permitted to do that?

Mr Sharma: All the appropriation that is provided is provided for net cost of services, and once the agency has drawn down on an appropriation, and the money is available, they can make payments, because it is for net cost of services. Even between different types of appropriations, you can move money and make payments. So if the money was available through another appropriation, and they have made the payment, so far as when you get to the end of the year, you have not breached it—that is when a breach can occur—because the monies are being paid for net cost of services. You can pay for any liability through other appropriation types as well. So that would have given the authority to the relevant agency to make the payment.

MRS MORRIS: What is the relevance, then, of section 16B of the Financial Management Act?

Mr Sharma: It is to be able to allow funding from a prior year in relation to a particular project to be rolled over. In the prior year, if there were monies appropriated that were not used—and the appropriation would have been properly done in accordance with the FMA—and there is money sitting over there, that could be rolled over using section 16B, if it was required for the project. Sometimes at the time the money has not been used, it is not clear as to when the money will be required. You go through different appropriation processes. If there was an appropriation amendment, an appropriation act done after the original appropriation, then that would be the earliest opportunity when it could be reassessed and provided as part of a second appropriation, for example.

If it was not done at that point in time, I think the best practice would be at the time of the next appropriation after the original budget to assess all the projects and see what information is available. I think that would add more transparency in terms of the questioning process as to exactly where that project is at, what information is available, and whether monies can be provided or a decision can be made. And if it is clear that a decision cannot be made at that point in time, then the section 16B would be another effective mechanism through which the monies can be rolled over and provided for that

project at that point in time. I think, in that sense, it provides the money to the territory to be available to be invested and made better use of, rather than provided to the agency at that earliest opportunity.

But I think there is that transparency and accountability aspect to it as well, so it needs to be looked at from the balancing perspective. If there was more transparency in terms of that project at the time of second appropriation, then the questions about the section 16B rollover at a later stage would be giving more information or bringing to light what was not available at the time of approval. Right now, I think just doing a section 16B rollover without transparency in terms of what the status of the project is does not allow an independent person to do that reasonableness test as to what information is available and whether the money should have been provided at that point in time.

MRS MORRIS: Yes, thank you. Have you read the ACT government's submission to this committee?

Mr Sharma: Yes.

MRS MORRIS: You have; thank you. I will just read a quote from their submission, if that is all right. It says:

A rigorous assessment process takes place prior to any authorisation to ensure the request is compliant with the FMA and consistent with all elements of the financial management framework and with government decisions.

... ..

This rigorous assessment process supports the responsibilities of Directors-General under section 31 of the FMA for being accountable to the responsible Minister of the directorate for the efficient and effective financial management of public resources.

With that in mind, I am struggling to understand how that rigorous assessment process could occur under section 31 of the Financial Management Act if a payment to the value of \$4½ million had been made before it was authorised by the Treasurer under section 16B. Do you see any concern there?

Mr Sharma: I think there is a transparency issue as to what that rigorous assessment entails and what information is available, because it is an internal assessment. The benefit of making that assessment transparent through the appropriation process would add value and would allow everyone to see how that assessment is independently made and whether others would reach the same conclusion.

MRS MORRIS: But how can they make an assessment if the money has already been spent? The Treasurer yesterday, and in the government submission, gave a timeline that requests from ministers were made to the Treasurer in mid-December for rollover authorisations. He signed off on them in April, and that intervening period was supposedly a time when a rigorous assessment would occur under section 31 of the Financial Management Act. But in learning that payments had actually already been made, what assessment process could actually occur?

Mr Sharma: There is assessment by the central agency, plus there is also the contract management aspect of it in terms of the contract manager who is delivering that project.

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What is not clear is whether some of that assessment was made by the contract manager in terms of the funding required to progress that piece of work. The funding is available to be spent in accordance with that net cost of appropriation concept; it was whether the project assessment was made. And then the payments were made and, subsequently, this is a process to, I guess, roll over and get that additional funding to come across from what was available from the project.

I think, as you say, it is hard for a reasonable person to look at those processes and understand what has actually happened and what the approval was that was provided within that process of contract management versus the central agency—to go and spend the money and then later do the instruments and get them approved by the Treasurer. Sometimes there are concurrent processes in terms of the instruments being developed, and there is the point in time when the instruments actually get signed.

From an auditor's perspective, we do not have complete information in terms of evidence to make that assessment. However, from the information and the way you have described it, it is difficult for a reasonable person to see why you would spend the money and then form the conclusion of getting the instruments in place, because it is putting the cart before the horse. You would expect the instruments to be approved and then the funding to be released, in terms of how these things are to be done, based on the intent of the FMA—to say “No money can be spent without appropriation.” And then there is the other side in terms of the types of appropriation and that assessment before monies are to be spent.

MRS MORRIS: Do you think that sort of practice is within the spirit of the Financial Management Act?

Mr Sharma: I would probably be of the view that it certainly is not a better practice.

MRS MORRIS: It is not a better practice. It is not good practice?

Mr Sharma: It is not a better practice. I think there are two aspects to it: one is the practicality of releasing the funding so that the projects can go on; however, then there is this framework within which the FMA requires all approval processes to be done properly in a transparent way as well, and all of those instruments to be signed by the Treasurer and, where required, to be tabled in the Assembly for transparency purposes. I think the intention of the legislation will always be to have the process in place, get the approval and then use the money: that would be a better practice.

MRS MORRIS: Thank you. Would Mr Stanton or Mr Larnach like to comment on that so-called “rigorous approval process”, when payments had already been made but not yet authorised?

Mr Stanton: Thank you for the opportunity, but that is not within my remit for performance audit.

MRS MORRIS: Okay; that is fine, thank you. Were you the same? Sorry, I just assumed.

Mr Larnach: I will add that I think the funding for the projects is initially approved

through the budget process in the prior year; it is just that the timing of payment for those, when they are invoiced, is not in that current year. The invoice comes through, I think, in the subsequent years or year, and it is just, if you like, the timing of the release of those funds. I do not believe it is in terms of additional funds being committed for that particular project; it is just, essentially, in terms of the period of time of when those funds are used, so to speak, but they were authorised originally in the budget.

MRS MORRIS: Can you rule out a breach of both section 16B and section 31 of the Financial Management Act?

Mr Sharma: I think without further evidence and us having a look at those, we will not be able to rule in or out.

MRS MORRIS: You cannot rule it in or out. Would you say it warrants further investigation?

Mr Sharma: It probably does, and specific to that project and what information was available.

MRS MORRIS: Thank you.

THE CHAIR: Mr Werner-Gibbings?

MR WERNER-GIBBINGS: Thank you, gentlemen, for coming along. In your submission under the “testing of appropriations” section, there is the statement:

No breaches of the FMA have been identified during the testing of appropriations as part of financial audits.

But do audits consider breaches of section 16B(6)? Is that what you look at when you are looking at an audit? What then do you look at under auditing standards and how do you, the ACT Auditor-General, operate as an agency with techniques? Is it different or similar to other jurisdictions?

Mr Sharma: It is very similar to the other jurisdictions, because it is coming under the Auditing Standards, except for the bit in relation to the appropriation act and the statement of appropriation. The statement of appropriation is not necessarily covered under the auditing standards or under the Accounting Standards framework for what gets reported in the financial statements. It is an additional statement that gets included because of Treasury guidelines and the Treasury template for reporting in the ACT.

The Statement of Appropriation, as I discussed before, has information on the original appropriation act—the amount that was provided to a particular agency—in terms of three forms of appropriation: there are control recurrent payments, capital injection and expenses on behalf of the territory. They are the three types of the appropriation that are provided to the agency. What we are looking for is to see the original appropriation act, which is the original budget in the statement of appropriation, and that amount, and then it will have another column in there which is “total appropriated”, and that is all the variations from the original budget because of the instruments or the other appropriation acts that have been done during the year—it could be the second

appropriation or the third appropriation act, section 16 and other types of instruments that can be used under the FMA to vary that appropriation. We check to see whether there is an approved instrument that has varied it to get to that total; that is what we check.

Then we check the amount that has been drawn down, and we look at the statement of cash flow. Cash flow is, basically, from the bank, how much the entity has drawn down. We check to see that the amount that has been drawn down from the bank does not exceed what was appropriated or approved by the government; that is all we do.

Then we also ask the agencies to explain, if they have not, the process and what has been done as a reconciliation from the original budget to total appropriated—what instruments were done during the year. That will show separately, for transparency purposes, with a little bit of an explanation, and then it will also show what amount has not been drawn down. Our preference is in the narrative to be as detailed as possible so that readers know which initiatives have not been progressed, or, for capital works purposes, what the significant capital works were where money was not drawn down—whether there were delays, or what were the reasons for it.

MR WERNER-GIBBINGS: Thank you very much. A lot of focus yesterday was on, basically, the interpretation of 16B; how it should be interpreted and who is right and who is wrong. And that interpretation is not a role for the Auditor-General. How then does your agency check for breaches? Or, how would it assess or determine in what parts of the FMA a breach—if it occurred—had occurred? How do you check for that kind of thing? Not through the language, perhaps, but is it only on the numbers? And if so, where and how?

Mr Sharma: There is only one type of breach that we can identify through a financial statements audit, which is the total amount drawn against what was appropriated.

