

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2013–14

Melbourne — 16 May 2013

Members

Mr N. Angus
Ms J. Hennessy
Mr D. Morris
Mr D. O'Brien

Mr C. Ondarchie
Mr M. Pakula
Mr R. Scott

Chair: Mr D. Morris
Deputy Chair: Mr M. Pakula

Staff

Executive Officer: Ms V. Cheong

Witnesses

Mr R. Clark, Minister for Finance;

Mr G. Hehir, Secretary,

Ms M. Skilbeck, Deputy Secretary, Budget and Finance,

Mr D. Webster, Deputy Secretary, Commercial, and

Mr B. Flynn, Deputy Secretary, Economic, Department of Treasury and Finance.

The CHAIR — We now resume the hearings for Minister Clark in the finance portfolio, and I welcome from the Department of Treasury and Finance: Mr Grant Hehir, Secretary; Ms Melissa Skilbeck, Deputy Secretary, Budget and Finance; Mr David Webster, Deputy Secretary, Commercial; and Mr Brendan Flynn, Deputy Secretary, Economic. I call on the Minister to give a brief presentation of no more than 5 minutes on the more complex financial and performance information that relates to the budget estimates for the finance portfolio. Minister, you may care to comment on the impact of machinery of government changes on this portfolio as well.

Overheads shown.

Mr CLARK — Thank you, Chair. I am very happy to cover that during the course of my presentation. The first slide sets out the core responsibilities of the Minister for Finance — and they will be familiar to members from previous years — in relation to risk management and financial management frameworks, for VMIA and the Essential Services Commission, and public sector wages policy, which is now more within my industrial relations ministerial responsibilities, but I am more than happy to field questions on that topic as part of the finance presentation if that suits, given that it has been within finance for most of the time up until now. The final one is responsibility for standards and directions of Victorian government building and construction projects, including the work of the construction code compliance unit. The next slide shows which outputs that covers, which I am happy to elaborate on if members want me to.

The slide after that touches on a topic that I imagine is dear to the hearts of members of the committee — it is certainly dear to my heart, although perhaps not so enthralling for members of the community more broadly, but very important nonetheless — and that is about performance measurement. Members of the committee will know that that has had a long history dating back, as I think I have mentioned on previous occasions, to program budgeting in the 1980s. We are making further reforms in this area with the presentation of these budget papers. We are establishing the structure. Departments will set out departmental objectives. They have nominated a series of indicators that will provide data that demonstrate progress towards the achievements of those departmental objectives — objectives of course being what they are trying to achieve with the outputs that they are producing. Then there is a listing of course of the outputs themselves and then performance measures of quantity, quality, timeliness and cost in relation to outputs.

I should indicate my appreciation for the work that the committee has done over recent years in reviewing proposals for the discontinuation of performance measures. I think it has been a very important role of the committee to review and express its views on the appropriateness of measures proposed for discontinuation.

Moving on to the next slide, part of my responsibility is in relation to the government's responses to the Auditor-General's reports, to the government's response to PAEC's review of the Audit Act and to the parliamentary budget office, which some members will recall was a government election commitment, which we are still intending to deliver, while being informed by developments that have been taking place in other jurisdictions over recent times. I also mention standing directions under the Financial Management Act, for which I am responsible. It is subject to change from time to time with a view to improvement and enhancement.

The next slide is in relation to risk management. It sets out the areas of my responsibility and activity, which I am happy to elaborate on during questions. The next slide relates to the Essential Services Commission. Again, it is an independent entity. We have had an independent economic regulator since the time of the Kennett government, but I have ministerial responsibility for it, and you can see the areas that it is responsible for.

The next slide is on public sector workplace relations. Again, I am happy to elaborate during questions, but the key element of that is the public sector workplace relations policies, which were renewed and re-promulgated last year, and which set out the government policy on wage increases but also other requirements relating to public sector workplace engagement. That slide also notes some of the constitutional provisions that are applicable to public sector EBA outcomes.

If we move to the next slide, in particular there has been a decision of the Fair Work Commission in the Parks Victoria case that was handed down in February this year, which reaffirmed the longstanding position that it was not within the capacity of the Fair Work Commission to restrict the state's capacity to perform its essential functions in relation to matters such as seasonal employees, fixed-term employees, casual employees, appointments and promotions.

