

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Effective Decision Making for the Successful Delivery of Significant Infrastructure Projects

Melbourne — 21 August 2012

Members

Mr N. Angus

Mr P. Davis

Ms J. Hennessy

Mr D. Morris

Mr D. O'Brien

Mr M. Pakula

Mr R. Scott

Chairman: Mr P. Davis

Deputy Chair: Mr M. Pakula

Staff

Executive Officer: Ms V. Cheong

Witnesses

Mr G. Hehir, Secretary (sworn/affirmed),

Mr D. Webster, Deputy Secretary, Commercial Division (sworn/affirmed),

Mr J. Loos, Director, Partnerships Victoria (sworn/affirmed), and

Mr J. Monforte, Director, Infrastructure Risk Management (sworn/affirmed), Department of Treasury and Finance.

**Necessary corrections to be notified to
executive officer of committee**

The CHAIR — I declare open the Public Accounts and Estimates committee hearing on the inquiry into effective decision making for the successful delivery of significant infrastructure projects. On behalf of the committee I now welcome from the Department of Treasury and Finance Mr Grant Hehir, secretary; Mr David Webster, deputy secretary, commercial division; Mr Jason Loos, director of Partnerships Victoria; and Mr Joe Monforte, director, infrastructure risk management. Members of Parliament, departmental officers, members of the public and the media are also welcome.

In accordance with the guidelines of the hearings I remind members of the public gallery that they cannot participate in any way in the committee's proceedings. Only officers of the PAEC secretariat are to approach PAEC members. DTF officers, as requested by the secretary, can approach the table during the hearing to provide information to the secretary by leave of myself as chairman. Written communication to witnesses can only be provided via officers of the PAEC secretariat. Members of the media are also requested to observe the guidelines.

Please note that these proceedings are not being broadcast. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review; however, any comments made outside the precincts of the hearings are not protected by parliamentary privilege. All evidence given today is taken under oath or affirmation and is being recorded. Witnesses will be provided with proof versions of the transcript within 15 working days of the hearing, which are to be verified and returned to the committee secretariat within 2 working days of receipt. Unverified transcripts and PowerPoint presentations, if any, will be placed on the committee's website immediately following receipt to be replaced by verified transcripts within 48 hours of receipt.

Following the presentation, if any, by the secretary, the committee members will ask questions relating to the inquiry. Generally the procedure followed will be that relating to questions in the Legislative Assembly. I ask everyone to turn off their mobile phones, and I call on the secretary to give a brief presentation of no more than 5 minutes if so desired. He has no enthusiasm for a presentation, so that allows me to say that the remainder of the hearing will be allocated for questions.

In the introduction to my initial question I just reminds officers from DTF that the purpose of this discussion this afternoon is to use, as a basis of informing the committee, the experience and knowledge of DTF in relation to accountability, transparency, relevant skills and capacity, particularly to focus on lessons learnt from previous projects. We have in mind six particular projects we are examining in evidence over these few days.

I am interested in a couple of issues in particular. One at a central level, which I seek to develop a response to, is DTF's perception about its role in relationship with major projects and the agencies that are primarily responsible for managing them, being those agencies that have a hand on the wheel, as it were, because they are essentially the advocate for that particular project — the role of DTF as a central agency and the expectation that there is of DTF about its role, the expectation that there is in relation to the other agencies that are involved in projects and the wider community's perception about the responsibility and accountability of DTF to make sure that it properly stewards taxpayer funds in that sense of achieving efficient delivery of a project.

That is an overview question. After you have responded to it I would like to develop a discussion about particular matters that have come out of these six projects that we are scrutinising and the lessons learnt to date about those projects. That is my starting point. Thank you.

Mr HEHIR — The role of Treasury with respect to major projects: we play a number of roles, and I will try to expand on what they are. In the first place we have a role in providing guidance to departments around how they go about developing a project, building up its business case and managing it through to completion. Along with most things to do with financial and resource management, Treasury plays the role of developing for government — and in the end government tends to approve all of the frameworks that we put in place — a set of frameworks for the efficient resource management for the state. In the area of infrastructure projects in particular we set out a file of guidance information and framework information about how that should be undertaken. That is a role that we undertake to make sure that departments understand the type of process they should put in place if they wish to get funding for a project and then what to do subsequent to that. That is one role we undertake.

Then when a department wishes to build up an infrastructure project, for major infrastructure projects we will provide them with assistance in the development of their business case for a proposal. If something is deemed to be a large project — and obviously there are hundreds of infrastructure projects that government is involved in, but for large ones — we would be in at the beginning and assisting departments to make sure they have a rigorous business case, basically, before it is put before government so that when the government gets to a position about making a decision on whether to go forward or not with a project it has all the information necessary to make that decision. Those are two roles.

A third role is that we are an advisor to government on how to allocate its infrastructure budget across competing demands. In that role we advise departments about how they should undertake a prioritisation process around what projects require investment or they would like to have investment in. Largely that is around the provision of frameworks and advice to departments around life-cycle asset management — having an understanding of what their asset base is and how that relates to service delivery, having a plan for whether they should own or lease et cetera and having a plan for the development of new assets and the replacement of existing assets. We provide them with advice about how to go about that activity.

Then when proposals are submitted to government, in that resource allocation process we provide advice to government to assist them in making that prioritisation decision — that is, a school versus a hospital, which hospital and all of those types of things. Once a list of projects is put to government for decision making we assist them in that process. That gets you a number of steps towards a project being funded. Once the project is funded we then play a role in supporting departments, particularly under our high-value, high-risk framework, which we talked about last time we were here, to ensure that the governance and process framework in place for high-value, high-risk projects is sufficient to effectively manage the process. That usually occurs in the context of the budget decision-making process but would progress through the implementation of it, by making sure that the right structures are in place to effectively deliver and advising departments and government on the effectiveness of that. For high-value, high-risk projects we tend to be involved in the governance framework through the delivery phase. We would have people embedded in the process to support the agency's delivery of it.

As well as that, across all infrastructure projects, but again focusing on the major ones, in an ongoing sense we advise government about the progress of these projects prior to identifying where we think projects are performing well or underperforming so we can advise on the medial action. As we talked about last time, there is a formal framework for that in place in the context of the HVHR projects, but more broadly it is a general framework where in the first instance through our own engagement in the governance we would try to advise the department or the agency responsible if remedial action is necessary. If that is not successful and we believe it is important, we advise government that we think action should be taken.

The CHAIR — Thank you. Have you rounded off your answer? You have probably got plenty more to say.

Mr HEHIR — I think that covers the space we are engaged in.

The CHAIR — I may come back to it later, but I am interested from the point of view of — and I will not get you to answer it now; you can chew on it a bit — how you perceive the view of your role from outside Department of Treasury and Finance, not just looking at it from where you sit.

Ms HENNESSY — Some 360-degree feedback.

The CHAIR — In a sense, do you have some comfort with the fact that your role is understood, or is there an unrealistic or uninformed view about what DTF in fact should be doing to assist agencies with their projects? I will come back to that later; I just want you to reflect on it.