MR WERNER-GIBBINGS: And they do not align?

Mr Sharma: Yes, if they do not align, or if they have drawn more for one reason or the other, then there will be a breach. And Treasury is monitoring for that during the year. So, at the end of the year we compare the totals. If there were other types of breaches that we were to look at, it would have to be done as a performance audit or under a different scope where we would be looking for specific instruments and doing that kind of work—and possibly getting some advice through solicitors as well, because they will be providing insight in terms of the intent of the various provisions and then looking at the application of those.

MR WERNER-GIBBINGS: Okay. In the government's submission there is a quote:

The government considers that allegations of breaches of these acts are significant and require appropriate consideration by government, including potential referrals to the Public Sector Standards Commissioner, the Auditor-General and/or the ACT Integrity Commission.

So, referrals to you would have to be in quite a narrow purview, presumably, but has your office ever received referrals for public finance legislation breaches?

Mr Sharma: Not that I am aware.

Mr Stanton: No. We receive, periodically, representations from the community, members of the Assembly, other groups. No, we have not received anything in relation to the FMA breaches for as long as I can remember.

MR WERNER-GIBBINGS: Right; corporate knowledge. Which is how long, roughly?

Mr Stanton: I have been at the office personally since about 2010.

MR WERNER-GIBBINGS: Well played! Okay. So, more than a decade.

Mr Stanton: But my memory stretches even further.

MR WERNER-GIBBINGS: No, no, that is an opinion as opposed to hard evidence, but that is useful context.

Thanks, chair. I have got some more questions about procurement, but we will be coming to that, presumably.

THE CHAIR: Thank you. I would like to ask about the statement of appropriation. So: we have the appropriation, then we have the adjustments—which include some commonwealth grants ones, there is a Treasurer’s advance, there is additional approved appropriations, which is approp two, plus Section 16 transfers—and then you get the final appropriation drawn. So, you get the total appropriation and then the final one drawn. For example, in the year ending 2024 the total appropriation was eight and a half billion, and then the final appropriation drawn was seven and a half billion. So, there was a billion difference in what was drawn. Does that mean that billion dollars is then available to be drawn in the following year for various reasons, whether it is 16Bs or—? Because the total appropriation was not drawn, is it then available?

Mr Sharma: I think it depends on which appropriation type it relates to. Section 16Bs relate to the capital injection and capital projects. If it was about recurrent funding, I do not think it is available. It has to go through then the next year’s Appropriation Act and be properly approved.

THE CHAIR: Okay, so “recurrent” lapses?

Mr Sharma: Recurrent funding lapses, is my understanding.

THE CHAIR: That is interesting. With the rollovers, they tend to happen across the whole year. Would it be preferable to do them in batches at budget time and at budget review so that they are approved during the lead-up to those budget processes, and so that they are included? Because if they are done later in the year, after budget review, then you are not seeing total expenses for that year accurately at budget review. Would that be correct?

Mr Sharma: I think it would be better practice to bring it to the Assembly through the

Appropriation Act and have a discussion about it. I think there needs to also be a discussion in terms of the administration and practicality as to the amounts. So, I think all the significant amounts would need to come back through the Appropriation Act process. There would be some opportunity, I guess, if there is a very minor amount to be rolled over for the purpose of the project going—because there will be a fair bit of administration to bring those, and doing some sort of a cost-benefit and saying, “What would be the threshold?”

There are some thresholds under the FMA at the moment. But then, looking at revisiting those thresholds to say what the Assembly would be comfortable with in terms of what the rollovers are that could happen during the year, and the reasons for those, and which ones would need to be brought back to the Appropriation Act. I think that would be a better practice.

THE CHAIR: Because if they did the rollovers before budget review—so all the rollovers were sorted out, then they went into budget review—then you would know how much is lapsing and what is left and available to reprioritise in the next budget. Because you have also got the Treasurer’s advance that you can fall back on and, if things get really desperate, you can always do another appropriation. I do not know about the ACT, but other jurisdictions can bring on another appropriation if they really need to. And most of these are pretty small amounts—although, in saying that, they all added up to over 100 million, so that was a lot. Anyway, I guess it is about the timeframes and the certainty and the transparency of having it in the budget review and knowing what then can lapse to be reprioritised.

Mr Sharma: I think it would be prudent financial management for the contract managers to share that information, as to what is available at the time of the end of the year and when the approps are being done; what information is available, and what is the projection in terms of what funding would be needed. You would expect most of that information to be available, and you would want to explore the reasons as to why other information is not available so that the rollovers can be done at that time.

THE CHAIR: Yes, in a more timely way. Because they should know whether they need it or not, presumably.

I wanted to go to page two of your submission where it talks about performance and the target indicators required by the FMA. There was one reporting agency that did not have the proper recording systems for their accountability indicators. Just on the accountability indicators, I wanted to understand your view—and this might be a budget thing and not a financial statement reporting thing, from your context—but some of the accountability indicators are very high-level and associated with outputs. So, when we are in a tight budget situation and we are trying to analyse where we can reallocate funds to higher and better uses, do those levels of outputs and those accountability indicators provide enough visibility to the Treasury to be able to really interrogate where they can find money to reallocate it?

Mr Sharma: I do not think the framework is being used that way. I think, initially, when they were established, there were output classes and there were moneys allocated between the different output classes to deliver certain outcomes. However, the accountability indicators are more activities as opposed to accountability in terms of

performance for an output class and what the directorate is intending to deliver—so, how you would measure the performance for accountability of the directorates in terms of delivering the outputs. If you are measuring activities, that does not actually give you enough information to be able to assess the outcomes.

The idea was that there is appropriation, and each of the output classes would be established around the outcomes of the directorate, and then moneys would be allocated that way. Then there will be quantity, quality, cost and timeliness of the deliverable. However, we have a number of accountability indicators now that do not have that relationship, so the framework is not used in that way. And I think the appropriation is set at the total directorate level as opposed to the output classes.

THE CHAIR: I noticed that there are outputs, and then in the budget papers there will be very low-level initiatives that might be a couple of thousand dollars. So, there are these high-level outputs and low-level initiatives. How does Treasury actually interrogate where they can find savings if they do not have programs that they can review?

Mr Sharma: My understanding is that the expenditure review committee is the committee that looks at where savings are to be achieved.

For the financial reporting, I think we are looking at mostly net cost of services and how much it is costing to provide the service. So, from year to year our reports analyse in terms of the budgeted net cost of services versus what the actual amount is, for the delivery of that outcome for that year. So, if your net cost of services is exceeding your budget that means it is costing you more, and that requires some analysis.

Our reports have some analysis—and it tends to be mostly supplies and services and employee expenses—but we do not drill down because we do not audit the budget as such. It is for the agencies, as part of the development of their budget, to then have the scrutiny placed by Treasury, which we are not privy to, and we do not have information on. But that would be the process that you would use to have a look at where savings can be achieved. When you are looking at the accountability indicators, I do not think it has been actually costed in that way, where you would say, “If you did not deliver this, then what would be the amount that you can take away and say ‘that should have been a saving for the directorate’ as such.”

There are also strategic indicators—and they are set to provide that vision and objective for the directorate—and then the number of movements between accountability indicators and strategic indicators over a period of time, as well. So, we do not have visibility in terms of looking at the strategic indicators to say, “What is the work program for the next financial year and what would be the costing, or what would be the amount of appropriation that ought to be provided?”

MR BRADDOCK: A supplementary, going back to the point Ms Carrick was making about the timeliness of those 16B instruments being signed 10 months into the financial year—and it potentially being a period of 180 days as a maximum in which they get drawn to the Assembly’s attention. Do you have any views in terms of the timeliness of that approach, and what would be an appropriate time? Does it have any impact in terms of the audit office operations, in terms of that time?

Mr Sharma: I think, in terms of prudent financial management, it is always important that all funding is approved in a timely manner before the amounts are spent. In this case, because we have not done any audit to see when that amount was actually spent it is very hard to track through the ledger system as to the timeliness of all of those. Prima facie, as you have described, you want all approvals to be done in a timely manner. If you looked at the facts—and what should have been timely is what we do not know—there should not be months of difference from when the amount is spent to when it is approved. Ideally you would want the approvals to happen and the expenditure being done.

We have also tested another part of the instrument, which is Section 16, which is machinery-of-government changes. And we have noted a similar thing in our submission, where we are saying the announcement gets made by the government and then come the actual transfers of the amounts relating to that function. There is a process through which the finance teams negotiate and come up with the amounts. Until then, it is paid for by the agency that is carrying through that function. The actual transfers happen at a later date, in terms of the transactions.

The legal advice that we have received did not identify any breach, but said it would be better practice to do it in a more timely manner and closer to the time of the announcement. However, then there needs to be a full disclosure of that in the financial statements, in terms of when the announcement was made versus when the transactions were transferred, for transparency reasons. That might be through the statement of appropriation. There could be better disclosures put in the statement of appropriation where that happens, and reasons provided, and maybe some legal advice sought in terms of whether there are any breaches if it was not done in a more timely way.

MR BRADDOCK: Okay. Coming to the substantive: the government has agreed to undertake a review of the FMA this term, and I note in one of your last paragraphs of your submission you are talking about there possibly being an opportunity to make some reform to this act. Do you have a view of what reforms you would like to see to the FMA?