I apologise, Chair, as I did previously, for the fact that my voice is expiring, but we will see how we go.

The CHAIR — Do you want to pause for a second?

Mr CLARK — It might be worthwhile pausing for 60 seconds or so.

The CHAIR — Yes, please do.

Mr CLARK — I will try to speak more softly and closer to the microphone. This next slide sets out various of the enterprise bargaining agreements that the government has entered into over recent times, including numbers that have been entered into in the 12–13 year. Moving to the slide after that, this slide sets out some of the roles of the construction code compliance unit and their operations in relation to the guidelines that the government issued in order to ensure law-abiding and productive workplaces. Moving to the next slide, it deals with the Essential Services Commission. That has continued to be a very busy entity, having carried out the various reviews that are listed on the slide.

The CHAIR — Minister, I think it might be a good thing to adjourn the hearing for a couple of minutes just to let you get sorted out. We will adjourn for 2 minutes.

We will resume the hearing. Was the presentation complete?

Mr CLARK — Yes, I have completed my presentation. Thank you, Chair.

The CHAIR — We have until 4 o'clock, so 42 or 43 minutes roughly. Minister, in the context of the 2013–14 budget can you outline to the committee examples of infrastructure projects in the finance portfolio which will be either commenced or completed in the coming financial year?

Mr CLARK — Thank you, Chair, and could I thank the committee for its tolerance of my current state of health and voice. The finance portfolio does not have direct responsibility for specific infrastructure projects but it does have a key role in relation to the delivery of infrastructure projects, in particular through the construction code compliance unit and the Victorian government guidelines for the building and construction industry. Those are designed, as I mentioned in the presentation, to promote more law-abiding and productive workplaces in Victoria, and to do that through the state exercising its purchasing power in terms of deciding with whom it wishes to do business and the conditions on which it does business, to ensure that those who do work for the Victorian government commit to uphold the law and commit to productive workplaces.

The construction code compliance unit has been very active in doing that since it was established, and has worked with a wide number of parties in terms of reviewing proposed workplace agreements, worksite agreements, providing advice and education and ensuring that the requirements and guidelines are complied with. That is a key part of my portfolio responsibilities and it is one where I think the construction code compliance unit has been playing a very valuable role in seeking to achieve those objectives.

Mr SCOTT — Just to clarify a matter, if I understand the discussion that the minister and I had previously, I intend to ask questions of the opposition members regarding public sector industrial relations in the later session. I will deal with other matters in this session. Minister, I want to ask you a question regarding your responsibilities for financial management, financial reporting and the Auditor-General that you have. There has been a shift over time — and because of the limited time I will keep the question fairly brief — towards private contracting, and a number of issues, so the provision of services has been provided more than it has in the past through private contractors who are funded by government moneys. Currently the Auditor-General does not have, as they put it, a follow-the-dollar power into private organisations outside the public sector. Can you give the committee an assurance that the level of public accountability will be at the same level for government-funded services provided through private contractors as those services provided through traditional government agencies?

Mr CLARK — Thank you, Mr Scott. Effectively you are talking about follow the money?

Mr SCOTT — 'Follow the dollar' is the term that the former Auditor-General used, but 'follow the money' is another way of putting it, yes.

Mr CLARK — This is something that as a government we have indicated in the past we support in principle. But the real question is how one translates that support in principle into practice. We have, as you may be aware, been looking at possible reforms to the audit act following on from the committee's report, and that is certainly part of what we are examining there.

There has been some progress made on that work. However, we thought it appropriate to wait until the new Auditor-General took up office and then consult with him and see what his views were before we proceeded to seek to finalise the provision. That is basically where things rest at the moment — that in principle we have supported the concept. It does very much link into what the Auditor-General is mandated to report on to Parliament and how that best translates into how far the Auditor-General can follow when money passes from one party to another party.

Mr SCOTT — Just a very quick supplementary — and I do not expect a lengthy answer in the circumstances — if I understand correctly you have supported it in principle but there is no firm policy to act in a particular way or to enact follow-the-money or follow-the-dollar powers until consultation takes place with the Auditor-General: is that a fair summation of your position?

Mr O'BRIEN — Just a point of order, and it is marginal one. I am sure Mr Scott would agree with a minor rephrasing. I checked the report — because I heard his initial question — and as I understand it, the findings of our inquiry on page 111 — —

Mr SCOTT — I did not refer to our inquiry.

