

VERIFIED VERSION

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

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

Melbourne — 21 March 2012

Members

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Mr P. Davis

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Mr D. Morris

Mr D. O'Brien

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Witnesses

Mr A. Tongue, Secretary,

Ms P. Digby, Deputy Secretary, Planning, Building and Heritage, and

Mr K. Hudson, Manager, Construction and Procurement, Department of Planning and Community Development.

**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 welcome from the Department of Planning and Community Development Mr Andrew Tongue, secretary; Ms Prue Digby, deputy secretary, planning, building and heritage; and Mr Ken Hudson, manager, construction and procurement. Members of Parliament, departmental officers, members of the public and the media are also welcome.

In accordance with the guidelines for public 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. Departmental officers, as requested by the secretary, can approach the table during the hearing to provide information to the secretary, by leave of myself as Chair. 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 for filming or recording proceedings in the Legislative Council committee room, and no more than two TV cameras are allowed at any one time in the allocated spaces. May I remind TV camera operators to remain focused only on the persons speaking and that panning of the public gallery, committee members and witnesses is strictly prohibited.

As previously advised to witnesses here today, I am pleased to announce that these hearings are being webcast live on the Parliament's website.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act 2003, attracts parliamentary privilege and is protected from judicial review. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. This committee has determined that there is no need for evidence to be sworn; however, witnesses are reminded that all questions must be answered in full and with accuracy and truthfulness. Any persons found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty.

All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript to be verified and returned within two working days of this hearing. Verified transcripts and PowerPoint presentations will be placed on the committee's website within two weeks of this hearing.

Following a presentation by the secretary, 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 that all mobile telephones be turned off.

I now call on the secretary to give a brief presentation of no more than 4 minutes, if he so desires.

Mr TONGUE — I will be very brief. DPCD's engagements with major infrastructure works really turns on three areas: the environmental impact assessment and statutory approval process; housing and building policy, where we provide housing and building policy advice; and also as a client, particularly in the areas of sport and urban development.

Through our environmental assessment unit we deal with referrals under the Environment Effects Act 1978, the Major Transport Projects Facilitation Act 2009 and also approvals under the planning and environment legislation. In the area of housing and building policy we provide a range of advice on public construction procurement policy and procedures. We also provide the chair of the construction contracts advisory panel. And then in terms of being a client for major infrastructure works, we are involved in AAMI Park, Melbourne Park, a whole range of other sporting facilities and, of course, urban renewal through Places Victoria in particular. We have a policy role and regulation role, and as a client. Those are the lenses through which we see these issues. I will leave it there, Chair.

The CHAIR — Thank you for your time today and for your willingness to actively participate and engage with the committee. I especially thank you for your comprehensive response to the questionnaire that has helped to inform the committee's consideration of issues which we may raise with you. It is helpful that we have that background.

Evidence has been led to the committee over an extended period now, particularly over the last day or so, about the deskilling of the particular aspects required to deliver infrastructure for the Victorian public sector and a

trend to more generalist managers rather than specialist managers. In your questionnaire response you refer to the two ministerial directions on tendering provisions and contractual provisions for which DPCD has policy responsibility, which are aimed at achieving a high degree of consistency in public construction projects, and which state that it is not the responsibility of DPCD to specify requisite competencies and skills, which segues from the evidence that we have been receiving about this major shift in focus of competencies. I ask: if skills are not addressed in these two policy pronouncements for public construction projects, what is the department's role in ensuring that optimal decisions are reached by project practitioners for compliance with the pronouncements?

Mr TONGUE — I think there are a couple of roles that I would draw the committee's attention to. We chair the construction contracts advisory panel, which is a whole-of-government forum which brings together key senior staff involved in major construction works. That is established under the ministerial direction no. 1. That is an opportunity for people to both share this practice and discuss current challenges in the delivery of major projects. I point to that body established under direction no. 1.

The other area is in the establishment of project control groups that are established certainly by us and other agencies as they are dealing with major infrastructure works. Those control groups bring together a range of skills. For example, Treasury is involved in procurement or financial skills, we might be involved from a planning side, transport will come in if it is a transport project and so on. Major Projects Victoria will come in. I think there is a range of ways that we bring different sets of eyes to particular construction challenges. The key one I would point to is the construction contracts advisory panel.

