

The Lodge Refurbishment Review

Report prepared by David O'Donnell for
the Department of the Prime Minister and
Cabinet

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1. Introduction

1.1 I have been engaged by the Department of the Prime Minister and Cabinet to:

- (a) Provide quality assurance and legal opinion/ advice to the Department of the Prime Minister and Cabinet on a Peer Review of the Lodge Refurbishment Project (the Review) being undertaken by Projects Assured and in doing so to:
 - (i) Obtain a common understanding of the outcomes and expectations of the Review, by engaging directly with nominated personnel from Projects Assured, at the commencement of the Review Process.
 - (ii) Review progress of the interim report, due on 12 February 2016 and provide an opinion on:
 - (A) Whether the Review is on track to address the issues/ concerns; and
 - (B) Any significant issues that need to be escalated prior to finalisation of the Review.
 - (iii) Document any shortfalls that are identified in (ii) above and make recommendations to address the gaps.
 - (iv) Review the final report due on 19 February 2016 and provide a written assessment about whether all relevant aspects of the cost variations and scope changes associated with The Lodge Refurbishment Project have been adequately addressed and evaluated in the Review and whether there is sufficient background to understand the measures that were in place to approve variations and ensure value for money principles were adhered to.
 - (v) Document any shortfalls that are identified in (iv) above and make recommendations to address the gaps.
 - (vi) Provide an opinion on whether the recommendations made in the Review are consistent with the intent of the Terms of Reference established at the start of the process.
- (b) Provide general comments, observations and recommendations.

1.2 David O'Rourke from Projects Assured was engaged separately by the Department of Finance to provide a Peer Review of the Lodge Refurbishment Project. David O'Rourke was supported by Michael Snare also of Projects Assured and Mark Chappé of Rider Levett Bucknall. I engaged directly with David O'Rourke throughout the review process.

1.3 The initial brief to Projects Assured is at **Annexure A**.

1.4 It is clear beyond doubt that The Lodge refurbishment project was no ordinary project.

1.5 Projects Assured describe the importance of the project in their report as follows:

"The importance of the Lodge itself provides an overarching context in which the project was required to be undertaken. The Lodge is a property of national significance because of its function as the residence of the Prime-Minister of Australia and the steeped history of the establishment and associated heritage value. Consequently, in recognition of its importance in a symbolic and political context the Lodge is characterised by a multi-dimensional stakeholder environment which must co-ordinate

closely in order to function adequately. The complexity of this arrangement and the sensitivity of the project consequently could not be understated and the associated risk profile in this context was a determining factor in the approach to the Procurement Strategy for the project.”¹

- 1.6 It is clear that essential repair and maintenance works needed to be undertaken to The Lodge – see Project Summary for the Refurbishment Works at **Annexure B**.
- 1.7 Given the complexity of the matter, I summarise below for clarity the total costs associated with the refurbishment, broken up between the three (3) stages of the renovation as those stages are referred to in this report and Projects Assured’s report. I am satisfied the analysis in Projects Assured’s report is generally consistent with the Rider Levett Bucknall Independent Post Project Review Cost Breakdown dated 30 March 2016.
- (a) **Stage 1 Works** being essential internal refurbishment works as set out in the initial head contract as being in a lump sum of \$2,903,060.00 (ex GST).
- The total cost of the Stage 1 Works including early works (supply of slate for the roof and roof works), trade costs, preliminaries and profit to the head contractor, building approvals, consultants costs, legal and financial advice, Department of Finance costs and sundries (such as taxis, safety gear etc) is in the sum of **\$4,724,108.58**.²
- (b) **Stage 2A Works** being further internal works treated as variations to the initial Stage 1 Works contract and commissioned between October 2013 and May 2014, at a cost of **\$2,124,152.17**.³ This includes trade costs, preliminaries and profit to the head contractor.
- (c) **Stage 2B Works** being the external refurbishment works treated as variations to the initial Stage 1 Works contract was set out in the July 2015 head contract as being a lump sum of \$2,006,130.98 (ex GST). Due to increased scope, the total figure for the Stage 2B Works which includes trade costs, preliminaries and profit to the head contractor is **\$2,099,891.24**.⁴
- 1.8 The total costs of Stage 2A and Stage 2B Works referred to in paragraph 1.7(b) and (c) above, adjusted to include building approvals, consultants costs and legal and financial advice is in the sum of **\$5,441,459.25**.⁵
- 1.9 In addition to these costs, there are costs associated with:
- (a) Latent conditions –
- (i) on the initial Stage 1 Works contract or Stage 2A Works is a sum of **\$516,914.85**⁶;
- (ii) on the Stage 2B Works is a sum of \$317,210.92. Rider Levett Bucknall note that these costs were funded from Property Portfolio

¹ Projects Assured, *The Lodge Refurbishment Project - Independent Post Project Review Report*, Version 1.00, 30 March 2016, 11.

² Rider Levett Bucknall, *Independent Post Project Review - Cost Breakdown*, 30 March 2016, 21.

³ Ibid, 26.

⁴ Ibid.

⁵ Ibid, 29.

⁶ Ibid, 24.

Repair and Maintenance Budget so the cost applied for these works is **zero**.⁷

- (b) Agreed damages and extension of time costs – on Stage 2A and Stage 2B Works including trade costs, preliminaries and profit to the head contractor and consultants' costs is a sum of **\$857,698.83**.⁸
 - (c) Construction deferral – on Stage 1 and Stage 2A including consultants' costs is a sum of **\$38,418.90**.⁹
 - (d) Design omissions – on Stage 1, Stage 2A and Stage 2B Works, including a deduction of \$6,611.17 for works funded from the Department of Finance's Property Portfolio Repair and Maintenance Budget but carried out under head contractor variations, is **\$81,451.79**.¹⁰
- 1.10 The total cost of the refurbishment project, *excluding* security costs, except for the guardhouses which were part of the Stage 2B Works, is **\$11,590,250.05**.¹¹ This figure includes a **deduction of \$69,802.15** for costs which Rider Levett Bucknall has not been able to allocate.¹²
- 1.11 On 10 March 2016, the Department of Finance provided me with correspondence from on or about October 2015 in which the Department of Finance approved the allocation of a sum of \$527,219.09 from the Property Portfolio Operations Branch budget to fund urgent and unforeseen repair and maintenance works which were undertaken as part of the refurbishment works.¹³
- 1.12 In addition, I understand that an additional sum of \$1,142,000.00 (including GST) was allocated to the project by the Attorney-General's Department for security infrastructure upgrade costs.¹⁴ It has not been part of my brief to enquire into these costs.
- 1.13 Against that summary and background, I now move to deal with the matters referred to in my brief.

A. MATTERS IN RELATION TO PARAGRAPH 1.1(a)(i) to (vi) OF MY BRIEF

2. The review process, the brief to Projects Assured and documents and information provided

- 2.1 On 18 January 2016, I was provided with the following documents by the Department of the Prime Minister and Cabinet:
- (a) A document titled "Lodge Refurbishment Project Completion Review, Project Summary – December 2015", together with Attachments A and B, which I am instructed were prepared by the Department of Finance;
 - (b) A coloured table setting out a summary of the head contractor variations; and

⁷ Ibid, 25.

⁸ Ibid, 33.

⁹ Ibid, 31.

¹⁰ Ibid, 30.

¹¹ Ibid, 3.

¹² Ibid, 34.

¹³ Email chain between representatives from the Department of Finance dated 21 and 24 September and 2 October 2015.

¹⁴ See Department of Finance, *Lodge Refurbishment Project Completion Review, Project Summary – dated December 2015*, Attachment A, 5 (at Annexure B).