Mr O'BRIEN — You did refer — —

Ms HENNESSY — It was the review of the audit act.

The CHAIR — Order!

Mr O'BRIEN — I have not finished my point of order.

The CHAIR — We will hear the point of order in silence and then we will deal with any discrepancies around language that there may be.

Mr O'BRIEN — Just so the question is put in its proper context, as I understand, the present situation, as found by this committee, was that the Auditor-General does have limited powers to follow the dollar, and it was put that he had no powers. I think it is important to these matters to be accurate. Just accept the point of order — —

The CHAIR — Order! I do not uphold the point of order.

Mr CLARK — I think the short answer is that all of the further potential changes to the audit act that we are considering, including ones in this area, are ones we want to discuss with the new Auditor-General, so for the moment the position remains that we support in principle amending the audit act to authorise the Auditor-General to access systems and records of public sector contractors in appropriate circumstances, and we will be discussing that further with the incoming Auditor-General.

Mr ANGUS — Minister, I refer to your initial response to the Chair's question, in which you noted and discussed the Construction Code and Compliance Unit and how that was in part responsible for ensuring that Victorian taxpayers are receiving value for money when the government undertakes procurement for public construction projects. Minister, can you please indicate what performance measures the CCCU are accountable through and what other activities they undertake to achieve the government's objectives?

Mr CLARK — As you have referred to, all contractors who undertake Victorian government-funded building and construction projects and then subsequently undertake private projects as well are expected to comply with the Victorian code of practice for the building and construction industry and the implementation guidelines for the code, which are being overseen by the CCCU. The CCCU monitors public sector and industry compliance with the guidelines, investigates alleged breaches and undertakes educational activities. There are performance measures included in the budget papers for the first time to recognise that at page 293 of budget paper 3. They set out measures in relation to attendance at building sites for site visit inspections and

audits and also relate to the completion of workplace relations management plan assessments within three working days.

That indicates that there is a substantial amount of work that the CCCU needs to do. Their educational activities have been and will continue to be very important to ensure that contractors and tenderers understand the requirements of the government. There has of course been a transition to the new arrangements. It has been a learning exercise for many contractors. I have to say the CCCU — which is headed by Mr Nigel Hadgkiss, who was formerly the deputy director of the Australian Building and Construction Commission, the body that was subsequently, unfortunately, scrapped by the Gillard government in Canberra — has been doing a very good job in terms of attending presentations and meeting with industry representatives as well as working with government departments that are involved with contracting to ensure the guidelines operate effectively.

On their account they have provided education, advice and assessment to date on over 600 occasions — 118 of providing detailed advice to contractors and departments, 231 requests for assistance and more than 200 email responses have come through the mailbox, and 43 presentations to stakeholders. It has been a big exercise on their part.

Increasingly their duties will encompass monitoring and compliance, as more and more contracts are entered into under the new guidelines. That will therefore mean that they will be increasingly attending worksites to make sure that the guidelines are being complied with and the workplace relations management plans have been complied with. They have assessed over 200 plans to date, relating to 45 different projects, each worth over \$10 million. So there is a lot of work happening, and it is directed to fill the gap that unfortunately has been left by the federal government. If the ABCC had remained in place, then the level of disputation and disruption on building sites in Victoria would presumably have remained at the very low levels it had been able to achieve when the ABCC was in existence in Victoria and other jurisdictions. New South Wales and Queensland have also had to move or are moving to fill the gap created by the commonwealth, but it would have been far better if the commonwealth government had not created that gap in the first place.

Mr ANGUS — Another mess-up from the Gillard government!

Ms HENNESSY — What? So the cold war continues.

The CHAIR — Order!

Mr SCOTT — I will follow up on another issue related to the construction code compliance unit. There was an article in the Fairfax media on 24 December titled ‘Baillieu crackdown a blow to apprentices and older workers’, in which reference is made to a letter from Mr Nigel Hadgkiss, whom you previously referred to. It was noted in the article that breaches of the construction code which would result in a government ban on builders from bidding for government-funded work included ratios of apprentices to tradespeople and to workers over 45. I would just like to see clarification on whether it is the policy of the government to ban companies from bidding for government-funded work if they sign industrial agreements that include provisions that specify ratios of apprentices and older workers.

