



PARLIAMENT OF TASMANIA

PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS

Short inquiry into the Tasmanian Government's use of provisions of the *Financial Management Act 2016* to fund election commitments in 2021

Members of the Committee

Legislative Council

Hon Ruth Forrest MLC
(Chair)

Hon Luke Edmunds MLC
(from 21 May 2024)

Hon Bec Thomas MLC
(from 21 May 2024)

Hon Meg Webb MLC
(until 14 February 2024)

Hon Josh Willie MLC
(until 27 February 2024)

House of Assembly

Ms Lara Alexander MP
(until 14 February 2024)

Mr Simon Behrakis MP
(from 14 November 2023)

Dr Shane Broad MP
(until 14 February 2024)

Mr Mark Shelton MP
(from 23 May 2024)

Mr Josh Willie MP
(from 23 May 2024)

Mr Dean Young MP
(until 9 November 2023)

Table of Contents

Charter of the Committee	ii
Abbreviations and Acronyms	iii
Executive Summary	1
Committee Findings	3
Committee Recommendation	4
Conduct of Review	5
Background	7
Evidence	11
Appendix 1 – Summary of RAFs for Purposes approved by the Governor	34
Appendix 2 – Governor Approved New Purpose RAFs (2020-21)	35
Summary of Attachments	36

Charter of the Committee

The Public Accounts Committee (the Committee) is a Joint Standing Committee of the Tasmanian Parliament constituted under the *Public Accounts Committee Act 1970* (the Act).

The Committee comprises six Members of Parliament, three Members drawn from the Legislative Council and three Members from the House of Assembly.

Under section 6 of the Act the Committee:

- **must** inquire into, consider and report to the Parliament on any matter referred to the Committee by either House relating to the management, administration or use of public sector finances; or the accounts of any public authority or other organisation controlled by the State or in which the State has an interest; and
 - **may** inquire into, consider and report to the Parliament on any matter arising in connection with public sector finances that the Committee considers appropriate; and any matter referred to the Committee by the Auditor-General.
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Abbreviations and Acronyms

ABC	Australian Broadcasting Commission
Act	<i>Public Accounts Committee Act 1970</i>
AustLII	Australasian Legal Information Institute
Committee	The Joint Standing Committee of Public Accounts
Cth	Commonwealth of Australia
FMA	<i>Financial Management Act 2016</i>
GAA Committee	Legislative Council Sessional Committee Governance Administration 'A'
LCCF	Local Communities Facilities Fund
Liberal Party	Liberal Party of Australia (Tasmania Division)
MLC	Member of the Legislative Council
MP	Member of Parliament
NT	Northern Territory
NZ	New Zealand
PAA	<i>Public Account Act 1986</i>
RAF	Request for additional funds

Executive Summary

Following the Tasmanian 2018 election the Tasmanian Integrity Commission released a report criticising the Liberal Party of Australia (Tasmania Division) (Liberal Party) grants program ahead of the 2018 election. Following the 2021 election, the Australian Broadcasting Commission (ABC) undertook an investigation into the Liberal Party's 2021 State Election policy commitment to establish a Local Communities Facilities Fund in April 2022. A follow-up ABC report in November 2022 made allegations that 'a total of 111 projects worth \$2.47 million did not go through Parliament'.

The Joint Standing Committee on Public Accounts (the Committee) resolved, by its own motion, to undertake a targeted short inquiry process into the funding of the 2021 election commitments, with particular regard to the 111 election commitments referred to by the ABC. The Committee sought to identify the legislative mechanism utilised for the funding of all the Liberal Party's 2021 election commitments.

The Committee held one public hearing with Hon Michael Ferguson MP, Treasurer and Mr Tony Ferrall, Secretary Department of Treasury and Finance. This Report details the funding mechanisms utilised to fund the election commitments which included provisions in the *Financial Management Act 2016* (FMA), specifically section 21, seeking approval from the Governor to approve funding from the Treasurer's Reserve and the 2022-23 State Budget. The Committee notes the provisions in section 21 of the FMA which requires that requests for additional funding from the Treasurer's Reserve is 'for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration -'.

Whilst the Committee found the use of the Treasurer's Reserve to fund some of the 2021 election commitments was lawful, the use of this mechanism avoids deliberative scrutiny by Parliament prior to the expenditure being approved. Actual expenditure from the Treasurer's Reserve is only able to be retrospectively scrutinised and approved by the Parliament. The funding from the Treasurer's Reserve in 2021 of the 111 election commitments, was the only time between 2010 and 2021 where election commitments had been funded in this manner.

The FMA contains provisions, including the introduction of a Supplementary Appropriation Bill, that enable more timely Parliamentary scrutiny of the funding of election commitments. The Committee recommended that when time permits, election commitments be funded by way of a Supplementary Appropriation Bill, rather than a request for additional funding from the Treasurer's Reserve, to allow for deliberative scrutiny and approval by Parliament prior to the appropriation of the necessary funds.

The Committee also sought information regarding the costing of election commitments and policy under the *Charter of Budget Responsibility Act 2007* noting this is an opt-in process. Furthermore, some commitments are not costed due to being provided too late in the process and/or too little information being provided.

The Committee sought information as to how the Government assessed which elections commitments would be funded through the Treasurer's Reserve and which ones would be

funded in the 2022-23 State budget. Whilst the quantum of the grant was considered in the assessment, this was not the determining factor, rather the grants funded by way of request for additional funding from the Treasurer's Reserve were those deemed most likely to be ready and able to complete the process and deliver on project objectives within a short lead time.

The Committee reiterates the processes used to fund all election commitments were lawful, however to improve accountability and transparency outside of the budget appropriation bills, a Supplementary Appropriation Bill to fund election commitments is the preferred mechanism with Treasurer's Reserve only utilised where there is genuinely no time to introduce and pass a Supplementary Appropriation Bill.

A handwritten signature in black ink, appearing to read 'R. Forrest', written in a cursive style.

Hon Ruth Forrest MLC
Chair

16 August 2024

Committee Findings

The Committee made the following ten (10) findings:

Area	Finding
<p>Application of provisions of the Financial Management Act 2016 and the use of the Treasurer’s Reserve</p>	<p>F1. The relevant provisions of the <i>Financial Management Act 2016</i> to fund election commitments from the Treasurer’s Reserve were not used to fund election commitments between 2010 and 2020.</p> <p>F2. Actual expenditure from the Treasurer’s Reserve is only able to be retrospectively scrutinised and approved by the Parliament.</p> <p>F3. The <i>Financial Management Act 2016</i> contains provisions which enable more timely and deliberative Parliamentary scrutiny of the funding of election commitments, such as the introduction of a Supplementary Appropriation Bill.</p> <p>F4. The expenditure of funds from the Treasurer’s Reserve for the Local Communities Facilities fund was lawful.</p> <p>F5. The <i>Charter of Budget Responsibility Act 2007</i> requires the costing of election commitments and it is effectively an opt-in process.</p> <p>F6. Some election commitments are not costed by the Department of Treasury and Finance due to being provided too late in the process, and/or providing too little information.</p>
<p>Assessment of Grants to be Funded through Requests for Additional Funding</p>	<p>F7. The grants related to 2021 election commitments funded by way of request for additional funding from the Treasurer’s Reserve, were those deemed most likely to be ready and able to complete the process and deliver on project objectives within a short lead time.</p> <p>F8. The quantum of the grant related to 2021 election commitments was considered in the assessment of when and how the grant would be funded, but was not a determining factor.</p>
<p>Public Disclosure of Election Commitments</p>	<p>F9. The costing of election commitments/policies under the <i>Charter of Budget Responsibility Act 2007</i> can only be undertaken once they have been publicly announced.</p> <p>F10. What constitutes a public announcement of election commitments/policies is not defined and has a very broad application in practice.</p>

Committee Recommendation

The Committee made one recommendation:

- R1. Outside of the annual budget appropriation bills, when possible, election commitments be funded by way of a Supplementary Appropriation Bill, rather than a request for additional funding from the Treasurer's Reserve, to allow for timely deliberative scrutiny by Parliament.
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Conduct of Review

In April 2022, following from the release of the Integrity Commission of Tasmania's report criticising the Liberal Party's grants program ahead of 2018 election,¹ the ABC ran an investigation into the Tasmanian Liberal's 2021 State Election Local Communities Facilities Fund.²

A follow-up ABC report in November 2022 made allegations that 'a total of 111 projects worth \$2.47 million did not go through Parliament'.³

Through its 'own motion' powers, the Committee resolved to undertake an inquiry into the Tasmanian Government's use of provisions of the FMA to fund election commitments in 2021.