Mr Sharma: I think, if you have a look at any policy, that needs to be reviewed every three to five years. Legislation, I think needs to be reviewed regularly as well. It has been decades since this legislation was put in place. I think there are aspects in terms of modernising the legislation as well. There has been a piecemeal approach taken in terms of adding certain provisions. I think there is opportunity for us to sit back and have a look at the whole legislation in a comprehensive way.

There could be aspects of reporting that can be looked at, for example, in terms of statement of appropriation, if there are things that need to be added to the legislation to make it more tight in terms of control—also in terms of financial reporting and what guidelines are issued for the format of the statements that would make them easier to read. Whenever we are looking at a piece of legislation, it is looking at the readability, useability, relevance, ease of administration, and policy desirability, as well as looking at the relevance and context of it.

So, while I think there are a number of provisions that are being questioned, such as

Section 16B for example—and they are the areas that we have more visibility in terms of auditing the financial statements—there are several other ones in terms of borrowing investment that we do not look at. That includes performance reporting as well. I think there are real opportunities because performance reporting was added sometime later into the Financial Management Act. And there are a lot of guidelines that have been issued that deal with the reporting aspect of the format of the statements, plus what level of opinion we would issue on those statements. So, I think there is opportunity to look at what performance reporting means and how it can be made more useful to the readers.

I think there are other jurisdictions where they are moving from review level of opinion to an audit level of opinion on those statements of performance, and indicators as well. But I think in the first instance you want to have the framework right and report those indicators that make the agencies accountable for their performance—and be thinking at that level. There is sustainability reporting and climate reporting, and other reforms coming through, and it is worth, I think, looking at the legislation to see if they can be further modernised. Since COVID, there has been digitisation of producing of certain documents and things like that as well. There could be opportunities to look at whether some of those things can be more explicitly acknowledged in the legislation.

MRS MORRIS: Thank you. I wanted to ask you about something that Mr Cocks has raised in his submission. He has drawn the committee's attention to the 2024-25 financial year when the Assembly approved \$388 million in emergency appropriation, but the appropriation increased by \$620 million, meaning—according to Mr Cocks—over 37 per cent of the increase did not have Assembly approval. Can I get your reflections on that?

Mr Sharma: I think there are a lot of increases in the actual amounts spent by the agencies and where further appropriation is sought. Without looking at that particular situation, I do not think I can draw a conclusion whether it was properly approved before that amount of money was spent. You would expect if there was—

There is a range of agencies where there is blowout in terms of costs, and there is a process for which the agencies go to Treasury to seek further funding. It could be Treasurer's advance. There is a whole range of funding available to agencies to fund for particular types of expenses, whether it is an emergency expense or it can be waiting for a longer period of time. As I said, you know, there is flexibility between moving amounts between types of appropriation as well. So, I cannot draw any conclusion—

MRS MORRIS: So, you would need a bit more information.

Mr Sharma: You need more information, yes.

MRS MORRIS: When you audit statements at the end of the year, do you have visibility over whether payments were made before any authorisations?

Mr Sharma: Yes. Certainly, under the Financial Management Act, the minister delegates to the Director-General and the Director-General will have financial delegations. A range of offices will have delegations for different types of expenditure, different amounts of expenditure. So, when we do our testing of supplies and services and look at the expenditure, one of the testings is to have a look at the approval by the

delegate and the current delegate as well. So, certainly, through our sampling process, whatever expenses we test, we will check for appropriate delegation.

MRS MORRIS: Okay, thank you.

MR WERNER-GIBBINGS: We heard yesterday from the Minister for Finance about the procurement reform program underway, which she took us through. From an auditing best-practice perspective, what is your view on the government's work there and how things are progressing? Actually, I will go back just to confirm: the concerns raised in your submission regarding procurement and contracting matters, I read as largely historical, which has prompted the reform program. Are both of those assessments—?

Mr Stanton: Yes, sure. So since about 2021, possibly a little bit earlier, we have done a body of work in relation to procurement through our performance audit process. A bunch of audits—and we have listed those in our submission there—have looked at various aspects of procurement. Some of the audits looked specifically at probity of decision making. The Campbell primary school audit is one example. Others looked at different aspects.

We did one in relation to procurement exemptions and value for money. That is when an agency wants to go through a single-select process. I think that is the wrong terminology now, but essentially to not go out to an open and competitive process and otherwise select a particular supplier, which was and is available under the Government Procurement Act. Have they gone through and documented the reasons for that?

All of these audits looked at different aspects of the procurement. This body of work was on foot and underway. And it became apparent in 2022, or so, that the government, through Procurement ACT, was doing this large procurement reform program. That is a good thing, to the extent that it might have reflected some of the performance audit activity. That is a good thing. I personally have gone through some of the training that has been available through that particular program. And we see what is out there now in terms of additional and better guidance, better support for agencies.

We cannot offer an opinion on whether and how far procurement has improved, but clearly it is on a trajectory—and it has been since that point—of improvement. I think that is fair to say. We have seen that and we have been apprised of some of that activity that has been underway there.

MR WERNER-GIBBINGS: Thank you. Is it too far out of bounds for the government who is putting together the procurement reform program? Have you been asked for input into elements of that, or how to ensure that the requirements of the reform program are communicated well or technically accurately to the people who are receiving it? I mean, you have gone through it, presumably, so you would be in a good place to—

Mr Stanton: I have gone through at least one aspect of a training module that is offered. Procurement ACT would not have advised—and it is not the role of the audit office to be involved in policy development or policy making, or otherwise providing direct and specific input into the new frameworks, the new guidelines, the new requirements and the like. We were apprised over time—briefed, if you like—by Procurement ACT,

probably back in 2022 or so, where they kept us apprised of what they were doing and we had some visibility as to what they were planning and what was underway. But it is not the role of the audit office to be involved in that and provide input or sign-off or approval.

MR WERNER-GIBBINGS: I am more thinking of a football referee analogy. The rules are not made by the referees, but the referees interpret them. Pre-season, they will go and tell the players how they are looking to enforce them, and how certain impacts will be interpreted, and how these rules will impact the players who are playing the game. Is there that sort of engagement?

Mr Sharma: Certainly, in terms of an education process. What we have been doing is, you know, we have our insights publications which refer to the audits that we have done relating to procurement and what the findings were. So that is one form of education. We also have a webinar and seminar that we provide to the agencies where we highlight to them what the shortcomings were, and areas for improvement. And in some of those we would also refer to the guidance that will be available. Without going explicitly into the guidance itself, we will refer that to them.

I have met with the ACT Procurement board recently, as well, and their new external members of the board. We have talked about the education process in terms of the procurement board itself talking to the agencies about the guidance that they have got. Because, more often than not, we have seen that the guidance is available but the panels have not been accessing or making use of it. So, making it more known, I guess, to the people that will be undertaking procurement processes that they have that first consultation process with the procurement board and Procurement ACT in terms of better practices. And, as part of the planning process for the procurement, they have regard to all of that guidance in practice.

MR WERNER-GIBBINGS: The officials yesterday spoke about how, in a year or two—perhaps more likely two—they will be reviewing how far the procurement reform program has come, and looking to assess the efficacy of the program. Do you expect to be, or would you look to be involved in, providing your opinion, as people who are examining the final outputs of that review?

Mr Sharma: In the first instance, we would expect them to give us a briefing on the review and what it entailed, and, with reference to the recommendations that had been made in the performance audit reports, how they have been addressed, from that perspective. Then that gives us an opportunity to decide whether that would be something we would put on the PA program or not, in terms of looking at our priorities with the various things that we will have at that point in time.

Certainly, if we were doing another procurement audit at any point in time, we will go back and see how the agency would have applied some of that guidance and whether that is better practice—and also question Procurement ACT to see what sort of feedback they are getting from the people that are implementing the guidelines, because I think it is important from practitioners' perspective that they are finding it useful and easy to apply. There is also an accreditation program by Procurement ACT where agencies have to self-assess their procurement capacity and capability. I think that would be a useful exercise for Procurement ACT and the procurement board to have a look at how

agencies have self-assessed, and the areas in which they can plug the gap.

MR WERNER-GIBBINGS: Thank you, Auditor-General.

MRS MORRIS: When you conduct your audits and you encounter any tension or confusion, uncertainty—whatever you want to phrase it—between an explanatory statement and legislation, under the Legislation Act, what takes precedence?

Mr Stanton: From a performance audit perspective, we would go to the legislation in the first instance, of course. So, we would go to the legislation in the first instance and if there is that difference of opinion, then we would start working back. We would also potentially seek legal advice ourselves, on our particular interpretation or understanding of the legislation, and then we would go back. But I guess we would go back to the explanatory statements. We would go back to the first and second reading speeches and the like, to see if that can assist us in understanding it. But at some point we might actually, if it is important, seek that legal advice ourselves.

MRS MORRIS: So, in the first instance it is the legislation?

Mr Sharma: Yes, and we would be very careful in terms of looking that the further guidance is not changing the intent of the legislation.

MRS MORRIS: Yes. So, if the legislation itself is quite clear and black-and-white, would that then take precedence? If there is no confusion in the legislation, does that take precedence over the explanatory statement?

Mr Stanton: Yes.

MRS MORRIS: Thank you.

