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VOLUME 2
INTRODUCTION

The Special Inquiry into Government Programs and Projects was a very large task.

In the course of examining the list of programs and projects between 2008 and 2017, the Special Inquirer determined that there were a number of themes.

Volume 1 of the Special Inquirer’s report covered the themes of governance, public sector capability, leadership, transparency, planning and project management, and procurement and contract management. Volume 1 also included chapters on Royalties for Regions, Government Trading Enterprises and State Finances.

VOLUME 2

Volume 2 comprises the reports for each of the programs and projects from the inquiry’s terms of reference. Each report includes a synopsis of the project and evaluation of its governance, project management, procurement, contract management and identified cost and benefits analysis. Each has findings, and where appropriate, recommendations.

Because of time constraints for the inquiry, the examination of each program or project has been limited to a defined scope. This means some were not examined in their entirety. The Special Inquirer’s decisions to limit the scope on some large programs and projects was based on the number of issues and problems within that aspect of the project, and whether previous credible reviews had been undertaken. For example, the construction of Fiona Stanley Hospital was not examined because it came in on-time and on-budget. The scope for examination of the GovNext-ICT program did not include the procurement of the services for GovNext-ICT as this has been the subject of previous detailed reviews. The Special Inquirer ensured that matters that had previously been raised by the public, or in Parliament, in relation to projects were included in the examination.

The findings and recommendations for each project are contained within the separate reports. In most circumstances, the recommendations are aimed at the agencies involved in the projects. Where the recommendations have whole-of-government impacts, they have been included in the relevant chapter in Volume 1 of this report.

In most cases, the agencies responsible for projects were very cooperative and helpful. They provided documentation, answers to written questions, attended hearings, and reviewed draft findings. Volume 2 comprises the following reports.
Synergy projects
• Consulting contracts
• Synergy billing system
• Muja Power Station

Western Power projects
• Consulting contracts
• Woodlands transmission line
• Project Vista

WA Health projects
• Fiona Stanley Hospital – Facilities Management contract
• Perth Children’s Hospital
• St John of God Midland Public Hospital
• Karratha Hospital Relocation
• QEII Hospital parking
• Major ICT contract (Centralised Computing Services)
• Outsourcing of non-clinical services (medical typing)
• NurseWest Arrangement

Royalties for Regions projects
• Pilbara Underground Power
• The Ningaloo Centre
• Bulgarra Regional Sports Complex
• Wanangkura Stadium
• Ord River Irrigation Scheme
• Pilbara accommodation
  • Hedland 125
  • Old Port Hedland Hospital site
  • The Quarter
  • Pelago

Perth Stadium
• Perth Stadium and transport infrastructure
• Swan River Pedestrian Bridge

Other projects
• Elizabeth Quay
• Land Asset Sales
• Net Feed-in Tariff
• Common Use Arrangement for Temporary Personnel Services
• GovNext-ICT
• Road Safety Commission and Rugby WA Partnership
Synergy is one of two Western Australian Government owned statutory electricity corporations specifically responsible for the sale of electricity and power generation within the South West Interconnected System. Until 1 January 2014, the generation functions of Synergy were undertaken by a separate corporation called Verve Energy.

The Special Inquirer examined Synergy’s involvement in three projects between 2006 and 2017, these being:

- Consulting contracts;
- Synergy billing system; and
- Muja Power Station.

In August 2017, the Special Inquirer commenced consultation with Synergy and obtained relevant documentation to the projects. On 28 September 2017 and 19 October 2017, the Special Inquirer conducted hearings with Synergy representatives, including the Board Chairman and Chief Executive Officer.

A key focus of the Special Inquirer was to determine whether the consulting contracts, the billing system and Muja Power Station projects had sound procurement practices and offered value for money outcomes. The Special Inquirer’s examination did not encounter positive signs in all of these areas for the projects.

Synergy was unable to provide the full tender and evaluation documents for all ten sample consultancy contracts, many of which were awarded to a single supplier. It is therefore difficult for the Special Inquirer to determine whether Synergy made sound decisions that offered value for money.

Synergy’s billing system project involved replacing the existing customer information and relationship management systems. It was logical for Synergy to seek efficiencies after the separation with Western Power’s information technology systems. Synergy’s project management and the underlying financial assessments that formed the business case were inadequate, leading to a total cost of $93.4 million for the project. Synergy’s records and statements led the Special Inquirer to believe that other costs were both

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directly and indirectly associated with the billing system project. It is therefore difficult, with the information made available, to determine whether Synergy will realise the benefits or savings that they set out to achieve in the short and long term.