On 25 November 2022, the Committee released a media advisory advising the public that the Committee was conducting a public hearing to gather evidence for the Inquiry.⁴

The Committee wrote to the relevant Minister and invited them to attend the Committee's public hearings into the Inquiry. The ministerial public hearings were held at Committee Room 2, Parliament House as follows:

Monday, 28 November 2022

Hon Michael Ferguson MP
Deputy Premier and Treasurer

Tony Ferrall
Secretary, Department of Treasury and Finance

The Committee resolved to ask for submissions from a number of governance academics and received a submission from Anja Hilkeijer (Lecturer, School of Law, University of Tasmania). The submission pinpointed the challenges of section 21 of the FMA with respect to transparent authorisation of spending.⁵

Concurrent with this Inquiry, on 15 December 2022, the Legislative Council Sessional Committee Government Administration 'A' (GAA Committee) resolved to establish an inquiry into the operations and application of the FMA. The Committee agreed to postpone its inquiry pending the outcome of this GAA inquiry.

¹ See in general Paper 2: Grant Commitments in Election Campaigns, Integrity Commission of Tasmania (6 April 2022), https://www.integrity.tas.gov.au/_data/assets/pdf_file/0007/655855/paper-2-grant-commitments-in-election-campaigns.pdf

² See 'Tasmanian Liberals accused of 'electoral bribery' over taxpayer-funded election grants', ABC News (21 April 2022), <https://www.abc.net.au/news/2022-04-21/tasmanian-liberals-2021-election-grants/100984768>

³ See 'Tasmanian Liberal election grants worth millions doled out in process that avoided parliamentary scrutiny', ABC News (17 November 2022), <https://www.abc.net.au/news/2022-11-17/tasmanian-government-grants-secretive-process/101658424>

⁴ See [Media Advisory – 25 November 2022](#)

⁵ See [Anja Hilkeijer \(UTAS\) \(Submission #1\)](#)

On 8 June 2023, Mr Ferrall provided to the Committee a correction to the evidence taken at the public hearing.⁶

On 5 September 2023, the GAA Committee tabled its final report. Amongst other recommendations, the Committee stated:

*During election periods, political parties and candidates be required to disclose grant commitments at the time of the commitment and the likely funding source, then subsequently demonstrate policy rationale for grant-based election commitments.*⁷

At the time of tabling this Report, the Government had yet to respond to the GAA Committee's report as per Legislative Council Sessional Order 5(28).⁸

On 14 February 2024, Parliament was prorogued and the House of Assembly dissolved pending the outcome of the early Tasmanian election called for 23 March 2024.

Upon resumption of the 51st Parliament of Tasmania, the reconstituted Committee resolved to cease the Inquiry and table its final Report.

⁶ See [Letter – Correction of Evidence Provided at Hearing – Mr Tony Ferrall](#)

⁷ See [Final Report \(Tabled 5 September 2023\)](#) and [Short Inquiry Process into the operations and application of the Financial Management Act 2016](#) webpage generally

⁸ After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible minister and to the Leader of the Government. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within three months by tabling the response or if the Council is not sitting by providing a copy of the response to the President who shall then arrange for its distribution to all Members and for its tabling when the Council next sits.

Background

Section 21 and 30 of the current *Financial Management Act 2016* (FMA) deals with the Treasurer's Reserve and the Governor's authority for emergency expenditure:

21. Treasurer's Reserve

(1) *The Treasurer may, in any financial year, issue and apply from the Public Account, for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration –*

(a) *an amount that is contingently appropriated by an Appropriation Act for the relevant financial year; and*

(b) *if receipts, additional to the total estimated receipts specified in a statement accompanying an Appropriation Act, are generated within that financial year – the amount of those additional receipts less any amount of Commonwealth money received by the State.*

(2) *The amount that may be issued and applied from the Public Account under [subsection \(1\)](#) may not, in total, exceed 2.5% of the total appropriation in the Appropriation Act for that financial year.*

(3) *[Subsection \(1\)](#) does not authorise expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force, unless the Governor has, in writing, approved that expenditure.*

(4) *The Public Account is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in [subsection \(1\)\(b\)](#).*

(5) *Nothing in this section affects the operation of [section 30](#).*

30. Governor's authority for emergency expenditure

(1) *In cases of emergency, if it is necessary to incur expenditure from the Public Account –*

(a) *in excess of an amount authorised to be spent by an item in a Schedule to an Appropriation Act; or*

(b) *for a purpose not provided for by Parliament – the Treasurer must obtain the written authority of the Governor.*

(2) *The Treasurer must, before seeking the Governor's authority under [subsection \(1\)](#), request that the Auditor-General prepare a report to the effect that the authority would be proper having regard to the circumstances of the emergency.*

(3) *The Treasurer must provide to the Governor any report that is provided by the Auditor-General to the Treasurer under [subsection \(2\)](#).*

(4) *The Auditor-General –*

(a) *before making a report under [subsection \(2\)](#), may seek any necessary explanation from the Treasurer or any other appropriate Minister; and*

(b) *may make, in that report, any observation that the Auditor-General thinks necessary.*

(5) *The Treasurer may authorise the issue and application of money from the Public Account of the amount, and for the purposes, specified in the written authority for emergency expenditure from the Governor.*

Under the previous *Financial Management and Audit Act 1990* there was no equivalent power that equated to the Treasurer's Reserve. Instead, this power was vested in the *Public Account Act 1986* (emphasis added):

11. Treasurer's Reserve

(1) *In this section –*

Commonwealth money to which this section applies means money that is granted or lent, or agreed to be granted or lent, to the State by the Commonwealth under an arrangement made between the State and Commonwealth with respect to the purposes for which that money may be expended, unless that money is money to which [section 13 \(7\) \(a\)](#), [\(b\)](#), or [\(c\)](#) applies.

(2) *Subject to this section, the Treasurer may, in any financial year, by order, issue and apply from the Consolidated Fund an amount not exceeding in total –*

(a) an amount of \$10 000 000;

(b) if an additional amount is contingently appropriated by an Appropriation Act for the relevant financial year, that additional amount;

(c) if Parliament has appropriated for that financial year any money for recurrent services and there is a surplus arising, or saving effected, from that appropriation which has not been applied to another item under [section 10 \(1\)](#), the amount of that surplus or saving;

(d) if Commonwealth money to which this section applies, additional to that estimated in a statement accompanying an Appropriation Act, is received from the Commonwealth in that financial year, the amount of that additional Commonwealth money; and

(e) if receipts of a recurrent nature, additional to the total estimated receipts of a recurrent nature specified in a statement accompanying an Appropriation Act, are generated within that financial year, the amount of those additional receipts less the amount of any additional Commonwealth money referred to in [paragraph \(d\)](#) of a recurrent nature –

for expenditure the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is essential for efficient financial administration.

(3) *[Subsection \(2\)](#) does not authorize expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force unless the Governor has, in writing, approved of that expenditure.*

(4) *Of the total amount available under [subsection \(2\) \(a\)](#) and [\(b\)](#) in a financial year, not more than one-third may be applied for purposes other than a purpose specified in the Schedule to an Appropriation Act for the financial year then current or, if there is no Appropriation Act then in force, an Appropriation Act for the preceding year.*

(5) *An amount referred to in [subsection \(2\) \(a\)](#), [\(b\)](#), [\(c\)](#) or [\(e\)](#) may be applied only for expenditure for recurrent services.*

(6) *The Consolidated Fund is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in [subsection \(2\) \(a\)](#) and to provide for the expenditure, pursuant to this section, of Commonwealth money to which this section applies.*

(7) All expenditure under this section in any financial year shall, before the close of the following financial year, be submitted to Parliament for its approval.

(8) *Nothing in this section affects the operation of [section 16 of the Financial Management and Audit Act 1990](#).*

The Financial Management Bill 2015 (Bill 41 of 2015) Factsheet states:

Current arrangements for the Treasurer’s Reserve under the Public Account Act are complex and provide an uncapped source of funding that could discourage effective fiscal responsibility. The Financial Management Bill improves the transparency of the Treasurer’s Reserve by providing a more simple calculation of the Reserve amount and making the size of the effective buffer more certain.⁹

The Committee notes that in some Australian and New Zealand jurisdictions, equivalent provisions have a narrower scope with respect to the Treasurer (or other qualified Minister) expending from the Treasurer’s Reserve or equivalent:

Source	Relevant Inclusion
<i>Appropriation Act (No. 1) 2022-2023</i> (No. 67 of 2022) (Cth)	Section 10 (Advance to the Finance Minister provides that ‘if the Finance Minister is satisfied that there is an urgent need for expenditure’ and with respect to a \$2 Billion allocation ‘an event that the Finance Minister is satisfied is a natural disaster ’ or ‘circumstances that the Finance Minister is satisfied constitute a national emergency ’ ¹⁰
Treasurer’s Direction – Treasurer’s Advance (NT)	To be eligible for a Treasurer’s Advance, expenses must either be: <ul style="list-style-type: none"> • extraordinary and one-off in nature; or • a major unforeseen or natural disaster event¹¹
<i>Public Finance Act 1989</i> (NZ)	Section 25 provides that expenses or capital expenditure may be incurred in emergencies providing that a state of emergency is declared under the <i>Civil Defence Emergency Management Act 2002</i> , or a situation occurs that affects the public health or safety of New Zealand or any part of New Zealand that the Government declares to be an emergency. ¹²

The Committee notes from the Tasmanian Audit Office’s submission to the GAA Inquiry:

Although use of the Treasurer’s Reserve is disclosed in supplementary estimates and reported to Parliament through the Preliminary Outcomes Report and the Treasurer’s Annual Financial Report, we believe transparency could be improved by providing a reconciliation of the amount available within the Treasurer’s Reserve with greater detail on how appropriations from the reserve have been expended.

