

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into infrastructure projects

Melbourne — 26 October 2016

Members

Mr Joshua Morris — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmar

Mr Bernie Finn

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Participating member

Ms Samantha Dunn

Staff

Secretary: Lilian Topic

Witnesses

Professor Lester Peters, AM, chairman, Peter MacCallum Cancer Foundation; and
Mr Allan Myers, AC, QC.

The CHAIR — I will declare open the Standing Committee on the Economy and Infrastructure public hearing. I welcome our members present in the gallery and also our witnesses as well. The committee this evening is hearing evidence in relation to our infrastructure inquiry, and the evidence is being recorded. This hearing is to inform the third of at least six reports into infrastructure projects, and witnesses present may well be invited to attend future hearings as the inquiry continues. All evidence taken today is protected by parliamentary privilege. Therefore you are protected for what you say in here today, but if you go outside and repeat the same things, those comments may not be protected by this same privilege.

Welcome, gentlemen, and thank you very much for agreeing to be witnesses at our hearing this evening. At this point I might just get you both to state your names and the capacity in which you are attending our hearing this evening and then move into any introductory comments, at which point we can follow with some questions from the committee. Over to you, Professor Peters.

Prof. PETERS — My name is Lester Peters. I am a professor of radiation oncology at Peter MacCallum and the University of Melbourne, and I am also the chairman of the Peter MacCallum Cancer Foundation. I have been since its inception. I am appearing today in that latter capacity, not as a representative of Peter MacCallum.

The CHAIR — Thank you, Professor Peters.

Mr MYERS — My name is Allan Myers. I am a barrister by profession. Until about this time last year, I was a member of the foundation of which Lester is the chair, and I was chairman of a fundraising committee of that foundation to raise funds for the Victorian Comprehensive Cancer Centre. I am not appearing in any capacity. I was asked to attend. I am a private citizen. I do not have any connection with any of the institutions concerned.

The CHAIR — Thank you, Mr Myers. Professor Peters, is there an introductory comment that you might like to make to inform the committee?

Prof. PETERS — Yes, and I have got copies of my statement if you would like.

The CHAIR — Fabulous. Lilian, would you like to distribute those? That is great.

Prof. PETERS — With your permission, I will read my prepared comments.

The CHAIR — Indeed.

Prof. PETERS — My entire professional life has been spent in cancer research and treatment. For 13 years prior to my recruitment to Peter Mac in 1995, I was professor and chairman of the department of radiation oncology at the University of Texas MD Anderson Cancer Center in Houston, which is one of the world's most highly regarded cancer centres.

A critical aspect of my decision to come to Melbourne was the avowed goal of the CEO and board of Peter Mac at the time to transform Peter Mac, Australia's only dedicated cancer hospital, into a comprehensive cancer centre ranking among the world's best. Along with many colleagues, I drove the push for a new comprehensive cancer centre in Melbourne, which culminated in the commitment in 2009 of \$854.6 million by the Australian and Victorian governments to construct the Victorian Comprehensive Cancer Centre. Funding for the new cancer centre was predicated on an additional philanthropic contribution of \$50 million, and responsibility for the capital campaign was passed to the Peter MacCallum Cancer Foundation. My colleague Mr Myers, who is testifying with me today, led that campaign.

From the outset, members of the foundation board argued for inclusion of a private component in the Victorian Comprehensive Cancer Centre to cater for patients who sought the medical expertise available at Peter Mac along with the amenity of private care. It should be noted here that all of the world's great comprehensive cancer centres offer private care to both local patients and those from elsewhere in the country, or from other countries, who seek out the very best in cancer care and are able and willing to pay for it. The revenue in fees and gifts from such patients contributes very substantially to the overall budget of these centres, subsidising both research and care for public patients as well as supporting the construction of new facilities. As an example, the MD Anderson Cancer Center in Houston recently received a gift of \$150 million from a Middle Eastern patient to endow a new building housing the institute for personalised cancer therapy.