As mentioned previously, Synergy took over the generation functions from Verve Energy on 1 January 2014. In 2007, Verve Energy had conducted an expression of interest process to determine the future use of the Muja Power Station. Verve Energy engaged in a joint venture with Inalco to refurbish four 60MW units at Muja Power Station. This included the installation of pollution abatement equipment and a number of new enhancements to the plant.

Verve Energy provided a financial guarantee of $150 million to Inalco which indemnified and backed the debt in the event of default by Inalco. Synergy did not submit any documentation to provide reasoning as to why Verve Energy selected Inalco over other shortlisted companies, nor was a business case provided for the project and joint venture with Inalco to form Vinalco Pty Ltd. As a private company, Vinalco made decisions independent of Verve Energy’s Board. Verve Energy seemingly took on a substantial amount of risk with the financial guarantee and lacked the governance to control and approve the scope of works, contract variations and payments to Kempe Engineering Services for the refurbishment. From an estimated cost of $150 million, the actual cost for the refurbishment was $308 million and was fully funded by Verve Energy.

Records management was an issue for all three projects. The projects lacked information to show that Synergy or Verve Energy made sound decisions with reason, included accurate measurable benefits and that risk identification and mitigation strategies were implemented.

The Special Inquirer would like it noted that past and present Synergy Board members and management were very cooperative throughout the inquiry process. They were helpful in providing responses, open in sharing information and corporate knowledge and accepting of the Special Inquirer’s findings on the need for improvement.

Synergy has informed the Special Inquirer that significant improvements have been made in recent years and that recent projects have been very successful.
“There were also areas of extra cost due to issues arising from the project that had not been included in project costs.”
– John Langoulant, Special Inquirer.

Synergy moved to update its information and billing system in 2007. It considered the system in use since 1994 to be outdated, and a more efficient system was needed. A key factor was to counter competitors expected to enter the energy market.

Global management consulting and professional services company, Accenture, was selected to introduce the new process at a cost of $70.4 million over 10 years. The monetary “benefits” were assessed to be $163.7 million. Yet it was apparent within seven months that Accenture would not deliver a significant component of the project. Fresh tenders were called for this work.

An Indian-based IT company, Tata Consultancy Services, was successful. It planned to provide services based in India to use specific skills and lower costs. After media reports about local jobs going overseas, the Minister for Energy gave an assurance this would not happen. The company eventually moved resources to Perth, apparently at extra cost.

In September 2009 Synergy revised the cost to $90.4 million — up almost 30 per cent. But the new system proved to be accident prone, with significant processing errors and billing problems for customers.

Synergy has not analysed the full cost of the project including the additional run costs.

### Government agency:
Synergy

### Project timeline:
2007 - 2012

### Total cost to Government:
$93.4 million

#### Timeline:

- **2007**: Synergy’s business transformation initiated
- **2007**: Accenture selected to design, implement and run billing system replacement project
- **2008**: Synergy and Accenture fail to agree on terms
- **2009**: Tata Consultancy Services selected to run system and provide some services offshore
- **2009**: Media speculation. Minister for Energy commits to local support centre (moving Tata resources to Perth)
- **2012**: Synergy unable to communicate benefits due to changing business environment. Total project cost unverified, however it exceeds $90 million
SUMMARY

After separation from Western Power systems, it was reasonable for Synergy to investigate the replacement of the existing customer information and relationship management systems. This position was based on the rationale for preparing for competition in a more dynamic electricity market. The new process would drive increased responsiveness to market requirements and opportunities.

According to Synergy, the delivery of the new system assisted in achieving a significantly lower ‘cost to serve’ target, prepared Synergy for increasing levels of competition in Western Australia and re-engineered more than 80 per cent of their customer-facing processes.1 During its hearing with the Special Inquirer,2 however, Synergy noted that its September 2009 internal assessment of value for money was incorrect as there were defects in the customer information and relationship management systems.

The billing system was implemented about a month late and, on the face of it, came in on the revised budget of $90.4 million. There were also many areas of extra cost due to issues arising from the project that had not been included in project costs. The calculation of net present value and benefits expectations were established on highly uncertain assumptions and there were significant go-live issues which impacted Synergy’s customers.