...

⁹ See ‘Financial Management Bill 2015 Bill 41 of 2015’, AustLII Tasmanian Bills Fact Sheets, https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/tas/Bill_fs/fmb2015b41o2015224/fmb2015b41o2015224.html

¹⁰ See Appropriation Act (No. 1) 2022-2023 (Cth), Federal Register of Legislation, <https://www.legislation.gov.au/C2022A00067/asmade/text>

¹¹ See ‘Treasurer’s Direction – Treasurer’s Advance’, NT Department of Treasury and Finance, https://treasury.nt.gov.au/data/assets/word_doc/0003/991101/treasurers-direction-treasurers-advance.docx

¹² See *Public Finance Act 1989* (NZ), New Zealand Legislation, <https://www.legislation.govt.nz/act/public/1989/0044/latest/whole.html#DLM160809>

Such a reconciliation would provide more and transparent information than is currently available in the Supplementary Estimates prepared, audited and tabled under section 24 and would provide an enhanced acquittal back to Parliament, not just which agency received the additional funding. The reconciliation could form part of the Supplementary Estimates document.

...

We note the Supplementary Estimates prepared under section 24 does not provide details as to the reasons for transfers, additional funding and rollovers. The Supplementary Estimates may be enhanced by the inclusion of additional details for these approvals.¹³

Similarly, as concluded by Ms Hilke Meijer's submission to this Inquiry:

Unlike similar provisions in other jurisdictions, s 21 of the [Financial Management Act 2016] does not require that the purpose for which money is spent is demonstrated to be 'urgent'.

Furthermore, the Tasmanian Act gives a misleading impression that the Governor acts as an independent 'check' on any improper spending. This could be remedied by removing references in s 21 (and s 30) to the Governor's approval and relying instead on approval by the Auditor General.

Finally, this Inquiry has shown that under the existing Act it can take many years, as well as the work of investigative journalists, before Parliament is informed of the detail of such spending. A statutory mechanism should be put in place to ensure more timely disclosure of relevant information.¹⁴

¹³ See [Tasmanian Audit Office \(Submission #2\)](#), p.7-8

¹⁴ See [Anja Hilke Meijer \(UTAS\) \(Submission #1\)](#), p.6

Evidence

Application of provisions of the *Financial Management Act 2016* and the use of the Treasurer's Reserve

The following is an extract of the transcript from the public hearing conducted on Monday, 18 November 2022 with Hon Michael Ferguson MP, Deputy Premier and Treasurer, and Mr Tony Ferrall (Secretary, Department of Treasury and Finance). A full copy of the transcript is available on the Committee's website.¹⁵

Mr FERGUSON - ... As you'd no doubt be aware, the Financial Management Act 2016 (FMA) provides for certain powers and roles for the Treasurer to amend agency appropriations each year after the appropriation Bills introduced on budget day come into force. These roles under the Financial Management Act (FMA) are very similar to those that were in place under the previous legislation, the Public Account Act 1986.

One area that is consistent under both acts is the power of the Treasurer to issue and apply funding from the Treasurer's Reserve. Section 21 of the FMA outlines the requirements which are to be met for the Treasurer to be able to utilise the Treasurer's Reserve and the calculation methodology for the Treasurer's Reserve.

The section also identifies that the Governor's approval is required in certain circumstances. Following the 2021 election, the Government determined that a limited number of specific election commitments would be paid prior to 30 June of that year, funded from the Treasurer's Reserve. As these were new commitments made during the election campaign, it was deemed that this represented a new purpose and accordingly, the Governor's approval was required prior to the then Treasurer and Premier, Peter Gutwein, approving a request for addition funds (RAF) in accordance with the strict rules in the Financial Management Act.

Use of the Treasurer's Reserve in this manner is consistent with the intent of the Financial Management Act, a point that I've consistently made throughout some debate that occurred in the House of Assembly last week.

I'll now offer the Secretary the chance to make his brief statement, providing some more detail on the process, which I think will be of most interest to the Committee. The process which was followed in regard to approval of this funding from the Treasurer's Reserve and the FMA provisions ...

Mr FERRALL - I will start with the 2021 election process and Treasury's role in that election process. As members will be aware, the 2021 state election was called on 26 March 2021 and during the election costing period, Treasury undertook costings of election commitments in accordance with the Charter of Budget Responsibility Act 2007.

As the election costing process is effectively opt-in by the parties, not all election commitments and announcements were submitted to Treasury for costing. Treasury

¹⁵ See Transcript of Evidence, [Public Hearings \(28 November 2022\) – \(Deputy Premier Ferguson\)](#)

costed all requests for costings that provided either sufficient detail and were provided within sufficient time to enable the costing process to be undertaken. So, not every election commitment of parties was costed through that period because some were provided too late in the process and some provided insufficient information. During that process there was a statement at the end of the election period where we identified those election commitments that had been submitted which hadn't been costed.

Treasury tracks election commitments to enable us to crosscheck the identified commitments with the information held by the party which forms Government. Following the outcome of the election, work was undertaken to validate Treasury-held information and the Government's information to confirm that all announcements and initiatives had been correctly captured.

This process was undertaken as part of, and in parallel with, the 2021-22 Budget development process. Post the election, we worked with the Government to agree on a list of election commitments and the Local Communities Facilities Fund. On 3 May 2021 an initial list of Liberal Party 2021 election commitments was provided to Treasury for analysis.

Treasury worked with staff of the Treasurer's office to ensure all election commitments were identified, and a detailed list of all election commitments was discussed with the then Premier and Treasurer on 8 June 2021. Through the process of finalising the budget, cash flow and funding estimates were revisited for all budget commitments, including election commitments. A specific example of that was the Local Communities Facilities Fund [LCFF], which was reviewed as more information was obtained.

In terms of the legislative basis of the election commitments paid in 2021, following the election, the Government sought to commence delivery of specific commitments in 2020-21, including some grants under the LCFF. The legislative mechanism to enable additional funding to be provided for these commitments was under the Financial Management Act 2016, and I will walk through the specific sections at this point.

Section 21(1) of the FMA provides for the Treasurer to issue and apply from the Public Account for expenditure that in the Treasurer's opinion could not reasonably have been foreseen and which is necessary for the efficient financial administration. The Treasurer's authority to issue and apply funding from the Treasurer's Reserve is limited by section 21(3) to expenditure that is for a purpose mentioned in an appropriation act then in force, unless the Governor has, in writing, approved that expenditure.

Given that election commitments are made during the election period, which occurred after the publication of the 2021 budget, prior approval of the Governor under section 21(3) of the FMA was required before a request for additional funds could be approved by the Treasurer. New purpose RAFs, or requests for additional funds, totalling \$4.7 million for election commitments were approved by the Governor on 21 June 2021. This included \$2.5 million for some LCFF commitments, funded in the 2021 year, \$250,000 for the No Interest Loans Scheme and \$2 million for the Hobart Clinic redevelopment...

...

Mr FERRALL - Approximately \$2.466 million.

Following the finalisation of the 2021-22 budget Estimates, the Treasurer's office advised of additional commitments that had been identified after the finalisation of the budget. These commitments were for the St Helens Pump Track, Bracknell Hall replacement, Australian Rules History and Heritage museum and the Kingborough basketball stadium. It was necessary for these commitments to be dealt with as part of future budget management processes.

As you would be aware, the Financial Management Act replaced existing legislation, specifically the Public Account Act 1986, and the remaining provisions of the then Financial Management Audit Act 1990. The existing acts had governed public financial management for approximately 30 years.

The process of the Treasurer considering additional funds within the current year remains largely the same under the Financial Management Act, i.e., the current legislation, and it continues the longstanding practice of requests for additional funds being considered by the Treasurer, and if approved, funded through the Treasurer's Reserve.

Section 11(2) of the Public Account Act - that's the prior legislation - provided for the Treasurer to issue and apply from the Public Account for expenditure that in the Treasurer's opinion could not reasonably have been foreseen and which is essential for efficient public administration.

There are two words different in the two sections. In the Public Account Act, the earlier act, had the word 'essential' as the Treasurer's consideration, and in the Financial Management Act the word is 'necessary'. ...