The CHAIR — You flagged your engagement with DTF in that response. I am interested in exploring this issue about competencies and skills further, because in your response to date — and I presume in relation to an interaction with DTF at various levels in terms of project management — you have not defined in any way what specific competencies, skills and qualifications are requisite for the delivery. Where I am trying to get the discussion to is where, if anywhere, are those technical qualifications required? If evidence is perpetually being led to us, as it is, about the generalist nature of people who have described themselves as project managers, and if 80 per cent — it was the figure we heard earlier today — of them have a financial background rather than what I would describe as a hard engineering background, it sounds like we have not actually got a lot of people who can use the tools in simple terms. I am interested from your perspective how you relate to the skills set?

Mr TONGUE — I think I will take the committee back to the genesis of all of this current framework we are talking about, which was when major construction work was devolved out to partners and agencies. The assumption in that devolution process was that each agency would be responsible for the requisite skill sets it needed. Clearly building a school involves a different skill set to building a four-lane highway.

The various guidelines and frameworks that exist largely go to process, if you like, and getting consistency across government in the contracting process and not necessarily the delivery process. Having said that, as each agency approaches the task — I think you have heard from colleagues around particular projects — agencies draw in the skills they consider necessary to deliver on the particular project.

From a DPCD perspective we are particularly interested in the up-front approval process. That is a key part of our work. We have a major project assessment and approval arrangement. What I would highlight there is the difference between scoping a project, nailing it down and then delivering it. Where we are the clients, we typically rely on Major Projects Victoria — for example, the tennis centre redevelopment and those sorts of things. We would procure the skills — project management, hard-headed engineering and architecture et cetera — through Major Projects Victoria. If it is urban renewal, it is now through Places Victoria. We would try to procure skills from those entities.

Ms HENNESSY — Mr Tongue, given you are a purchaser as well as a provider in different circumstances, or a regulator, can you provide us with any good examples of what you think have been best practice examples that you have experienced from either government departments or the private sector and perhaps take us through what you think have made those good experiences around delivering a quality project and a project that was on budget?

Mr TONGUE — I think there was the work done by our urban development division around central activities areas where we conducted a skills audit. We recognised we were going into a body of work that was

not something we had traditionally been engaged in. We conducted a skills audit and worked through where we had strengths and deficits.

Ms HENNESSY — What were the deficits, out of interest?

Mr TONGUE — We identified that we needed some of those hard-headed sort of construction types of skills and also project management. Again, there is financial project management and there is also being able to, if you like, kick the tyres in regard to project management. Another area where we have actually got some quite skilled people is in just property management. Particularly in terms of urban renewal, there is a stock of property you have to manage as you move through the process of redevelopment. I would highlight that.

Ms DIGBY — It is a deficit.

Mr TONGUE — It is a deficit, yes. The other area I would highlight is some of the major sports projects we have been involved with. I think DPCD worked very hard through Sport and Recreation Victoria at the project definition, if you like, selection and maintenance of the aim of the project and defending that against mission creep and then worked very well I think with Major Projects Victoria. Those projects, from recollection, had some slippage of time but were pretty good around money, so I would highlight a few areas where we have either directly done well or with our partners done well.

Mr MORRIS — Before I get to my question I should advise the committee that obviously as Parliamentary Secretary for Local Government I have an association with the Department of Planning and Community Development but my responsibilities, such as they are, do not extend to any of the matters that we are engaged with this morning.

Ms HENNESSY — We will not take that as a huge, glaring conflict of interest, Mr Morris.

Mr MORRIS — I just put it out there to start with.

Ms HENNESSY — A very good disclosure.

Mr MORRIS — I also reiterate the Chair's comment about the appreciation of the committee for the submission provided.

One of the terms of reference that we have been asked to consider — and I will read it out — is:

- (d) 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 wondering, not being familiar with ministerial directions 1 and 2 in terms of the detail, whether they address to any extent those matters and whether in your opinion there is scope for more effective coverage of those areas?