Responding to these representations, the board of the Peter MacCallum Cancer Centre accepted the case for a private facility, to be known as the Peter Mac Private, and tested a variety of business case scenarios before settling on a partnership arrangement with Healthscope, which required no capital investment by the state and presented no financial risk to Peter Mac. The space proposed for the private facility was shell space on the 13th floor of the building that had not been allocated in the VCCC design.

The Peter Mac foundation agreed to underwrite the rental payments to the Plenary Health consortium in the event that Healthscope defaulted. This business model was endorsed by the Peter Mac board and received heads of agreement sign-off from the Napthine government. The business model approved would have provided a guaranteed revenue stream for Peter Mac to subsidise its programmatic initiatives and, most importantly, would have added capacity for patient care in the VCCC facility, since the private beds to be allocated were in addition to previously approved public beds and were in previously unallocated space. A shortage of public beds in the VCCC is already creating capacity problems.

Upon election of the Andrews government the Premier, Daniel Andrews, summarily cancelled the state government's approval for Peter Mac Private, declaring in a television interview on 3 April 2015 on Channel 7 that 'every square inch of it' — the VCCC — will be for the best patient care, 'not for profit, not for greedy profit making'. Ironically the ones who would have profited most from the venture are Victorian cancer patients, who would have benefited from the additional resources and capacity.

When this decision was announced, at least \$20 million in gifts pledged to the capital campaign for the VCCC were withdrawn, and the chair of the Peter Mac board was forced to resign. Much more significantly, however, the decision to kill the Peter Mac Private represented a huge cost in lost opportunity for Peter Mac to achieve its goal of ranking among the world's top comprehensive cancer centres. While the research standing of Peter Mac is already world-class, a clinical facility that caters solely for Victorian cancer patients is inconsistent with the status of a world-class cancer centre. As already indicated, all the elite cancer centres around the world offer high-level private care and benefit handsomely from it.

At the operational level, there are also profound negative consequences. Modern cancer care is predicated on the disease type or site-specific multidisciplinary team consisting of surgical, medical and radiation oncologists, each with subspecialty expertise, along with a variety of paramedical support staff. Clinical research is also based on the multidisciplinary team model. The ideal arrangement for a multidisciplinary team is that all members should be located full time on site so that their entire focus can be on achieving excellence of patient care and research within the organisation.

At Peter Mac all radiation and nearly all medical oncologists are employed exclusively by Peter Mac, whereas the majority of surgeons have sessional appointments only and conduct their private practices on the outside. Had Peter Mac come to reality, along with in-house consulting room suites, most surgeons would have been able to structure their practices to be geographically full time within the VCCC precinct — a great advantage in terms of optimising the multidisciplinary team model. Now unfortunately most surgeons are obliged to conduct their private practices outside the VCCC. This takes patients away from the VCCC, limiting our research capability, and also compromises the surgeons' interaction with other team members.

In summary, it is my testimony that the arbitrary decision to cancel approval for Peter Mac Private was an egregious error that will adversely affect Peter Mac's goal of achieving world-class ranking as a comprehensive cancer centre and will seriously limit the revenue and gift-generating potential that would result from offering private care facilities.

The CHAIR — Thank you very much, Professor Lester Peters, for that very comprehensive introduction to where we are at the moment with Peter Mac. Mr Myers, is there anything that you might like to add?

Mr MYERS — I think I should say a few things. First, so far as I am qualified to do so, I agree with what Professor Peters has said. I listened then, and I had an opportunity earlier today to read the document that he has read from. He did say that not less than \$20 million in pledged donations was lost; it was certainly more than that. What amounts to a pledged donation, I do not know, but if you doubled that, it should be nearer the mark of what was lost immediately. There were certainly very firm pledges for \$20 million, that I can bring to mind, that were lost.

It seems to me that a great opportunity has been lost for reasons that have never been made clear. When the Premier made the announcement that he did, he did not give any reasons — not reasons that could seriously be judged to be such. He simply made a unilateral decision that brought an end to a very exciting enterprise for Victoria and for Australia.