...

Mr FERRALL - *The 2021 election was announced on 26 March 2021, and that's when we commenced tracking election commitments of each major party. Over the period 28 March to 30 April, it was the 2021 election costing period, and we undertook election commitment costings in accordance with the Charter of Budget Responsibility Act 2007.*

On 1 May, that was the election day, the Liberal Party claimed election victory, and vote counting continued for a period after that. In the period 3 May to 8 June, we reconciled the election commitment listing that we had captured with that provided by the incoming government. The first iteration of the election commitments provided by the Liberal Party and the Premier/Treasurer's office was over the period through the 3 to 19 May 2021.

Treasury undertook a detailed reconciliation of the information provided and the Treasury listing of commitments collated during that election period. The Local Community Facilities Fund of \$20 million is included in the listing we received on the 5 May 2021.

The reconciliations were first completed by the 31 May 2021.

On the 12 May 2021, the election outcome was officially announced and the 2021-22 Budget development process commenced effectively at that point.

On the 31 May 2021, the election commitments to be paid in 2021 were identified and the advice we received that some of the election commitments were to be funded prior to the 30 June 2021.

Work commenced on preparing the Financial Management Act approval documentation for the request of additional funds relating to those specific grants I detailed a moment ago.

...

Mr FERRALL - *The full detail of the LCFF grants listing provided by the Premier's Office was provided on the 31 May and it was revised over that period to the 29 June. ...*

We undertook a full reconciliation of the project listings and did things like removing duplications that sometimes commitments can be picked up from various points through the election process and sometimes our list had things which were doubled up. There are also some commitments that were in the Premier's office listing which may have been doubled up before being double counted.

On the 8 June 2021, there was a reconciled list of election commitments which was provided to the Premier/Treasurer. This is a complete listing of all election commitments and proposed cash flows for each commitment and further adjustment occurred during June 2021 through the budget process.

On 21 June 2021, new purpose requests for additional funds were approved by the Governor and later the Treasurer. New purpose RAFs totalling \$4.7 million for election commitments were approved by the Treasurer following the Governor's approval under section 21 (3) of the FMA. The Treasurer approval under section 21 (1) occurred later in the day following the Governor's consideration.

On the 24 June 2021, during the debate in relation to the Supply Bills the then Minister for Finance, the Honourable Michael Ferguson MP, noted funding had already been provided to organisations through the LCFF from the Treasurer's Reserve.

Over the period 28 June to 7 July, the 2021-22 Budget allocations were finalised. That is the 2021-22 Budget allocations including funding for the 2021 election commitments that were reflected in the budget.

On the 29 July 2021 - so that is going back to the earlier comment I made on 20 July - Treasury provided a final listing of the LCFF projects removing all duplications.

The total allocation was \$14.9 million, comprising the \$2.5 million for the grants already paid in 2021 and \$12.4 million to be included in the 2021-22 Budget.

...

Mr FERRALL - *... On 30 July 2021, the Preliminary Outcomes Report was published. A summary of expenditure authorised under section 21 of the FMA is disclosed in the*

Preliminary Outcomes Report each year, and that is in the supplementary Estimates summary; you can see in that report.

On 20 August 2021, some additional commitments were identified and raised by the Treasurer's office. Treasury was advised that five commitments were not included in the LCFF commitments listing. These were the Kelso public toilets and parking, the St Helens Pump Track, Bracknell Hall replacement, Australian Rules History and Heritage Museum and the Kingborough basketball stadium. The commitment for Kelso was identified as already funded in the 2021-22 Budget.

Treasury advised that, from the perspective for the 2021-22 Budget, the LCFF was fully allocated to a total of \$14.9 million - that is, the \$12.4 million identified a moment ago and the \$2.5 million.

On 26 August 2021, the 2021-22 Budget was published. On page 42 of Budget Paper No. 2, Volume 1, Government Services, the following description is provided of the LCFF:

This initiative commenced in June 2020, with total funding of \$14.9 million provided to community, local government and sporting organisations statewide, to improve facilities and capacity to service community needs.

Almost 100 projects received funding prior to 30 June 2021 and the remaining \$12.4 million to be provided in 2021-22. ...

On 23 September 2021, we received advice from the Treasurer's office of additional commitments to be considered as a request for additional funds. The Treasurer's office requested that the remaining commitments identified on 20 August 2021 relating to the St Helens Pump Track, Bracknell Hall replacement, Australian Rules History and Heritage Museum and the Kingborough basketball stadium would need to be considered through existing budget management processes, including RAF processes, as it went forward.

Mr WILLIE - *They became supplementary appropriations, didn't they?*

Mr FERRALL - *They may have. I would need to check that to be certain.*

On 27 October 2021, the Department of Communities Tasmania Annual Report, at note 8.4 to the financial statements, relates to grants and subsidies expenditure and includes a line item for sport and recreation grants. That is \$28.292 million in 2021 and \$20.602 million in 2019-20. The note also includes the following statement:

The Department also provides assistance to sport and recreation organisations in the State. This includes funding for the development of the Northern Regional Tennis Centre, payments for the Local Community Facilities Fund, funding important community programs in regional areas, and the Ticket to Play program - the first sports voucher system for young Tasmanians.

This report was tabled in the House of Assembly on 27 October 2021.

On 28 October 2021, the 2021 Treasurer's Annual Financial Report was tabled and expenditure authorised under section 21 of the FMA is also disclosed in the supplementary Estimates statement summary, in that report. It is in the Treasurer's Annual Financial Report, and this statement is audited by the Tasmanian Audit Office.

On 14 June 2022, the full list of election commitments under the Local Communities Facilities Fund was also tabled in the House of Assembly on 14 June 2022. ...

CHAIR - ... *The Secretary has outlined quite succinctly and clearly ... about the various processes that have occurred with regard to the public release of information related to these funds. However, very rarely is there a particular focus in the Parliament on, say, the Preliminary Outcomes Report, acknowledging there was information there ...*

I would like you to explain to me at what points you believe, Treasurer, there were very clear opportunities for parliamentary scrutiny of the decisions relating to all these election commitments, regardless of the mechanism under which they were funded ...

Mr FERGUSON - ... *First of all, we are having this discussion in the context, if I may put it this way, of a bit of community debate, or debate that has been held in the House of Assembly, which has been reflected in the press and naturally there is curiosity around funding of a range of commitments.*

They are election commitments: they are promises that were made by the Liberal Party organisation during the 2020-21 election. To the extent that the Treasurer's Reserve has been accessed to see early delivery of those commitments before 30 June 2021, I remind the Committee that these were funds that had been approved for use by the Treasurer's Reserve in that previous budget, naturally approved by both Houses of Parliament.

I am not trying to be cute there; but it does point to the fact that we need to dispel one myth that has unfortunately been propagated by some individuals - that this ... has escaped parliamentary approval. That is, of course, not something that you are saying but others have been saying it and I want to make that point.

In regard to scrutiny, it is a fair and reasonable question. The nature of the Treasurer's Reserve is that it is for unanticipated allocations. At the time that the Treasurer's Reserve is approved in the previous budget, there is traditionally an acceptance that there is a need for a resource for the Treasurer of the day to be able to draw from for unanticipated spending decision - as the Secretary has outlined - which in the Treasurer's opinion, to accurately quote the Act, is unforeseen and secondly, is necessary for efficient financial administration.

The scrutiny on individual allocations that may sit within a decision of the Treasurer in allocating the Treasurer's Reserve, is that the Parliament is always able, through usual forms of each House, to be able to understand more about the nature and the detail of those. I was the Finance Minister up until April of this year when I was taking through a supply Bill, which was not intended to cover election promises - because, as you will recall, the budget was delayed last year because of the election. In the context of that

debate and because a question had been asked by the Labor Party at the time, I was able to and willingly and enthusiastically provide the detail.

...

Mr FERGUSON - ... *I voluntarily provided information more than one year ago, that the Treasurer's Reserve was appropriately and legally accessed for early delivery of election commitments. At that time, on 24 June 2021, I indicated that 111 of those election commitments had been funded. It surprises me that there wasn't a greater level of interest at that time, given recent debate and interest in the matters. ...*

... it's always the case that if the use of the Treasurer's Reserve is of interest, and MPs or others would like further clarity about the breakdown - for example, that requests for additional funds (RAFs) accessing Treasurer's Reserve are used for - it is entirely obtainable and openly disclosable. ...

CHAIR - ... *the Treasurer's Reserve and the funding that is allocated ... is by way of request for additional funding (RAF), which is approved by the Governor, under these circumstances. There was a number that was approved by the Governor that come to the Parliament retrospectively. That's a fair comment, isn't it? That's a clear description of what occurs?*

Mr FERGUSON - *Yes. There's one element missing; that Parliament, in setting the budget in the preceding year, has agreed to an allocation to the Treasurer's Reserve for the Treasurer's use if those two conditions are met: if the Treasurer is of the opinion that those were unforeseen spending decisions, or the need for which could not have been foreseen; and secondly, that the Treasurer is of the view that it is necessary for efficient financial administration.*

So, again, that is a forward-looking approval for the use of the Treasurer, and then it is also disclosable through the Preliminary Outcomes Report, and of course, the Treasurer's Annual Financial Report which is tabled in each House.