Mr MORRIS — Before we go to specific questions, there is one general issue that I want to raise, and perhaps we can get it out of the way first — that is, the extent of the information sought by the committee which has not been provided. I think there are some matters on pages 1 and 4, two on page 18, on page 22 and on two occasions on pages 23, 24 and 27. There are various items where information has been sought and not provided. I wonder if you can identify for the committee what information requested — without providing information — has not been provided because it is regarded as commercially sensitive or subject to cabinet conventions?

Mr HEHIR — Without going through the list in detail I am happy to come back to you on it. My view would be that if we have not provided the information requested, it is because of that.

Mr MORRIS — If you could, come back to us with the detail on that. Can I pursue a couple of further issues? I am interested to know what are the specific factors that have led the department to conclude that the information that has been withheld from the committee override the authority given to the committee by the Parliament to receive the information and indeed to complete the task that has been set forward by it.

Mr HEHIR — I am relying on the guidance that we are provided, which is public, about the role of officials in providing advice, providing evidence to parliamentary committees. Where information is of a cabinet nature, my interpretation of that is that that is a matter for government to provide advice on and not for officials. I think that is a summary of the position.

The CHAIR — So if we identify the gaps in the submission which you have made in response to our questionnaire, you are in effect suggesting we actually take that up specifically with the Treasurer? I might say I have made representations to the Treasurer formally — that is, I have written to the Treasurer — expressing concern that we have not received all of the information we sought, which makes it problematic in terms of coming to a conclusion about some issues. What you are really saying is that you are constrained by the limits of the guidance you have and that therefore any deficiency is a matter that we should pursue with the Treasurer; is that right, in effect?

Mr HEHIR — The nature of the role of Treasury and the role that I described before means that the overwhelming majority of our role involves advising cabinet on matters, and a lot of what you have asked for is our advice in effect to government over a period of five or six years and our advice to government in this space is almost entirely cabinet advice.

Mr MORRIS — On the basis that we get the further information that was offered in response to my first question, perhaps we can consider our position then. In the interim, I draw your attention to clause (d) of the terms of reference, which is:

whether particular significant infrastructure projects have been developed and implemented in a manner which aligns with the public interest and maximises transparency and accountability for the life cycle of the project.

I am just wondering if you could perhaps provide the committee with some advice on how we can be expected to reach any meaningful conclusions at all in the absence of information which in my view effectively prevents us from doing the job that we are asked to do.

Ms HENNESSY — It is a reference from government.

Mr HEHIR — Sorry. I did not quite follow the question.

Mr MORRIS — I was saying that given that I cannot see a way forward for us to do the job that we have been asked to do by the Parliament, perhaps you can advise us, in the absence of that information being able, what course we can follow to achieve the outcome that the Parliament asked for?

Mr HEHIR — I will endeavour to answer the questions that you have put to me today to the best of my ability, as we have endeavoured in our response to you to answer the questions that were put within the framework we operate in.

The CHAIR — So your evidence in effect is that if there is any particular that is not included in your response to the questionnaire, it is not included because it falls within the remit of cabinet confidentiality, in effect?

Mr HEHIR — That is my belief, that we attempted to answer the questions in the questionnaire to the fullest extent that we could within that constraint, yes.

Mr PAKULA — Just to follow on, then, in terms of I suppose the ability of whether it be this committee, a future committee, Parliament more generally or the community to transparently understand value for money for taxpayers in the delivery of major infrastructure projects, you have talked in your submission and you have talked before this committee on a number of occasions about your high-value, high-risk approach. Is the

experience so far and is it your anticipation going forward that the HVHR advice that you provide will similarly be by and large cabinet advice?

Mr HEHIR — Almost universally the advice that we provide on projects goes into the cabinet decision-making process, yes.

Mr PAKULA — So we should expect from that in the years ahead when a parliamentary committee is seeking to understand the advice Treasury gave, whether it be to the Treasurer or to other departments, through the high-value, high risk process that a committee of this nature is not going to have access to that advice and will not be able to understand or appreciate what factors the Treasurer or other ministers took into account when they made their decisions? I mean, this is going to be a cabinet process that will not be subject to the scrutiny of the Parliament.

Mr HEHIR — The release of cabinet information is a matter for government. It is not a matter for me to — —

Mr PAKULA — You are saying that HVHR will almost certainly be cabinet information?

Mr HEHIR — What I am saying is that the overwhelming majority of advice that Treasury prepares on projects is for cabinet, yes. There is the framework information that we put out for policy frameworks. Advice we give to departments on how to undertake projects is generally publicly available, but individual pieces of advice on the view on business cases and on whether a project meets the public interest test, all of that is generally advice that we provide to cabinet. That is nothing unusual.

Mr PAKULA — So to the extent that we want to ask you about HVHR today, what is our likelihood of success in terms of getting any information out of you? Shall we just see how we go and see what you can answer and what you cannot?

Mr HEHIR — Yes.

Mr PAKULA — All right; we will try it that way.

Mr O'BRIEN — Just to put this in context, it is not the case that parliamentary committees usually have access to cabinet-in-confidence information, is it?

Mr HEHIR — It is not a matter for — —

Mr O'BRIEN — It is not a matter for you, but it is not your — —

Mr HEHIR — It is not a matter for me to make — —

Mr O'BRIEN — A decision.

Mr HEHIR — On that. The processes around that are relatively clear, and from a bureaucratic point of view, as a government official I am not permitted and never have been to sit here and tell you the deliberations of cabinet. That is a matter for government.

Mr O'BRIEN — Exactly. And in relation to the move to the high-value, high-risk process, that is a process you endorse, is it, in relation to the major projects, as a result of — —

Mr PAKULA — You cannot ask him that. What do you want him to do, disagree with the Treasurer?

Ms HENNESSY — Come on! 'We're from Treasury. We can't tell you anything because it's cloaked in cabinet in confidence', and then you ask him to comment on what the policy is.

Mr O'BRIEN — Mr Pakula, if you listened — you talk about trying to politicise the process — —

Mr PAKULA — You cannot ask the secretary of the department whether he endorses his Treasurer's view of the world.

The CHAIR — Thank you. Mr O'Brien is entitled to ask a question and the witness will dispose of the question as they are able.

Mr PAKULA — By asking him to criticise the Treasurer.

Mr O'BRIEN — I am not asking. We are talking about major infrastructure projects. I will put it this way: in contrast to the previous practice, where for something like the food bowl modernisation project there was no business case prior to the decision being made, would you accept — —

Mr PAKULA — You know the cameras have gone, David? You do know the cameras have gone?

Mr O'BRIEN — Do you know that, Mr Pakula?

The CHAIR — Calm down.

Mr O'BRIEN — I am calmed down.

The CHAIR — No, I am talking to everybody.

Mr O'BRIEN — We have a situation where Mr Pakula makes points against me but does not like me asking questions of this witness about matters that he sees to be sensitive in relation to the previous government's performance.

Mr PAKULA — No. Ask what you like.

Mr O'BRIEN — That would be good.

The CHAIR — We have had enough. Mr O'Brien, finish your question.

Mr O'BRIEN — So the shift to a process of high value, high risk where there is at least a requirement for major projects to go through a business case process prior to a decision to carry out the project as opposed to a process where there may not be a business case process undertaken before that cabinet decision is made, in terms of the ability for Treasury to engage in its role of providing frank and fearless advice are you able to advise the committee in general terms which one has a greater chance of ensuring a financial success of the project, in terms of on time and on budget delivery?