The CHAIR — Thank you, Mr Myers. Mr Myers, are you saying it would be closer to \$40 million rather than \$20 million that was lost in pledged donations?

Mr MYERS — Yes.

The CHAIR — Obviously, Professor Peters, you stated that at least \$20 million, and perhaps closer to \$40 million, in pledges to the capital campaign was withdrawn. I am wondering if you can elaborate on specifically why these pledges were withdrawn.

Mr MYERS — Because there was no private facility.

Prof. PETERS — Maybe if I can just elaborate on what Allan has said, when I said ‘pledged contributions’ I was referring to people who had made written pledges and signed the documents. There were others, as Allan has alluded to, who had made verbal pledges that would have no doubt translated into real donations had the private facility gone ahead.

The CHAIR — I am wondering: was the government informed of the risk of losing these funds, and if so, when did this informing of the government occur?

Mr MYERS — I was never asked. When I saw the announcement, it was by watching television. Actually I think I heard it on the wireless early in the morning, and then on Channel 9 or Channel 7 there was a news item with the Premier making the announcement. I did not know it before then.

Prof. PETERS — We were given no notice ahead of the public announcement.

The CHAIR — Obviously you found out about this decision of the government through the media. When were you officially informed by the government that this was going to go ahead, or did they just expect that you had heard it on 3AW?

Prof. PETERS — We were informed of it officially by the chairperson of the Peter MacCallum board, who at the time was Wendy Harris.

The CHAIR — I am wondering: did the minister or the Premier speak to you at all about any potential loss of philanthropic funds in 2015?

Prof. PETERS — No.

Mr MYERS — Not to me. There is something that I would like to say, though. There is a bit of emphasis in the questions — I am not being critical in saying this — about philanthropic donations, but these were just the seeds for the creation of a great enterprise. That is not the important matter. But if one can judge from the way in which donors or potential donors reacted, they wanted to see something more along the lines of Lester’s vision as he has expressed it here at this meeting.

Mr ELASMAR — Thank you very much. You have said that about \$20 million or \$40 million was withdrawn from the pledge. Can you tell me, please, how much money was pledged and received by the foundation of Peter Mac at the Victorian Comprehensive Cancer Centre, and was any money handed back to donors?

Mr MYERS — No money was headed back to donors as far as I know, but remember I was just the chairman of the fundraising committee. I was not involved in the real decision-making of this organisation. Lester was obviously closer to that. No money was handed back, I think. What had been given already was about \$20 million or a little over \$20 million — something like that.

Prof. PETERS — Yes. The pledges that remained in force after the decision was announced amounted to \$18.5 million, \$15 million of which came from one single donor. The other pledges had not been received,

although we had had a written commitment for those pledges of another \$15 million that never came to fruition, and then as Allan said, there were many other potential donations that had not been committed to in writing that were pretty secure, and there was one \$10 million gift for programmatic initiatives at the new cancer centre that was also withdrawn.

Mr ELASMAR — Can you — —

Prof. PETERS — If I may, to continue on what Allan said, I do not think the money is the real issue; it is the achievement of the goal of being one of the world's very best cancer centres. The money would have flowed anyway, but by attracting people from near and far who want to get to our cancer centre, that is what makes it great.

Mr ELASMAR — Can you outline, Professor, who made pledges that were specifically linked to the private hospital project who have since withdrawn their pledges?

Prof. PETERS — I am sorry; I did not catch the question.

Mr ELASMAR — Can you outline who made pledges to — —

Prof. PETERS — I do not think we can name the individuals.

Mr MYERS — No, I would be very reluctant to name the individuals.

Prof. PETERS — But there are three individuals, each of whom had pledged \$5 million and had made written commitments to that, who withdrew those pledges when the Premier's announcement was made.

Mr MYERS — There was another individual with whom I was having discussions in the range of \$20 million to \$30 million who had visited the Peter Mac on several occasions, and it was his interest to create a world-class facility.