THE CHAIR: On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof of Hansard. Thank you.

Short suspension

BRADBURY, MR PETER JOHN, Private capacity

THE CHAIR: Welcome, Mr Bradbury. Please confirm that you are appearing in a private capacity?

Mr Bradbury: I am.

THE CHAIR: Please note that, as a witness, 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.

As we are not inviting opening statements—but we did receive yours—we will now proceed to questions, if that is all right with you.

Mr Bradbury: That is fine.

THE CHAIR: I would like to go to the heart of the 16B matter that has been the subject of much debate over the last couple of days. The legislation basically says that the Treasurer must attach a copy of the authorisation to the next financial statement presented to the Legislative Assembly. But the government is referring back to section 68 of the 2015 amendment bill's explanatory statement, where they talk about it in the context of quarterly reports; you attach the instruments for that quarter to the quarterly report. Do you have a view on the nuance here?

Mr Bradbury: I would go back to the answer that the Auditor-General gave. The legislation is the ultimate point of referral, and it is quite clear. We could add that the government's submission mentions the background to this, and that previously these authorisations and directions needed to be supplied to MLAs within three working days. There was obviously some sort of an agreement that that could be loosened up. With going from three days and attaching it to a meaningful point of reference, like the financial statements, the next one would seem to be where you would be aiming for.

There is also an aspect there in terms of whether they relate to a quarter. The appropriations are for the year; hence, with saying that they relate to a particular quarter or they should be attached to one because it was signed before or after 1 April, I cannot see the logic behind the practice which is there, other than to delay the information being given to the Assembly and the community.

THE CHAIR: It is more timely to attach the authorisations from the last tabling of the quarterly report—the authorisations since the last tabling of the quarterly report—to the next tabling; for any that fall into that period, as opposed to a traditional quarterly period, it is adequate and more timely, in fact?

Mr Bradbury: It is more timely. This is about transparency; hence it should be as timely as possible, without being overly burdensome. The individual stream of them which might come to MLAs means that, if they were thinking of looking at what is going on with the government, in doing these 16Bs, it would have to be aware of three that came in on this day, two that came the next day, and seven that came in a week and a half. But there does not seem to be a rationale for why one signed in early April should

not be aware of by the Assembly until mid-August.

THE CHAIR: Do you think that processes could be tightened up by doing batches of them—the rollovers—at budget time and budget review, so that, in the lead-up to budget review, you ask the directors, “Does anybody have a rollover that they need for this financial year,” and get it into the budget review?

Mr Bradbury: Yes. You will note in my submission that I recommend a much tighter regime, which is to have a provision for rollovers, so that there is an expectation about what might possibly be rolled over. I am thinking that, in most of those cases, those probably eventuate. The thinking process, in my experience in other organisations, in commonwealth government and in international organisations, is that these sort of processes are very tight, and the reporting is very early in the year, and possibly before what in this case is the first appropriation bill.

If you have programs and projects which are running until, say, 30 June 2024, it does not seem sensible, in an efficiency and organisational sense, to say, “Just stop work on that. Don’t draw down any money on that until we get an approval.” I do not see the evidence of a government cancelling many of these. I would have thought there would be a lot of reporting around that, and I have not tripped across any of that.

A useful thing for you to pursue would be some sort of report from the government about appropriations which were unspent at the end of the year and were not rolled over, and some order of magnitude of that. I can see that there would be sets of them which just do not have the potential to be rolled over. You are funding a function just for a financial year, and you are funding the same function in the next year. You would not roll that over.

There will be a line item of expenditure for a director-general’s position, for instance. If that was left unfilled for two months, you would not make 14 months worth of expenditure in the next year. But there are a whole lot of programs which will deliver some real outcome. You would expect that that will require a rollover, or are you going to say, “We got 90 per cent of the way here and we just chopped it off”? It is about designing a process which is appropriate around that, and the earlier reporting of the provisioning of it makes much more sense.

For people trying to analyse—which includes you, and the community—it would be far better for us to get a budget that says, “Here’s a provision for expected rollovers from the previous year.” You then work through the year and the government decides, “No, we don’t need to do that,” and “We don’t need to do that,” and you end up with a bunch of saving, rather than the circumstance we have at the moment, where the budget is set and, three-quarters of the way, or more than the whole of the year, we find out about expenditure which might take place.

MR BRADDOCK: Mr Bradbury, you might have noticed during the Auditor-General’s evidence where I was asking about the 16B instruments being signed after invoices and payments had occurred on some projects. He appeared to give evidence that, basically, due to the net cost of services for which appropriation occurs for directorates, that was not a problem. Do you have any perspectives on that?

Mr Bradbury: There are some in my submission. I saw one where it was quite clear

that money had been spent without being appropriated. There does seem to be some flexibility, and I think the areas of the amount of netting which is available is a risk, and that is outlined in my submission.

There is obviously some flexibility in the other direction, because a lot of those 16Bs are quite long documents; they have 20 or 30 rollovers and there is a note at the bottom that effectively funds have been rolled over in the other direction for projects which are ahead of schedule. I think that is a risk management issue, but it would be better to see it a lot tighter in that space, because any looseness is some sort of weakness.

MR BRADDOCK: Can I ask you to clarify in terms of what you are looking for in tightness? I can also see that there is a need for directors-general and senior leaders to have some flexibility within their portfolios and their funding envelopes. What exactly are you talking about when you say there should be a tighter regime?

Mr Bradbury: I would go to more firmness about the appropriation being the amount which that organisation can spend in that year. I would be more worried about those netting provisions, particularly the netting in terms of goods and services—sales. It seems to be right outside what I would have done. If I had sat down to, say, design an appropriation process, it would not be to say, “Let’s allow them to dip somewhere into the revenue space and use that for appropriation,” because, as I outlined in the submission, an entity could come back needing more appropriation not because it overspent but because its revenue did not come on board.

THE CHAIR: I want to check about the netting provisions—the net cost of services. The appropriation is the net amount, because they are expecting some sale of goods and services, and that will form part of the expenses. Isn’t it a normal process that the sale of goods and services goes into consolidated revenue and they just get an appropriation for what they need to expend?

Mr Bradbury: That is the way it should work, I would have thought. That is what I am saying: it seems quite unusual to net goods and services. There is netting which I did not mention in my submission, which is a net cost of purchasing assets. I am a little bit more comfortable with that at a gross level; otherwise the financial management office, or whatever it is called in the ACT government, needs flexibility to manage financial assets. You would not want to constrain them and say, “You can only purchase this number of financial assets.” That has some sense in a net sense. With the GST, the netting of tax input credits seems relatively safe, other than that it might complicate the budget process or it might be looked through and be providing a safety net, as they say.

MRS MORRIS: I want to elaborate on that line of questioning, with regard to retrospective authorisation of payments, which the government, in the hearing yesterday, accepted had occurred. Have you read the ACT government’s submission to this committee?

Mr Bradbury: Yes. I cannot say that I can recall it in great detail.

MRS MORRIS: You touched on it briefly; they pointed to a rigorous assessment process that takes place when a minister requests authorisation from the Treasurer for approval of a rollover, and that that rigorous assessment process takes place under

section 31 of the Financial Management Act. We learned yesterday through evidence that, while the ministerial requests were made in December, and the Treasurer authorised in April, payments had already been made before that rigorous approval process could take place. The Auditor-General suggested that it was not good practice. Would you like to offer your reflections on that?

Mr Bradbury: I would agree with him. What is the purpose of a rigorous process if it is so easily sidestepped? If that process is in place, it would not seem to be rigorous enough, if payments are being made.

MRS MORRIS: Do you think Canberrans can have confidence in the government's administration and management of these sorts of authorisations?

Mr Bradbury: It does not look good, from my experience. The delay in messaging, the quite obvious instances where there are not tight controls around this, and the fact that you can have retrospective approval of expenditure—that would seem to be the absolute, red-card offence, if this were a sporting event, I would have thought.

MRS MORRIS: I also asked the Auditor-General whether he thought this was something that warranted further investigation and whether or not they could rule out a breach. He said he could not rule it in or out and that it did warrant further investigation. Could I ask the same question of you and get your reflections on that, too, based on your experience and the concerns that you have raised in your submission?

Mr Bradbury: There are certainly a great number of breaches. Most of those are falling into the transparency space—not reporting them in the next financial statement, and issuing a report of importance, such as the quarterly financial statements, with 37 pages missing from the middle of it. Those are quite serious failings, I would have thought.

MR WERNER-GIBBINGS: With respect to the 16B amendment and going to more of a thematic approach to the FMA Act, it was the 2015 amendments that brought in periodic financial reporting. Specifically, it says it is to replace the existing presentation process, which was after every three days. Would you prefer the quarterly reporting to be removed and replaced, or go back to every three days?

Mr Bradbury: No. I think that the quarterly reporting is fine. It is about keying it to an event. I do not know that it is worthwhile for MLAs' offices to have receipt of this string of authorisations coming through every few days or few weeks, to try and make sense of it. It certainly makes sense to bring it together in one place, like attaching them to the quarterly financial statements.

MR WERNER-GIBBINGS: Is that then reporting, say, an event that happens before 11 April within the second quarter? For instance, an authorisation on 1 April would be required to be reported on 11 April.