Mr CLARK — I am not in a position to go to the detail of the allegations in that particular article, but what I can say is that what these matters are directed at is ensuring that agreements do not unduly restrict the capacity of employers to manage their businesses in a very productive manner. Unfortunately over time there have been some unions and some sectors who have sought to impose all sorts of unreasonable restrictions on employers’ ability to carry on business in the most productive and effective way possible.

Members interjecting.

Mr CLARK — Those are the sorts of provisions which the policy is directed towards.

Mr SCOTT — Could I ask a supplementary, then, on a different matter? If you are not willing to respond to the specifics of the article — —

The CHAIR — On the same subject. Relate it to the original.

Mr SCOTT — I will relate it. If you do not have the material or have not considered it, I accept that there are some limitations in responding. Can you then rule out that in future you will penalise companies for signing industrial agreements that include ratios of apprentices and older workers?

Mr CLARK — What I will say, Mr Scott, as I alluded to previously, is that these guidelines are directed to not supporting requirements that impose unreasonable restrictions on employers' ability to configure their workforce and on freedom of management, and the guidelines will continue to apply — —

Members interjecting.

The CHAIR — Order!

Mr CLARK — Chair, I think I am being verballed.

Members interjecting.

The CHAIR — Order! The minister has been asked the question by Mr Scott and, further, a supplementary by Mr Scott. He will respond to Mr Scott's supplementary question and not to interjections from any other members of the committee.

Mr CLARK — Chair, I repeat, as I indicated at the outset, that I am not in a position to respond to the specifics of the article Mr Scott refers to. I am stating the general principle that underlines the guidelines.

The CHAIR — Thank you Minister.

Mr O'BRIEN — I would like to take you to budget paper 3, pages 223 and 227, and the range of departmental objectives there and actions to increase Victoria's productivity and competitiveness. I ask you, Minister, if you could explain what activities you have undertaken in your portfolio this past year in support of this departmental objective.

Ms HENNESSY — Crush opportunities for apprentices.

Mr O'BRIEN — It is nice that the shadow minister has such focus on accuracy in his comments.

The CHAIR — Order! Everyone!

Mr O'BRIEN — Still learning from Wayne Swan.

Ms HENNESSY — Why do you hate him so much?

The CHAIR — Let us just calm down. We do not need to have a breakout this late in the afternoon.

Mr CLARK — Thank you, Chair. A key part of my portfolio's contribution to promoting productivity and competitiveness has been overseeing the government's workplace relations policies, which I referred to in my presentation earlier, along with my responsibilities in relation to overseeing the review and assessment of proposed enterprise bargaining agreements and overseeing whole-of-government industrial relations matters, such as the Victorian government submission to the commonwealth Senate inquiry into state public sector employees. I also had direct ministerial involvement in the Victorian public service enterprise bargaining agreement. I should say that in relation to EBAs that apply to other portfolios or apply to specific portfolios the primary responsibility in relation to the detail of those rests with the minister. For the VPS agreement, being across the whole of the Victorian public service, that was a matter for which I had the corresponding ministerial responsibility.

The CHAIR — Minister, sorry to interrupt you again, but we still have a microphone problem.

Mr CLARK — I will try to rearrange it, Chair. As I mentioned in my initial presentation, the government released new workplace relations policies in August last year initially and then updated them in December. They try to achieve a number of objectives. They try to recognise the value of public sector employees to encourage positive workplace cultures. They set out wages policy and provide a framework for negotiating new EBAs. They seek to promote the Victorian public sector as a good employer, as an employer of choice, and set standards that will achieve that. The policies in particular spell out matters in relation to consultation, industrial

agreement making and management of industrial action. They seek to encourage and promote workplaces where managers and employees can work together to get positive outcomes. That of course is consistent with the government's broad approach to industrial relations matters.

Our wages policy has often received a degree of attention. I just reiterate what has been made clear on a number of occasions. It provides for a guideline rate of 2.5 per cent per annum increase, but with higher incomes open to be negotiated where the cost of the increase is matched by genuine productivity gains. Overseeing the operation of the policy has been a key part of industrial relations work over the course of the past year. I touched on the submission to the Senate inquiry. I am happy to go into more detail about that with members if they would like me to. As minister I have been involved with the Victorian public service workplace determination, and I think that was a very good example of how government wages policy can operate to provide win-win outcomes for the community and for employees. The determination that resulted at the end of the process provided for a 12.5 per cent salary increase in total, equal to 2.77 per cent over four and a half years, together with a lump sum payment for eligible employees.