Mr HEHIR — I think we went across this issue at my last attendance here. I do not think there is any doubt from any analysis that the more rigorous the processes are at the front end of a decision the more likely you are to produce a good outcome. Most of the research in infrastructure is very clear on that point.

As I said at the last hearing, there are always occurrences where government makes decisions because of emergency situations or others where sometimes the full extent of the processes that you would love to implement or that provide you with the most rigour cannot be achieved. That is a matter for government at the end of the day. We in Treasury provide advice to government on those matters. I think the evidence that is available and research that we have had undertaken by universities et cetera is very clear about the need for and the desirability of up-front processes. HVHR is a way of doing that. But, as I said last time, that is not always going to be the only consideration the government takes when making a decision on an infrastructure project, and quite reasonably.

The CHAIR — I will beg the tolerance of the committee, but I will make a point and hopefully we will wrap this general issue up and move on to specific questions. The secretary has made clear the constraints he is operating under. He is not in effect answering for the Treasurer or the government; he is answering for the department, and he is operating within a certain set of parameters. He has made it clear that the fulsome response to the questionnaire is as full as it can be, given the constraints of cabinet confidentiality. The same rules apply in relation to cabinet submission and advice from DTF to the current government as to previous governments — indeed the current government does not get access to the cabinet documents of the previous government — so there are a whole lot of constraints which will inevitably mean that even if we ask for specific information from the Treasurer, even the Treasurer will not necessarily have access to it, as I understand it.

Therefore we need to understand in moving forward in relation to some of the omissions of information which we would like to have that we are just going to have to acknowledge that there is a contest between the Parliament and the executive, and it is a matter which members in the upper house will know was pursued with some vigour in a previous Parliament.

Mr PAKULA — There is nothing vigorous about it now.

Ms HENNESSY — Come on, Chair, fire up.

The CHAIR — I would say to you, deputy, that my views generally speaking on this matter have not changed.

Mr PAKULA — Right.

The CHAIR — But sometimes when you have fired all your ammunition, you have not got much left.

Mr PAKULA — It is only a one-vote margin in the upper house, Chair.

The CHAIR — I would like to put a ribbon around this little package of issues and move on to the particulars of the projects that we want to talk about.

Ms HENNESSY — I do accept and appreciate that you do want to put a ribbon around the inability of DTF to furnish the committee with the information we need to intelligently canvass these issues. But I did want to clarify a point in Mr Hehir's evidence.

Subsequently you characterised the inability to provide documentation that the committee requested because of the limitations on cabinet in confidence that attached to the nature of some of your advice. I thought initially you said commercial in confidence as well, and I want to clarify that a commercial-in-confidence matter that may not have been the subject of cabinet deliberations would be within the realm of something that could be put before this committee.

Mr HEHIR — My understanding of the guidance that we operate under is there is potential for government to claim an exemption to provide information to Parliament on the basis of commercial advice — the commercial-in-confidence issues. What I have said is that with respect to the evidence that we have provided to you today, to my knowledge the questions that we did not answer related to cabinet entirely, or that is my view of it. I believe that there is a potential for commercial; I do not believe it is necessarily here in this case.

The CHAIR — That is a germane point to the questions that we may ask this afternoon, because some of the questions I know that members have in mind clearly go to contractual matters. For example, I have a list of issues here that relate to the desalination plant, for example, and I am curious to know whether or not it is worth spending any time asking questions about contractual matters about desal.

Ms HENNESSY — You name it.

The CHAIR — It would be useful if we could abridge our examination of the witnesses if the witnesses could tell us what we can ask them.

Ms HENNESSY — In an inquiry about transparency.

Mr HEHIR — With respect to a lot of the projects under way, particularly the PPP projects, a lot of the contractual information is public.

The CHAIR — So we will assume that we can ask all of the questions, and you will tell us which ones are outside that.

Mr ANGUS — Mr Hehir, I am wanting to explore a bit more your role and the role of the department. You mentioned you had a number of roles, and thank you for that enunciation there. You touched on the role of your department in relation to business cases and so on. I am wondering if you could expand on that a little bit for the committee in terms of what DTF's role is. I understand that it might not always be the same, and I am happy for you to comment on that. Is it a passive role or an active role?

Mr HEHIR — It is both, depending on the nature of the project. In the case of a project which we deem as being high value or high risk, we would make it a much more active role. As I have explained in the past, under the current framework and in general for large complex projects we would see our role as ensuring that a business case was in a state for government to make a decision before it got to government, so we would be trying to make sure that a department did not bring forward a business case which we thought was deficient in any way. That is largely an active role.

Mr ANGUS — So is it fair to say that you would be looking at more than financial matters?

Mr HEHIR — In a business case we would be looking across the spectrum of the business case, not just whether the costings were effective but whether the scope was defined effectively. We would be looking across the whole public interest test arrangements and at whether the solution that was being proposed was consistent with the problem that was being defined. You would start from there and work through the entirety of the business case.

Mr MONFORTE — Governance, procurement, risk management.

Mr ANGUS — Risk assessment.

Mr WEBSTER — It very much is a coaching and mentoring role in terms of helping the department get a quality business case.

Mr ANGUS — We have heard numbers of examples, and obviously there are many examples on the public record that have been looked at by other agencies, including the Auditor-General and so on, where clearly there have been problems with the business case or, as my colleague Mr O'Brien mentioned, there was not a business case. In terms of the ones that had a deficient business case I am wondering, for example, with the Melbourne Markets relocation, what was DTF's role there?

Mr HEHIR — With respect to Melbourne Markets, the role would be similar to any of those processes. We were engaged with the department up-front in the specification of the project. You might be aware that when the project started it was a PV process — when it was originally developed up. We were engaged in that reasonably extensively, as we are with all PV projects, in developing up the business case for that. We were certainly involved at the point when it was decided to move from a PV to an alternative procurement methodology; we were involved in the process. I think a lot of that is documented in the Auditor-General's report on that.

Mr ANGUS — In light of your previous answer are you saying that DTF did not identify one of the big risks there, which was the fact that the tenants or the potential tenants had not been signed and that had not been addressed? Did you consider that or did DTF consider that?

Mr HEHIR — When we provide advice to government on business cases on looking at procurement methodologies we would consider all of those issues, including that one. How you deal with tenants on a project like that would always be a central consideration, and it always was.

Mr ANGUS — Right, so that had been raised by DTF?

Mr HEHIR — I do not feel that I am in a position to advise you on what advice we give to government. There is a line to get to when you ask me 'What did we advise government?' where I find it difficult to go any further.

Mr PAKULA — But you are suggesting it was contemplated.

Mr HEHIR — If you look at the Auditor-General's report and the considerations, one of the considerations, which he describes in the report around when we went from a PV project to an alternative procurement methodology, was around the complexity.

The CHAIR — Mr Loos, do you want to add something, or are you just agreeing?

Mr LOOS — No, I am agreeing with the secretary.

The CHAIR — Agreeing vigorously.

Mr ANGUS — Enthusiastically. I am just trying to get my head around whether you guys ran up the flag or whether you did not and, if you did, obviously no-one heeded it anyway. That perplexes me somewhat.