MRS MORRIS: The next financial statement.

Mr Bradbury: The next financial statement in mid-May.

MR WERNER-GIBBINGS: Which would be 11 April—

MRS MORRIS: May.

MR WERNER-GIBBINGS: Sorry, the May one.

Mr Bradbury: Mid-May.

MR WERNER-GIBBINGS: Then reported again? Because the periodic financial reporting is specifically about a period, do you then report it again in the August financial report, which is to do with April to June? Are you looking for double reporting or single reporting?

Mr Bradbury: No, report it once; then—

MR WERNER-GIBBINGS: Because then it is not a periodic report.

Mr Bradbury: The quarterly reports are building a body of knowledge, and I cannot see a reason why you would keep attaching the instruments to them. You would go to the individual ones, the individual statement.

MR WERNER-GIBBINGS: It would not be periodic financial reporting; it would be—

Mr Bradbury: Yes, but it should be at the first opportunity, rather than trying to align it. It is a false alignment, because the appropriation could relate to the expenditure that is approved in early April. Certainly, it is only approving expenditure in that quarter, but, as we have seen, there is retrospectivity, and there is flexibility for the entities to move money about.

What it is doing is providing an absolute maximum, and it is increasing that absolute maximum, until we get to the total appropriation available for the year. It is not clear to me that it is tied to a quarter of activity, particularly since some of these are not happening at the beginning of April but earlier in the year. They could impact the remaining ones, even if the processes were tied, and given the flexibility affecting periods in the past as well.

MR WERNER-GIBBINGS: What would be a better period than that? Six-monthly reporting?

Mr Bradbury: No, quarterly reporting. In terms of attaching the signed instruments, it should be at the next opportunity, which is the next financial report, not trying to artificially link it to a quarter. With a signed one in the first quarter of the year, it could affect all the subsequent quarters. As we have seen, there are retrospective ones, so there was one signed in April which was authorising payment that happened in the previous July.

MR WERNER-GIBBINGS: With respect to the FMA Act, the government has committed to reviewing it in this term. It was stated in its submission. Are there other elements that you have picked up or that it is looking at that you think are not clear enough in the act, or open to interpretation, that you would like to see the government

look at, as part of that review?

Mr Bradbury: I do not know that I would have put it in that space of concern. There are some things where there did not seem to be an obvious reason for doing so. One of the things pointed out was that the original appropriation bill appropriated payments on behalf of the territory to entities that were not eligible to receive those by the legislation. I would have a look at section 8, as to whether some of those sections are required. There seem to be some, what I would call, ragged edges in places. Why can't the ACT executive or the Office of the Legislative Assembly receive those types of appropriations? Is there a reason behind it?

Somewhere in the netting provisions, there was also a ragged edge there. Directorates can net off the proceeds or the accounts receivable from sales of goods and services, but other entities cannot. Is there an adequate reason around that? My rationale is that netting should not take place. There is potential to look in those areas where there are very specific lines drawn and to understand whether there is a real reason for those lines.

THE CHAIR: On the FMA, given that the budget is in a precarious position with the escalation of the debt and the interest payments, do you think there is room there to clarify the financial sustainability definitions, using the metrics that we use, like cash as opposed to headline net operating balance? Do you think that that area of the budget side of the FMA could be tightened up?

Mr Bradbury: It could. I think there is some evidence that it is not being particularly well followed at the moment. There is certainly concern in the community by those that would say, "Look at and follow the things which are in the FMA about that." Certainly, I would not advocate looking at the cash balance. The accounting world has gone through decades and decades of bringing accrual accounting to—

THE CHAIR: Accrual budgeting, yes.

Mr Bradbury: It should be looking at the ultimate balance in that set of accounts, which is the net borrowing, because there is an analytical presentation format there which is designed to take that, break it down into the meaningful components and analyse balance sheet issues, like the funding of liabilities. The big one in the ACT is superannuation. That is not part of the mainstream government operations, and it needs to be dealt with separately. I certainly would not advocate the use of the so-called headline net operating balance. It is outside all global standards, and it just presents a glossy picture of what is going on.

For instance, it does not include that we are putting in half-a-billion dollars of cash injection into the superannuation provision account. If one were to present a separate superannuation analytical measure or a range of measures, you would want to include all the measures, not just one which is favourable to the government's position.

THE CHAIR: You are saying that, with the table at the front of the budget papers with the headline balances—at the moment, the name of the table is "Headline Net Operating Balance"—you should have budget aggregates, with a range of different line items that you can then use to assess the fiscal sustainability.

Mr Bradbury: It is a balance. I have spent a long time in statistics. It is a balance between what you put at the beginning, on the front page of a publication—how much detail, from one measure through to a handful. It depends on the sophistication of the users, quite often. The more sophisticated users will know where to look for and find things. There should be a small range of indicators, certainly. That is why I would have the ultimate balance. Many jurisdictions in Australia call the net borrowing requirement on an accrual basis the “fiscal balance”. To me, that is the headline.

THE CHAIR: Fiscal balance.

Mr Bradbury: Yes, the net borrowing, as it appears in ours. You would then break it down into net acquisition of non-financial assets—effectively, the infrastructure spend—then the operating balance, as compiled by the United Nations global standards, because that reflects the day-to-day operations of the government.

THE CHAIR: That front table is what the media grabs hold of, when the budget comes out.

Mr Bradbury: That is correct, and that is—

THE CHAIR: At the moment, it is coming back to surplus, always; the superannuation adjustment helps.

Mr Bradbury: For a range of reasons. One is that information about what expenditure will end up as is hidden virtually until the last moment. Looking at 2024-25, there was \$111 million worth of rollovers in total. Between the 2024-25 budget being handed down and the final result, most of that will have gone into operating expenditure—if not operating expenditure, the acquisition of non-financial assets. Hence that bottom line of borrowing is likely short by \$100 million worth of expenditure; so it is part of the puzzle.

Saul Eslake’s interim report included a small bit of revisions analysis which concentrated on the end. The more detailed analysis that I did shows that, from the first time an estimate appears for a year, as the most distant outyear, to the final audited result, the average over the last six years—2024-25 and back five years—shows expenses rise by over 17 per cent and revenue rises by between seven and eight per cent. There is a bias in the whole estimation process towards moving more to deficit.

THE CHAIR: We will have to wrap it up there. Thank you, Mr Bradbury, for your evidence. On behalf of the committee, I thank you for your attendance today. If you have taken any questions or notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*.

Mr Bradbury: I do not think I took any. I might provide an answer to something that the Auditor-General said about what types of appropriation were subject to 16B, because my recollection of reworking that year is that it is more than capital injections. I will confirm that by looking at it.

THE CHAIR: Please do so. Thank you.

HARRIS, MR SCOTT, Director, Workplace Relations and Policy,
Master Builders ACT
NEELAGAMA, MS ANNA, Chief Executive Officer, Master Builders ACT

THE CHAIR: We welcome witnesses from the Master Builders Association of the ACT. 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. Do you have an opening statement?

Ms Neelagama: We did prepare one, Chair. It is under two minutes. Thank you, Chair, and committee for the opportunity to appear today. Master Builders ACT represents businesses that deliver Canberra's homes and public infrastructure. We are proud to employ 18,000 Canberrans and are primarily made up of small businesses and private enterprise owned by long-term residents and families in the ACT.

Our evidence today is straightforward. While the ACT government's procurement framework is intended to deliver value for money for the territory and secure local jobs, its current operation is not achieving these outcomes. This inquiry is an excellent opportunity to publicly raise issues we have been raising privately in relation to the Secure Local Jobs Code. It is administratively complex, internally inconsistent and favours companies that have large compliance teams. It also has no requirement to support either local employers or local employees. We would like to point out that the Australian government intends to introduce an Australian local jobs code. This means that ACT building and construction businesses will be the only jurisdiction in Australia to comply with two codes simply to compete for government work, when we are, in fact, the nation's capital.

Our key recommendations are practical and targeted. We are calling for the reform of the Secure Local Jobs Code so that it supports SME participation rather than acting as a barrier; we are calling for procurement strategies that genuinely test and utilise local capability; we are calling for stronger oversight of subcontracting practices to ensure local workforce commitments are delivered in practice; and we are calling for greater transparency, proportionality and fairness in procurement compliance. This will power two key outcomes that I know all members of the committee want: we will keep our capability local for both jobs and for business and we will ensure that the benefits of major projects delivered within the ACT are also returned to the ACT economy, while also delivering better value for money for the territory. We look forward to answering the committee's questions.

THE CHAIR: Thank you. We will start with Mrs Morris.

MRS MORRIS: Thank you. You may have answered some of my questions with that very well put opening statement; so we will look to the Government Procurement Act, section 8, which goes to value for money, which you have touched on. According to the act, "value for money" means the best available outcome for the procurement that maximises the overall benefit to the territory. You have raised some concerns about achieving value for money with the Secure Local Jobs Code. Can you elaborate on where or how the Secure Local Jobs Code is not delivering value for money—which, if that were to be true, would then be in breach of section 8 of the Government

Procurement Act?