CHAIR - *I want to come to that point, ... that the Financial Management Act allows, as you said, the Treasurer to consider the provision of additional funding to agencies through the Treasurer's Reserve for unforeseen and necessary expenditure.*

...

Election commitments seek to provide funds, in this case, to a whole number of organisations. I'm not saying they weren't worthy; but I'm asking you, how you made the point that these were unforeseeable and necessary expenditure for the proper operations of the Government, what test was applied to these local community facilities grants that saw them meet that benchmark of being unforeseen and necessary in this context?

Mr FERGUSON - ... *At the time that budget had been established and the parliamentary approval for the budget itself being set, including the Treasurer's Reserve allocation, naturally that was prior to the election. It was also prior to the decision of the Government and the Treasurer at the time, to see as many as possible of election commitments funded as soon as possible.*

If I could bring it to the Committee in this way: after the election result - and looking back, certainly I would sustain this - it was seen as a good thing to see election

commitments being delivered as soon as possible. Often, immediately after the new Government is sworn in, community organisations contact the Government and MPs asking them when can we see the delivery of those promises.

If I can provide that context, that is not only entirely lawful but it was seen at the time as a very good thing to be doing. So much so, that I was quite positive in telling the House of Assembly about it on 24 June [2021]. Nobody has heard any reaction to that until quite recently; and a whole year has gone past. That is why it met that test. If we could have even done more, that would also have been appropriate because they were commitments that were made in the context of an election. People expect the Government to keep their promises and that is exactly what we did - but noting that the bulk of the election commitments were met through the subsequent budget. In four cases, the supplementary appropriation Bill that Mr Willie mentioned earlier did contain the basketball funding and the following budget contained the others.

CHAIR - *Wouldn't it be more appropriate to put all of these into a supplementary appropriation, rather than use a RAF? You still haven't really explained how this meets the test for 'necessary for efficient financial administration', other than convenience. We will come to the assessment process of the projects later; but wouldn't it have been more transparent to put them all in the supply Bill? You brought a supply Bill in before the end of the year; you had time in that period to do that. It wasn't as though there was no time.*

Mr FERGUSON - *... It is very reasonable that another way that this could have been achieved would have been through a supplementary appropriation Bill. It wouldn't have been appropriate to use the supply Bill mechanism. I don't think that is the point you were making; but it wouldn't have fitted within that because the supply Bill has a strict methodology which is applied to it, which is based on the previous financial year. ...*

Another way could have been to do a supplementary appropriation Bill but that would have to be a question.

...

Mr FERGUSON - *... That's another way that could have been achieved. I'm not sure it would have been possible at the time, given that 30 June was approaching quickly. The priority, quite properly, was getting supply organised in time for 30 June, including the time required for Royal Assent.*

I'm not ruling it out as an improved mechanism in future, in terms of an opportunity for parliamentary debate; but I want to take the Committee back to 24 June [2021]. It was universally seen as an unremarkable, uncontroversial thing that the Government of the day and the Treasurer of the time approved election commitments using Treasurer's Reserve earlier, so that those community organisations could see early delivery. There was certainly no sense of anything to hide; so much so that we put it out there and there was no further exploration of the detail.

CHAIR - *There was time. Things can happen quickly when you need. Rather than use an 'after the event' type of approval process, where it has already been approved and basically committed and effectively could be spent through the RAF, to use the*

supplementary appropriation requires the approval of Parliament before it can be expended.

Mr FERGUSON - *I think there are both two different ways that could achieve the same outcome in respect of those 111 of the early delivery, no contest - I wouldn't argue the point at all. I can only put my feet in the shoes of the Treasurer of the day and say, well, here was a mechanism that allowed early delivery, in a lawful and appropriate way, of at least 111 of the Local Community Facilities Fund projects. That was seen at the time as a very good thing and no doubt appreciated by those community organisations; told to the Parliament; uncontroversial; and no follow up.*

I would agree with the previous Treasurer that it was seen as a good thing at the time.

Ms WEBB - *... You're right, the Treasurer's Reserve was approved in the previous Budget as part of the appropriation; but the reason you had to get the Governor's approval was because it was a new purpose. That was the whole requirement behind the Governor's approval being required.*

I'm interested in how these fit the category, as the Chair has already asked. A number of projects in the Local Community Facilities Funds were quickly funded in this way, under the Treasurer's Reserve, and then a whole raft was funded under the subsequent budget that came down in August.

...

Ms WEBB - *What was the distinction between the two groups, that classified some as urgent and needing to be dealt with as a new purpose under the Treasurer's Reserve and signed off by the Governor, while those others were dealt with in the subsequent budget?*

Mr FERGUSON - *... I don't hold that information; but that was a judgment of the Treasurer of the day, in terms of trying to find a way to achieve early delivery of, no doubt, as many of the \$14.9 million of commitments as possible. I am happy to speculate - which is not what I usually do - that it's plausible those 111 were perhaps within the capability of the Department of Communities at the time, to get that number of grants and the paperwork associated with that.*

Perhaps it wouldn't have been possible to do all of them in that time. Potentially, some of the larger ones may have needed some additional time for the Department to get the correct grant deed organised in that time, noting that the election was on 1 May, and the new Government sworn in about 10 days after that. Time was obviously short and the decision was made on that basis.

Can I also, ... let you know if you're interested, we've seen under the current legislation and under the former legislation, Governor's approval for new purpose spending has occurred in 11 out of the last 12 years. There's nothing, in of itself, that's particularly unusual about that. I am letting the Committee know that information as well.

Ms WEBB - *... how many of those 11 times has the Governor provided approval related to election commitments being met as new purpose funding by the new incoming*

*Government? Are there any of those 11 or, in fact, any previous example where that's been the case?*¹⁶

In a response to a question taken on notice with respect to a breakdown of the election commitments by the new incoming Government that the Governor provided approval for as 'new purpose funding' under s 21 (3) of the FMA or equivalent, the following was provided by Hon Michael Ferguson MP:

Prior to 1 July 2019, Governor's approval for expenditure was required under section 11(3) of the Public Account Act 1986 [PAA] for new purpose expenditure.

Additionally, sections 12(1) and 12(2) PAA required the Treasurer to seek Governor's approval prior to approving additional expenditure for works and services other than for a purpose specified in the Schedule to an Appropriation Act then in force. New purpose works and services expenditure was also required to not exceed \$1 000 000 in a given financial year.

In eleven out of the past twelve years the Governor has approved expenditure under section 21 (3) of the FMA or sections 11(3), 12(1) or 12(2) of the PAA.

...

Treasury has reviewed the new purpose RAFs since 2010-11, in the financial year of an election, and the only instances of a RAF, approved by the Governor, being provided for an election commitment are in 2020-21 ... and 2021-22 These election commitments were aimed at supporting local community organisations to upgrade and maintain their facilities and purchase new equipment. The Government took the clear decision to expedite the funding of these commitments to provide much needed economic stimulus to the Tasmanian community as it recovered from the impact of the pandemic, providing work for local business and trades, and we make no apology for doing so.

...

In 2021-22, \$ 100,000 of the \$500,000 for the St Helens Pump Track project was also funded via a RAF, approved by the Governor.

(See [Appendix 1](#) for 'Summary RAFs for purposes approved by the Governor' and [Appendix 2](#) for 'Governor Approved New Purpose RAFs - 2020-21').¹⁷

Committee Findings

- F1. The relevant provisions of the *Financial Management Act 2016* to fund election commitments from the Treasurer's Reserve were not used to fund election commitments between 2010 and 2020.
- F2. Actual expenditure from the Treasurer's Reserve is only able to be retrospectively scrutinised and approved by the Parliament.

¹⁶ See Transcript of Evidence, [Public Hearings \(28 November 2022\) – \(Deputy Premier Ferguson\)](#), p. 1-11

¹⁷ Letter to Chair from Hon Michael Ferguson MP (Deputy Premier and Treasurer) dated 23 December 2022

- F3. The *Financial Management Act 2016* contains provisions which enable more timely and deliberative Parliamentary scrutiny of the funding of election commitments, such as the introduction of a Supplementary Appropriation Bill.
- F4. The expenditure of funds from the Treasurer's Reserve for the Local Communities Facilities fund was lawful.
- F5. The *Charter of Budget Responsibility Act 2007* requires the costing of election commitments and it is effectively an opt-in process.
- F6. Some election commitments are not costed by the Department of Treasury and Finance due to being provided too late in the process, and/or providing too little information.