Mr HEHIR — I will try to provide context rather than saying what I think. Treasury provides advice within the framework of effective resource management, good project delivery and a whole range of things, which I described before, which fit within the Treasury ambit. Governments make decisions based upon a whole file of other factors, not just the advice that Treasury puts forward. I am not speaking within the context of this particular decision, but with a number of the projects that have been raised there are more considerations that governments take into account than simply what Treasury advises. We provide the best advice we can in the frame of what I described earlier as our role.

The CHAIR — Can I intervene here? Sorry, Mr Angus; I know you are on a roll here. I want to pick up this issue using the Melbourne Markets as the example or template. DPI initiated this project in 2002 or thereabouts — I have lost track of time — and DPI, working with the Melbourne Markets Authority, thought it was a great thing to do. You have intimated that Treasury would, presumably, have a view about the nature of the risks that were involved, and one of the risks would be stakeholder engagement issues; that has been the most significant risk with this project. The issue I am trying to tease out here — coming back to my preamble when I said, ‘Can you think about this for a while?’ — is the view of DTF in other agencies, in this case DPI. What would have been in the mind of DPI in relation to the advice they would expect to receive from DTF about risks?

Back in the day when this all became a great idea, would they have reasonably thought that DTF would sit down with them and say, ‘Here is a stand-out key risk for this project’ — that is, stakeholder engagement dealing with the market stall operators?

Mr HEHIR — I think they would have expected us to analyse the risk assessment that they had undertaken and if there were clear risks that were not identified that we would be providing advice about what were stand-out risks and they should be included. I think what you would expect from government as a whole, but of the players within government who would be around a project like this one — the agency, central agencies if Major Projects Victoria was involved, the department responsible for that — would be advice to government around the project when it came before government. Government could expect that there had been enough rigour around that for all the risks to be identified. Part of the role of central agencies, particularly Treasury, is to ensure that when projects of this nature come to government all of the risks are identified.

Mr PAKULA — Can I just pick up on that? Do you see that the proper attitude of line agencies is that they independently analyse all of these matters and then have an expectation that DTF will cast their eye over it and point out things they may have missed, or is it that these analyses are done collaboratively between the line agency and Treasury, or is a third option that they would just imagine that that is your job?

Mr HEHIR — I believe that for large projects, and most of the ones we are talking about are large projects, it would be a collaborative process. I believe that most of them would see it that way. If you look at the continuum of the proposals we put in, I do not believe that any of them would think it was our job. Some of them may think it was more their job than our job; it would be within those bases. I do not believe that any agency would think that Treasury was the sole body responsible for identifying risks.

Mr PAKULA — In a general sense an iterative process between central agencies and line agencies.

Mr HEHIR — For any large or high-risk project we would expect it to be an iterative process in the development of a business case. Once projects get down the scale then it might be more that the department builds it up and then we would look at it and say, ‘Have you thought about this or that?’, but as a general rule for large projects it would be collaborative.

Mr ANGUS — Probably just to finish off, just in relation to the point I was making before, if you give advice and then it is ignored, essentially, and the other department that you are submitting it to just goes on and does whatever it is going to do, what is your comment in relation to that? Is it something you have experienced?

Mr HEHIR — I think what I was talking about was in decision-making processes, but I will broaden out my answer to pick that up. Generally if a project is under way and we identify a problem with it, our first port of call is to discuss it with the project owner — the agency or the team — and say, ‘Here is a problem; we think this should be resolved’. Most of the time you would expect those issues to be resolved at that level. If they are not resolved and we think they are significant, then we would raise it into government, and basically we have a normal process for reporting to government on projects. We would raise a flag and say, ‘We think this particular action needs to be taken, and government would make a decision whether they agreed with our advice or not. I do not think ‘ignore’ is the right word in that context; I think that is the role of government.

Mr ANGUS — To ignore your advice.

Mr SCOTT — I will try to frame this in a way that you can answer, so I will not deal with the specific details. I want to look at the high-value, high-risk projects area. Is it possible to let us know which projects have actually been submitted to that process without discussing the detail of the material which has appeared before cabinet?

Mr HEHIR — They are in budget paper 4.

Mr SCOTT — Are there any subsequent to that, or just those ones that are in budget paper 4?

Mr MONFORTE — The new projects that have been approved that meet the criteria.

Mr SCOTT — And is it possible to tell us what stage those projects are at, without again detailing the actual advice?

Mr HEHIR — What do you mean by ‘what stage’?

Mr SCOTT — There are a number of gateway stages. So would it be possible to advise which gateways they have reached without giving the detail of the actual advice itself?

Mr HEHIR — I do not see a problem with providing advice to the committee of where various high-value projects are up to in their life cycle, as a project.

Mr SCOTT — I am trying to do it carefully to avoid the in-cabinet issues. And the other thing would be: how long does the high-value, high-risk process add? Or what is the additional time line on a project that is created by going through that process?

Mr HEHIR — We would not believe that it should add time to a project unless it identified issues with the project which would not otherwise have been issued which required rectification and slowed down the process. So if the process we put in place means that a business case which would otherwise have got up is delayed for a few months or has to be redone, then it will delay the decision point for a project. If the department believes it is ready to go out to tender and we look at the documentation and say it is not ready, and they have to do it, that will delay that. But as I described before, most of these things are done iteratively with us involved in it, so you would not expect that to occur.

Mr SCOTT — So again, without detailing the material that has gone before cabinet, have there been any delays? You are basically inferring that there have not been at this point?

Mr HEHIR — Sorry, there are different answers to your question. Have decisions been made by government as a result of reviewing projects which have meant that an alternative path is taken which may take longer? I would say that that happens regularly. Over my career in Treasury it is not unusual.

Mr SCOTT — I suppose I am attempting to get you to ascribe causality in this case to this new process.

Mr HEHIR — I am not certain for what purpose. What we are trying to do with the high-value, high-risk framework is make sure that when things get to a decision point they are ready to make a decision so it makes the whole process work more efficiently, going through. That is the objective.

Mr PAKULA — Can I just pick up the answer you just gave, though? You said that generally with these bigger projects there is an iterative process which you are involved in anyway, so when it comes time to tick off

you have been involved most of the way through the process so you do not expect the problem that you identified to occur. So I suppose, what difference does it make? If there is already an iterative process, and you have been involved all the way along, and you do not expect there be to any problems with tick off because you have been involved all the way along, what difference does it make?

Mr HEHIR — This is the conversation we had last time. The difference it makes is that when you are sitting around the table and all the parties know that to progress further they have to get your engagement in it, firstly, we have to get in the game. We have to take more responsibility for the outcome, so we are more engaged. And I know it is a cultural thing at the margin, but I think sending the right signals to Treasury is important about our role. So we are more engaged. Secondly, the department involved knows that it is not up to them alone and they can take their chances, they have to get agreement along the way, so you are more likely to get a process at the end point where there is agreement because everyone knows there has to be agreement at the end point.

Mr PAKULA — But there always has to be agreement at the end point. At the end of the day — —

Mr HEHIR — No, there always has to be a decision at the end point.

