

**NCA Response to a Question Taken on Notice at the JSCNCET Public Hearing –
2 December 2024**

Question

CHAIR: The NCA has reportedly spent millions on legal and advisory contracts related to the bridge project. Are you able to provide a detailed breakdown of these expenditures and explain why those costs have escalated significantly?

Response

Legal and probity services provided to date have been commensurate and appropriate for the scope of the Commonwealth Avenue Bridge project.

Appointment of external Probity and Legal advisors

Probity and Legal advisor services for the project were engaged on 2 November 2021 and 6 December 2021, respectively. At this time the project was in the early planning and set-up stage of the overall project life cycle. The appointment of the Probity and Legal services advisors early in the project has enabled the NCA to obtain the appropriate advice in setting up and running all procurements undertaken for the project to date.

Throughout financial year 2022-23 and 2023-24, the NCA, with the assistance of the Probity and Legal services, prepared for, released to market (via AusTender), evaluated and appointed Design Consultant services, Buildability Expert services and Principals Representative services.

Probity and Legal services have both assisted in the release of the two stage Head Contractor Tender in late 2023. The Request for Head Contractor Tender closed in June 2024. Following an extensive assessment of Tenders a preferred Tenderer was selected in September 2024. Negotiations have been underway with the assistance of the Legal advisors. The NCA is currently in final negotiations with the preferred Tenderer and a contract is expected to be signed either in late 2024 or early 2025.

Achieving value for money

To provide the best value to the NCA and the Commonwealth, the arrangements entered for these services was not a fixed-fee arrangement, but rather a fee-for-service basis with individual services to be requested on an as-needed basis.

The appointments of the Probity and Legal services was carried out under the Whole of Australian Government Legal Services Panel. The NCA was offered reduced rates under both contracts. This has meant a saving to the NCA over the life of both contracts to date. Given the nature of these services, the NCA also negotiated that no disbursements would be covered under both contracts.

Probity advisor services

The Probity Advisors have assisted in project set-up including providing input into the Project Governance Plan and Probity Framework and Probity Register. They have also acted as the Probity Advisor on all of the project procurement activities. This included providing Probity briefings to all NCA-appointed evaluation teams to assess each procurement and providing probity briefings to short listed Tenderers at the commencement of contract negotiations and providing general probity advice as required.

The overall fee value to 30 November 2024 is \$212,459.39 (inclusive of GST). Further spending on the project is expected in assisting the NCA conclude the negotiations and contract execution of the Head Contractor.

Legal advisors

The Legal advisors have assisted the NCA on the project since late 2021. Following their appointment, Legal advisors have been involved with preparing all Tender documentation, including the Contract procurement delivered under the project, including the Head Contractor which is ongoing.

Their services have also covered providing advice when responding to legal matters during each of the Request for Tender periods for each of the project procurements. For the Design Consultant, Buildability Expert, Principals Representative and for the ongoing Head Contractor procurement, they have also been involved in contract negotiations and contract execution.

Legal advisors also assisted the NCA with the relevant aspects of the ACT Government's Raising London Circuit project to ensure appropriate coordination and interaction between the projects and between NCA and ACT Government contractors.

The overall fee value to 30 November 2024 is \$2,262,177.00 (inclusive of GST). Further spend on the project is expected in assisting the NCA conclude the negotiations and contract execution of the Head Contractor.

The table below sets out the components and status of legal services spending to 30 November 2024 (all figures are GST inclusive).

Project structuring	
▶ Status: Phase complete	
	▶ Fees billed: \$111,628.00
Procurement of design consultant	
▶ Status: Phase complete	
	▶ Fees billed: \$267,444.00
Procurement of buildability expert	
▶ Status: Phase complete	
	▶ Fees billed: \$178,855.00
Procurement of principal's representative	
▶ Status: Phase complete	
	▶ Fees billed: \$341,135.00
Procurement of head contractor	
▶ Status: Phase ongoing	
	▶ Fees billed: \$1,270,695.00
Advice in relation to Raising London Circuit (Light Rail)	
▶ Status: Phase complete	
	▶ Fees billed: \$92,421.00