Committee Recommendation

- R1. Outside of the annual budget appropriation bills, when possible, election commitments be funded by way of a Supplementary Appropriation Bill, rather than a request for additional funding from the Treasurer's Reserve, to allow for timely deliberative scrutiny by Parliament.

Assessment of Grants to be Funded through Requests for Additional Funding

With regard to the mechanism to assess grants under the Local Communities Facilities Fund, the Committee heard the following at the public hearing:

Mr FERGUSON - ... What I'm saying is that the previous legislation and the current Financial Management Act provide a mechanism that Parliament has ordained that if there is a spending decision that the Treasurer wishes to make, using the Treasurer's Reserve, that if it is an existing purpose – to use the Chair's example, extra health spending - then that's an existing purpose and it doesn't require the Governor's approval. However, for the funding of Local Community Facilities Funds, which was a new purpose, that's why the mechanism under part 21(3) was required in that case.

In both cases, it is still drawn from the same Treasurer's Reserve and still requires the same test be met under 21(1).

Ms WEBB - ... We still haven't clarified exactly how these LCFE grants meet that test. ... Is there documentation that can be provided to the Committee, that would show the decisions made between those two groups of grants?

...

Mr FERRALL - ... I'd have to check whether there is explicit documentation in terms of why they were split up that way; but I can give you some commentary on it.

The Government, at that point, as the current Treasurer indicated, was trying to get as

many election commitments funded as quickly as possible, and that was consistent with their position at the election.

Regarding the specific LCFF funding: we worked with [Department of] Communities to identify those ones which were relatively contained and simple in terms of grant deeds and requirements, because they needed to provide them as grants to those organisations. There was work done to work through which ones could be delivered by Communities relatively quickly, which is how that approximately 100 were identified.

I'm not aware of any particular documentation going through each one saying 'this one could, and this one couldn't', and why; but certainly, it was about those ones which were. And they are largely of relatively small dollar value as well when you look in table.

Ms WEBB - *I do note, though, that there is a mixed bag. You have some funded in the Treasurer's Reserve, up to an amount of, say, \$78 000, I recall; but I could be wrong. Then, you have others funded later in the budget with a lesser amount than that, for example.*

It doesn't seem there was a straightforward line applied - amounts under X, will be funded this way, amounts over X, the other way.

Mr FERRALL - *No, it wouldn't have been simply a dollar level, but the dollar level would have had an implication for it.*

CHAIR - *If it wasn't the dollar amount, how were these projects assessed to be appropriate to be funded - particularly through this measure, through use of a RAF, which, as we have said, is for our efficient financial administration? What test was applied, other than being an election commitment? How did you assess the community benefit; or is that not your job?*

Mr FERGUSON - *Chair, I think I can help the Committee. I'll share with the Committee some information that I've been provided with, which has been publicly released as part of a Right to Information request. I commend that document to the Committee to answer that particular question from Ms Webb, and now from yourself...*

...

Mr FERGUSON - *....To answer the question - the way that the first 111 were determined - they were assessed as being Stage 1, and I'll read the sentence:*

There are 111 total value \$2,465,397 assessed as being Stage 1, that we will work with in the first instance to have completed prior to 30 June 2021, subject to the client completing the grant requirements.

and here is the key sentence:

These 111 grant recipients are most likely to be able and ready to complete the grant process and deliver on the grant project objectives, without the need to negotiate conditions precedent and additional risk mitigation strategies, such as, KPIs, payment instalments and progress reports within a short lead time.

The email then goes on to discuss Stages 2 and 3; it's very brief:

Those assessed as Stage 2 and 3 have been placed in these stages for one, or more of the following reasons: large complex projects, multiple parties involved; extensive planning, safety, or compliance requirements, et cetera.

and the second dot point:

High value grants, \$100,000, or more, require audited financials as per Treasurer's Instructions, FC12, clause 12.9; and over \$500,000 with a project value of \$5 million, or more, requiring a Tasmanian Industry Participation Plan, clause 12.10.

I hope that's useful, because that indicates that there was a methodology for establishing the different strata of grants where Stage 1 is, perhaps, of the most interest to the Committee - being those 111 election commitments that didn't meet those Stages 2 and 3 criteria.

Ms WEBB - I do note in that RTI ... there are three redacted dot points there, under the list of what [could] be one of the following reasons for being placed in stages 2 or 3. Clearly, there is still some lack of clarity about exactly how this sorting out was done, that we can't tell from this RTI document.

Mr FERGUSON - Well, I'm sharing with you information that deals categorically with the Stage 1. The redactions are determined not by me, but by the independent person - ...

Mr FERGUSON - ... I would be loath to comment, but there are often redactions only based on the scope of the RTI that is requested. I'm happy for the Secretary to elaborate to whatever extent he would like to, or is able to.

Mr FERRALL - ... I would not comment on what has been redacted, other than to say it is generally a question of scope. So, if the particular matters are outside of scope they would be redacted in terms of an RTI; but these are matters that our RTI officer has determined as appropriate to be redacted in accordance with the [Right to Information] Act.¹⁸

In response to a question on notice, the following reasons for why some election commitments had been assessed as being either at Stage 2 or Stage 3 were disclosed:

Those assessed as stage 2 and 3 have been placed in these stages for one or more of the following reasons:

- *Large complex projects (multiple parties involved, extensive planning; safety or compliance requirements, etc)*

¹⁸ See Transcript of Evidence, [Public Hearings \(28 November 2022\) – \(Deputy Premier Ferguson\)](#), p.11-14

- *High value grants (\$100,000 or more, require audited financials as per Treasures Instructions FC-12, clause 12.9 and over \$500,000 with a project value of \$5 million or more require a Tasmanian Industry Participation Plan, clause 12.10)*
- *High risk projects (Require additional funding or support, require intense client management, safety, potential negative community perception, etc)*
- *High risk recipients with a history of poor project management, compliance and/or current commitments are yet to be finalised*
- *Infrastructure projects where the asset or land impacted is not owned by the nominated recipient.¹⁹*

At the public hearing, the Committee heard the following;

Mr FERRALL - *Can I make one clarifying comment as well?*

...

Mr FERRALL - *This documentation relates to the process that Treasury was working with Communities Tasmania; but the judgments and decisions behind this were made by Communities Tasmania, not by Treasury. So, you are aware of that.*

...

Ms WEBB - *We still haven't really come to an understanding of what the urgency was in delivering these 111 through this mechanism, and how that represented meeting the criteria that is in the Act. That's particularly since my understanding of what is now in the public domain, in terms of the letter that went back to successful applicants from the Liberal Party during the campaign period, said in the final sentence:*

Should a Liberal Government be re-elected, funding will be allocated as part of this year's State Budget process.

So, an expectation had been provided to the recipients of these grants, that their funding would come through the State Budget process.

To return to the question that we've already asked, but haven't yet really received clarity on, how does this meet the requirements in the act in terms of an urgent need to be funded prior to the Budget?

Mr FERGUSON - *... It's quite simple. It's an enthusiasm by the Government to see as many election commitments being honoured at the soonest possible time, noting that a stratification was determined, a methodology, to allow different levels of grants to be considered in stages; noting that those first stage grants had the greater likelihood to be able to be completed in that time and for the organisations to deliver on them.*

There was, at the time, no concern or qualms by either side of politics about the merits of getting election commitments funded as soon as possible.

Ms WEBB - *Were all 111, that were funded in this manner, publicly announced during the election campaign, or in the period after the election campaign, and put into the public domain?*

¹⁹ Letter to Chair from Hon Michael Ferguson MP (Deputy Premier and Treasurer) dated 23 December 2022

Mr FERGUSON - *That's certainly my understanding. The Liberal Party advertised our policies and we made local announcements. There's plenty of evidence for that. Each commitment was made by the Liberal Party organisation and letters provided to the recipient organisations. Then, in office, which then comes back the use of the public account, we have worked very hard to deliver them as early as possible.*

Ms WEBB - *I'm asking you to confirm that all 111 were announced publicly. A letter to the organisation isn't a public announcement. Were they put on the Liberal Party website, for example? Were they announced through traditional media? Were they announced as Facebook announcements on individual candidate's pages? Can you guarantee that all 111 were publicly announced?*

Mr FERGUSON - *They were Liberal Party of Australia, the Tasmanian division, campaign commitments. I'm not going to deviate from the terms of reference of this Committee or my role as Treasurer on this matter. Commitments and promises were made and widely advertised. As for the detail and the conduct of the Liberal Party's campaign, that's not the role in which I'm appearing here today, but I'm very confident in relation to the public disclosure of those announcements.*

Ms WEBB - *I'm asking those questions to try to establish context because, in funding it through the Treasurer's Reserve, that also wasn't detailed in an itemised way at the time that it was mentioned as part of the supply Bill discussion on 24 June that the LCFF was mentioned.*

It's not clear though, that each of those 111 being funded were things that had individually been publicly announced. They weren't publicly announced then as part of the parliamentary discussion. We've arrived at knowing about the 111 through subsequent investigations and RTI processes and then, finally, tabling in response to those.