Mr PAKULA — Yes, there always has to be a decision, but at the end of the day there is always a process whereby Treasury will brief on a project and government will make a decision. If Treasury opposes a project or opposes a business case, Treasury briefs and government analyses the Treasury brief. It analyses the other central agency brief, it analyses the brief from the line agency and makes a decision.

Mr HEHIR — I think when we have described this process before, the key bits that we have identified — I talked last time about the culture issue up front being important, which I iterated.

Mr PAKULA — Yes.

Mr HEHIR — When we get past the decision there are now additional points where we have a stronger role in making sure that the relationship between the business case, the tender documentation and the final contract is all completely aligned. Our role there is much stronger than it was in the past. My expectation is that that will probably be the strongest component of the HVHR process — I think I described that last time — because on a number of projects we have identified there have been issues between tender and contractual close where things have moved which should not have moved.

Mr PAKULA — But it is pretty difficult going forward for accountability to lie anywhere other than Treasury, is it not?

Mr HEHIR — No, I do not think so. I think — and this comes back to your question about perceptions of role — at the end of the day the decision on whether a project goes forward is up to government. Our role between the departments and us is to make sure that the government has all the information necessary, and as you referred to before, that is what happens. So government makes a decision on that. The department is responsible for delivery. Our job is to oversee that delivery, to provide support and guidance to departments and to advise government on how the project is performing. We are certainly not trying to take all the accountability off line agencies for that, because that would be problematic, I think, in effective delivery.

Mr PAKULA — For Treasury it would.

Mr HEHIR — I think for effective delivery you would want to have accountability set in. Treasury does not know all the ins and outs — health does — of what a hospital needs to look like and the services it provides. You need to have that ownership of the outcome and the supervision of the project sitting where the people have the deepest knowledge of the content. What we provide is advice over the process and — —

Mr PAKULA — But it is more than advice, though.

Ms HENNESSY — One of the things the Auditor-General has spoken about to our committee on two occasions now is that one corollary is the need to have more purposeful management, particularly from the central agencies, and a general concern around the issue of accountability and who the buck stops with. Without wanting to put words into his mouth, when we talk about iterative processes, we are part of the gateway, but then we are just advisers. I suppose that elicits a degree of concern about or an illumination on the very point the Auditor-General makes. I accept that ultimately the buck stops with government as the decision-maker; that is

not to say that there do not need to be clear accountabilities within the public service. Given your gateway role and your high-risk, high-value role, do you feel a sense of greater accountability around the decisions and projects that your agency is involved in?

Mr HEHIR — I believe the government has asked us to take a strong accountability role in the process we have put in place. These things emerge over time; a framework has emerged over time and the respective roles have. If you look at a number of the Auditor-General's reports on projects, in a number of the projects you are identifying he makes commentary around how effective he thinks Treasury has been in specific bits of the role, whether it be the guidance we have provided or other things. As a general rule, if you look at our commentary on that, we have accepted a lot of what is said and used to improve our processes. I am trying to get to the accountability side of things.

Ms HENNESSY — Yes. What do you reckon accountability looks like in this context? I know that we immediately think about who gets hung out to dry when things go pear-shaped; I do not mean accountability in that sense. I mean who ultimately is responsible in the context of the public sector, as in above and beyond what governments are accountable and responsible for in terms of being the ultimate decision-maker.

Mr HEHIR — I am hesitating because of what you say. If you are talking about what people are accountable for rather than how do you hold them to account — —

Ms HENNESSY — I am interested in both. Feel free to answer. I am sincerely interested in your views; I am not trying to brand you with political responsibility for every project that has a slight cost overrun.

Mr HEHIR — At the end of the day with respect to the project management and delivery of a project you need to have — and it is one of the things that we set out in the frameworks we put in place — a project governance framework which has as much single-point accountability as you can. It is important to have an experienced, competent project director in place who is the person responsible for the management of the project.

Within that constraint there will always be decisions that that person needs to go to another authority about — that is, changes in the nature of the project. We always therefore advise around governance, which is usually some form of steering committee involved in that, where Treasury, sometimes DPC, and the line agency and other experts would be involved. Their accountability is overseeing that project director to make sure that they are in the space making sure that decisions that need to go back to government go back to government and that those that can be done at level are done at that arrangement, so there is accountability there. Then government takes accountability on top of that, so I think you have got to have a multistaged one. But for successful project delivery, once you have got a project funded and up and running we would argue very strongly that you need very much someone who is accountable for the project, because if you diffuse that too much, you are going to lose control of it.

The CHAIR — We had evidence from DBI in effect along those lines, did we not? Mr Ronaldson made it clear. I verbalised him and said about Melbourne Markets, 'It was an orphan, wasn't it?'. Nobody claimed ownership in the sense that it moved around all over the place.

Ms HENNESSY — I mean no disrespect, but the steering committee concept kind of does illuminate the very point that the Auditor-General makes.

The CHAIR — Yes. That is right.

Mr O'BRIEN — Turning to specific projects, I would like to ask you a couple of questions in relation to the myki project in terms of causality, to pick up that topic, and correlation with the business case. In your response you have listed a table on page 21, and also on page 20. We saw a similar table in the evidence response from TTA. It may be that you have to take this first part on notice, and we also heard some very specific evidence in opening from the CEO of the TTA today. Would you be able to break down the cost variations against the different phases of the project between capital and operating costs? Is that something you can go through? If you can do it now, that is great, but I am sure it is technical.

We are also looking to identify this IT component that is a bit nebulous, particularly as it relates to where the money has effectively gone in terms of the various consultants et cetera.

Mr HEHIR — I do not think I can answer that in detail here today. You asked a similar question of the TTA this morning, did you not?

Mr O'BRIEN — I have not asked for the breakdown. We are happy to go back on notice. We asked some verbal questions, and they gave us some verbal answers. I will take it to a second part in relation to the business case shortly.

Mr HEHIR — To the extent that we can provide the state of it, I am happy for us to go and talk with TTA and see what we can give you with respect that. I understood they took on that as trying to break down the operating and capital and all of that.

Mr PAKULA — They went through it in quite some detail.

Mr HEHIR — Did they?

Mr O'BRIEN — Yes. In relation to this question of the overall project, if I could take you to a couple of documents that I put to them. First of all we have the Ombudsman report in 2004, which identifies the business case at \$741.9 million over the life of the project from 2004 to 2017. Then when we have the project awarded, it jumped to \$257 million, and that is within a relatively short space of time. That is just accepting that the \$257 million jump is to identify a total sum of \$998.9 million. Could you outline today any of the identified factors that lead to the explanation of that case? If not, I would suggest to you that is an example of a fairly unrobust business case if it is able to jump up by that much in the tender.

Then if we take the public along, I put to the chairman today a number of public documents, including the 2005–06 annual report as well as Mr Batchelor's evidence to this committee in 2006, which both spoke very specifically of a \$494 million contract awarded to Keane rather than this global sum of both contracts and operational. To paraphrase and be fair to Mr Carolan's evidence today, he is effectively saying that in relation to the Metlink it makes it very complicated, the relationship between capital and operating, and I think he would like to have the myki component identified to be an actual \$600 million sum now, to summarise his evidence.

Mr PAKULA — I do not think you can summarise his evidence for him.