There are a range of productivity gains that supported that outcome, including a better system for managing underperformance and misconduct of employees, improved disciplinary sanctions for underperforming staff, more flexibility in implementing change in the workplace, more consistent definition of major change, clearer rules about personal carers leave, introduction of consistent performance standards and clarification of access to progression payments. As I said, there was a good outcome for employees, taxpayers and the community, and that is the sort of work that my portfolio involves in terms of contributing to a more productive workplace.

Mr SCOTT — I have got a very simple question, which I hope the minister can answer. The independent review of state finances is often referred to as the Vertigan report. We had evidence from the Treasurer that he had not read the document. I seek to inquire whether you have read the document — the final report, not the interim one?

Mr CLARK — I understand what you are saying, Mr Scott, and I do not propose to go into the internal government processes.

Mr PAKULA — Have you read it?

Ms HENNESSY — Have you read it?

Mr ANGUS — The minister has answered the question. You cannot just keep peppering away.

Ms HENNESSY — Yes, I can. Watch me. Have you read it?

Mr ANGUS — The minister has answered.

Mr PAKULA — Whether you have read something is not an internal government process.

Mr SCOTT — Is that the answer?

The CHAIR — The minister has responded.

Mr ONDARCHIE — I know that we rushed you through your presentation, and I am not going to ask you to go through it again, given your state of health, but you talked about the Victorian whole-of-government risk management framework. What activities have been undertaken within your portfolio to improve risk management in this area?

Mr CLARK — I thank Mr Ondarchie. This is another very important aspect of the finance portfolio. Risk management is often a neglected area within government, and I have touched on it in previous presentations to the committee. It is very important though that departments and other agencies recognise what their risk exposure is, and we have been taking measures to strengthen those processes. There has been a Victorian government risk management framework in place for some time. It was updated in April 2011. It requires departments and agencies to attest in their annual reports to Parliament their approach to risk management and that it is consistent with international risk management standards.

We have been taking further action on top of that. A key reform has been to ensure that agencies properly consider and provide for risk as part of their planning process. I have introduced a new standing direction in relation to the insurance and risk management, and that is designed to encourage and promote departments looking at their insurance and risk management needs to assess what risks they are exposed to and then make informed and prudent decisions about what level of risk they might wish to carry as an agency and what level of risk they should insure. There is a chronic potential for people to underinsure in many different contexts, and we wanted to make sure that public sector agencies took out the level of insurance that they ought to take out. When they thought it was reasonable and appropriate to carry a level of risk internally, that is fine, but it is not desirable that they underinsure and then find themselves exposed when things go wrong.

The new direction requires that agencies work more closely with the VMIA to determine what their appropriate level of insurance is. They are to provide additional information to the VMIA about indemnities, about what self-insured retained losses they have, about what capacity and resources are available to manage their below-deductible levels of claims and in particular to require accountable officers to attest in the annual report that they have complied with the directions. The VMIA has been doing some excellent work in supporting that new direction to help their clients understand their risk and reduce their risk exposure.

Like any good insurance adviser it is not just a matter of writing an insurance policy and collecting a premium, it is helping the client understand and manage their risk appropriately, and VMIA has been the in-house adviser for the government on that for some time. They have developed a number of tools to support that. There is a calculator for agencies to use about what their level of self-retained losses are, what their claims of management framework should be and tools for completing and maintaining a register of insurances and indemnities. They have also been advising clients on calculating their total cost of risk, which is their total risk exposure, and to work out what the total cost of their insurable risk is.

That has been valuable work and serves as a testimony to the general good work that has been done in Victoria in relation to risk management. When the commonwealth amended its national disaster relief and recovery arrangements to require states and territories to have their property insurance arrangements independently assessed to ensure that they are adequate, the independent assessment that was done for Victoria by PricewaterhouseCoopers in October 2011 found that there were sufficient arrangements — a very strong endorsement for what was in place in Victoria — and noted the level of cover that the reinsurance of VMIA had and what is called an aggregate stop loss cover on top of specific covers. The report found that their reinsurance arrangements were comprehensive, and that there is an appropriately diverse spread of reinsurers. When the commonwealth released its report it found that Victoria had appropriate insurance arrangements and met the commonwealth's expectations. In short, there has been very good work done both by the VMIA and by the departments and agencies, and the recently introduced ministerial direction will strengthen that.