I'm trying to track public visibility.

Mr FERGUSON - *I'm loath to take up the debate or the line of questioning in relation to the election campaign because that is outside my role as Treasurer and outside the terms of reference of this Committee. However, I am comfortable that the Secretary has already, in the chronology and the time line, outlined that Treasury watch out for and collate their own list of election commitments.*

I've been clear with you in an earlier answer that I'm very confident of the public disclosure of our election promises - because that's the very point. The Liberal Party, and so do other parties, make commitments and we want people to know about them so that they will see the merits of a re-election of our particular party.

I'm happy for the chronology to be on the public record there with your Committee. While Treasury and Finance do not play any role in the election other than costing policies that are submitted, they quietly gather commitments that are made by all parties and candidates so that there is a clear record, after the election, so that Treasury can assist the new Government with delivery.

I am confident on it. I don't want to seem evasive about it because I'm not; but I'm not going to spend any time going through the selection of projects during the caretaker period, because that was done by the Liberal Party campaign and policy team.

Ms WEBB - *I'm glad that you mentioned the costing by Treasury, because the next question that flows on is: of the 111, how many were costed? Perhaps this is a question for the Secretary. You mentioned Treasury costed various policies put forward during the election.*

Was the LCFE in total, and were individual grants promised under it, costed during the election period?

Mr FERRALL - *I will have to go back and check the records from that period.*

...

Mr FERRALL - *My recollection is that not every one would have been costed, because some of them were identified or released late in the election costing process. We are unable to cost policies that are submitted late in the process, or sometimes we are unable to cost policies that might have insufficient information to enable us to cost. My recollection is that not every one would have been costed because of lateness; but I need to check back to be certain.*

...

Mr FERGUSON - *... I'm reminded that some promises were announced in a policy document at a full press conference; others were announced with a media release sent to papers or small regional papers; some were announced on social media; and others were by providing in writing to the relevant organisation. It was made clear to the organisation that the promise that was made to this or that organisation was made on the basis of the Liberal Party being returned to Government.*

I am hearing that we will happily take the costings question on notice. Would you like us to do that?

Ms WEBB - *Yes, I would like to know about the costings, especially because there are comments in the public domain from previous treasurer, Peter Gutwein, that 'we have submitted each and every one of our policies to Treasury to be fully costed', so it would be good to understand which of these have been costed.*

Mr FERGUSON - *We had a policy for Local Community Facilities Fund and we will take that on notice and provide the detail back to the Committee, noting the comments that have already been made by the secretary in relation to some of the qualifiers there.²⁰*

In replying to a question on notice with respect to the '111 projects referred to in the public hearing, how many were costed prior to the 2021 election by Treasury', the following response was provided by Hon Michael Ferguson MP:

²⁰ See Transcript of Evidence, [Public Hearings \(28 November 2022\) – \(Deputy Premier Ferguson\)](#), p.14-17

Election policies that were costed by Treasury were publicly announced commitments where a request was made by the then Premier or Leader of an Opposition Party in accordance with the Charter of Budget Responsibility Act 2007.

The Charter of Budget Responsibility Act 2007 provides a framework to improve fiscal policy outcomes by requiring a process for costing the election policies of parties represented in the House of Assembly.

Section 14 of the Charter of Budget Responsibility Act 2007 requires the public release of the costings of such election policies. Treasury fulfilled its obligations under the Charter of Budget Responsibility Act 2007 by releasing the costings on its website during the lead up to the 2021 State election. These remained available until the outcome of the election was known.

...

Some of the policy costing requests received from the Tasmanian Liberal Party were in a consolidated form, including some with recurring funding over multiple years. Unlike formal policies, the Local Community Facilities Fund was a collation of small individual promises made by individual candidates for the Liberal Party of Australia (Tasmania Division) to provide funding by way of a grant deed to local organisations to upgrade their facilities, make repairs and purchase new equipment, thereby providing much needed economic stimulus for the construction industry and local trades.

As noted by the Secretary in the hearing on 28 November, commitments that involved the provision of a one-off grant deed to an organisation can only be costed insofar that the cost is the value of the grant deed. As such, and as indicated by the Secretary, there is no value in submitting such commitments for costing.

These commitments were therefore not regarded as Policy and not submitted to Treasury for costing, but the total cost of these grants was included under Community Services and Development, in the Liberal Party's published Financial Policy. As a courtesy to the Committee, I enclose a copy of the Party's Financial Policy for the Committee's information, which is publicly available on the Tasmanian Division website.²¹

See:

- Attachment A – Publicly Announced Commitments Costed by Treasury
- Attachment B – 2020-21 Local Community Facilities Fund Initiatives
- Attachment C – Liberal Party 2021 Election Policy – Financial Policy, and
- Attachment D – Election Policy Costings Unable to be Costed

Committee Findings

F7. The grants related to 2021 election commitments funded by way of request for additional funding from the Treasurer's Reserve, were those deemed most likely to be ready and able to complete the process and deliver on project objectives within a short lead time.

²¹ Letter to Chair from Hon Michael Ferguson MP (Deputy Premier and Treasurer) dated 23 December 2022

F8. The quantum of the grant related to 2021 election commitments was considered in the assessment of when and how the grant would be funded, but was not a determining factor

Public Disclosure of Election Commitments

With regard to the public visibility of election commitments and the costing of such commitments, the following evidence was provided at the public hearing:

Ms WEBB - The other question that I will return to and you have just mentioned, there were potentially a variety of ways that things were announced during the election campaign.

I would like to know, with regard to each of these, if they were publicly announced and if so, which of those methods that you outlined were in use at the time.

Mr FERRALL - In respect of the election costing period, one of the requirements of the Charter of Budget Responsibility Act in terms of costing is that for a party to submit an election commitment to Treasury for costing, it must have been publicly announced. Anything that comes to Treasury for costing, must have been publicly announced; it is a requirement of the Act.

The second part of it is, that through that election costing period, Treasury releases all policies which it costs, so they are publicly available and put out on the website; but we also do a reconciliation effectively at the end of that period which identifies all policies submitted to Treasury that were unable to be costed and basically, I make a statement at that point which indicates that they were unable to be costed either due to insufficient time or due to insufficient information. All of that has been made public, which is why I am quite comfortable to be able to get that and provide that to the Committee.

...

Mr FERRALL - ... It is actually very important through the election costing period that all parties can be confident that Treasury will only deal with that information on a totally confidential basis. So, we are very careful to ensure that parties can have confidence that we are dealing with everything that comes in, in a totally appropriate manner, because the election costing process would not work, unless all parties could be confident that [we] were dealing with it quite appropriately.

CHAIR - All parties being political parties?

Mr FERRALL - Political parties.

Ms WEBB - To clarify, it's not compulsory for parties to put forward matters for costing, so it's up to them the degree to which they put forward their policy suite or details within that.

Mr FERRALL - Correct.

CHAIR - *Can I clarify, Tony? You said that you only approve ones that have been publicly announced.*

Mr FERRALL - *It's a requirement of the act that they're publicly announced.*

CHAIR - *However, not necessarily costed beforehand?*

Mr FERRALL - *Correct.*

Ms WEBB - *Can I clarify what 'publicly announced' means in that context? As Treasury, what do you regard that to be.*

CHAIR - *I think the Minister went through that list.*

Ms WEBB - *The Minister read out ways that the Liberal Party announced policies during the campaign, but I'm checking about Treasury applying that criteria of something being publicly announced therefore can be costed. What meets the criteria of 'publicly announced'?*

Mr FERRALL - *Part of the costing request with the parties is to indicate that it has been publicly announced; and they tend to then identify how that may have been done, so it could be on a publicly available website, it could be publication in a newspaper. For many election commitments it's in multiple forums and multiple places. At an extreme end it could be an announcement made at a public event, that may be documented or supported. We do the best we can to attempt to identify that it has been publicly announced.*

Ms WEBB - *A Facebook post would qualify there?*

Mr FERRALL - *If it's a public Facebook post, it would.*

...

Mr WILLIE - *Treasurer, we have talked a lot about the Financial Management Act, and Treasury's role in the administration of funds. I have no criticism of Tony's department, I think they are doing everything they are supposed to do. However, what is of public interest is how these decisions were made. As Treasurer, you're ultimately accountable to the Parliament, when talking about public money. Who was involved in the decision-making of the Liberal Party election commitments?*

Mr FERGUSON - *... as I indicated earlier, I am not going to exceed the terms of reference of this Committee nor my role as Treasurer. I'm happy to discuss in any level of detail the Committee may require as to the actual use of the Public Account, the decisions that were made under the FMA. I am quite comfortable dealing with the false allegations from the Labor Party that somehow the Treasurer's Reserve has been inappropriately used, because those claims have been thoroughly debunked. However, in terms of the election campaign, the caretaker period and the fact that the campaign by both our respective parties is managed by the organisation, then that's the answer to the question. I have been very clear about it already.*

Mr WILLIE - There's no detail in the public domain, Treasurer, about how these decisions were made, and it is of public interest. You are ultimately responsible to the Parliament and I think you should answer these questions.