- (c) A letter dated 25 June 2012 from Mr Greg Whalen, A/g First Assistant Secretary, Property and Construction Division of the Department of Finance and Deregulation to Ms Janelle Saffin MP, Committee Chair of the Parliamentary Standing Committee on Public Works titled "Medium Works Notification – The Lodge Refurbishment Works Project".
- 2.2 On 19 January 2016, I attended a site view of The Lodge with Michael Snare and Mark Chappé, and representatives from the Department of Finance and the Department of the Prime Minister and Cabinet. I subsequently met with David O'Rourke from Projects Assured later that day.
- 2.3 On 2 February 2016, I attended a meeting in Canberra with David O'Rourke, Michael Snare and Mark Chappé and maintained contact with the consultants until delivery of their final review. Any shortfalls in the review have been rectified.
- 2.4 On 3 February 2016, further documents were provided by the Department of Finance including development applications and heritage documents submitted for the works. These were provided following my request.
- 2.5 On 12 February 2016, following receipt of Projects Assured's interim draft report, I recommended that the brief to Projects Assured be amended to address issues I identified following review of that interim report. I wrote to the Department of the Prime Minister and Cabinet with suggestions for an expanded brief to Projects Assured.
- 2.6 On 17 February 2016, following my further request, the following documents were provided by the Department of Finance:
- (a) Conservation Management Plan prepared by Peter Freeman Pty Ltd Conservation Architects & Planners dated April 2001;
 - (b) Draft Heritage Conservation Management Plan prepared by Design 5 Architects Pty Ltd dated 20 August 2012;
 - (c) Draft Heritage Issues Paper prepared by Godden Mackay Logan dated May 2012; and
 - (d) Heritage Management Plan prepared by Ainsworth Heritage dated June 2014.
- 2.7 On 19 February 2016, the brief to Projects Assured was revised to take into account further issues I discussed with the Projects Assured team, the Department of Finance and the Department of the Prime Minister and Cabinet. The revised brief is at **Annexure C**.
- 2.8 On 25 February 2016, following a further request from me, the Department of Finance provided further documents which included:
- (a) The head contract between the Commonwealth and Manteena dated 27 July 2015 for the Stage 1 Works, the Stage 2A Works and the Stage 2B Works; and
 - (b) Emails from the Department of the Prime Minister and Cabinet detailing the requests for additional works made between October 2013 and May 2014 being part of the Stage 2A Works.
- 2.9 Following further enquiries I made about the status of the head contract with Manteena dated 27 July 2015 and the whereabouts of the original head contract for the Stage 1 Works with Manteena (defined in the July 2015 head contract as being entered into on

or about September 2013), the Department of Finance on 10 March 2016 provided me with, relevantly:

- (a) A Word version of the original head contract between the Commonwealth and Manteena (excluding drawings, specifications and other annexures);
- (b) A PDF copy of the execution page of, I am instructed, that head contract which is dated 20 February 2014; and
- (c) A Word version of the 27 July 2015 head contract, in track changes showing the changes made from the original head contract (excluding drawings, specifications and other annexures).

- 2.10 On 8 March 2016, I received a revised draft report from Projects Assured.
- 2.11 Following my review of this draft report, I engaged directly with Projects Assured and the Department of the Prime Minister and Cabinet on issues concerning the whereabouts and status of the original head contract with Manteena for the Stage 1 Works and the July 2015 head contract with Manteena. Following this engagement, I received further documents and information concerning the original head contract and the July 2015 head contract, as well as information on how a portion of the costs were allocated to repair and maintenance costs and funded out of the Department of Finance's Property Portfolio Operations Branch budget.
- 2.12 On 11 March 2016, I received an explanation as to why there was a head contract dated 27 July 2015 (see paragraph 4.6 and **Annexure D**), despite the Stage 1 and Stage 2A Works having been completed and the Stage 2B Works being well underway by the date of that contract. It is noted that the existence of the two contracts was not mentioned in the Project Summary document provided to me on 18 January 2016 or in any communications to me before 10 March 2016.
- 2.13 Projects Assured and Rider Levett Bucknall subsequently revised their report to take into account the information concerning the repair and maintenance costs of the works and issued a further revised report dated 11 March 2016 which I received on 12 March 2016.
- 2.14 On 23 March 2016, I sought clarification from Projects Assured on the total cost of the works as set out in their revised report dated 11 March 2016 and the Rider Levett Bucknall Independent Post Project Review Cost Breakdown dated 11 March 2016. Projects Assured provided that further information on 24 March 2016.
- 2.15 On 1 April 2016, I received Projects Assured's final report dated 30 March 2016, together with Rider Levett Bucknall's final Independent Post Project Review Cost Breakdown also dated 30 March 2016. I was also provided with:
- (a) A further explanation from the Department of Finance on the head contract variations and other matters. A copy of this email is at **Annexure E**.
 - (b) A copy of the Annual Report prepared by the Official Establishments Trust to the Department of the Prime Minister and Cabinet dated 2014.
- 2.16 I make the following observations about the production of information and documents:
- (a) It is surprising that the Project Summary document received on 18 January 2016 did not refer to the existence of two head contracts.

- (b) It is also surprising that neither of the head contracts were in the initial tranche of documents received. The head contract dated 27 July 2015 was the first of the head contracts received and only on 25 February 2016. The initial head contract dated 20 February 2014 was not provided until 10 March 2016 and only after my request.
- (c) It is surprising that final and executed copies of both contracts could not be produced.

3. Qualifications

- 3.1 It needs to be made clear that this report is largely based on the very detailed work undertaken by Projects Assured and Rider Levett Bucknall. Although, as will be seen it was necessary for me to call for and review additional documents.
- 3.2 I have not interviewed key personnel involved in the project and so the review is a desktop exercise to that extent.
- 3.3 Having engaged with Projects Assured and Rider Levett Bucknall directly in relation to their findings through the review process, I am satisfied that I can rely upon the information which they have carefully prepared and I therefore believe that I am well placed to make the comments in this report that I do.
- 3.4 Having now reviewed Projects Assured's final report dated 30 March 2016, I believe that all relevant aspects of the cost variations and scope changes associated with The Lodge Refurbishment Project have been adequately disclosed and evaluated in the Review by Projects Assured, to the extent they have been able to do so. I believe also that there is sufficient background as set out by Projects Assured, and again to the extent they have been able to do so, to understand the measures that were in place to approve variations and ensure value for money principles were adhered to. I make further comment about the nature of the variations and whether value for money was achieved below in paragraph 4.12.

4. Understanding the contractual process

- 4.1 It is clear that there were three (3) stages of works:
 - (a) Stage 1 – the original works the subject of the tender and the first head contract entered into with Manteena, the head contractor;
 - (b) Stage 2A – variations to the original Stage 1 works which were to accommodate internal works requested by the Department of the Prime Minister and Cabinet between October 2013 and May 2014; and
 - (c) Stage 2B – external works which comprised the guardhouses, external toilet block and gardeners shed.
- 4.2 I have been provided with two (2) head contracts between the Commonwealth and the head contractor, Manteena:
 - (a) The first head contract dated 20 February 2014 ("**Original Head Contract**"). This is for a scope of works described in the drawings and specifications referred to in the schedule to the contract. The date for completion of the works in the Original Head Contract is defined as 35 weeks and 6 days. The contract price is a lump sum of \$2,903,060.00 (ex GST).
 - (b) The second head contract dated 27 July 2015 ("**July 2015 Head Contract**") contains the following contract particulars:

- (i) Stage 1 Works: -
 - (A) Defined as: works undertaken by Manteena under the "Original Contract" which is defined to mean "*the contract between [Manteena] and the Commonwealth for construction works at the Lodge FIN12AMS1138B entered into on or about November 2013*";
 - (B) Cost: A lump sum of \$2,903,060.00 (ex GST);
 - (C) Date for Completion: 26 June 2015.

- (ii) Stage 2A Works:-
 - (A) Defined as:
 - (I) Refurbishment of 4 upstairs bathrooms;
 - (II) Refurbishment of 3 downstairs bathrooms;
 - (III) Creation of accessible toilet and shower;
 - (IV) Creation of staff change room;
 - (V) Creation of luggage lift adjacent to main stair;
 - (VI) New compliant balustrades to balconies behind existing balustrades;
 - (VII) New joinery to PM suite dressing room;
 - (VIII) Internal painting of house;
 - (IX) Repairs to timber floors and new carpets to any fully carpeted rooms on the first floor;
 - (X) Repair and refinishing to exposed timber flooring Ground floor areas;
 - (XI) Foyer staircase balustrade compliance;
 - (XII) Gas fire heaters to study and drawing room.
 - (B) Cost: The variation prices agreed;
 - (C) Date for Completion: 26 June 2015.

- (iii) Stage 2B Works:-
 - (A) Defined as:
 - (I) New guardhouses to Adelaide Avenue and National Circuit;
 - (II) External toilet block;
 - (III) Gardeners accommodation refurbishment.

(B) Cost: a lump sum of \$2,006,130.98 (ex GST);

(C) Date for Completion: 28 August 2015.

(c) I note that the July 2015 Head Contract also contains a schedule referring to drawings and specifications and other documents.

(d) I observe that the drawings listed in the schedule to the July 2015 Head Contract do not contain revision numbers. The drawings listed in the Original Head Contract do. I make comments about this at paragraph 4.13.