Ms Neelagama: The Secure Local Jobs Code does not require ACT procurement to use either local employers or local employees. It is tied to the direct circumstances of individual employment, which means procurement, despite being code compliant, can go to companies from anywhere in Australia, which means you are attracting higher overhead costs for bringing crews in, additional loading and travel allowances et cetera. But there is also the financial component, which is pure cost. Then there is the non-financial component, which is keeping workforce capability in the ACT and ensuring that procurement is given to employers that pay a high amount of payroll tax in the ACT and we can sustain our skilled tradespeople here in the territory. So it is financial, but it is also workforce planning and retaining our human capability, which I believe also delivers value for the territory in the long term.

MRS MORRIS: Are you concerned that local businesses are missing out because of interstate firms?

Ms Neelagama: Absolutely. The Secure Local Jobs Code is just a piece of paper otherwise.

Mr Harris: Anybody can apply for local secure jobs and get the application through from it. There is actually no auditing process after you get that piece of paper to actually indicate that you are using local people to do the work or local businesses. If there were an auditing process after the application or the awarding of the certificate to ensure that local people or local businesses are being used, it would make it better. It would bring that economy back in, it would bring the money in and it would meet the procurement rules to go with it from there—best value for the local.

MRS MORRIS: What impact would this be having on your members and small businesses?

Ms Neelagama: There are a few impacts. The first is the cost of red tape and the administrative burden that it places on small businesses that have to be code compliant to either tender to work or to be a subcontractor to that and the ongoing compliance that it requires. The second thing with the Secure Local Jobs Code is that, if you look through the information listed on the ACT government's website about the code, it is all about helping local workers and returning value to ACT businesses, and in reality, the legislation does not require either of those things. So one is the cost to participate in terms of the time involved in that red tape and administrative burden, but the second thing is that the code says it will do one thing in its name but the reality is that it does something quite different.

Mr Harris: To go with that, at the same time, you have to have multiple qualifications or multiple certificates to do your work. So you have Secure Local Jobs, then you have the OFSC—Office of the Federal Safety Commissioner—audits and then you have inspectors from WorkSafe to come on site. Why can't there just be one simple document that ensures that people are right to work on the worksites locally based? Does the Secure Local Jobs override it? No, the federal one is a higher level to go with it from there. Why don't we have one that comes together and ensure an audit process in there? You could actually remove a lot of the red tape in putting the document

together and managing it on site. That would then feed back into the local economy—making sure the businesses are actually located in the ACT to work in the ACT, to pay for payroll tax, insurances, registration, buying houses and bringing families in here at the same time. It is not cutting people out from working; it is just that you have to demonstrate that you are living and breathing in a certain location.

MRS MORRIS: Are you seeing instances of local businesses who do have the Secure Local Jobs but are still might be missing out to interstate larger firms?

Ms Neelagama: That is the reality, and that is why we have presented these four key recommendations to the committee.

Mr Harris: A regular occurrence that our members bring up to us is that tier one major companies come in to do the work—which we are not against; you need to have all the right compliance issues and governance in place—but the people they use underneath might not be from the local area. They have brought them in from somewhere else, because they are a part of their normal crews or part of their normal work processes. We are asking for the same opportunity that these people are getting to also be given to local people.

THE CHAIR: So when they get their certificate for the Secure Local Jobs Code, at the point when they apply for it, do they say, if they are an interstate company, that they will use local labour? Does it happen that, when they get the certificate and then the interstate firm tenders for a project and wins it, they might not necessarily use local labour at that point—so the certificate says one thing but then, with all the jobs that you contract for, something else happens?

Mr Harris: That does happen. I will use myself as a dummy example. I have applied for a Secure Local Jobs as a tier 1. It is a piece of paper saying that I can apply and take up a job being awarded to me for an RFT through the ACT government—no problems at all. There is actually nothing after that stage that tells me I have to use local. It is just a piece of paper that says you are agreeing to the Secure Local Jobs. It does not actually say anything about how many people you have on site and how many businesses you are using. After the allotted time, I just reapply again and say, “Here is all my documentation; here are all my papers on governance and everything else,” and “Yes, I will use local people,” or “I will contribute to this community group,” and everything else to go with it. Then it is like, “Here is your certificate again; off you go.” But there is no compliance or mandatory requirement for me to use local people or local businesses to do the work.

THE CHAIR: Some contracts will specify the number of apprentices or women that you might have to have on site. That would be in the contract, but they would not necessarily say that you must use generally local labour as your subcontractors.

Ms Neelagama: You can be code compliant and not employ a single local. If you secure or win an ACT government contract, yes, you will have the code. You will also have to submit something called a Local Industry Participation Plan, which occurs during the tender phase, and you can say, “I am going to do XYZ and I am going to use XYZ local people.” But that Local Industry Participation Plan is then not tied to contractual arrangements. It is just something utilised in the awarding of work. So you

have the code and then you have the LIPP and, if you win that work, you are legally accountable to neither of those.

THE CHAIR: To neither of them—because it is not actually in the contract that is signed for the work?

Ms Neelagama: That is right.

Mr Harris: Other than you might have to have X amount of apprentices on site or X amount of females in roles and everything else, which is part of the procurement process as part of your contract, but not about the other side of who you are actually using.

THE CHAIR: So you might have some women from New South Wales, for example?

Mr Harris: It does not tell you where you have to use them; you are just meeting figures. If you have them on another site somewhere else, it is a part of your figures. As an example, it may be that 10 per cent of my workforce needs to be female gendered, but they actually might not be in the ACT. They might be across the border in New South Wales or in Victoria, working in different locations, but they are a part of my overall picture. They are not paying payroll tax or insurances to the ACT, because there because their work location is somewhere else.

THE CHAIR: Thank you.

MRS MORRIS: Carrying on from that, is it by nature of the code that work is then going interstate? Do you have any other reflections that you might like to add as to why interstate firms would win those contracts when there are certified-level suppliers here?

Ms Neelagama: Our message to this inquiry is that the code is red tape and it is not driving better outcomes for local businesses or local workers. The second component is that there can be better procurement strategies applied as a whole, from the whole of ACT government, in order to better support local capability, and we have detailed that—for example, introducing a local capability test. The federal government has done that for procurement underneath I think it is \$7.9 million for federal projects. That is a great thing. We need to look at something comparable here. Parts of the New South Wales government also does something similar. They look at pretty much the regional circumference around that. If there are people in the local market that can deliver it, they should get the first look, for example.

There should be a more simplified tender process—there is a lot of duplication of paperwork—that allows smaller firms, those who do not have the big corporate head office but can certainly do the building and construction work on the ground to an excellent standard to compete. Something we have been very vocal on is active consideration of correct size packaging. I will use a federal example. Something like the NBN could have been packaged up in a few different ways that meant that multiple local guys, small and mid-tiers, could have competed and won that work. But, instead, it went to two large projects.

Again, there could be a reduction in submission response length for smaller projects. One consideration that has been done in other jurisdictions—and I know we have

something similar for Defence here locally—is a local procurement champion that can work through and put all of these requirements in place and the reporting and evaluation required. But our message is that the local industry can deliver more and, if you structured procurement in a way that they could tender and win—where it advantaged them and indeed there were requirements to do so—we would see the benefits of that in the ACT economy.

THE CHAIR: Thank you. We will move to Mr Werner-Gibbings.

MR WERNER-GIBBINGS: Thanks, Chair. In your submission, one of the recommendations was that government would look at breaking large programs of work into smaller, discrete packages that would reflect the scaling capability of local contractors. Can you explain how the works are currently packaged or generally packaged in practice and, from that, what kinds of changes to packaging in terms of size and whatever structure or types of work you think would most improve local participation?

Ms Neelagama: The government have committed to a pipeline of work and they have committed to funding that. It would be looking at the whole pipeline and seeing where local people can deliver it—whether it is civil construction, commercial construction or social and affordable housing—and see what gives us the best value for money using local contractors. You could draw up a framework quite quickly. There are a range of measures you could take in terms of improving criteria through the pre-qualifications process which would allow easier access to joint ventures—for example, if two mid-tiers wanted to get together; you could say, “You need to use an out-of-town contractor because of the degree of expertise required”; and you could require them to tender with local companies and have a complete local delivery model.

So I think it is looking at the pipeline strategically and seeing where you could package it; looking at the pre-quals process to see whether the categories within that are fit for purpose in the current environment; and, where international or other expertise is required, require them to work with locals in the first instance. All of that can be achieved, and there are models for them currently across the country.

Mr Harris: It would mean a little bit more administration-type work in putting the procurement process together on the RFT. But after that is when you will see value coming back into the ACT economy, because you are going to be using local people to do it and they are here and they are committing to that site. It could be a tier 1 running the project to go with it; it just has to be more confirmed on what is used underneath it. Or there could be a major project where you have the expertise in-house or in the ACT who could do that work but they cannot do the whole project and they then talk with design, construct, maintain from there on the project itself. It is breaking up those three areas. I know; I am guilty of it. When I want to manage a project or something, I look at the whole project; I do not try to break it apart. But, looking at it from the other side, sitting here at the moment, I am thinking, “I can do a design in town; I can do a construct in town; I can do a maintain,” which means the money will stay here and not go out. That might be the best way to go with it.

MR BRADDOCK: I am curious about the criteria and how you evaluate that additional administrative overhead versus those local benefits that will flow from smaller

packaging of work. Do you have an idea of what that criteria could look like?