Mr TONGUE — I think the whole-of-life question is an interesting one for major public infrastructure procurement. Whole of life is a very topical issue, say, in defence procurement. What is the life of a fighter? What is the life of a ship? In major infrastructure works a sewer might last for 100 years and a major road similarly, so those whole-of-life questions are probably a more recent consideration. Is there scope to look more at those questions? Certainly I think we are obliged to keep learning from best practice. We are constantly, say, working with local government around asset management and asset maintenance, those sorts of things, which leads you to an ability to be able to price whole-of-life costs. On ministerial directions 1 and 2 I will take a bit of guidance, but they generally focus much more on the procurement end than the life-cycle end.

Mr HUDSON — That is right. Ministerial directions cover two aspects. Ministerial direction no. 1 is called 'Tendering provisions', and it focuses specifically on the rules, if you like, about how departments and public bodies approach the market based on the dollar value of the work; so whether public advertising, pre-qualification or three quotes is the best approach for both works and services. Ministerial direction no. 2 specifically focuses on the principles that are embedded within a construction contract and then specifies the forms of construction contract, assuming that decision making has been made beforehand to enter into a contract, and it does not go beyond the finish — the practical completion, if you like, or the handover of the project. They are not designed to go beyond those very limited requirements in order to ensure as far as possible

that departments and public bodies are consistent in their approach to the market and in their contractual arrangements, and transparent. There is no direction as such on requiring any whole-of-life costing or analysis in those ministerial directions.

Mr SCOTT — I just seek some clarity, and this returns to a theme that I think the Chair was discussing about specific engineering and hard skills rather than finance. I noted that in response to question 6 there was a series of dot points which outlined the expectations on public sector managers responsible for public construction and procurement and the skills that were required. I would be interested to know why, although there was reference to project and contract management and knowledge of the construction industry, there was not a dot point there related to specific engineering skills.

Mr TONGUE — I think it goes to, in part, the models of procurement that get used. For example, in I think it was in transport — I know you have spoken to my colleague Jim Betts — through VicRoads there would be engineering skills engaged. For DPCD, as I mentioned earlier, we typically contract those skills in. Our issue is really the approvals process and managing the money and then working with Major Projects or Places Victoria or whoever had those skills. So I think my sense is that there is a question about the role of the agency in the procurement process and what it is purporting to buy. Sometimes — most often — we will buy a set of skills that would include those engineering and other skills, and what agencies will be focusing on is more the public finance management of a project.

I think it goes to a question the committee will no doubt deliberate on about what model we want to use in the future. Do we want to have more of those skills in-house? Do we want to buy a different thing from the market? The market, I would suggest, has set itself up in dealing with government to provide a lot of skills that maybe government once provided. A lot of the work around various codes being conducted by COAG, Infrastructure Australia, infrastructure partners and so on, I think, is probably leading us slightly back, if you like. The pendulum has swung one way and maybe it is coming back.

Ms DIGBY — Maybe if I could add to that, in the DPCD's case you do not have the volume of work of significant infrastructure, over \$50 million, to actually gainfully employ somebody with just that one set of skills. That is why there is the attitude that you buy them in when you need the skills, for project-specific purposes.

Mr ANGUS — Mr Tongue, I just wanted to return to the matter of the construction contracts advisory panel that was touched on earlier. Could you please flesh that out a bit more for the committee in relation to how that practically works, and what is the level of involvement of that particular committee?

Mr TONGUE — Ken?

Mr HUDSON — The terms of reference for the panel were initially set up under ministerial direction No. 2, which you will recall is to do with constructing forms of contract. Primarily the construction contracts advisory panel, as per its name, is a panel of practitioners from each department. It is not a strategic decision-making body per se. It talks about the technical aspects of construction contracts down to particular contract clauses, which have to do with risk allocation, liability provisions and special conditions that might be prepared for construction contracts to reflect, say, Victorian government policies — that sort of thing — and how they are working in the delivery of projects. So the members of the panel tend to be drawn from the major works delivery divisions of each department, and their role is to share information amongst each other about how construction is working, legal cases — that sort of thing — that might drive changes in the contract provisions.

Mr ANGUS — In relation to that, if department A has got something going on, they will bring their potential contract, or their actual contract, along and perhaps seek input from others; is that what you are suggesting?