Prof. PETERS — And significantly, he came from out of state.

Mr MYERS — And he was not prepared to proceed. The \$15 million gift came from the Ian Potter Foundation, of which I am a governor. The foundation was deeply disappointed by what happened. They had not made it a specific condition that there was a private hospital, but the gift was made on the basis of the representation that there was going to be a private hospital. Indeed that is what had been publicised and that is what the government of the day had decided. There were complex considerations into which I would not go about why an honourable organisation like the Ian Potter Foundation would continue to support its \$15 million pledge — and it has almost completed it now — notwithstanding its deep disappointment that things were changed after it made the commitment.

Ms HARTLAND — If we can just talk about the donations, this is the thing that I found quite confusing, because I have heard from you tonight, but it does not feel to me like we have actually got a good grasp on the issue around the donations, because we do not know who it is and we do not know under what circumstances they did it. To clarify it — and I can understand why you do not want to name people here, but to clarify it — would it be best to suggest that possibly the Auditor-General looks at this or there was an Ombudsman's report so that there could be clarity, external from the Parliament, actually looking at the issue of the donations so that we can really understand how and why they were withdrawn? Because I keep hearing these figures, but I am not given any proof. Do you understand what I am asking? I am asking: should we look for an external way of auditing this?

Mr MYERS — I do not know what you mean by proof.

Ms HARTLAND — You are telling me that there are a number of donors.

Mr MYERS — Indeed, and I was the chairman of the committee that — —

Ms HARTLAND — We do not know who any of these donors are and we are not able to talk to them about why it was that they withdrew their donations, so what I am thinking is, if they do not want to do it publicly,

possibly an external audit or the Ombudsman might be a good way to do it. I just think this issue needs some clarity.

Mr MYERS — That would be a matter for Parliament obviously, but my view about it is it would not be wise. It is just very intrusive into the affairs of people who wanted to be generous to a project that had a private facility, and that was part of how it was represented as being something great, and then that was withdrawn.

Prof. PETERS — One thing I could say is that if you looked at the reports of the capital campaign chaired by Mr Myers pre and post the change of government, you would notice that the committed pledges were about \$42 million before the change of government — it is all documented — and post the change of government about \$18 million.

Mr MYERS — And one of those was the \$15 million to which I have referred.

The CHAIR — Any further, Ms Hartland?

Ms HARTLAND — Not at the moment. I am sorry. I do find this is quite difficult, because it is something that has been back and forth, back and forth, and as someone who does not have access to this information from either the government or from you it is quite difficult to know where it sits.

Mr MYERS — It will not help you to know the names of the people.

Ms HARTLAND — I actually think it would because it would be the ability to be able to talk to those people and to understand why they withdrew the money. I totally understand your concern about seeing the announcement in the press, because this is unfortunately something that this government does quite regularly, but because I do not feel informed about those donations I find it very difficult to decide exactly what happened.

Prof. PETERS — I think at least two of the three gifts of \$5 million contained a caveat in the pledge that it was on the condition that the private component went ahead, and that is documented.

Mr MYERS — This is something I did not really want to say, but I will say it seeing as you keep pressing. I can tell you about one of the \$5 million gifts, because of the person sitting in front of you right here.

Mr FINN — Thank you, Professor and Mr Myers, for coming in and giving up your time this evening. As somebody who spent a fair bit of his childhood at Peter Mac when it was down in Little Lonsdale Street with my father who fought cancer for 17 years and spent, as I say, far more time at Peter Mac than any of us would have liked, I thank you for the work that you have done and you continue to do and express my disappointment that Peter Mac has not been allowed to reach its full potential.

I just wonder what the full ramifications to the foundation and to Peter Mac itself are of losing that money as a result of the private hospital not happening. You mentioned seed donations. Are we talking about hundreds of millions that could have come in as a result of the private hospital or the private ward going ahead?