Members interjecting.

The CHAIR — Order!

Mr SCOTT — The minister made reference in his presentation to the parliamentary budget office. If my recollection is correct, your presentation was very similar to the answer that you gave last year when asked about that particular office. Could you at least provide information to the committee on when the parliamentary budget office will be established and fully operational, and to truncate, considering time is short, a follow-up question if I may, Chair: what will its role be in terms of providing costings to members of Parliament or parliamentary parties, both prior to and during the election period?

Mr CLARK — Could I get that last part of your question?

Mr SCOTT — The last part is to seek clarification about what the role — once it is established — of the parliamentary budget office would be in providing advice to members or parliamentary parties about costings of particular policy proposals, which generally is the role of a parliamentary budget office, both prior to and during an election period.

Mr CLARK — The short answer, which you alluded to, is, yes, the government does remain committed to introducing a parliamentary budget office. We want to obviously have it up and running in time for it to be available for the forthcoming state election. As I touched on in my presentation, there has been progress and evolving experience of parliamentary budget offices in other jurisdictions, particularly the commonwealth and

New South Wales, and we want to make sure that what we do takes account of their developing experience in that area.

To come to the second part of your question in terms of what the office will do, its key role, as with other offices, will be to provide independently prepared costings for political parties in relation to their policies. Part of the challenge will be to ensure that the rules will operate fairly between different parties and to enable parties to have appropriate access to the services of the office without driving out the capacity of other parties to have their fair share of access as well.

Mr ANGUS — I refer to the minister's presentation, which noted that the Victorian Managed Insurance Authority was responsible for providing mandatory domestic building insurance. In reviewing budget paper 3's output statements I do not see any performance measures relating to this product, and I ask whether you could advise the committee how the VMIA's provision of the product is accountable to Victorian taxpayers?

Mr CLARK — It is a very important issue for many members of the community. I think it is fair to say that the current scheme is not working well. It has been described as having lose, lose, lose outcomes: lose for consumers, lose for builders, lose even for the insurers, in the sense that many of them have decided they cannot earn a return on their participation. As you may know, we have said as a government that we want to do something about reforming that. We have issued a discussion paper seeking people's views as to the best way to reform the domestic building regulatory regime — not just insurance, but other aspects. We have said publicly and made clear that we want involvement of all relevant ministers in that — the Minister for Planning, the Minister for Consumer Affairs, the Minister for Finance and, indeed, the Attorney-General in relation to VCAT, and work on that reform is continuing.

In the meantime the regime put in place by the previous government continues, and VMIA is charged with the job of administering the regime as it currently stands. I have to say they are doing a good job within the constraints of the current model, and they are subject to independent scrutiny in that regard. The Essential Services Commission has been charged with monitoring their activities and the ESC produces two reports on the scheme. It produces annual monitoring reports on the pricing and performance of the VMIA's provision of domestic building insurance, and indeed the pricing of private domestic building insurers where there are those in the market. It also does biannual inquiries into the adequacy and validity of the VMIA's premium setting. Those reports have generally found that the premiums being set by VMIA are on the one hand being set sufficiently, but on the other hand not above a level that is required to cover the expenses, risk and long-term claims costs associated with providing domestic building.

The VMIA has used a body called Finity to determine the levels of its break-even premium, and ESC has found that Finity has used appropriate methodology and assumptions in doing that. So broadly VMIA is operating in accordance with the objectives laid down by the previous government in providing the coverage on a break-even basis and with underwriting standards in line with the current commercial market. Now that is not to say it is a good system because, as I have alluded to, we think both the design of the insurance product and the overall regulation of the market could be very substantially improved on from where they are. But as I say, VMIA, I think, is doing well within the constraints of the current model.