Mr HUDSON — From time to time. It usually does not get down to the specific project because the panel is there to consider forms of contract that can be considered as whole-of-government contracts across the board. So the forms of contract that are approved tend to be the standard or agreed form for major construction generally, for design and construct generally and for engagement of consultants generally.

If it comes down to a particular project that has a particular need, the provision to account for that is contained in a procedure and the guide to ministerial direction no. 2, which says, hypothetically, that department A has a

complex unusual project for which standard procurement processes are not suitable. Therefore another form of contract might suit that project — a form of contract that has not already been approved under the direction. An example is managing contractor contracts, which do not happen very much, but when they do we do not have a standard form contract for that, so seeking approval for the use of a non-standard form of contract is contained in the guide to the direction.

The CCAP members would discuss aspects around whether those contracts are good contracts or not in general terms but would not generally and do not have a role in directing whether a department can or cannot use a particular form of contract. That is the department's decision, because they have the responsibility and accountability for their construction works.

Mr O'BRIEN — Thank you for your presentation. I wanted to take up an issue in terms of planning, because there have been a number of submissions that have talked about the problems when there has been a failure to plan in relation to infrastructure provision and the importance and benefits of long-term planning. I note that your submission has touched on this in relation to coordination, and in response to question 2 it states, 'works closely with the Department of Transport, VicRoads, DPCD' et cetera. We have had Engineers Australia make a submission calling for better coordination in infrastructure planning, and particularly they identify that perhaps there has not been a long enough time frame in terms of all of our planning documents in terms of horizons. They talk about Melbourne 2030 et cetera and then a 10-year vision for roads where some of this infrastructure has assets of 40 years to 100 years life, and also the coordination.

I will add in a decentralised issue but one that is an issue of my background, which is a need to better coordinate planning across the state as opposed to just Melbourne 2030 — regional areas as well, particularly given the relationship between the city and regions. I note this is something I will take up with the Committee of Melbourne. For example, they say:

Committee for Melbourne believes that government should be actively involved in the provision and redevelopment of infrastructure, and take the following steps:

- allocate responsibility for coordinated long-term planning;
- integrate land-use planning and the provision of infrastructure;
- set aside land where planned infrastructure requires dedicated sites or corridors;
- identify future infrastructure needs for up to a 50-year horizon ...

It is, of course, just focused on Melbourne. Do you agree that that is something that perhaps with the experience of the last 10 years in terms of metropolitan growth et cetera the government needs to focus on more, and do you also agree that it needs to be better coordinated across infrastructure and also into regional areas?

Mr TONGUE — Yes, I think we can always learn about the benefits of major infrastructure projects. You can think about some of their projects that have shaped Melbourne and adjacent regions — say, the Western Ring Road all those years ago and the way that liberated a whole precinct about warehousing and so on, and the work around the Geelong Ring Road and the way effectively it is affecting property values even maybe 75 kilometres or 100 kilometres away as people can get more quickly past Geelong and then down to the south-west.

There is that sense that major infrastructure projects need both a long horizon of planning and what I call project specification and that sense that it is important to take time to imagine a project, not just in a technical sense but also the impact it is likely to have. Certainly the current government is very focused on metropolitan planning, regional growth plans and the notion that you do need a long horizon.

We have certainly done some work. Since the 1954 plan — the Melbourne and Metropolitan Board of Works plan — I think there have been 20 plans that touch on Melbourne. I think we are good at generating plans; the issue is in the implementation. We live in a real world with real constraints, so maximising the benefit of projects is really important. We do get caught out in the planning — the 70 per cent increase in public transport patronage I would think caught everybody out; nobody was anticipating something like that. Having got it, what does that then mean for the shape of the city or the regions?

I will call it the technology of planning. That has evolved a lot too. In the early days it was simply, 'We just have to get subdivisions done'. Now the Growth Areas Authority is on the urban fringe planning sporting facilities, community facilities and working with partners around road networks. It is concerned about water. It is concerned about growling grass frogs, golden sun moths and small lots. There are a whole range of opportunities and constraints that have now come into some of this long-range planning. Something like, say, regional rail offers some real opportunities to shape the city, provides real benefits to regional communities and provides scope to get some really good urban form.