4.3 I note that Projects Assured make the following observations about the Stage 2A and Stage 2B Works process:

(a) *"The Procurement Strategy was reviewed and approved for the Stage 2 works on 1 July 2014. **The constraints influencing this project, including the ability to access the site and the necessary security requirements which must be applied to any contractors on site, and not having a design resolved, resulted in extended delays to the program and likely inefficiencies in the delivery of the Stage 2 works.**"*¹⁵ (my emphasis)

(b) *"Upon commencement of Stage 2, the works needed to progress immediately in order to take advantage of the vacation of The Lodge through to December 2014. **At this stage additional risk was introduced through insufficient project design and documentation upon commencement of Stage 2 which significantly impacted the project. Consequently, the decision to commence work on site as soon as possible resulted in escalated project costs.** It is apparent from the Stage 2 variations issued from July 2014 through to March 2015 that work packages were issued to the Head Contractor in a relatively piecemeal fashion, including the bathroom trades and additional minor works. Approximately \$1.0m (ex GST) worth of work was undertaken on the project during this period with an additional \$517,974 (ex GST) paid for preliminaries and supervision (Agreed Damages) to the Head Contractor, which is considered high in the context of the actual work undertaken in this period."*¹⁶ (my emphasis)

(c) ***An improved financial outcome would have been likely in the event that the full design package was developed and tendered or varied prior to Stage 2 works commencing on site.***¹⁷ (my emphasis)

(d) *"The Head Contract form of delivery is considered to be the appropriate contract methodology for this project, however the decision to proceed with the Stage 2 works **without having a firm design resolved introduced risk that had not been fully considered in the Revised Procurement Strategy. While the specific risks arising from this were noted in the PSC Minutes e.g. delays to bathroom tile specifications, these risks could not be mitigated and resulted in delays which resulted in additional costs.**"*¹⁸ (my emphasis)

(e) *"It is understood that upon commencement of Stage 2, the works needed to progress immediately in order to take advantage of the vacation of the Lodge through to December 2014, however the program determined initially that the Stage 2 works would not allow occupation until May 2015. **The design and the construction of the works subsequently extended and the major external work package did not commence until March 2015 and was not completed until 6 November 2015, some 11 months later than had originally been anticipated.**"*¹⁹ (my emphasis)

(f) *"Consequently, the risk introduced through insufficient project design and **documentation upon commencement of Stage 2 significantly impacted the***

¹⁵ Above n 1, Projects Assured, 11.

¹⁶ Above n 1, Projects Assured, 11.

¹⁷ Ibid.

¹⁸ Ibid, 42.

¹⁹ Ibid, 38.

project. *This is unrelated to project scoping and definition which was conducted adequately.*²⁰ (my emphasis)

4.4 It is clear that the Stage 2A Works (the internal works), which were treated as variations to the Stage 1 Works, were not tendered for and were not the subject of the Original Head Contract. Neither were the Stage 2B Works, being the external works, the subject of a tender process or included in the Original Head Contract.

4.5 I do not know and cannot tell from the papers provided the legal status of the Original Head Contract. However, it appears to me that an “umbrella” was belatedly used, in the form of the July 2015 Head Contract, to contractually deal with all of the works at a time when the Stage 1 and Stage 2A Works had already been completed and the Stage 2B Works were well underway.

4.6 The Department of Finance has provided the following explanation for the existence of the July 2015 Head Contract and the differences between that contract and the Original Head Contract:

“...the difference between the two versions of the contract, is that the second contract allows for the separate handover of internal works (Stage 1 and 2A), separately from the remaining external works (Stage 2B). As you would be aware, the internal works were handed over in June 2015, and the external works in December 2015.

This contract amendment was made to enable PM&C to commence re-establishment of furniture etc. in the house while external works were still being completed.

The amendments are clear from the track changes version provided, and provide for separate defects liability periods, timing of payment obligations and other relevant provisions to reflect different obligations of the parties in respect of different elements of the works.

*The decision to execute an amended contract was on the basis of legal advice from Clayton Utz. Such changes could not have been processed as a ‘variation’.*²¹

4.7 This advice clearly indicates that the Stage 2A and Stage 2B Works were outside the scope of the Original Head Contract, such that a new contract needed to be entered into to properly provide for such matters as defects liability periods, timing of payment obligations and other contractual matters. It makes clear that the Stage 2A and Stage 2B Works were not properly documented in any contractual way prior to the July 2015 Head Contract, by which time all of the Stage 2A Works had already been completed and the Stage 2B Works were well underway.

4.8 I observe that the contractual discipline which was brought to the Stage 1 Works was not employed for the Stage 2A and Stage 2B Works.

4.9 This is particularly surprising in circumstances where:

- (a) the cost of the Stage 2A Works, in a sum of \$2,124,152 for trade costs, preliminaries and head contractor profit, exceeded the Original Head Contract price;²² and

²⁰ Ibid.

²¹ Email from Stacie Hall of the Department of Finance dated 11 March 2016.

²² Above n 1, Projects Assured, 13.

- (b) the cost of the Stage 2B Works, in a sum of \$2,099,891 for trade costs, preliminaries and head contractor profit, was also higher than the Original Head Contract price.²³

4.10 I note that Projects Assured observe that:

*“The percentage of Increased Scope (\$4,401,323 (ex GST)) against the original Head Contractor lump sum contract (\$2,903,060 (ex GST)) is **over 150%** (that is, \$4,401,323 (ex GST) as a percentage of \$2,903,060 (ex GST) is 152%) **and constitutes a major deviation from the norm with respect to construction contracts.** Client Increased Scope does occur in projects but would not be greater than 10% on most.”²⁴*

4.11 In my opinion, the Stage 2A and Stage 2B Works should have been properly scoped and made the subject of a proper procurement and tender process to ensure that a competitive price for those works was obtained.

4.12 Projects Assured has not been able to assess and make comment on whether the cost of the variations was value for money because of the way in which the variations were treated.²⁵ Projects Assured note in their report that:

*“Due to the significant number of variations generated on the project and to facilitate efficiencies in the approval process, **variations were grouped into a reasonable number of claims.** It was stated in the recommendations by the PMCA, “For the claims submitted there is generally no argument that the additional work was both required and performed. The assessment of these claims is therefore focused on the cost of the work and/or the credit for work that would have been performed.” **This method of grouping variations together resulted in the loss of some visibility as to the root cause of some of the variations,** however all variations were recommended for approval on the basis that there were sufficient funds within the approved budget, as revised, to accommodate the variation.”²⁶ (my emphasis)*

4.13 As I observed at paragraph 4.2(d), the drawings listed in the schedule to the July 2015 Head Contract do not contain revision numbers. This makes it difficult for anyone to properly identify the differences between the drawings listed in the Original Head Contract and those in the July 2015 Head Contract which would make any assessment of the variations as between the Original Head Contract and the July 2015 Head Contract difficult. Further, I note that in the July 2015 Head Contract the plans and specifications for Stage 1 and Stage 2A are listed together, making it difficult for anyone to discern which plans and specifications relate to each stage.

4.14 For all of the reasons referred to in this section of the report, the issue of the variations is a low point in the process.

5. Stage 2A Works – piecemeal nature and the cost

5.1 To illustrate the piecemeal nature of the Stage 2A Works process as referred to by Projects Assured, I list the following requests made by the Department of the Prime Minister and Cabinet for additional works:

- (a) Request dated 10 October 2013 for, amongst other matters:

- (i) Billiards room refurbishment;

²³ Ibid.

²⁴ Ibid, 9.

²⁵ See above n 1, Projects Assured, 43.

²⁶ Ibid, 24.

- (ii) Storage;
 - (iii) Laundry; and
 - (iv) Box room.
- (b) Request dated 18 October 2013 for internal and external painting.
- (c) Request dated 8 April 2014 for bathroom refurbishment.
- (d) Request dated 1 May 2014 for:
- (i) Luggage lift; and
 - (ii) Balcony balustrades.
- (e) Requests dated 1 to 7 May 2014 for:
- (i) Dressing room carpentry; and
 - (ii) Carpets.

5.2 Projects Assured make the following observations about the Stage 2A Works:

*“Included in the value of Head Contractor variations (\$5,652,068) are sums for increased scope due to Stage 1; for increased scope due to Stage 2B; and for issues arising from latent conditions, design omissions and for extensions of time or Agreed Damages. **The value for Stage 2A, being increased scope variations to Stage 1, is proportionally exceptionally high, being close to the original contract value. In summary:**”²⁷*

Item	Amount (\$ ex GST)
Increased Scope (Stage 2A)	\$2,124,152
Increased Scope (Stage 2B)	\$2,099,891
Latent Condition Issues	\$843,618
Design Omission Issues	\$78,738
Extension of Time issues	\$517,110
Unclassifiable Variations	-\$11,441
TOTAL	\$5,652,068

...

*“There appears to be some risk which was realised in relation to the sequencing of the awarding of the variations in Stage 2. **It is apparent from the Stage 2 variations issued from July 2014 through to March 2015 that work packages were issued to the Head Contractor in a relatively piecemeal fashion, including the bathroom trades and additional minor works. Approximately \$1.0 million (ex GST) worth of work was undertaken on the project during this period with an additional \$517,110 (ex GST) paid for preliminaries and supervision (Agreed Damages) to the Head Contractor, which is considered high in the context of the actual work undertaken in this period.***

...

***Consequently, the risk introduced through insufficient project design and documentation upon commencement of Stage 2 significantly impacted the project.”**²⁸*

²⁷ Above n 1, Projects Assured, 13

²⁸ Ibid, 37-38.