Ms Neelagama: It could be quite simple. It could be the length of time that the directors of the business have lived in the ACT. It could be how much payroll tax has been contributed historically. It could be questioning how many of these experts you are bringing in for the project are actually coming to live in the ACT. They are more kind of tick-the-box things that would have a large impact.

MR BRADDOCK: Sorry; wrong question. I suppose I should ask—

Ms Neelagama: Perhaps I misunderstood, I apologise.

MR BRADDOCK: No; I used the word “criteria”; whereas I really should have asked in terms of weighing up the two aspects of that and trying to decide where that happy space is that will not be crushing the administrative overhead but also have a good flow of local benefits.

Ms Neelagama: I think the flow of local benefits would far outweigh the administrative changes you would need to make. I think you could simplify the procurement system, so that the administration systems worked a lot better for the public servants administrating them. But I will return to my key points. We want to keep local capability here in the ACT, both for workers and for businesses. If we do that, we will see better value for money; you will be able to secure a better price for projects; and we will see the flow-on effects in our restaurants, our cafes, our retail stores and the schools and communities in which we live. So, to me, it is a no brainer.

Mr Harris: I would add that it could be as simple as how you divvy up the work within the APS side of it or it might be that you have the project manager still running from the APS from a management point of view but it is part of the tiering process, where all the administration is done by the contractor themselves. It would have to come down to what the package is itself and working from there. If you are doing a small package it will be harder, because they will not have the capability on the ground in the SMEs and that; they will have to put people on to do it all. Each job would have to be weighed up on its benefits. Sometimes you might not be able to break down a package, because of those types of costs. You might actually bring the tier 1 in at the top area to run all that together, but underneath is where you get the benefit from it.

MR BRADDOCK: Thank you.

THE CHAIR: If there was more certainty for local businesses due to what we are talking about, would that help with the ability for subcontractors to take on apprentices and build up their skills base? We are always screaming, “There are not enough tradies.” Would that provide more certainty in the market to allow them to take on more apprentices?

Ms Neelagama: Absolutely. I think market confidence is at a low because of what is occurring in the Middle East and how that is impacting on fuel and pricing. If we had this good, strong pipeline of work that locals knew they could both compete for and win, we would, of course, be making more investments into our future workforce. That is absolutely what we would like to do.

THE CHAIR: Thank you. You were talking before about consortia. Do Canberra companies come together very often to form small consortia locally to get a bigger job? When they are putting in their bids, do they form small consortia with some New South Wales or Victorian companies? How well do they all work together?

Ms Neelagama: The system makes it challenging because of the pre-qualifications categories. I think most people are open to a JV, but the corporate structures you then have to implement can be a barrier, particularly if there is not seed funding to participate in that procurement. So I would say that, for a large project, if you really wanted locals to compete and indeed partner, a local capability test and early contractor engagement would be crucial. But I think also providing seed funding so they could participate in the bid would help overcome some of those challenges.

Mr Harris: It might not be just the seed funding; it might be just the underwriting of the cost to go with it. It is not actually putting the dollars into an account to go with it; it is just the guarantee—“Yes, we will back what you are doing with that, but these are our check marks, our benches, to go through with it.” So, “Yes, you can put the JV in and we will back you to do the JV, because we know you can do the work, but you just might not have the right finances or the corporate structure to go with it, but you need to have these qualifications in place to go with it too.”

THE CHAIR: These issues have been raised before; this is not the first time that these issues have been raised.

Ms Neelagama: No; they have, I believe, historically well tabled.

THE CHAIR: What response has the government given to date about these issues?

Ms Neelagama: I think the public service is working hard on developing and delivering a pipeline of work. The Secure Local Jobs Code is a government initiative. It is something that we have flagged. We have found it a fairly resistant environment, which has led to the whole process of us coming to this committee and participating in the great debate of democracy.

MRS MORRIS: Could you comment on the flow-on costs of the code? Are there any reflections that you wanted to provide on that?

Ms Neelagama: It is just a huge burden in terms of time and productivity. If you were a small business—maybe you are husband and wife partnership—that all falls onto the—

Mr Harris: Unpaid person.

Ms Neelagama: Yes, the unpaid person in the partnership to administrate. That is just a cost of doing business if you want to do this work. So I guess there is the hidden unpaid cost. But then there is the ongoing compliance. If you are a large employer and you are a long-term local and you are paying all this payroll tax, doing this code is just something extra that you need to do and it does not give you any advantage when you go to tender for work even, though that is what this piece of compliance is marketed as.

MRS MORRIS: So there is the cost impact in that regard. On the government side, would they be paying more than they would necessarily need to for the works?

Ms Neelagama: Yes, there are obviously costs associated with applying for the certificate.

Mr Harris: Yes; it is that I have to recover the cost; so, therefore, it is going to have to go on the consumer. That money might not come back into the economy here; that money might be going to an external location. To put the Secure Local Jobs together, it is work, it is time. But what is the benefit? That is what they come to us with: what is the benefit of getting this piece of paper other than to say that I can tender? There is actually no stick on managing and auditing why the code is required. It would not take much for the major tiers to provide the information to an audit team on who they are using as local builders and local people, because you actually have to register. When you walk through every single building site on a commercial construction line, they know who you are and where you are.

MRS MORRIS: We are obviously inquiring into government compliance with the Government Procurement Act and also the Financial Management Act. I do not expect you to know either of those acts back to front, but, if you do have any concerns, I want to put the invitation out there. Do you or any of your members have concerns that, through the code, they or others might be unfairly favoured in a way that might potentially breach the Government Procurement Act?

Ms Neelagama: I believe there is an Integrity Commission matter called Operation Kingfisher that is examining exactly this, and we are looking forward to seeing the public results of that.

MRS MORRIS: Do you have any concerns that that would not be an isolated incident that you would be comfortable sharing with the committee?

Ms Neelagama: That matter is being investigated, but the sentiment across the industry is shared and the Secure Local Jobs Code is part of that. We need to get it working for both local workers and local employers.

THE CHAIR: On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*.

Short suspension

HERRICK, MR ROBERT, Private Capacity, and Committee Member, Yarralumla Residents Association

THE CHAIR: We welcome Mr Robert Herrick. Could you please confirm the capacity in which you are appearing today?

Mr Herrick: I am representing myself and the YRA.

THE CHAIR: Please note that, as a witness, 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.

As we are not inviting opening statements, we will now proceed to questions. I would like to ask about procurement. We have a requirement for value for money. Can you explain to us why exemptions, “salami slicing”—I like the language—and fragmented procurement make it difficult to achieve the value for money or the perception of not achieving the value for money?

Mr Herrick: It really comes down to how that data is aggregated and presented as a whole-of-cost project analysis, and often it is not. Individual slices can be treated as a project in their own right; but, at some point, that whole project costing has to be analysed and worked out against budget, and what that represents in terms of changes to project scope, cost variations—a whole multitude of things.

THE CHAIR: There will be some exemptions; there will be a number of packages in a contract.

Mr Herrick: Sure.

THE CHAIR: It is a matter of reporting. Where do you think that the reporting should take place so that we get a holistic picture of the contracts, the changes, the variations to the contracts for scope, and to create a budget and timelines? With that sort of holistic reporting, so that we can get a picture of how a project is progressing and its total costs, where should that be reported?

Mr Herrick: In really large projects, you would start with a program management office. That would have responsibility for the entire project. Typically, you would break the whole project down into what is called “work breakdown structures”, or WBSs, and each of those projects would be planned out. You might start with, say, a waterfall approach to a whole project; then, when you are breaking it down into smaller subprojects, you might use a more agile style of project management, like sprint—something like that. Ultimately, the responsibility of the project management office should be to collate all the project costs from all the subsets and report on those. Governance and compliance should also reside in the project management office.

THE CHAIR: With some of our smaller ones where we still do not know what the total cost will be—perhaps the Molonglo bridge; that potentially has more than one package. Obviously, there is light rail.

Mr Herrick: Yes.

THE CHAIR: Light rail is a bigger project, but there are more medium-size ones where we still cannot get a clear picture. There is the Infrastructure Canberra annual report. There is a quarterly infrastructure report that the government does. I do not know whether it is public. There is a consolidated financial statement that comes out quarterly.

Mr Herrick: Yes.

THE CHAIR: Do you think that those could be options for the bigger projects, to provide a bit more detail?

Mr Herrick: Possibly. I do not know the full detail of all of that. Speaking as a previous contractor to government, principally Defence, the way we used to do it was that we would have our program management office. Each of the work breakdown structures had to have specific linkages to each other, so that they came back to the overall project. You could see how everything linked together; then there were funding gateways that you would go through to determine whether the project would proceed or not.

Ultimately, all those costs need to roll back up through the program management office, through your project structures, so that you can get a consolidated view of what was the budget, what it is now costing, what the change requests are that have gone in, why we have change requests, what the costs of those change requests are, and what risks are associated with them.

It requires rigorous discipline to make that happen. From my experience, there is no given project size that says, “Above this level, this is where you would apply it,” or “Below this level.” You could apply it to any size of project, really. It depends on what you mean by a big project. For some organisations, a big project could be \$10 million; obviously, for a few, it could be \$10 billion. It is all a matter of scale, I suppose, as to what you determine needs to be done.