The Special Inquirer’s evaluation and examination of this project identified several problems relating to lack of clarity. The examination also found significant project-related concerns and areas for improvement in governance, project management, procurement, planning, management and reporting on costs and benefits, provision of information to the Minister for Energy, interaction with the Department of Treasury, and record keeping.

PROJECT SYNOPSIS

From the end of 2006 to October 2011, Synergy’s Project Columbus sought to replace more than 50 legacy systems to enable a complete technology separation from Western Power.

In December 2006, six months after Synergy was separated from Western Power, Synergy completed a ‘cost to serve’ benchmarking study that resulted in the setting of a target cost to serve of $75 per customer.

First business case

In late 2006 a first pass business case for the upgrading or replacement of the customer information and relationship management systems was developed. The business case identified savings of $8 million per year. Forecasts for both upgrading and replacement,3 however, resulted in negative net present values.4 5

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1 Synergy, Submission to the Board of Directors (Agenda Item No: 41.6.5), (29 September 2009).
2 Synergy Special Inquiry hearing, 28 September 2017.
3 Synergy, Board of Directors meeting no.9 (Item 09.8.6), (September 2006).
4 Net present value is the value in the present of the investment including cash inflows and outflows over the 10 year period. It is used in capital budgeting to analyse whether a project will be value adding or not.
5 Synergy, Board of Directors meeting no.11 (Item 11.6.1), (4 December 2006).
Second business case

In 2007, the Business Transformation program was initiated and combined Synergy’s three strategies of:

- delivering the customer experience;
- improving the wholesale position; and
- optimising business efficiency.6

The achievement of business efficiency benefits from the transformation program was dependent on the system’s replacement project. At that time, identified savings from business transformation and optimising business efficiency totalled $31 million.

The Synergy customer information and relationship management systems replacement project business case, and roadmap to achieve the targeted $75 ‘cost to serve’ (down from $103), were presented to the Synergy Board in December 20077 and February 20088 respectively. Approval was based on estimated costs of $70.4 million over 10 years, comprising implementation costs of $40.1 million and operating (run) costs of $23.3 million.

The 10-year benefits presented at the same time were forecast at $163.7 million, with a positive net present value of $33.7 million. The benefits were described as primarily being available through ‘organisational and process-driven optimisations’.9

In December 2008, the business case was revised and concluded that retail benefits could not be achieved under the existing onshore delivery model. A decision to handle low value tasks in the contacts centre and back office offshore was made and approved by the Board.

Following the April 2009 decision to move all services back onshore, a submission to the Board in September 2009 estimated that the extra cost would be $20 million.

On 2 April 2009, the Minister for Energy announced a five-point plan with the Board and management to ensure Western Australians would receive a world-class customer care and billing platform10:

1. Selecting Stellar Asia Pacific (Joondalup) — a business processing company — to provide short-term contact centre capability while Synergy trained staff in its new customer care and billing system.
2. Engaging Stellar to provide selected contact centre services on an ongoing basis.
3. Choosing a local information technology service partner, Alphawest, to support its data entry and information technology services for five years.
4. Developing a new industry in Western Australia - with a global service provider establishing a presence in Western Australia.
5. Investing $2 million in training its employees.

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7 Synergy, Board of Directors meeting no.22, (21 December 2007).
8 Synergy responses to Special Inquiry questions on notice, received 29 August 2017.
9 Synergy, Board of Directors meeting no.22, (21 December 2007).
10 Government of Western Australia Media Statement, Plan to protect Western Australian jobs, (2 April 2009)
Implementation and transition to operations

Following Board approval of the business case and funding, global management consulting and professional services company Accenture was engaged to design, implement and run a systems, applications and products solution. The total cost for this was $28.4 million for design and implementation and $23.3 million for running costs over 10 years.

More than a year before the system was projected to go live, Synergy had determined that Accenture could not deliver the ‘run’ phase due to an inability to agree to the terms of the contract. Following a new tendering process, Synergy selected Tata Consultancy Services to deliver, run and back office outsourcing works.

Although the system started operating on 1 September 2009, there were ongoing issues that were addressed between then and October 2011 through two further projects – Project Storm and Project Zumba. Project Storm was a post-implementation stabilisation project aimed at reducing back office volumes to pre-systems, applications and products solution levels, and stabilising implementation. During 2009 and 2010, the existing backlog was reduced but this did not permanently stem the flow of new volumes.