(my emphasis)

- 5.3 I note the mechanical use of the expression ‘this is a value for money solution that makes proper use of Commonwealth resources’ in the supporting documents supplied by the Department of Finance. Projects Assured make the following comments in their report:

*“Recommendations to the delegate consistently noted: **“This is a value for money solution that makes proper use of Commonwealth resources. It complies with the requirements of the FMA (PGPA) legislation requirements of the Commonwealth Procurement Rules and Finance’s Chief Executive’s Instructions and Operational Guidelines”.** Due to the grouping of variations detailed breakdowns of Head Contractor pricing was generally not provided to the approving delegate, however it is reasonable to assume that the PMCA and Quantity Surveyor, as stated in the recommendations, performed a detailed assessment of each claim.”²⁹ (my emphasis)*

- 5.4 It appears that this expression was used consistently in the recommendations made to the delegate for approval of the variations, but without any or any adequate assessment or explanation as to how those variations could in fact represent “value for money”.

6. Consultants’ costs

- 6.1 I make a general comment that the consultants costs, as set out in Projects Assured’s report, appear to be generally high.³⁰ This would appear to be as a result of manifest deficiencies in the scoping and delivery of the Stage 2A and Stage 2B Works.

B. MY GENERAL COMMENTS, OBSERVATIONS AND RECOMMENDATIONS

7. Objective of the Government Procurement Process

- 7.1 The Parliamentary Standing Committee on Public Works was established under the *Public Works Committee Act 1969* (Cwth) and is tasked with the role of being the gateway in the approval process for capital works. It is called to account on the planning decisions and capital expenditure of the Executive through Commonwealth departments and agencies.³¹
- 7.2 Under the *Public Works Committee Act*, the Public Works Committee is required to consider the need, scope, cost, purpose and value-for money of proposed works and report to Parliament on whether or not any proposed works should proceed.
- 7.3 In considering any proposed works, the Committee must have regard to:
- (a) the stated purpose of the work and its suitability for that purpose;
 - (b) the necessity for, or the advisability of, carrying out the work;
 - (c) the most effective use that can be made, in the carrying out of the work, of the moneys to be expended on the work;
 - (d) where the work purports to be of a revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and

²⁹ Above n 1, Projects Assured, 24.

³⁰ See *ibid*, 12-15.

³¹ Commonwealth of Australia, Parliamentary Standing Committee on Public Works, *Procedure Manual*, Edition 8, March 2010, Preface.

- (e) the present and prospective public value of the work.³²
- 7.4 The Committee must be advised of all works with an estimated cost of between \$2,000,000 and \$15,000,000 known as "Medium Works".³³
- 7.5 Works must not proceed until the Committee has had an opportunity to examine them.³⁴ According to the Parliamentary Standing Committee on Public Works Procedure Manual, *"this has arisen because, in the past, some agencies have divided a proposed work into several components each costing less than the referral threshold in order to avoid Parliamentary scrutiny through the Public Works Committee."*³⁵
- 7.6 The Procedure Manual outlines that, at a minimum, the following information must be provided to the Committee:
- (a) Project title;
 - (b) Need for the proposed works;
 - (c) Purpose of the proposed works, including:
 - (i) Scope/ description of the proposed works;
 - (ii) Location;
 - (iii) Environmental impact;
 - (iv) Heritage implications;
 - (v) Any existing facilities;
 - (d) Related works, both current and prospective;
 - (e) Consultation undertaken in relation to the work;
 - (f) Any likely community impacts of the proposed work;
 - (g) Relevant maps and/or plans;
 - (h) Project program/ schedule; and
 - (i) Breakdown of project cost estimates, including details of any escalation and contingency allowances.³⁶
- 7.7 Once the work has been completed, the Committee must be informed whether the work remained within the advised scope, cost and timetable.³⁷
- 7.8 The Procedure Manual notes that: *"agencies are reminded that any significant scope or budget changes that occur during project delivery require Committee approval"*.³⁸

³² *Public Works Committee Act 1969*, section 17(3).

³³ Above n 31, Parliamentary Standing Committee on Public Works, 9

³⁴ Above n 31, Parliamentary Standing Committee on Public Works, 10.

³⁵ *Ibid.*

³⁶ Above n 31, Parliamentary Standing Committee on Public Works, 26.

³⁷ *Ibid.*, 27.

³⁸ *Ibid.*

7.9 The purpose of the process is to ensure that works are delivered on time and within budget.

7.10 I note the following observations made by Projects Assured in their report:

"The June 2014 Project Director's Report noted Stage 2 funding of \$3.9 million (Ex GST) for the additional works was appropriated in the FY2014-15 budget and that a PWC notification update for the additional scope and budget was provided to the PWC on 19 June 2014.

The scope of work identified in the PWC notification noted:

I am writing to notify you of a change to scope and budget of the Project. As you are aware, The Lodge is a heritage listed building and about 87 years old. During the course of the Project, the Government has identified additional works that will improve the liveability and functionality of The Lodge. The additional works include the refurbishment of the remaining bathrooms, external works including refurbishment and replacement of the two guardhouses, provision of external toilets for functions, and a range of other minor works. Additional funding of \$3.9 million (ex GST) (not for publication for commercial reasons) has been appropriated as part of the 2014-15 Budget. The additional funding will take the total project budget from \$7.8 million (ex GST) to \$11.7 million (ex GST).

PWC was not notified of an increase from the initial notification budget of \$6,746,536, to \$7,790,178 (ex GST), prior to this advice.

A detailed scope of work and pricing for the Stage 2 Works which correlates with the medium works notification for a further \$3.9m (ex GST) was not identified in the documentation pack provided as part of this review.

The Medium Work Notification for the Stage 2 work was approved by the PWC on 21 July 2014 noting a detailed list of scope of work and costing had been provided."³⁹

(my emphasis)

8. Future Governance

8.1 The breakdown of the contractual process and the lack of rigour around the extensive variations to the contract must call into question the current system of governance to deal with projects of this nature. It would seem that the governance procedures in place were unable to resist the sporadic requests from the Department of the Prime Minister and Cabinet for the internal Stage 2A Works.

8.2 The Stage 2B Works should have been put to tender notwithstanding the pragmatic reasons which have been explained (availability of the site and contractors with the necessary security clearances).

8.3 As far as I can tell from the information available to me, the question whether the Stage 2A and Stage 2B Works should be separately tendered for and be the subject of a new contract was never considered. The failure to go to tender for the Stage 2A and Stage 2B Works was a serious oversight in my opinion.

8.4 Rather, it appears that additional works, outside the scope of the Stage 1 Works, were treated as variations and in a very piecemeal fashion. These works were approved on the basis that they would be delivered on time and within budget. This approach ignores the financial consequences under the Original Head Contract of such an approach.

³⁹ Above n 1, Projects Assured, 33 and 34.

9. Observations, conclusions and recommendations

9.1 Positives of The Lodge refurbishment:

- (a) Given the cultural and heritage significance of The Lodge, there are no doubt positive outcomes from the works that have been undertaken to the property.
- (b) These positive outcomes include:
 - (i) Updated security for the Prime Minister and family and staff;
 - (ii) Removal of contaminated material;
 - (iii) A new roof;
 - (iv) Improved kitchen facilities;
 - (v) Improved storage facilities;
 - (vi) Improved mechanical ventilation systems;
 - (vii) Improved external amenities to cater for functions in the garden; and
 - (viii) Improved facilities and amenities for staff.

9.2 Adequacy of the due diligence:

- (a) Projects Assured state that “[a]s part of its routine due diligence activities for an incoming departmental asset, Finance undertook a range of surveys and condition assessments on the property”.⁴⁰
- (b) I am satisfied that from a building and construction perspective the due diligence and diagnostic work undertaken was adequate (see pages 35 and 36 of Projects Assured’s report).
- (c) However, the staggered and protracted nature of the project works demonstrates that there was no proper goal or vision identified at the outset for The Lodge renovations.
- (d) The absence of such analysis is exacerbated by the question whether The Lodge provides adequate accommodation to meet the current and future needs of the Prime Minister of Australia and family. Comments in this regard are made below. Proper analysis of this question could and should have provided a context for this renovation. I have not seen any documents which indicate that this obvious and fundamental question was addressed. Before embarking on these extensive renovation works, there was a need to identify the shortcomings of the property (see below where Design 5 Architects describe it as a “core issue”) and investigate whether options existed to mitigate those shortcomings as part of the renovation process. In fact, the way the Stage 2A Works unfolded in an unstructured way reflects this omission.
- (e) I observe that the Conservation Management Plan prepared by Peter Freeman in 2001 acknowledges the serious spatial issues with The Lodge:

“Policy Recommendation No. 11
The Lodge as a Home and Civic Presence

⁴⁰ Above n 1, Projects Assured, 5.