I think what DPCD and transport now do is that we work very closely together. The criticism in the past has been that there was not enough linkage; we now have combined project teams on some of the big thinking so we can maximise some of those urban form and infrastructure benefits. I think that is a very positive and exciting development. Can we do better? Sure; we can always do better.

The CHAIR — Just very briefly — we are actually out of time.

Mr O'BRIEN — In terms of that long-term planning in some of the projects — say, Geelong — some of the planning was more controversial or involved more acquisition. Again, where there has perhaps not been a long-term arrangement, and I am also thinking of Torquay et cetera and those issues where there has been infrastructure provision needing to be — I will not say retrofitted — done at the same time as a development, that puts pressure on government for land acquisition costs, and that is a problem we should try to overcome where we can.

Mr TONGUE — Yes, and if you look at recent history, there was a period of growth in Melbourne between 2008 and 2010 when it just grew at a rate that probably was not anticipated. I think that generated some lags. I think we are probably in a more sustainable period now. Things like the growth areas infrastructure charge actually give governments a few more tools to try to bring infrastructure in at an appropriate time. Community expectations, of course, are pretty high about what we will roll out with suburbs. In the old days they did not even put footpaths in, nor sewerage. Now all of that rolls out together.

Mr O'BRIEN — Last comment on the very old days: when the very first surveys of a lot of our old towns were done they were actually planned very well, with parks. It is ironic. The surveyors who did them did an excellent job.

Mr TONGUE — They did, and look at the benefit; look at the endowment of the inner part of Melbourne in that regard.

The CHAIR — Very quick, Jill.

Ms HENNESSY — Mr Tongue, just a related issue. We had evidence put before this committee compellingly yesterday from VAGO — the Auditor-General and his staff — which kind of pointed to the deficiencies of both the political and the bureaucratic classes and their capacity to manage infrastructure, not just in the planning but also how we resolve issues of financing and risk between the public and private sectors. The Committee for Melbourne have put forward a proposition that a permanent statutory body should be created that reports to Parliament — thereby taking the politics out of it — called the Victorian Infrastructure Commission, with the aim of providing independent advice on the condition and performance of Victoria's infrastructure and long-term planning for future infrastructure needs. Given our infrastructure and land use planning, along with the resolution of public-private financing and risk when it comes to infrastructure, do you not think that perhaps its time has come?

The CHAIR — That was not a quick question.

Ms HENNESSY — I take my lead from Mr O'Brien's question, Chair.

Mr TONGUE — I will be very brief. I am relatively new to Victoria and Melbourne, but since I have arrived a number of people have wanted to hark back to the Melbourne and Metropolitan Board of Works.

Mr MORRIS — They obviously do not remember them too well!

Mr TONGUE — In a contemporary political and policy environment — personal view — people elect governments to govern, and as much as public servants might like to think about the benign guiding hand, most

of the issues about planning and infrastructure are contested issues. I think it does not matter who is in power or what the politics of the day are. That is the democratic process.

Ms HENNESSY — So you would not support something like an Infrastructure Australia or an Infrastructure New South Wales? Do you see those as a diminution of democratic mandate?

Mr TONGUE — I think ultimately governments decide — bureaucrats advise, governments decide.

Ms HENNESSY — And it does not work?

The CHAIR — I think that is three questions.

Mr O'BRIEN — Perhaps it is best we take Labor out of it rather than the politics out of it. That might create a better result.

The CHAIR — I think we have got to the end of this. We are seriously over time, Ms Hennessy. Thank you.

I would like to thank the officers from the Department of Planning and Community Development, and particularly the secretary, for attending what has been a very constructive session today. We will inevitably have further matters we wish to raise with you. We will write to you at a later date and look forward to your responses within 21 days. While this concludes this hearing, the committee may be in touch with further questions and there will be additional hearings later in the year in relation to specific projects. It is within our terms of reference, which say:

- (d) 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.

In relation to that I am referring to the fact that we will be looking at specific case studies to flesh out some of the learnings from projects that have gone well and others that have not gone as well. So thank you very much, and could you provide any further comments as a result of your riveting listening on the web to the remaining day and a half of hearings?

Witnesses withdrew.