THE CHAIR: Even having a total project cost, then the expenditure to date and the cash flows going out in the future years—at least you can see what you have spent and what the future flows are.

Mr Herrick: Exactly, yes. With the fragmentation, it is not that it is a bad thing, because big projects do have to be broken up. MyWay was a good example of a project that probably was trying to do too much and was not broken down enough. That might mitigate what I am actually saying, but it is not, because when you have a very large project and you do this sort of thing, where you have your work breakdown structures and you align everything, you can get more clarity over what the costs are, and that leads to better decision-making.

Some people might say, “If you implement this stuff, it will make complex projects more complicated.” But I think that it does the reverse. I think it makes them easier, because you have better-informed decisions, because you have clarity around all those things. Risk is a key thing in all of these projects. We all know that. It behoves us to spend some time looking at the risks in the individual packages and how that rolls up

to the total.

MR BRADDOCK: My question builds on this whole-of-project cost summary, which I entirely agree with. I want to explore the “how”, because it does get complicated, in terms of where you are borrowing, your debt servicing and how you pay for it. Also, do you include all the maintenance costs? Is there some sort of net present value for the money that you are utilising? What discount rates do you apply? Do you have a view about how that can all come together and be a meaningful figure?

Mr Herrick: There are a number of figures that you can use. Obviously, there are things like benefit-cost ratio, as well as net present value. All of those things are important. As long as you are collecting the appropriate data from your packages, it can be calculated. You can also, using something like Monte Carlo simulation, project for what those things might look like, with some sort of probabilistic outcome of what it might look like in the future.

All of this, in my mind, is about being prepared to mitigate risk before it happens. I have seen lots of times when risk management has been like a “ticked box” exercise. You write a document, you do a risk matrix, and you put it on the shelf. That is not good enough. You have to look at risk on an ongoing basis, in terms of cost, delays and all sorts of things. All of that feeds into what you were talking about: what will the net present value look like? What does the BCR look like? What is the internal rate of return?

There may be non-financial benefits that you want to bring into consideration, which could be about developing local areas and amenities for people. Those things can be hard to quantify. At the end of the day, you are dealing with money, and you should be able to justify it on financial terms. When you talk about something like a BCR, for instance, a BCR of 0.36 is not good. A BCR over one is what you want, not 0.36 or 0.5.

MR BRADDOCK: However, BCR for a school, for example, would be below one.

Mr Herrick: Yes. That is why I say there could be other factors, but those need to be documented and understood.

THE CHAIR: That is why we have government doing those ones that are not commercially viable.

Mr Herrick: Yes.

MRS MORRIS: Can you rely on the accuracy of a BCR if you do not necessarily have a total cost project?

Mr Herrick: Again, it comes down to how you collect the data and where you are getting the data from. It is very difficult to say whether you can or cannot rely on a BCR. It is how it is computed that really tells you. At the end of the day, that is where the information, or what I call metadata, that you gather alongside your financial or statistical data becomes important, because it informs you of what this actually means. Is it relevant? Is it accurate? At the end of the day, a lot of these things can be very probabilistic, particularly if you are using Monte Carlo simulation. It then becomes your

judgement, really.

MR WERNER-GIBBINGS: As you mentioned just now, your submission calls for the publication of whole-of-project cost summaries, the original estimates and approved budgets.

Mr Herrick: Yes.

MR WERNER-GIBBINGS: As well as the current forecast and expected final cost, with the outcome of improving transparency in infrastructure delivery. With that approach, how do you think governments should best or could best balance that transparency objective against the quite clear and present risk that publishing cost information while a project is still underway or ahead of future projects of a similar scope will influence tender behaviour and potentially deliver worse value-for-money outcomes?

Mr Herrick: That is an interesting question. I think there is a judgement that you have to make there. Obviously, you do not want to be releasing detailed costing information. But I think it is quite fine to announce an overall budget for a project. What the figures will look like at the end of the day will depend on a number of things. Obviously, the contractors that will bid for the work will put their numbers in, irrespective of what you say your budget will be, because they will do their own cost analysis.

I had a similar experience when I was a contractor; I knew roughly what the amount of the budget was going to be; but, at the end of the day, if it was going to cost more, my obligation was to say that it was going to cost more, and if that meant I did not get the tender, then so be it. What I do not want to do is enter into a contract knowing that I am understating what the cost is, in order to get something, and then put in change requests to get the money that I feel that I need. That is an age-old thing that people do. Contract variations are the oldest game in town.

I do not think it is negative to release a budget for a project. In fact, I think it is a good thing, because you are saying, "This is what we've got to spend on this." If a contractor then says, "I can't do it for that," maybe they will not tender. That is not necessarily a bad thing.

MRS MORRIS: In that case, if you did release a budget to potential contractors, should you not also include it in the budget and release that information publicly, and to the Assembly?

Mr Herrick: Why not? Why wouldn't you?

MRS MORRIS: If there was a situation where it was not included in the budget or made publicly available, but it was privately provided to a single contractor, would that be good practice?

Mr Herrick: No, I do not think so. I do not think providing budgets to a single contractor is a good thing. I think that creates the wrong impression in the minds of the general public. At the end of the day, irrespective of whether a budget is released by government, the media and the public will make up their own mind about what they

think it will cost. You have only to read the news and look at things like the figures being quoted for stage 2B of the light rail, and they go from a billion up to three billion, so where is the right figure? At the end of the day, if we are spending public money, we should be telling people how much we are going to spend on it. That is what I think.

MRS MORRIS: In that instance, do you think that, if it was privately provided to a single contractor, it could impact the market?

Mr Herrick: I have never liked the idea of contracting on selective tenders, anyway. I understand there are some reasons why that has to happen. You might have a contractor that only has that expertise, but that is probably in the rare box rather than the common box. If you are going to release a budget, why not just release it to everybody? Let all contractors see it. They need to know what the scope of this thing will be.

At the end of the day, they will make up their own minds as to whether they can deliver either all of it or a portion of it within whatever their number is. At the end of the day, if you do have to split it down, that is where your program management office comes in, aggregates all of that and has a view on whether it should proceed in its current form or whether it needs to change.

MRS MORRIS: Could it create the impression, if that budget has not been included in the budget or made publicly available but has been given privately to a contractor, that a certain contractor has been favoured or anything of that nature?

Mr Herrick: It could. If you go back and read the Auditor-General reports, they made a comment about selective tendering. It is not deemed to be a good practice to communicate just to single vendors. In the mind of the general public, who do not know anything about this sort of topic, they form their own opinion about whether that is a good thing or not, or whether there is something else going on. It creates the wrong impression, I think.

To me, more information and more disclosure create clarity, which creates more confidence. When you hide stuff, that is when it becomes a problem. It is a bit like the business case for stage 2B. They published it up to page 91, when there were 191 pages. Why? It does not serve any interest for anybody to hide stuff, in my opinion, and I cannot see what the point is.

THE CHAIR: The federal government's Infrastructure Investment Program has a program of works for each state that shows the total project cost, how much the commonwealth is putting in and how much the state is putting. These days, it is often fifty-fifty; it used to be 80-20. It might have, as I was saying before, how much has been spent, it gets updated every year, and it shows what the forward estimates are. At least that financial side of it is quite clear, and that will go in as election commitments, well before there is any tendering.

On the business case side of things, if we are to get value for money, a classic business case will have a problem definition, what the purpose is, and what objectives you are trying to achieve. It will have some options; then it will work through a multicriteria analysis and determine your preferred option.

In the ACT, we do not seem to do that. For example, with the ice rink, there is no business case that has an options analysis as to where it might go. Do you think that we would be served better and potentially have better value for money if we did go through those processes and do options analyses?

Mr Herrick: Yes, I do. Absolutely, I do. You create competitive tension amongst contractors when you look at different options. If a contractor thinks he is the only one in the game, there is no competitive tension there at all. I think it is better to have multiple options, actually examine those options and cost them out, and then make a decision about which is the best option to use.

I am not aware that an options analysis was done before the light rail was decided, or whether that was just a captain's pick and they just followed that. People say, "We'd be better served by a network of electric buses," but I have never seen an analysis that would support that or refute that. One of the things that is lacking is that we do not do enough options analysis.

THE CHAIR: Agreed. With the Government Procurement Act, are there any areas in which you would suggest amendments or approvals? I think the Government Procurement Act was recently updated or reviewed. Have you had a chance to look at the financial management acts?

Mr Herrick: I have perused them, but not in detail. For this exercise, I looked at sections that I thought might apply, but I am not sufficiently familiar with the whole acts. I do not think I am qualified to make a comment on that.

THE CHAIR: Fair enough.

MRS MORRIS: Are there any lasting messages that you would like us to consider in our deliberations?

Mr Herrick: I do not think so. I think you are all aware of what could be done, and ideally what should be done. The question is what realistically can be done, I suppose. I am sure you have had plenty of submissions and you might have heard it all before. I am not sure that I have told you anything new today, either. No, I do not think so. I am happy with where we are at.

THE CHAIR: Thank you for coming in. It is good to understand better the whole business case process.

On behalf of the committee, I would like to thank our witnesses who have assisted the committee through their experience and knowledge. We also thank broadcasting and Hansard for their support. If a member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as possible and no later than five business days from today. This meeting is now adjourned.

The committee adjourned at 1.29 pm