*The Lodge Precinct has significance as the home of the Prime Minister, as the location for Prime Ministerial functions and receptions and the establishment of the Prime Minister's 'domestic' presence within the Federal Capital. These significance/uses sit uneasily with each other, to the extent that other venues have 'historically' been investigated as potential Prime Ministerial residence and/or for Prime Ministerial functions. Everyday management of The Lodge should be reviewed in the light of the overall **spatial problems** identified, conservation management should address the '**spatial tension**' theme' as well as the other themes, and this problem should be acknowledged as a **fundamental management** issue which can only adequately be resolved if Parliament allocated resources either for a reconfiguration of The Lodge or for a new building with separate 'public at home' and 'private at home' spaces for prime ministerial families."⁴¹*

(my emphasis)

- (f) Design 5 Architects Pty Ltd made similar comments in their Draft Heritage Conservation Management Plan dated 20 August 2012:

*"For families with children, and for family guests staying in the house, **the present domestic accommodation is inadequate when compared to most houses of comparable size.**"⁴²*

...

*"The Lodge was **not designed to accommodate the Prime Minister's administrative offices or state functions**, however some alterations have been, and may again be required to enhance the ability of the place to accommodate those semi-official and official functions which it presently hosts.*

*The use of The Lodge to accommodate **both the private domestic needs of the Prime Minister as well as official meetings, functions and receptions is a fundamental aspect** of its significance and it is therefore essential that any changes to the building to better accommodate these do not diminish or threaten the use of the place as the Prime Minister's private residence.*

***This tussle between private/domestic use, and public/official use, is a core issue affecting the future of The Lodge**, but with carefully considered design based on a thorough understanding of the original work and the significance of the place, a successful resolution should be achievable."⁴³*

(my emphasis)

- (g) I have also had the benefit of seeing the 2012/2013 Annual Report of the Official Establishments Trust which notes:

*"By the late 1930s, the Senate was told **"The Lodge has never been regarded as entirely satisfactory for occupancy by a Prime Minister...[t]here has never been adequate provision for official***

⁴¹ Peter Freeman Pty Ltd Conservation Architects and Planners Canberra in association with Dr Lenore Coltheart, Historian, Canberra, *The Lodge, Canberra, Conservation Management Plan*, prepared for the Official Establishments Trust, April 2001, 117.

⁴² Design 5 Architects Pty Ltd, *Draft Heritage Management Plan*, 20 August 2012, 144.

⁴³ *Ibid*, 197.

*entertainment... Accommodation for the reception of guests has always been unsatisfactory*⁴⁴.

*The Lodge's many shortcomings have, from the start, meant it lacks the capacity to meet the official needs of a Prime Minister.*⁴⁵ (my emphasis)

- (h) My brief has not been to enquire into the question whether The Lodge is "fit for purpose". However, my brief is sufficiently broad to enable me to provide some introductory comments in this regard.
- (i) The inadequacy of The Lodge has been squarely documented.
- (j) The need to reconcile public and private uses in a residence that was built as a temporary dwelling in the 1920s is clearly a serious issue. Therefore:
 - (i) It seems to me that before embarking on the repair programme (Stage 1 Works), the question should have been posed whether the dwelling is fit for purpose.
 - (ii) That failure is put into much starker relief when the Stage 2A and Stage 2B Work costs were added to the project.
 - (iii) That failure is then further exacerbated by the absence of contractual control for the Stage 2A and Stage 2B Works.
- (k) From my own brief inspection of The Lodge, I observed, for instance, that:
 - (i) when the residence is being used for public functions, there are no appropriate private sitting room, dining room or kitchen facilities. It is fundamentally inadequate for the Prime Minister's family. I observe that the billiard room has been refurbished in an attempt to address this issue;
 - (ii) the bathrooms and dressing rooms in the residence are small and cramped;
 - (iii) the acoustic amenity (traffic noise) within the house remains a serious issue;
 - (iv) the house lacks proper solar access and sustainability measures by basic modern standards; and
 - (v) the house does not provide any proper privacy for the Prime Minister and family.

9.3 Major conclusions:

- (a) The advice from the Department of Finance on the reasons for the creation of the July 2015 Head Contract clearly emphasises that the Stage 2A and Stage 2B Works were outside the scope of the Original Head Contract, such that a new contract needed to be entered into to properly provide for defects liability

⁴⁴ Hansard, 5 October 1927, 39 to 40 cited in Barrow, Graeme, *The Prime Minister's Lodge: Canberra Unfinished Business*, 100, Dagraja Press, Canberra, 2008 – referred to in footnote 2 on page 2 of The Official Establishments Trust, *Permanent Lodgings: a home worthy of a nation and 2012-13 Annual Report*, 2014 – at Annexure E.

⁴⁵ The Official Establishments Trust, *Permanent Lodgings: a home worthy of a nation and 2012-13 Annual Report*, 2014, 1 and 2 – at Annexure E.

periods, timing of payment obligations and other contractual matters. It makes clear that the Stage 2A and Stage 2B Works were not properly documented in any contractual way prior to the July 2015 Head Contract, by which time all of the Stage 2A Works had already been completed and the Stage 2B Works were well underway.

- (b) I observe that the contractual discipline which was brought to the Stage 1 Works was not employed for the Stage 2A and Stage 2B Works.
- (c) In my opinion, the Stage 2A and Stage 2B Works should have been properly scoped and made the subject of a proper procurement and tender process to ensure that a competitive price for those works was obtained.
- (d) Projects Assured has not been able to assess and make comment on whether the cost of the variations was value for money because of the way in which the variations were treated. Projects Assured note in their report that:

*“Due to the significant number of variations generated on the project and to facilitate efficiencies in the approval process, **variations were grouped into a reasonable number of claims**. It was stated in the recommendations by the PMCA, “For the claims submitted there is generally no argument that the additional work was both required and performed. The assessment of these claims is therefore focused on the cost of the work and/or the credit for work that would have been performed.” **This method of grouping variations together resulted in the loss of some visibility as to the root cause of some of the variations**, however all variations were recommended for approval on the basis that there were sufficient funds within the approved budget, as revised, to accommodate the variation.”*

(my emphasis)

- (e) For all of the reasons referred to in this report, the issue of the variations is a low point in the process.
- (f) The breakdown of the contractual process and the lack of rigour around the extensive variations to the contract must call into question the present governance system for delivery of projects of this nature. It seems the governance procedures in place were not adequate to resist the sporadic requests from the Department of the Prime Minister and Cabinet for the internal Stage 2A Works.
- (g) The Stage 2B Works should have been put to tender notwithstanding the pragmatic reasons which have been explained (availability of the site and contractors with the necessary security clearances).
- (h) In relation to value for money, having regard to the conclusions reached in this report about the due diligence and scoping process and the extent of the variations, it is not possible to conclude that the work has provided value for money.

9.4 Final recommendations:

- (a) In the event it is of assistance, I conclude with the following recommendations arising from my review:
 - (i) Consideration should be given to the creation of a small, independent specialist group of professionals to deliver projects of this complexity and sensitivity.

- (ii) At an appropriate time, further consideration must be given to the urgent question of the provision of adequate and suitable accommodation for the Prime Minister of Australia and family. In this regard, I am simply joining the list of those (far better qualified than me) to make this call.

David O'Donnell

ANNEXURE A - Initial brief to Projects Assured

C.A.2 The Requirement

Independent Review of The Lodge Refurbishment Project is intended to provide an impartial review of costs and deliverables of The Lodge Refurbishment Project.

The review will specifically consider the Head Contractor contract variations addressing the following:

1. The percentage of costs which can be reasonably attributed to latent conditions, design omissions or increase in scope.
2. The process by which additional scope {not identified as a latent condition} was approved and how decisions were made to increase or change scope, where approval resulted in an increase to the Head Contractor contract.

The review is to include the services of a Quantity Surveyor/Cost Estimator to complete the detailed review of the variation costs.

The key deliverables of the review include:

1. Provision of a draft report, to be completed no later than 12 February 2016 unless otherwise advised by Finance;
2. Provision of a final report, to be completed no later than 19 February 2016 unless otherwise advised by Finance; and
3. General Tasks.

The key deliverables are outlined below in further detail.

