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**Opening Statement – Budget Estimates, 25 May 2023**  
**Jenny Wilkinson PSM**  
**Secretary, Department of Finance**

Thank you chair and committee members.

I would like to bring your attention to a few matters.

First, to assist the Committee with directing questions today, I have tabled an updated organisational chart for the Department. We made some adjustments to our structure and reporting lines earlier in the year to re-balance workloads across Deputies and better align functions.

The three key changes that I'd like to draw your attention to are:

- the Government and Defence Division of Budget Group has been led by Nathan Williamson throughout this Budget process, so Mr Williamson will be best placed to answer questions relating to the work of that Division;
- advice on matters related to the Nuclear Submarine Program, has been led by both Mr Williamson and Mr Jagers, given the significant commercial elements of that program; and
- the Shared Services Transformation Program Office has moved under Business Enabling Services, led by Mary Wiley-Smith.

Second, our Portfolio Budget Statements now fully capture the integration of the data, digital and regulatory reform functions into the Department. The integration of these functions into the Finance portfolio has enabled us to engage more effectively in a number of priority areas for Government, particularly supporting the Government's digital and data agenda. The move of the Digital Transformation Agency into the Finance portfolio has, in particular, enabled us to more effectively integrate DTA analysis and assessments in budget deliberations.

To further assist the Committee, I would also like provide an update on the actions that the Department of Finance (Finance) has taken in response to the breach of confidentiality relating to PricewaterhouseCoopers in the context of their engagements with the Department of the Treasury.

I am referring to the investigation conducted by the Tax Practitioners Board which found that PwC Australia's former head of international tax, Mr Peter Collins, had made unauthorised disclosures of confidential

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information to colleagues at PwC. I note that on 2 May 2023, the Tax Practitioners Board tabled in Parliament emails, uncovered during its investigation, which highlighted the significant extent of the breaches of confidentiality and the wide range of individuals within PwC who were directly and indirectly privy to the confidential information.

I would begin by stressing that I consider PwC's abuse of confidence and trust with the Treasury and PwC's subsequent handling of this breach to be a very serious issue. Yesterday, Treasury referred the matter to the Australian Federal Police underlining the gravity of the situation. Evidence I give today – and that of my officials' – will be careful to avoid prejudicing any police investigation.

I note that this breach of confidentiality did not relate to a contract entered into following a procurement process. Mr Collins received confidential information and documentation during the course of his participation in stakeholder consultations with Treasury, with those consultations subject to confidentiality agreements. I raise this point as it is relevant to explaining the actions that Finance has taken in response, under the whole of government Procurement Framework that we are responsible for.

The Commonwealth Procurement Framework requires procuring officials to take into account the past performance of suppliers, including their ethical behaviour when undertaking a value for money assessment as part of the procurement process. It requires consideration of a wide range of matters in all value for money assessments, and allows for tenderers to be excluded on grounds such as bankruptcy, insolvency, false declarations, or significant deficiencies in performance of any substantive requirement or obligation under a prior contract.

Had this breach of confidentiality occurred under a contract established under the whole-of-Australian-Government Management Advisory Services Panel, which is managed by Finance, the panel agreement would have given Finance the ability to consider cancelling all existing contracts with PwC under this Panel on the grounds of material breach of contract, and to suspend them from future procurements under this Panel.

Finance first became aware of this issue in late January, as a result of media reporting. Recognising the seriousness of this matter, Finance immediately wrote to PwC on 25 January reminding it of the requirement to maintain confidentiality whilst working with the Commonwealth and sought assurances

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that PwC has implemented appropriate actions to prevent a future breach of confidentiality.

PwC responded advising that it was taking action in response to the event and that it had detailed policies and procedures in place to maintain confidentiality arrangements in relation to client engagements. Further PwC advised that partners and staff with security clearances were undertaking additional training in relation to their security and confidentiality obligations; and that there would be ongoing training for PwC personnel.

Critically, PwC did not indicate to my department that the issue was broader than what was being published in media reports at that time.

On 2 May 2023, Finance became aware that the breach of confidentiality was significantly broader than a single individual within PwC, and that PwC's initial response insufficiently addressed the issues being raised.

This additional information raised serious concerns about the broader culture within PwC and undermined our confidence in their earlier engagements around this matter.

In response, Finance initiated and has delivered on four key actions:

1. On 19 May Mr Jagers, Deputy Secretary Commercial Group, wrote to PwC directing it to remove personnel directly involved in, or who had knowledge of, the confidentiality breach from all existing and future contracts under the Management Advisory Services Panel, at least until the review by Dr Switkowski of PwC's governance, culture and accountability is complete and Finance is satisfied with the findings of the review. Further, Mr Jagers recommended to PwC that those personnel not be involved in any other Commonwealth Contract – that is, other contracts established outside this Panel for the same period.

PwC has agreed to this direction and recommendation.

2. The Department developed *Notification of Significant Event* clauses for inclusion in future Commonwealth contracts. On 19 May, Finance updated the Commonwealth Contracting Suite and ClauseBank to include template clauses which will enable the Commonwealth to terminate a contract for material breach of contract if an adverse event occurs, including an event outside the specific contract, and the contract

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manager is dissatisfied with the supplier's subsequent management of the event. On 19 May, Finance notified all portfolio Chief Financial Officers and procuring officials of the new clauses.

3. On 24 May, Finance wrote to all 413 Management Advisory Services Panel suppliers seeking their agreement to vary the existing Panel agreement to include the notification of significant event clauses in that agreement. Finance is also preparing updates to other Finance led Whole of Australia Government panel arrangements to include these clauses. The Digital Transformation Agency has advised Finance that it will review its panel contract arrangements to ensure the requirements and similar clauses are in all of its Whole of Australian Government ICT panel arrangements.
4. On 19 May, Finance published a procurement policy note on its website reminding officials that, when undertaking a procurement, they must consider the previous behaviour, including ethical conduct, of an organisation when undertaking value for money assessments. This advice reflects paragraph 4.5(c) of the Commonwealth Procurement Rules. Finance has written to portfolio Chief Financial Officers informing them of the note and shared it with procuring officials.

In addition to informing portfolio Chief Financial Officers, all Secretaries were advised of these actions on 19 May.

I consider that these actions are an appropriate and considered response to the matter based on the information that is currently available and the options that are available under current legislative arrangements. These actions deliver a clear message to suppliers that unethical behaviour will not be tolerated, whether it occurs as part of a procurement arrangement, or as part of another arrangement with government.

To further enhance integrity, Finance has, in addition, been developing a Supplier Code of Conduct. The Supplier Code of Conduct will outline the behavioural standards expected from suppliers during procurement processes and while under contract. The Supplier Code of Conduct is expected to be finalised before the end of this year, and will address situations such as this particular incident.

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We will continue to monitor this situation closely, including PwC's responses to our directions, any further information that comes to light, and any further outcomes from investigations that are undertaken in relation to this matter. I will consider the need for, and options for, further actions under the Procurement Framework in response to new information that emerges.

This statement outlines the actions that the Department of Finance has undertaken in response to the PwC confidentiality breach. I note that the breach occurred under an arrangement with the Treasury and investigations to date have involved agencies within the Treasury portfolio. When Treasury appears at Senate Estimates next week, they would be best placed to advise you of the further specific actions they are taking in response to the matter.

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