Prof. PETERS — I do not think you can put a number on that, Mr Finn, but the track record of other great cancer centres in terms of soliciting gifts from their patient population is very strong. As I mentioned in my opening statement, my alma mater in Houston got one single gift of \$150 million from a Middle Eastern patient who was grateful for the treatment he received. But getting back to our local scenario the foundation raises money from a broad base of people and for the average person who contributes \$20 or \$30 a month I do not think it makes much difference whether there is a private facility or not, but for major donors who want to make a real change in the way we do things it has profound implications. The people who withdrew their support were all very major donors, not just one-off donors.

Mr FINN — Perhaps I could take up where Ms Hartland left off, and I am sure she will correct me if I am wrong — she always does. I am very happy to try and ask this if I can. With the donations that were pledged, were there any strings attached?

Prof. PETERS — The only string was that the private facility go ahead.

Mr FINN — That was it, so nobody was benefiting. None of the donors were benefiting as a result of the donations themselves apart from getting a much better cancer centre.

Prof. PETERS — Correct.

Mr MYERS — They were donations. That is the nature of the donation: there is no reciprocal benefit.

There is a lot of questioning, Chair, about this matter of the donations. I would really urge the committee to consider that the real issue is that we do not have the facility that we could have had, which has to be driven by the existence of private facilities for the sorts of reasons that Lester is far better able than I to speak about. It is a question about leadership. It is a question about creating institutions for the society which are of enormous benefit to everyone.

Mr ONDARCHIE — It is not the donors who should be under scrutiny; it should be the government who is under scrutiny.

Mr MYERS — Not for me to say.

Mr FINN — What is the overall impact going forward? And I hate using that term, but going forward what is the overall impact on Peter Mac of this decision? How much does it really hurt, I suppose, Peter Mac in the medium to long term?

Prof. PETERS — Like any state agency we have to make the most of the situation that prevails. As I said at the beginning, I do not speak for Peter Mac, but in my view the board of Peter Mac has taken the view, ‘This is disappointing, but we have to move on and make the most of an unfortunate situation’.

Mr FINN — Yes, I can fully understand that, but you are men I would suggest of considerable vision, and clearly as a result of Peter Mac Private being scrapped that vision has been curtailed.

Prof. PETERS — True.

Mr FINN — What could we have had if Peter Mac Private had gone ahead?

Prof. PETERS — My vision was for a cancer centre that would have been modelled after the great cancer centres around the world, like MD Anderson where I was, like Memorial Sloan Kettering in New York, like Royal Marsden in London, where excellence in science and research is made available to the totality of the population, not just the public sector, and people flock from near and far to access that expertise. In Houston 25 per cent of the patients come from out of state or out of country because of the reputation of the facility and the opportunity to access that service in their private capacity.

The CHAIR — I will just interrupt you, Mr Finn. I am just conscious of time, so we will go to Mr Leane and we will come back.

Mr LEANE — We have had previous witnesses that have spoken about the comprehensive cancer centre that have outlined to this committee basically the nuts and bolts of it and how it is going to work into the future when it is open. They have given us a pretty good outline of the centre, and they have been quite enthusiastic witnesses about this particular centre to the point that I think nearly every person on this committee actually complimented them on a great outcome. Are you disappointed in the outcome in comparison to other witnesses we have had that think this will be a great facility for Victoria well into the future?

Prof. PETERS — I think it is a great facility for Victoria. That is the key thing. It could have been a great facility for Australia and for South-East Asia.

Mr LEANE — It is interesting you say that, because the evidence that we had around the centre was that it was attracting experts from all around the world that wanted to actually work there and want to be there — experts from all around the world, because of the nature of this facility. So it is interesting that you say that it is not a world-class facility, considering people, experts from all around the world, want to actually work there.

Prof. PETERS — No. I am sorry if I conveyed the wrong impression. The facility is world class in terms of the people who work there and the people who are attracted to work there. What we do not do is attract patients from out of state or out of country to come here, because there is no private facility.