1. In developing the draft report, the review team will undertake a detailed review of project documentation including, but not limited to:
 - a. Project business case (initial and updated);
 - b. Project management plan (original and updated versions);
 - c. Detailed schedule/Gantt chart (original and updates);
 - d. Details of project inter-dependencies;
 - e. Key supplier contracts;
 - f. Detailed record of variations to contracts;
 - g. Planning Approvals (i.e. National Capital Authority (NCA));
 - h. Heritage documentation (including specific advice and guidance);
 - i. Public Works Committee (PWC) documentation (submitted to, and received from, the PWC
 - j. Secretariat);
 - k. Project Control Group (PCG) meeting minutes (all);
 - l. Project Steering Committee meeting minutes (all);
 - m. Project's costs set against budget and based on approval of the business case;
 - n. Conceptual and detailed design documents;
 - o. Before and after photographs of the works;
 - p. Risk register, issue register and risk management plans;
 - q. Review report(s) from any previous independent or peer review(s);
 - r. Report on progress against recommendations from any previous independent or peer review(s)

- s. Project quality documentation;
 - t. Site meeting reports; and
 - u. Project change requests (if any).
2. In developing the draft report, the review team will undertake interviews of key project stakeholders and personnel including:
- a. Department of Finance Project Team members {delivery};
 - b. PCG members;
 - c. Steering Committee members;
 - d. Head Contractor representative;
 - e. PMCA (GHD);
 - f. Department of Finance {landlord};
 - g. Design Services Consultant (if available);
 - h. Cost Planner;
 - i. Heritage consultant;
 - j. Security consultant(s);
 - k. AGD reps;
 - l. PM&C reps; and
 - m. Others as identified.
3. Without limitation to the foregoing, perform the following general tasks, where required by Finance:
- a. Provide all of the services related to the review which could reasonably be required by Finance, or which may be necessary, either directly or indirectly, to ensure that the review proceeds as quickly and as successfully as possible;
 - b. Cooperate in the day-to-day management of the review, in consultation with PM&C, Finance and other advisors as required;
 - c. Participate in any meetings of parties, wherever held, as reasonably required by Finance or as necessary for the proper performance of the review;
 - d. Liaise with other advisers and work with them in a flexible and collaborative manner;
 - e. Liaise with Finance in a timely manner to identify any areas of overlap of responsibilities and activities with other advisers with a view to minimising those occurrences, maximising efficiency and ensuring the most appropriate adviser undertakes the relevant work;
 - f. Provide such reports and advice as may be required, discuss them with Finance and other advisers and review, update and amend them as necessary to ensure they are satisfactory to Finance;
 - g. Refer any inquiries from media to Finance and otherwise comply with all reasonable directions from the Finance in relation to media or public relations matters;
 - h. Assist in the preparation of presentations from time to time senior government officials and advisers, Ministers and advisers, and other relevant stakeholders; and
 - i. Advise on any issue as requested by Finance which could reasonably be expected as part of the project.

ANNEXURE B – Project Summary for the Refurbishment Works

Project Title - The Lodge Refurbishment Works Project

1. Need for the Proposed Works

The Lodge has been the Australian Prime Minister's Official Residence since it was constructed in 1925-1927. It is an important property because of its function, heritage values and national symbolic significance. Asset management responsibility for The Lodge (the Property) was transferred from the Department of the Prime Minister and Cabinet (PM&C) to the Department of Finance and Deregulation (Finance) in September 2010.

The Commonwealth has a duty of care towards the residents, employees, visitors and other users of the Property. Recent investigations and condition assessments of the Property have identified the need to undertake urgent and unavoidable works. These works form the scope of The Lodge Refurbishment Works Project (the Project). The Project will address code compliance issues, protect and preserve an important heritage asset, ensure its ongoing viability as a residence and workplace, and ensure the value of the asset is maintained.

Finance considers that the Project needs to be undertaken at the earliest opportunity in order to rectify significant health and safety issues, which, if not addressed, could render the property unusable in due course. In previous years, certain categories of repairs and maintenance have been deferred for reasons which were justifiable at the time. The cumulative deferral of these works has, however, contributed to a situation where major refurbishment works can no longer prudently be delayed. The special nature of the Property and its occupancy would suggest a conservative approach to risk management, especially health and safety risks.

The Project also offers the Commonwealth an opportunity to capture the benefit of significant time and cost efficiencies by concurrently undertaking a range of related trade sub-contracts in a single package of works.

2. Purpose of the proposed work, including:

2.1 Scope/description of the proposed works

Roof Replacement

The current condition of the roof is such that the entire roof fabric, including existing slates, ridges, valleys, flashing, gutters and downpipes, is required to be removed and replaced with a new slate roof and copper components for storm water drainage. The use of new slate material to replace the existing slate roof is required to maintain the heritage values of the Property. The use of copper for downpipes and guttering will minimise the life-cycle cost of this building component. The roof replacement provides an opportunity to install a new internal and external roof access system to ensure the safety of contractors who perform ongoing maintenance on the roof and thereby facilitate that ongoing maintenance in a cost-effective manner. Replacement and ongoing maintenance of the roof is required to ensure the health and safety of the residents, staff and visitors at the Property and to protect the asset.

Engineering Services Replacement

Replacement of all electrical, mechanical and hydraulic services within the roof space and the reticulation of those services throughout the house are required to address occupant health and safety. These works will consequentially improve the energy efficiency and long-term sustainability of the Property. An upgrade of the fire protection systems to current standards will be undertaken in the kitchen and back-of-house area of the Property.

Hazardous Materials replacement or encapsulation

The removal or encapsulation of hazardous asbestos-containing materials (ACMs) will be undertaken as part of the Project. Where it is not feasible or cost-effective to remove ACMs, any remaining encapsulated or contained hazardous material will be identified by signage, and the hazardous materials register for the Property updated accordingly. The works relating to hazardous materials will be overseen by a National Association of Testing Authorities Australia (NATA) certified specialist for the duration of the works.

Food and Beverage Services

The existing kitchen and scullery are non-compliant with Building Code of Australia and Australian Standards requirements. These facilities will be refurbished and reconfigured for code compliance and improved efficiency, functionality and user amenity.

2.2 Location

The Lodge is located at Block 1, Section 3, Deakin, ACT. Situated on the corner of Adelaide Avenue and National Circuit on the western side of Capital Hill, The Lodge is a property of approximately two hectares site area. In addition to the residence, the Property comprises a guardhouse at the main Adelaide Avenue entrance, a guardhouse on National Circuit and a gardener's office and shed. The total gross floor area of the residence is estimated to be 1,427 square metres.

2.3 Environmental impact

The proposed works are not expected to have a significant environmental impact and will comply with Ecologically Sustainable Development initiatives.

2.4 Heritage implications

The Property is listed on the Commonwealth Heritage List under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). To ensure that the works will not have an adverse impact on the Commonwealth Heritage values of the property a Heritage Consultant (Godden Mackay Logan) has been engaged through the Design Services Consultant (DSC) to provide advice in relation to the potential heritage impact of the works. The Heritage Consultant has been involved in the design development process to identify heritage opportunities and constraints, which have been taken into account in preparing the preliminary design. The Heritage Consultant will also provide a Heritage Impact Statement that will form part of a referral under the EPBC Act.

2.5 Any existing facilities

The Project comprises major refurbishment of existing facilities.

3. Related works, both current and prospective

Works to be undertaken separately to the Project include a security infrastructure upgrade by the Attorney Generals Department (AGD) to be completed between June 2012 and October 2012, with an indicative budget of \$1.142 million (inc GST).

Future works to be undertaken by Finance include the replacement of the two Australian Federal Police (AFP) guardhouses at a later date when funding is available.

Finance, as asset manager and building owner representative, will undertake ongoing repairs and maintenance at the Property in accordance with a capital asset management plan.

4. Consultation undertaken in relation to the work

Consultation has commenced with the National Capital Authority (NCA) in order to obtain development approvals. Further consultation will occur as the Project progresses.

Consultation has commenced with the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC), with further consultation to occur prior to the submission of the EPBC Act Referral.

Ongoing consultation with PM&C, AGD and AFP will continue to occur as part of the governance arrangements for the Project.

The Project team in Finance will undertake consultation with the Official Establishments Trust, ACTEW AGL and the ACT Government as required.

5. Likely community impacts of the proposed work

The Lodge is situated on a large block of land and the proposed residential refurbishment works are not expected to have any significant negative impacts on the local community. Surrounding residents will be notified of the works prior to construction commencing.

Finance has established a Project specific website and email address where members of the public can contact the Project team with questions or concerns.

A Traffic Management Plan, to be developed by the Works Contractor in consultation with the DSC, will be submitted to the NCA for approval.

6. Relevant maps and/or plans;

[REDACTED]

The following plans have been provided to support the scope of works:

- (i) Site plan;
- (ii) Three dimensional roof plan;
- (iii) Existing floor plan of kitchen and scullery; and
- (iv) Concept drawing of proposed works to kitchen and scullery.

7. Project program/schedule; and

Milestone	Date
Engage the slate supplier	July 2012
Engage the works contractor	November 2012
Construction period	7 months
Defect liability period	12 months

The option of undertaking the Project while the Property remains occupied has been considered and rejected as not feasible. For safety and security reasons, it would be extremely difficult to complete major construction works at The Lodge while residents and staff continue to use the Property. Finance is consulting with PM&C in relation to the timing for vacation of the Property for the duration of the refurbishment works. Access to the Property to enable the Project to commence is expected to occur in late 2012.