Mr O'BRIEN — I am being fair to him there, Mr Pakula. I do not agree. You heard what I said to him. I am trying to be fair in relation to how I have put that.

Mr PAKULA — Hang on! Chair — —

Mr O'BRIEN — Why do I get this every time I ask a question? They have had a fair go.

Mr PAKULA — Can I just say, Chair, on a point of order, it is not helpful if Mr Hehir is led to understand something that is not accurate, because he may then answer in a different way. I do not think it is appropriate for Mr O'Brien to purport to advise Mr Hehir what Mr Carolan's evidence was.

Mr O'BRIEN — And I did not.

Mr PAKULA — You did.

Mr O'BRIEN — I made it very clear that he would have an opportunity to respond to that evidence.

Mr PAKULA — But Mr Hehir's evidence will be different on the basis of what you tell him Mr Carolan said.

The CHAIR — Thanks, Deputy. I do not hear a point of order; I hear a point of difference, Deputy. Mr O'Brien, could you succinctly conclude your question so that the secretary can respond?

Mr PAKULA — Without purporting to repeat Mr Carolan's evidence.

Mr O'BRIEN — Without interruption, what I would like to ask you, Mr Hehir, is: in relation to this project the key assumptions were the ability to deliver its business case, which is a ticketing system for whatever sum — be it \$500 million or \$1 billion, or now \$1.5 billion — by a point in time, particularly originally 2007 when the OneLink was to expire or Metcard was to expire, and they have not been reached. It is our job to try to

find lessons learnt out of this to identify reasons why that was not reached. In this case there was a business case which had those assumptions. I would ask if you could identify anything for us now, or if necessary on notice, that is a reason of a causal nature why these milestones in terms of on-time and on-budget delivery of this significant project were not reached.

Mr HEHIR — I do not have any detailed financials with me on the changes in the budget. As I said before, I am happy to go away and see whether there is something that is available to the government on that. I think if you look at the Ombudsman's report on ICT projects and a number of Auditor-General's reports on ICT projects, there are some important lessons that have been learnt in Victoria and similar lessons are being learnt in other jurisdictions over recent years about how you go about doing these projects, which I think they point to reasonably clearly. Some of those are around the nature of ICT projects and how you go about contracting in a very dynamic environment.

One of the lessons the Auditor-General has identified in general, and which I think the Ombudsman points to, is that for a number of projects which have strong ICT components to them a staged approach to delivery is most likely to be effective in comparison with one where you try to define the complete answer at the beginning and then go to market on that, because of the nature and complexity of the projects. I think I will leave it there.

Mr O'BRIEN — Where does responsibility ultimately lie when there are cost overruns? To pick up your quote 'Success has a thousand fathers, but failure is an orphan', can you advise us in relation to the government and this particular project whether it is with the TTA's board, management, DOT or the portfolio departments? I note the Ombudsman also talks about the ownership that in a sense some ministers have and that they will not let go of a project even if it is over budget. What evidence can you provide about that?

Mr HEHIR — I think it depends on your definition of accountability, because, coming back to what we talked about before, it depends on whether you are talking about blame or who is responsible for various components of things. If you look at a very complex project like myki and identify the reports that have been undertaken, what they point to is a number of governance and process errors or poor performance across a whole range of activities. To say in a project like that it was one particular organisation would be a bit simplistic. There are projects where you can clearly identify where a particular flaw happened. I think one of the things the Ombudsman's report points to — it might have been the Auditor-General's report — with respect to myki was the significant changes in senior personnel at early stages in the project. I think that was in myki, was it not?

Mr O'BRIEN — I think they have identified there were five CEOs.

Mr HEHIR — I think if you have a project where it has a number of significant changes in the key personnel, you are going to expose it to more risks than if you have a consistent, high-quality team running along. That is just one example of it. Some of those things are within your control; some of the things are outside your control. When looking at accountability for individual things I think it is important to be clear about where things have failed because of poor process, poor implementation or things beyond their control. You need to go through all those factors. I am not trying to say that no-one is accountable, because clearly people were accountable for outcomes. But I do not think you should be simplistic about allocating accountability either.

Mr O'BRIEN — On a project like that. But to contrast it with some of the views about where the Melbourne Markets project has gone wrong, for example, there has been a suggestion that the governance and accountability structures have not been well defined. I will refer to Mr Ronaldson's evidence, if I may, given in the last session that effectively there was not a champion for that project within the government, as you sometimes need in a clearly delineated responsibility. Is that something that is required, or is it better that we diffuse our accountability across — —

Mr HEHIR — As I said before, I think every project needs to have a very clear governance framework where accountability for specific areas of delivery are clear, and as much as possible you have single-point accountability.

Mr O'BRIEN — Should that be hierarchical in a sense or generally?

Mr HEHIR — Generally, but it would not always operate that way. It would depend on the complexity of the project. From a Treasury point of view, when we provide advice to government on what we think is an appropriate governance structure for a particular project and that advice is taken up, I think, for example, we are accountable for the quality of that advice and whether it is effective, and whether that is a single-point hierarchical one or in some places is more complex depends on the nature of the project.

Mr O'BRIEN — Provided it is clear.

Mr HEHIR — I think the clarity, and that all the players within it know what the accountability is, is critical.

Mr PAKULA — Just while we are on the Ombudsman's report, we will have the Ombudsman in tomorrow — I think the deputy ombudsman is coming, not the Ombudsman — and we will have an opportunity to question Mr Taylor. I am interested in the four areas of the Ombudsman's recommendation that DTF does not agree with. I do not know if you need to have your memory refreshed, Mr Hehir, but they are the recommendation that 'DTF establish a fund for every major ICT system made up of the depreciation for capital projects'; the recommendation about agencies appointing a probity advisor and probity auditor in every ICT-enabled project over \$20 million; the recommendation about DTF developing and implementing a whole-of-government strategy to reduce the government's reliance on consultants and contractors; and the recommendation that DTF develop and maintain a list of individuals working in government with particular ICT-based skills et cetera, which goes to the question of whether or not government is an informed purchaser. DTF has rejected all those recommendations; admittedly that is 4 out of 42. Can you elaborate on why DTF does not support those recommendations for the committee?

Mr HEHIR — The first one on the fund I suspect is largely a difference of view around how government operates. Within the structure of how we fund organisations at the moment, we effectively do create a fund for each department for depreciation. It is contained in something called the SAU —

Mr MONFORTE — The state administration unit.

Mr HEHIR — the state administration unit, which is an account that is held for each department, because when we fund departments for their outputs we pay them for effectively the full cost of the delivery of it, which includes depreciation. We do not allow them to spend the cash that they get for depreciation. So that money is appropriated and then government makes decisions and puts to Parliament appropriation bills which set out what it wants to achieve. At any particular time you have each department receiving depreciation funding for their assets, which is in the state administration unit, and then government makes decisions about wanting to undertake capital expenditure. But between one department and another the balance between what is happening on depreciation and where government might want to spend might be different — that is, if you are going to build a \$5 billion road, it might mean that you are spending more in transport in a particular year and less in education.

What we do is then draw down the SAU capital bucket of money from the Department of Transport which is already appropriated for that project and then do a separate appropriation to give them a top-up of the amount of money they effectively have for capital through the project. At the same time the education department's balance will be growing until they get a project which means they run down their balance.