Mr LEANE — But I suppose, if there is going to be a build of the Victorian Comprehensive Cancer Centre, then I would have thought the first cab off the rank would be Victorians. We would want Victorians to be cared for in such a fantastic new state-of-the-art facility. We would want them to have that opportunity, I suppose, being parochial, and have the first option for that. Is that fair to say?

Prof. PETERS — Yes, but it did not have to be an either/or situation. The idea would have been to cater for both. The private facility would have added capacity; it was not taking away one single bed from what had been planned for the public patients of Victoria.

Mr LEANE — Taking that aside, you are in concert with the other witnesses we have had that are proud of what you have delivered — the state-of-the-art facility, the training and so forth — that we will be able to provide.

Prof. PETERS — Absolutely; I am very proud of Peter Mac, just disappointed that it did not go the full distance.

Mr LEANE — I have just got one more. We had evidence from — I think it was the health department; it might have been another witness as well — around the nature of the structure of the levels in the building. I am wondering if you know why level 13 was allocated for that private section as you had discussed. If you could tell me that, I just want to follow up on that one particular issue. Do you know why 13 — —

Prof. PETERS — When the building was being designed there was space that was not allocated at the time — called shell space — on different levels, and the option of putting a private facility in three different areas was canvassed. But in the final discussion with the partner who was identified, Healthscope, the preference was for the 13th floor. I guess it was the penthouse suite, if you like.

Mr LEANE — I suppose the follow-up question I have is whether you had been aware of that. The nature of the building is that there is patient care, lower levels, so many levels of research and that top level was only serviced by a lift that was capable of taking patients on a trolley. The only lift that would have been able to do that was a goods lift that would also have to facilitate the removal of the research waste and all that. That is the evidence we have been given. Was that your understanding?

Prof. PETERS — I have heard that argument, but I think it was — —

Mr FINN — I reckon for \$40 million you would probably get another lift.

Prof. PETERS — Yes. I think it was an explanation post hoc.

Mr LEANE — So as Mr Finn just said, the \$40 million could have gone for another lift afterwards.

Mr MYERS — I do not accept for a moment that another lift was needed. That is a post hoc explanation, otherwise described as an excuse.

Mr LEANE — So when it comes to comprehensive cancer care I would imagine prevention would be right up there as far as comprehensive cancer care is concerned, as far as smoking — —

Mr MYERS — As a layman I would agree with that.

Mr LEANE — Smoking causes lung cancer. We would support things like plain packaging and things like that as far as we are all about cancer and care. Would that be fair of me to say?

Mr MYERS — That is an opinion that you could properly hold, I feel confident. There is a great variety of opinions on all sorts of matters in this world.

The CHAIR — Our witnesses could take that as a comment, Mr Leane.

Mr LEANE — I think Mr Myers knows what I am talking about.

Mr ONDARCHIE — Professor Peters and Mr Myers, thanks for coming in tonight. The logic here escapes me because at some point in my career I was working at the Royal Women's Hospital. I remember when they moved to the new site the then health minister, who now happens to be the Premier, quite lauded the

relationship between the private and the public elements of the hospital, and I know in his media release he talked with great enthusiasm about the elements of the new site, including the private consulting suites and Frances Perry House. Given that is almost right across the road from the VCCC, can you logically explain to me why the same government ilk, the Labor Party, would do this at the Royal Women's and not do this at the VCCC?

Prof. PETERS — No.

Mr ONDARCHIE — Thank you. No further questions.

The CHAIR — Thank you very much, Professor Peters, and thank you, Mr Myers, for your attendance this evening. I think it has been quite an informative hearing.

Mr FINN — Enlightening.

The CHAIR — Enlightening indeed. Once again, thank you for your attendance. I will just remind you that you will receive a transcript of evidence in coming weeks, and that transcript of evidence will ultimately make its way onto the committee's website. Once again, thank you both for your attendance this evening.

Mr MYERS — Thank you, Chair, and all the members for your courtesy and good-natured questioning.

Prof. PETERS — From me too.

Witnesses withdrew.