Part of the debate has been around the extent of the tail in these insurance products, and some people have looked at the current cash payouts being made by VMIA compared with premiums being collected. But that assesses only part of the picture, because any insurer has got to make allowance and provision for the claims that are going to come in down the track in relation to the cover that they give today. I suppose what ESC is saying is, on their calculations, VMIA are setting premiums that are appropriate, having regard to that. So VMIA is accountable, and ESC is reviewing what they are doing and reporting on it.

Mr SCOTT — Minister, if I could return to the construction code compliance unit. Out of the tendering for the Bendigo Hospital a number of issues emerged, and there were a number of documents which became available relating to correspondence between the department and the compliance unit. There seem to be different views. I would like to seek some clarification relating to how the code would apply to future projects because there were some different views expressed in the correspondence.

There was an email, for example, from a Mr Anthony Lubofsky, which seemed to be arguing for a position where compliance with the code was simply one of many criteria that would make up a decision and there

would be other factors, which I presume related to things like the financial comparisons between bids and other matters that would be taken into account. There are also some broader issues that relate to the nature of the infrastructure delivery market in Victoria, where there are effectively two large players. Whereas correspondence from Mr Nigel Hadgkiss simply deals with matters related to their role of effectively saying whether a company is in breach — or a group of companies, in this case — was in breach or not of the code and therefore, implicitly, that they were banned from the tender. In future contractual tendering processes will the impact of banning a company on the financial viability of a tender or competition within the industry be taken into account as a factor in making a decision in that regard by the compliance unit?

Mr CLARK — So you say will the potential banning — —

Mr SCOTT — Will the financial impact on potential tenders or the impact on competition within the industry in Victoria, particularly in the large-scale building industry where there are very few in practice — at the moment there are two participants in nearly all the tenders — be taken into consideration by the compliance unit when making a determination to ban a building contract, and often, in effect, a group of companies from tendering for future building work?

Mr ANGUS — Is that a hypothetical?

Mr SCOTT — No, it is not.

Mr PAKULA — It is how the policy applies.

Mr SCOTT — It is how the policy will apply.

The CHAIR — Order. Mr Scott has asked a question. The minister will respond.

Mr CLARK — Let me just get some terminology sorted out, to start with. What the construction code compliance unit assesses is whether or not, or the extent to which, a party is compliant with the guidelines.

Mr SCOTT — Correct.

Mr CLARK — And that then becomes a matter that is taken into account in determining a tender. You referred specifically to the Bendigo project, and that tender process started in around September 2011. Two tenderers were short-listed in February 2012, and the parties were informed that the guidelines would apply in May 2012. So in a sense that project was in transition, it was well under way, and in particular the short list had occurred; there were only two tenderers on the short list at the time that the guidelines applied. So the way the guidelines applied there was specific to that tender.

The tenderers were assessed in compliance with the guidelines. Each tenderer's level of compliance was considered as part of the overall evaluation of each tender. Where a tenderer was non-compliant in a certain respect, that was taken into account, but it did not constitute grounds in itself to exclude the tenderer. As I say, a significant consideration in adopting that approach was that the short-listing of only two tenderers had occurred prior to the launch of the guidelines. The outcome of that tender does not have any effect on the application of the guidelines going forward, so the compliance with the guidelines will continue to be a prerequisite to be considered for Victorian government tenders commencing after 1 July 2012.

Mr SCOTT — That in effect answers the follow-up. Chair, with your indulgence could I just ask, because there was a break — I know you are going to a government question — that I be allowed to place one matter on notice?

The CHAIR — I think we will place that matter on notice and then we will move to the — —

Mr SCOTT — He has answered my question; I did not have a follow-up.

The CHAIR — Okay.

Mr SCOTT — I am happy for others to ask a question, but I am just flagging it; or are you ending the session now?

The CHAIR — I am about to end the session, yes.

Mr SCOTT — Okay. Could I just place a question on notice, in part in response to a government question relating to domestic building insurance? Could you provide figures for premiums collected by the VMIA and payouts to consumers for the financial years 12–13 and the estimates for 13–14?

Mr CLARK — I am happy to see what information I can provide for you on that.

The CHAIR — Thank you, Minister. That concludes the hearings on the finance portfolio. I thank Mr Hehir, Mr Webster and Mr Flynn for their attendance. I believe Ms Skilbeck is remaining with us for the industrial relations portfolio. We will have a very brief break while we change staff, and then we will resume.

Witnesses withdrew.