What we do is manage cash. If we were to put a little cash bucket of depreciation aside for every department, which we could not touch — which is how I read the recommendation — it would be incredibly poor cash management, because the cash balances we would have to have sitting around would be out of whack with what government wants to do with its cash. From a cash management point of view it does not make sense, and it does not take into account the fact that over time government may want to shift its balance on its balance sheet from one entity to another. If it wanted to do that with respect to, say, not wanting to spend on ICT in education anymore because it wanted to lease it all, but wanting to spend more in that space, you would be left with this bucket of money sitting over there. From a budget management point of view what is proposed just does not make sense to us.

Mr PAKULA — That is one.

Mr HEHIR — Sorry, that took a little bit longer.

Mr PAKULA — And the other three? The probity adviser?

Mr MONFORTE — The issue there is that we take the view that you should take a risk-based approach to these things. The Ombudsman's recommendation was around a universal requirement that a probity adviser and a probity auditor be appointed for every ICT project. We are supportive of the use of them in a project over \$20 million; there will be some \$20 million ICT projects that are pretty straightforward. It is about taking a risk-based approach rather than a universal one-size-fits-all approach.

Mr HEHIR — We are not opposed to doing it, but it is just when.

Mr PAKULA — You do not want to mandate it.

Mr HEHIR — Yes. With the Treasurer signing off probity auditors and probity advisers, we effectively already have a panel which is ministerially endorsed which people are required to use. Given that we have a panel in place, prequalified, why would we then want to be signing off every appointment from that panel? That did not seem to make sense to us.

Mr MONFORTE — Recommendations 40 and 41.

Mr HEHIR — I am not clear that government overuses consultants and contractors in this space.

Mr O'BRIEN — You also said that the Victorian government has already implemented a policy to reduce the use of consultants, which is reflected. In a sense is that not in part saying 'We have implemented that in part' rather than 'do not agree'.

Mr HEHIR — The government implemented savings measures in the budget before last which have reduced consultancy use across government. By basically saying it does not want it to grow, it is going to reduce it.

Mr MONFORTE — Sorry, Grant. The other element of this is not so much about reducing the absolute level of expenditure on consultants, it is about reducing the relative proportion of reliance on consultants vis-a-vis other resources. Our view is that it is up to departments to obtain the appropriate resources required to deliver a project. In some cases those resources will be available internally; in other cases you may need to access the market in order to obtain those skills and resources. To have a requirement that says you need to reduce your reliance on consultants is a concern; it reduces the accountability of departments in projects with significant issues.

Mr PAKULA — But is the point the Ombudsman is making there not about the arbitrary application of headcount and what that then means for departments in terms of how they have to utilise people?

Mr HEHIR — No, I do not believe so. I read it as basically saying that in-house expertise is, for some reason, better than the use of consultants. It is not obvious to me that there is evidence to say that the balance of consultants versus in-house expertise is inappropriate here. I did not see that evidence in the Ombudsman's report as being clear. It seems to me that what we need to try to do is get an efficient balance between in-sourced and outsourced expertise. Where you have an ongoing need for a skill or a capacity that you can fulfil as someone on your payroll, it is obviously cheaper to have someone on the government payroll to do that job. Where it is one-off or spasmodic, it can be cheaper to use consultants or contractors for that purpose rather than having to have someone on your payroll all the time.

Mr PAKULA — Except many witnesses before this committee, both in public hearings and privately, have at least suggested — and some have said outright — that it is that attitude that has led to a denuding of the skills set in the public sector and consequently a reduction in the ability of government to be an informed purchaser, whether they are dealing with ICT companies or major construction companies. Would you care to comment on that?

Mr HEHIR — I think that there is a lot of significant work that needs to be done in enhancing the capacity of government to be a skilled purchaser. It is not clear to me that there is a causal link between that and use of consultants and contractors. I have not seen any evidence that that could be the case. I think the thing that we are trying to do to a lot of the frameworks we are putting in place is get greater clarity of what an informed purchaser looks like — that is, what are the things that they need to consider? Once you know what the things

are that you are doing, as the agency that handles the project manager, then you need to make a decision about whether it is better to have that skill in-house or to bring it in, and that decision should be based upon what is the most efficient and effective way to produce an outcome. I do not believe it should be based on some assumption that having it in-house is better than having it outsourced. That does not make sense to me. And I have not seen evidence of that in-house.

Mr MORRIS — I would like to ask a question relating to the desalination plant. I am referring to page 17 of the department's response to the committee's questions. In particular the first dot point under question 3 sought information regarding the state's rights under the contract in relation to obligations to the constructing body for compliance with deadlines for the completion of construction. I am just wondering if you can provide to the committee more specific information, given that it has not been addressed in the response, regarding the contractual deadlines and an explanation of the state's potential financial remedies for non-compliance, and also advise the committee whether the government has exercised any of its contractual rights thus far.

Mr LOOS — The desalination project, as everyone knows, is a public-private partnership. In the public-private partnership the state enters into a contract with a special-purpose vehicle, in this case with AquaSure, and AquaSure then engages a builder to complete the works. In terms of the commercial arrangement in a PPP, the state only starts its quarterly service payment once the project actually reaches commercial acceptance, which is the point whereby the project is fully completed and in this case operational. There is great incentive for the consortium, and in particular the debt and equity investors, to make sure that the builder is building on time and to budget because in the event that the builder is not building to program, as is the case in the desalination plant, the debt and equity investors' investment is at risk because the state government does not start to make payment until the actual facility is fully completed, and if they miss the anticipated commercial acceptance date that was in the contract the term effectively is reduced and the term determines the number of years that debt and equity, if you like, get their return off their investment. So for every month that they are late past that commercial acceptance date there is a significant financial consequence.

Mr PAKULA — For the contractor?

Mr LOOS — Yes, for the contractor.

Mr WEBSTER — Also for equity; effectively the state is paying less. So in a delay the state pays less, the contractor pays more liquidated damages and equity return can be lower.

Mr MORRIS — But what you are saying is that aside from that cost there is no other potential financial remedy available to the state? It is fine, it has been raining for two years and we do not have a problem with water, but if we did have a problem with water, if we were down to 12 or 15 per cent and we were desperate for water, whether we are paying for it or not is of no consequence. We have a desalination plant sitting there that is not working when it was supposed to be. So do I assume from the response that under the contract there is no other financial remedy available to the state?

Mr LOOS — There is a significant incentive for the consortium to deliver on time. All the capital costs, if you like, in the facility are provided by the private sector before they start getting any payment at all, and if they miss the contractual date of commercial acceptance —

Mr MORRIS — I understood the answer the first time. What I am asking is whether there are any other financial remedies available to the state under this contract.

The CHAIR — Are there any penalties; is that, in effect, what you are asking?

Mr MORRIS — Yes.

Mr HEHIR — You are asking whether there are any additional penalties?

Mr PAKULA — No, total penalties — the penalties.

Mr HEHIR — The penalty that the state applied to AquaSure, which they entered into a contract with, is that if they are late, they get less money. It is a significant financial penalty.

Mr MORRIS — They get less money and we get less water.

Mr PAKULA — Do we know what that number is up to at the moment?