Mr FERGUSON - ...with respect, as you know, I am comfortable going into any level of detail as is of interest to the Committee in terms of the use of the Public Account.

Election policies are a function of the Liberal Party of Australia, Tasmania Division, and its campaign team. The Premier and I, in the House of Assembly, have also been clear about the fact that Policy Committee makes the judgments not just about the Local Community Facilities Fund but our many other policies, all of which - as you know - have been submitted for costing during that period. However, I'm not going to entertain your questions about internal Liberal Party Division matters and policy formation committees. That's of no legitimate interest to you.

Mr WILLIE - What criteria were used to make the decisions, Treasurer, and how were sporting groups and community organisations informed of the process so they could participate?

Mr FERGUSON - I'm happy to speak broadly; but I will reiterate my previous answer, with respect to you. Your Committee would be aware of its terms of reference. I'm very comfortable saying again, that our Liberal Party is highly connected to the Tasmanian community - city and country areas; sporting groups and not for profits; health and education and public safety organisations. We are very proud of the election manifesto that we put forward, because it was about strengthening Tasmania's future and looking after our future prosperity. Community organisations came to the Liberal Party members and candidates and ultimately the party made decisions about our policies and they've been publicly announced and, on forming Government, they have been funded.

I'm not prepared to share with you the internal deliberations of the Liberal Party of Australia, Tasmania Division campaign.

Mr WILLIE - Well, perhaps you'll answer this: to give the public some confidence about how the decisions were made, how were conflicts of interest managed?

Mr FERGUSON - I refer you to the Premier's answers in Parliament. Again, your use of those words is of interest - looking for a headline. The Liberal Party of Australia, Tasmania Division, carefully worked through proposals that were brought forward either by candidates or by individual organisations. As a political participant, Mr Willie, you'd be more than aware that during campaigns we get approached by a range of organisations with their various requests, and all of us do our best to accommodate those requests within a responsible financial envelope.

Mr WILLIE - Treasurer, we are talking about public funding here, not the Liberal Party's money. Were any conflicts of interest declared through your internal process?

Mr FERGUSON - ... I'm very conscious of my responsibility as Treasurer. I've been Treasurer since April [2022]. I've been extremely diligent to be providing levels of detail to the Parliament and to the community that satisfies a lot of interest.

Acting responsibly is my motto here, and doing everything that's proper. I refute the use of your language and the claims that you've made there. It's just a rehash of what we heard in the House of Assembly.

Mr WILLIE - It's a simple process question, Treasurer.

CHAIR - Treasurer, as you would be aware, the Public Accounts Committee has a broad remit to follow where the money goes and the decision-making that leads to that expenditure.

I asked the question earlier, and it still hasn't really been answered, as to what is the process to determine how decisions are made about which group will get funding and what criteria they are assessed against?

Mr FERGUSON - In terms of the Liberal Party during caretaker period, where the Liberal Party organisation is in a battle with other political parties - Liberal, Labor, the Greens, and others - each party comes up with its own policies, and makes its own determinations about its spending priorities that it would make if it were elected to office. That is a well understood fact by members of this Committee and the wider community. In terms of the actual use of the Public Account, I'm more than happy to provide any level of detail as is requested.

CHAIR - The use of the Public Account comes from Government decisions around expenditure, that's where the question comes from. ...

Dr BROAD - The Secretary talked about an appropriation, or the RAF that was \$4.7 million on 21 June. Now, \$2.5 million was for the Local Community Facilities Fund (LCFF). Was the LCFF the only part of that request out of the Treasurer's Reserve that required specific Governor's approval in writing?

Mr FERRALL - No.

Dr BROAD - So all of that \$4.7 million required a specific approval from the Governor?

CHAIR - New purpose funding.

Mr FERGUSON - Yes. ...

...

CHAIR - I want to ask the Secretary of the Treasurer how you actually cost election commitments when they come to you? Some of them don't have enough details, some you don't have time for, but how do you make that assessment?

Mr FERRALL - It's probably worthwhile commenting. In respect of a grant to a particular organisation, there's virtually nothing we can do, in terms of costing. If a party

has decided to make a \$5,000 grant to X organisation, then the cost is \$5,000. We don't do a lot of work in terms of trying to cost those particular election commitments.

If it is a broader election commitment, which might involve additional resourcing for a particular activity, we attempt to work through whether the cost of that is reasonable and appropriate. If a party had indicated that it was looking to put on 100 additional nurses, we would look to the approximate estimate of a cost of a nurse per annum, and work through whether the funding allocated was reasonable in terms of 100 nurses, on costs, et cetera. It depends on the nature of the election commitment, how much effort or work we need to put in to come up with a costing of it.

CHAIR - *There's no community benefit test, that you apply?*

Mr FERRALL - *No. We don't. Our role is simply to cost the election commitments. It is not to make judgments about why a party may have made an election commitment.*

...

Mr WILLIE - *Back to the decision-making, Treasurer. Was it elected members of Parliament making these decisions, or was it unelected staff of the Liberal Party making these decisions?*

...

Mr FERGUSON - *... With respect to the Committee, I do understand the interest in these matters, and I have been very forthcoming - and the Secretary as well, with my support - to provide as much detail as is required. However, I'm simply not going to allow this process to get bound up in exploring how the Liberal Party during a caretaker period, and through the Party organisation, might develop its policies. It would equally be the case if you were asking the questions about the Labor Party. It's just not the role of the Treasurer today to be explored on those matters.*

Mr WILLIE - *It is your role to defend the process, Minister, and we are talking about public funding here. Good scrutiny around that is appropriate.*

Mr FERGUSON - *...The Liberal Party fought the election with the Labor Party and the Greens, and other parties as well. We all understand that. Promises were made. Commitments were funded, once the Government had been elected.*

I do appreciate, I really do, that the Public Accounts Committee has an interest in the use of the Treasurer's Reserve, for the Stage 1, 111 projects, and I'm doing my best to satisfy the Committee's interest in this area. However, I'm just not in a position to allow this process - and I've been consistent in the House of Assembly last week as well - I'm just not prepared to engage in an exploration of internal decisions of the Liberal Party during a caretaker period in an election campaign. It's just not how it works.²²

²² See Transcript of Evidence, [Public Hearings \(28 November 2022\) – \(Deputy Premier Ferguson\)](#), p.17-22

Committee Findings

- F9. The costing of election commitments/policies under the *Charter of Budget Responsibility Act 2007* can only be undertaken once they have been publicly announced.
- F10. What constitutes a public announcement of election commitments/policies is not defined and has a very broad application in practice.
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Appendix 1 – Summary of RAFs for Purposes approved by the Governor

Year	<i>Public Account Act 1986</i>			FMA	Total \$'000s
	s. 11(3) \$'000s	s. 12(1) \$'000s	s. 12(2) \$'000s	s. 21(3) \$'000s	
2010-11	-	21 808	56		21 864
2011-12	3 100	42 572	-		45 672
2012-13	1 798	12 093	-		13 891
2013-14	1 041	19 706	-		20 747
2014-15	9 250	1 670	-		10 920
2015-16	-	3 540	110		3 650
2016-17	-	3 121	-		3 121
2017-18	2 741	-	258		2 999
2018-19	-	7 809	3 996		11 805
2019-20				-	-
2020-21				4 716	4 716
2021-22				14 446	14 446
Total	17 930	112 319	4 420	19 162	153 831

Appendix 2 – Governor Approved New Purpose RAFs (2020-21)

	\$'000
<i>Department of Communities Tasmania</i>	
Local Community Facilities Fund ²³	
Local Community Development (Output 4.3)	1 015
Sport and Recreation (Output 4.7)	1 338
Veterans' Affairs (Output 4.6)	113
Total – Department of Communities Tasmania	2 466
<i>Department of Health</i>	
Hobart Clinic Redevelopment	2 000
Total – Department of Health	2 000
<i>Department of State Growth</i>	
No Interest Loans Scheme – Energy Saver Loan and Subsidy	250
Total – Department of State Growth	250
TOTAL	4 716

²³ See [Attachment A](#) for a breakdown of all items funded via a new purpose RAF under the Local Community Facilities Fund

Summary of Attachments

Attachment A	Publicly Announced Commitments Costed by Treasury
Attachment B	2020-21 Local Community Facilities Fund Initiatives
Attachment C	Liberal Party 2021 Election Policy – Financial Policy
Attachment D	Election Policy Costings Unable to be Costed