8. Breakdown of project cost estimates, including details of any escalation and contingency allowances.

Item	Cost (Ex GST)
Construction cost	\$4,166,000
Project contingency	\$1,234,000
Escalation	\$225,000
Consultants costs (Legal and design services)	\$737,866
Finance staffing	\$383,670
Total	\$6,746,536

Noting that contracts are yet to be entered into, all costs are to be treated as being commercial -in-confidence and should not be made public at this stage.

The cost estimates for the Project are higher than industry standard costs as a consequence of various non-standard requirements arising from the special nature and occupancy of the Property, including:

- security clearance and security attendance to on site work practices (by contractors/consultants);
- working in a heritage environment requiring additional attendance to the management of the protection of the works and/or storage of heritage items;
- reinstatement of the existing materials and finishes to match the heritage fabric;
- contingency provision for design risk (10%), latent conditions (10%) and the heritage environment (10%);
- providing a lump sum response to the Contract Conditions to attend to works in a heritage environment where the contract time available is limited; and
- a defect free handover due to security requirements surrounding occupation of The Lodge.

ANNEXURE C – Revised brief for Projects Assured

1. Project Scoping and Project Definition:

- a. The report should address, in the special circumstances of this matter:
 - i. whether there was adequate definition of the scope and purpose of the renovation
 - ii. whether there was a need for a further preliminary diagnostic phase (beyond the Building Condition Audits commissioned by Finance in 2010 – as per attached Schedule) on the condition of the dwelling before the scope and purpose could be properly defined
 - iii. whether the risks associated with the project were properly identified and allocated
 - iv. the adequacy of the project scoping and definition approach referred to in (i) to (iii) above, having regard to late and substantial changes in project scope in particular the Stage 2 works.

2. Procurement:

- a. Having regard to matters identified in section 1 above, the report should address whether:
 - i. the original procurement methodology adopted in this case was appropriate
 - ii. an appropriate procurement methodology was applied for the Stage 2 works of \$3.9m
- b. If not, what alternative forms should have been considered.

3. Value for Money:

- a. The report should include a simple schedule indicating where and how the total actual costs of \$11.61m have been spent.
- b. The report should include an assessment of whether value for money was obtained through the project, including:
 - i. the percentage of the funding expended on consultants, and the impact of key consultants entering into administration/liquidation during the course of the project.
 - ii. contract pricing (original contracts), budgetary and value management approaches.
 - iii. the impact of delays to commencement of work.

4. Other matters:

- a. Any other matters relevant to an independent assessment of the management of the Lodge Refurbishment Project, the reasonableness of costs and the appropriateness of planning, governance and decision making relating to the conduct of the Project.

ANNEXURE D – Email from the Department of Finance with an explanation of the head contracts

Stephanie Vatala

From: Hall, Stacie [REDACTED]
Sent: Friday, 11 March 2016 4:52 PM
To: [REDCATED] Ganly, Paula
Cc: Campbell, Kate; Thompson, Phoebe; David O'Rourke; David O'Donnell
Subject:
RE: Contract [SEC=UNCLASSIFIED]
Paula,

I understand Rachel has provided all documents requested.

I'm advised that the difference between the two versions of the contract is that the second contract allows for the separate handover of internal works (Stage 1 and 2A), separately from the remaining external works (Stage 2B). As you would be aware the internal works were handed over in June 2015, and the external works in December 2015.

This contract amendment was made to enable PM&C to commence re-establishment of furniture etc.in the house while external works were still being completed.

The amendments are clear from the track changes version provided, and provide for separate defects liability periods, timing of payment obligations and other relevant provisions to reflect different obligations of the parties in respect of different elements of the works.

The decision to execute an amended contract was on the basis of legal advice from Clayton Utz. Such changes could not have been processed as a 'variation'.

Regards
Stacie

Stacie Hall | First Assistant Secretary
Commercial and Government Services Group (Property and Construction)
Department of Finance
[REDACTED]

UNCLASSIFIED

ANNEXURE E - Email from the Department of the Prime Minister and Cabinet with a further explanation from the Department of Finance on the head contracts and other matters

Stephanie Vatala

From: MacDowell, Brendan [REDACTED]
Sent: Friday, 1 April 2016 5:37PM
To: David O'Donnell Stephanie Vatala
Cc:
Subject: Information request [SEC=UNCLASSIFIED]

David

Answers to our questions to Finance:

How were the additional works (Stages 2A and 2B) handled? Was it simply variations to the original contract or were they documented in a contractual way prior to the July 2015 contract. From the information provided to date David O'Donnell understands that the July 2015 Head contract was used to contractually deal with all the works that had been undertaken.

The Stage 2A and 2B works were processed as variations to the original contract. The contract signed in July 2015 was updated to provide options for a staged handover, should the occupant require access to the finished stages while other stages were still under construction.

Page 41, section 6.2 of the Projects Assured review provides further information on this matter.

The Clayton Utz advice to Finance would appear to suggest that Stages 2A and 2B were outside the scope of the Original Head contract -resulting in a new contract being required to properly provide for the defects liability periods, timing of payment obligations and other contractual matters. Can a copy of the Clayton Utz advice be provided?

The option to amend the contract to allow staged handovers was discussed in meetings with the PMCA and Clayton Utz. The final outcome of the discussions is the July 2015 contract.

The drawings listed in the schedule to the July 2015 Head Contract do not contain revision numbers. Also in the July 2015 Contract the plans and specifications for Stage 1 and Stage 2A are listed together -this makes it hard to determine which relate to each stage. Is this a problem with the information that was loaded on govdex or is this correct?

There was an oversight with the inclusion of the Stage 2A drawings being listed in the July 2015 contract, however it is noted that these would have been included in the Variation Order when the works were approved to proceed to construction.

Can we confirm the notifications to PWC? In June 2014 advice of the increase of \$3.9 million was provided to the PWC taking the budget from \$7.8 to \$11.7million. There is no indication of the PWC being advised of the increase in the budget from \$6.7 to \$7.8 million. Can Finance provide confirmation of this occurring?

The budget increase from \$6.7m to \$7.8m was not notified to the PWC. This has been clarified with Projects Assured and is reflected in the final report.

Is there any record of the question being raised with either the Project Control Group or the Project Steering Committee as to whether the stage 2A and 2B works should be separately tendered for and the subject of a new contract?

The project advised the Project SC on 25 June 2014 that the Procurement Plan was being updated and would be presented to the Secretary for approval by end of June 2014. At the July 2014 SC meeting the

Project Team advised that the amended Procurement plan was approved by the delegate (Finance Deputy Secretary on 1 July 2014).

Refer to the attached Approved Procurement Strategy update from July 2014.. This was provided as part of the package of documents to facilitate the review.

I've asked Finance to provide the highlighted update which they had not attached.

Brendan

UNCLASSIFIED

From: MacDowell,Brendan [REDACTED]
Sent: Thursday, 31 March 2016 11:05 AM
To:Thompson,Phoebe
CC: Hall,Stacie [REDACTED]
Subject: Information request [SEC=UNCLASSIFIED]

UNCLASSIFIED

As discussed, information requested to assist DOD with his repost. Thanks.

Brendan

Brendan MacDowell |Assistant Secretary
Ministerial & Parliamentary Support Branch
Ministerial Support Division | Department of the Prime Minister and Cabinet
[REDACTED]
PO Box 6500 CANBERRA ACT 2600

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ANNEXURE F - Extracts from Conservation Management Plan and Draft Heritage Management Plan

A. Conservation Management Plan prepared by Peter Freeman Pty Ltd Conservation Architects & Planners, Canberra, dated April 2001

“Policy Recommendation No. 11

The Lodge as a Home and Civic Presence

*The Lodge Precinct has significance as the home of the Prime Minister, as the location for Prime Ministerial functions and receptions and the establishment of the Prime Minister’s ‘domestic’ presence within the Federal Capital. These significance/uses sit uneasily with each other, to the extent that other venues have ‘historically’ been investigated as potential Prime Ministerial residence and/or for Prime Ministerial functions. Everyday management of The Lodge should be reviewed in the light of the overall **spatial problems** identified, conservation management should address the ‘**spatial tension**’ theme’ as well as the other themes, and this problem should be acknowledged as a **fundamental management** issue which can only adequately be resolved if Parliament allocated resources either for a reconfiguration of The Lodge or for a new building with separate ‘public at home’ and ‘private at home’ spaces for prime ministerial families.”⁴⁶*

(my emphasis)

“Policy Recommendation No. 17

Condition and Maintenance of Fabric

Undertake the specific ‘space by space’ based recommendations as set out within the Inventory to this Plan”⁴⁷

“Policy Recommendation No. 18

Current Use and Management of The Lodge

It is recommended that the current careful and responsible conservation and management of The Lodge be pursued and that no radical reconfigurations of the place are required in the immediate future.”⁴⁸

“Policy Recommendation No. 19

Long Term Use & Management of The Lodge

Amongst the roles of prime ministerial residence is the opportunity for the Prime Ministers to entertain dignitaries and colleagues ‘at home’. This role must be retained within any future reconfiguration of the Prime Minister’s residence. It is recommended that, in the long term, the expectation that The Lodge serve as the prime ministerial home be addressed, such that a small prime ministerial ‘apartment’ only is retained within The Lodge. The precinct could then better serve for prime ministerial official and reception type activities in the National Capital. A corollary of this recommendation is that separate apartments will be required, as appropriate, for the Prime Minister and family, preferably within a more conventional ‘residential’ environment.”⁴⁹

⁴⁶ Above n 37, Peter Freeman Pty Ltd Conservation Architects and Planners Canberra in association with Dr Lenore Coltheart, Historian, 117.