Mr LOOS — We will have to take on notice the actual quarterly service payment per quarter.

Mr HEHIR — I think we can take that on notice.

Mr LOOS — Yes, we can come back with that.

Mr PAKULA — I heard a number of \$791 million.

The CHAIR — Is that just a random number?

Mr PAKULA — No, that was a number that I understood had been published.

Mr HEHIR — There certainly was a number that was in the budget, but I cannot recall what exactly the number is. We can come back to you.

Mr LOOS — But in terms of incentives generally, the reliance is that there are suitable incentives for the SPV to actually complete the project, and were there to be additional penalties imposed above and beyond that by governments, we would expect that to get priced back into construction contracts. That is a value-for-money equation in terms of whether you put additional penalties in there for the overall cost of that, and generally over a portfolio the view is that incentives to complete the projects are sufficient.

Mr HEHIR — But remembering that if you go beyond the government contract to the contracts between AquaSure, who we are procuring off, and the construction companies, they have contracts which back what they are doing, which impose penalties upon the construction companies, which are part of our whole deal.

Mr PAKULA — Just a follow-up: everyone who reads the newspapers would know there are a range of commentators who query whether projects such as these should be done as PPPs rather than direct government builds. My recollection was that the original PSC on this project, PPP versus government, showed that the benefit of the PPP was in the vicinity of a billion dollars. I think that is my recollection, but correct me if I am wrong. The reason that it was originally decided to be a PPP, I think, was because the public sector comparator suggested that was the appropriate — —

Mr WEBSTER — To be clear, the cost overruns which have been reported were being borne by the private sector, so the taxpayer — —

Mr PAKULA — Yes, that is the point I am getting to. So when you add up the original public sector comparator decision, or the original numbers contained in the public sector comparator, plus the cost overruns that have been borne by the private sector, how much worse off would the state be if this had been a direct build rather than a PPP — right now?

Mr HEHIR — We can come back to you on the PSC thing. Like all PPP projects, there is a project summary on our website which include the comparison of PSC to that. What we do in PPPs is we transfer risk, and the transference of risk — —

Mr PAKULA — Changes behaviour.

Mr HEHIR — It changes behaviour, but it is reflected in what you see happening with projects. Some projects the private sector delivers very well and makes good profits out of. Some projects they deliver less well and make losses out of, and over the life of when we have been doing PPPs you can see projects where, when the companies have taken them on, their share value at some point down the track has deteriorated as a result of the project or has been enhanced because they have taken on risk and they have managed it in a way. What you have to compare is not whether they make a loss or whether they make a profit but what would have happened in the alternative case, because — —

Mr PAKULA — That is what I am interested in.

Mr HEHIR — That is difficult, because it is not the PSC that you are comparing, it is what would have happened to us in the environment that has happened since we entered into the contract between then and now.

There is absolutely no doubt, I think, that we transferred weather risk in a number of PPP projects at a period when Victoria had been in a drought for a decade. We transferred that risk, and a number — —

Mr PAKULA — The weather risk on construction?

Mr HEHIR — Yes, and in a number of those projects that weather risk transfer has resulted in cost increases to the companies that we dealt with, which they have had to wear because the contract transferred it. And it was based on everyone's assumptions about what weather looked like because of the 10-year drought. What has happened subsequently is that if we have been building some of these projects, clearly we probably would have worked under the same weather assumptions as they did, and we would have worn the weather risk.

Mr PAKULA — So have you done an estimate of what the state would have been up for extra if it had been a D and C rather than a PPP?

Mr HEHIR — No, because it is a PPP and we believe we got value for money.

Mr PAKULA — Right; you do not need to worry about it.

Mr HEHIR — We did that analysis at the beginning.

Mr O'BRIEN — And as part of that, we went to Kwinana in Western Australia as a committee, and this goes back to this whole question of the business case and the decision, because it is not just the nature of the project, it is what the size of the project means for Victorians. It may be you are not able to answer this, but I will ask it of you and see how you go anyway. Part of the risk profile that has been identified is in the sense that it is a very large plant with payments being made whether or not there is water to be taken at all, which in effect brings it back into the whole water balance and the whole need for the project in the first place, as opposed to say the Western Australian scenario, where they had had a longer period of development of that project, including many more years of drought to actually plan a water case, and — —

Mr PAKULA — They built two.

Mr O'BRIEN — Yes, they built them one at a time, and we are looking at what we should have built here, Mr Pakula. If you have a look at the process that went wrong, again politics come in, but it is perhaps relevant that the coalition at the 2006 election based its model effectively on a design that was simple, an adaption of the Western Australian case, at a smaller scale — at a \$400 million scale. When you then go to a larger scale, particularly one that you have gone to an election saying that you should build, what sort of risk transfer issues does that identify, if you can answer that?

Mr HEHIR — If you are asking whether the risks are proportionate to size or there is an increasing scale of risk depending on the project, I do not believe we have done analysis to determine whether risk is proportionate or varies according to size for a desalination plant, so I do not believe I can answer that question.

The CHAIR — Thank you. Mr O'Brien, I think the secretary is intimating that the issue you are seeking to tease out is beyond his scope. We are going to wrap it up here, and I want to thank everybody. But before I do, Mr Morris wants to put a question, in effect on notice, which is information that he is seeking.

Mr MORRIS — Yes. We had DPI in before you this afternoon, and there was some discussion about the PSC used for the Melbourne Convention Centre. We know that with the two versions — the raw PSC and the risk-adjusted one — the raw one had been released but it is my understanding the risk-adjusted one had not been. I did ask why that was the case, and they said ask DTF. So I am asking DTF.

Mr LOOS — As part of our tender process we released the raw public sector comparator, which is the state's estimate of the design, the construction and the maintenance and auxiliary services — our estimate — and at that time we did not release the transferred risk component. We did a risk analysis in the PSC, so the PSC is broken up into raw and then transferred risk. We make the raw component available so we give bidders a good understanding of the scope of what we are actually looking for — like, do we want a Mercedes-Benz or a Commodore — so they can read into that.

Mr MORRIS — Yes, fair enough.

Mr LOOS — But when we get to assessing value for money, getting through the process, signing a contract and getting a financial close, we then put out in our project summaries the fully risk-adjusted public sector comparator and show how that compares to the winning private sector bid.

Mr MORRIS — So it is in fact available?

Erratum received from Mr Jason Loos, Director Partnerships Victoria: Not publicly. The Melbourne Convention Centre Project reached financial close prior to the current policy requirement for PPP project summaries to be prepared and published on the DTF website within 3 months of financial close. PPP project summaries contain a section that details the bid comparable public sector comparator and the winning tender price.

The CHAIR — That is a good note to conclude on.

Mr MORRIS — It is good to get some information.

The CHAIR — I will also say that the secretariat will follow up with some questions that we did not quite get to because I established that we spent the first 65 minutes of the session talking more generically rather than specifically about the projects. So what I am desirous of doing is actually teasing out some information that you may be able to answer that is not cabinet-in-confidence, that was missed, in effect, in the response to the questionnaire. But the issues of matters of cabinet-in-confidence we will pursue with the Treasurer. Thank you for your attendance. This closes the hearing.

Committee adjourned.