⁴⁷ Ibid, 122.

⁴⁸ Ibid, 123.

⁴⁹ Ibid, 124.

B. Extracts from Draft Heritage Management Plan prepared by Design 5 Architects Pty Ltd dated 20 August 2012

“The present building and site constraints do not currently meet all of the functional requirements of the use of the place as the official residence of the prime Minister. The policies in this HCMP propose possible solutions to address these issues, while also retaining and respecting the cultural significance of the place. Alternative sites were identified in the late 1970s for a new official residence; however, nothing has been designed and no residence built, and nor is one planned in the near future.

Policy 2.2 – Retain use as Prime Minister’s official residence

The Lodge should continue to serve as the official residence of the Prime Minister and accommodate and support both the private and domestic needs of the Prime Minister’s family and the occasional meeting, function or reception, as these are fundamental to its original and significant purpose.

Actions (including maintenance and any alterations or new works) which support or enhance the place’s ability to continue in this use should be implemented in accordance with this HCMP.

Policy 2.3 – Change of use

If the use of The Lodge as the official residence of the PM were ever discontinued, it should remain in public ownership and alternative uses that support/interpret the cultural significance of the place should be explored and implemented.”⁵⁰

...

“The range of functions and demands required for the Prime Minister and their family include:

- *private living areas, including for casual dining, study and recreation – these should allow for use in parallel with official functions elsewhere in the house*
- *facilities for family guests to stay*
- *facilities to allow access to private quarters for elderly and less-abled persons*
- *facilities for family pets*

Rooms in the house that were originally intended for both the formal and private use of the Prime Minister’s family, such as the Morning Room and Dining Room, are now primarily used as formal reception rooms, with the family seeking other spaces for these usually informal private domestic uses. Opportunities for alternate spaces were not envisaged when The Lodge was originally built, but alterations to enlarge the kitchen and dining facilities in the 1970s removed some of the few available opportunities from domestic use. This has exacerbated the lack of private domestic space for the Prime Minister’s family, and further changes have been made to try to compensate for this, while remaining within the building envelop determined in the 1970s. Many of the first floor spaces in the South Wing are now less than satisfactory, both in quality and amenity, and there is no lift access for elderly or less-abled persons.

*For families with children, and for family guests staying in the house, **the present domestic accommodation is inadequate when compared to most houses of comparable size.***

As well as the private domestic needs of the Prime Minister, The Lodge is used as a workplace for the house management and staff, security staff, gardeners and grounds-persons as well as an occasional workplace for the Prime Minister’s own staff.”⁵¹ (our emphasis)

...

*“The Lodge was **not designed to accommodate the Prime Minister’s administrative offices or state functions**, however some alterations have been, and may again be required to enhance the ability of the place to accommodate those semi-official and official functions which it presently hosts.*

⁵⁰ Above n 38, Design 5 Architects Pty Ltd, 137.

⁵¹ Ibid, 144.

The use of The Lodge to accommodate **both the private domestic needs of the Prime Minister as well as official meetings, functions and receptions is a fundamental aspect** of its significance and it is therefore essential that any changes to the building to better accommodate these do not diminish or threaten the use of the place as the Prime Minister's private residence.

This tussle between private/domestic use, and public/official use, is a core issue affecting the future of The Lodge, but with carefully considered design based on a thorough understanding of the original work and the significance of the place, a successful resolution should be achievable.

Policy 6.4

Alteration, adaptation, or enlargement of internal or external spaces of The Lodge itself, particularly those graded as having Exceptional or High significance, should only be considered if all of the following criteria can be met:

- *the significant attributes, meanings and associations of The Lodge and the spaces concerned are retained, respected and preferably enhanced;*
- *the loss of or alteration to original or significant fabric is minimised;*
- *the design of the proposed work is sympathetic to, and of at least equal quality to that of the work of the original designers;*
- *the proposed changes will not threaten, diminish or lead to the progressive loss of amenity, long term functionality or viability of the use of the place as the Prime Minister's principal private residence, and will preferably enhance these;*
- *the proposed changes will enhance the amenity, functionality, presentation and long term viability of The Lodge as the official residence of the Prime Minister and its associated official use to host meetings and receptions;*
- *the proposed changes will retain and respect the planning and spatial hierarchy, both in the house and in the grounds, between public and private use;*
- *where major changes are proposed, they are part of a comprehensive long-term strategy to retain and enhance the existing use of the place;*
- *the proposed changes are designed and executed in accordance with Section 5.2(Overarching Policies) and 5.3 (Management, Use and Care of Fabric) in this HCMP.*"⁵² (my emphasis)

...

*"Previous incumbents have in turn favoured both the northern or the southern lawn for functions, but regardless of this, any function in the grounds requires considerable support from the staff and the service areas in the house. **For the more formal or intimate functions a location easily accessible from the reception rooms is preferred and with convenient access to service areas such as the kitchen and bathrooms.** Larger functions, particularly public ones, can provide more of their own facilities and thus be less reliant on existing facilities although they may work in conjunction with the existing kitchen services.*

*Another important consideration **is the limited space provided with the present reception rooms. The morning room and drawing room combined do not provide adequate space to receive and entertain the number of guests able to be seated in the dining room, but any alterations to provide such a space within the existing confines of the house are not possible without unacceptable impacts on its significant attributes.***"⁵³ (my emphasis)

"5.13.2 Noise

In 1927 the grounds included a deep and thickly planted buffer zone to Adelaide Avenue. When this was removed in 1968 with the road widening, it brought road/traffic noise closer to the house.

Adelaide Avenue is now a major road accessing suburbs to the south west of the Parliamentary Triangle and the city centre. With increased traffic, noise levels have become increasingly intrusive on the use and management of The Lodge, particularly to the grounds and the rooms closest to the northern boundary.

⁵² Above n 38, Design 5 Architects Pty Ltd, 167.

⁵³ Ibid, 197.

The solid masonry wall along this and the western boundary built in 1968, has deflected much of this noise but due to the relatively higher level of Adelaide Avenue, some sound comes over the wall. Another major factor is the main entrance gate, which directly faces the house and effectively puts a large acoustic 'hole' in this masonry barrier. This means the significant northern areas of the grounds and adjacent areas of the house are now more affected by noise.

As a result, a secondary glazing system ('Magnetite') has been fitted to the inside of vulnerable openings in 2007-2008. This system effectively seals the windows and prevents access to and operation of the sashes. This has implications for maintenance as well as climate control. A preferable solution would be to establish a better acoustic barrier at the perimeter of the site and thus reduce the need for such barriers on the house. This would allow both the grounds and the house to be better utilised. (Refer also to discussion on services in Section 5.11.)

If some form of acoustic upgrade is still required on the house itself, it may be possible to replace the existing glass within each sash, at least in the most vulnerable areas, with thicker laminated glass to increase acoustic performance, however this would require some modification of the joinery and may still discourage the use of the openings for natural ventilation within these areas.

Policy 13.2 – Specialist acoustic advice

Specialist acoustic advice should be sought in order to assess the acoustic environment within The Lodge property and to advise on possible measures to improve it.

Possible solutions could include a sensitively designed acoustic wall added to the top of the existing masonry wall, and a re-configuration of the main entry and guardhouse, so that the gate does not face the house, but more directly south. This would have the added advantage of reinstating a truncated version of the original entry configuration before this area was lost to the widening of Adelaide Avenue. If carefully designed, it should only require a minor adjustment to the entry drive alignment once inside the gate.

Policy 13.3 – Attenuate noise at perimeter of property

Options to improve the acoustic environment should preferably attenuate noise at the perimeter of the property by improving the ability of the perimeter wall to deflect the sound, and reconfiguration of the main entry and guardhouse off Adelaide Avenue. Any solution, regardless of its location, must be designed and implemented in accordance with the policies in this HCMP."⁵⁴

⁵⁴ Above n 38, Design 5 Architects Pty Ltd, 196.