Project Zumba was initiated in late 2010 to optimise and enhance the systems to overcome issues affecting residential customers and undertake a root-cause analysis. The project required an investment of $6.7 million with a payback period of 42 months, and projected benefits of $44.3 million over the following 10 years. Benefits were to arise from a reduction in staff, increased cost recovery and fee collection revenue and avoidance of a build-up of business volumes and backlogs.

The engagement of Tata to deliver the run phase was approved by the Board, and the cost of these services included sending some services offshore to India. In April 2009, once this became public knowledge, the Minister for Energy stepped in and forced Synergy to bring all roles back onshore.

This decision was estimated to add approximately $6 million in one-off implementation costs and $56 million in increased operational costs over the first nine years. This reduced the net present value of the project to $7.5 million. To achieve this positive net present value, it was assumed that bringing services onshore would only be for two years. If services were kept onshore for the full 10 years of the model, the net present value result would be negative $5.3 million.

EVALUATION OF THE PROJECT

Governance

The governance structure for the project included the Synergy Board of directors, the Synergy Audit, Legal and Compliance Committee (Audit Committee), the Synergy Business Transformation Steering Committee

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11 Synergy, Zumba Project Business Case, [29 November 2010].
12 Ibid.
13 Ibid.
14 Synergy, Board of Directors meeting no.35, [23 March 2009].
15 Synergy, Board of Directors AMO back office outsourcing - revised position - meeting no.35A1.1, [2 April 2009].
and the Synergy Change Council. The Audit Committee comprised members of the Board and executive
and senior operational managers. Synergy stated that the Audit Committee reported regularly to the Synergy
Board.

Records of meetings received by the Special Inquirer indicate that the Board had some general concerns
about risks associated with the project. There was, however, no detailed assessment of risk, mitigation plans
or controls put in place to manage those risks made available to the Special Inquirer.

**Engagement with the Department of Treasury**

Synergy stated that it could not locate records of consultation with, advice provided by, or endorsement
of the project by the Department of Treasury. This is consistent with Treasury’s view that there was no
consultation.

It appears there was no assurance on financial analysis provided by Treasury, despite the magnitude and
risk of the project, and Treasury was not notified about the growing risks.

Following its hearing with the Special Inquirer, Synergy provided the following statement:

“...the established practice at the time was for Synergy’s Chief Financial Officer to meet regularly with their
Treasury counterpart to discuss contemporary issues. Synergy contacted a former Chief Executive Officer who
in the period of Project Columbus was the CFO [Chief Financial Officer], who confirmed this engagement with
Treasury. On this basis Synergy would contend that there is clear evidence that these agencies have been
actively engaged.” 15

**Project management**

Although the implementation of the systems, applications and products solution was only four weeks late, the
Special Inquirer considers that the project was neither well planned nor well managed. Costs and benefits
were not clear, and financial assessments were based on assumptions that were risky at best. There was little
reference to the management of project risks. Synergy agrees that the multiple layers of change involved
in the project were not well risk-managed but contends that internal capability in project management,
financial literacy, and commercial acumen have improved.16

Synergy has been unable to locate the detailed pack provided to directors which senior management
considers to be the business case. A Board submission provided by Synergy from 21 December 2007
purports to set out the business case for the key part of Project Columbus, this being the technology hosting
partner selection. Synergy expressed confidence that directors received an adequate level of detail about
the project business case.

The Special Inquirer has examined the presentations made to the Board and found that they did not meet

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15 Synergy response to Special Inquiry questions on notice, received 17 October 2017.
16 Synergy Special Inquiry hearing, 29 September 2017.
the standard for good business cases against which projects have been measured by the Special Inquirer. This is indicative of other sub-standard project management practices, including detailed progress reporting, risk management, and financial analysis.

When presented with this view, Synergy responded that project management practices have improved through the development of a framework and the establishment of two program management offices in 2012. Major projects since Project Columbus have been delivered successfully using this framework. It was noted by the Special Inquirer that the business case for Project Zumba met all requirements.

Despite intensive research and correspondence with Synergy, it has been very difficult to determine the exact costs of the project and whether benefits have been or are being realised. The implementation costs are reasonably clear. Costs associated with Project Storm and Project Zumba, however, have not been verified. Other associated costs for Tata services, the establishment of a contact centre in Joondalup, and the apparent growth in full-time equivalent staff have not been provided.

It is noted that the expected net present value also changed significantly over the life of the project. It is concerning that the initial net present value in 2006 was negative and the December 2007 positive net present value of $33.7 million was based on gaining benefits from the total business transformation, of which the systems replacement was just a part. It is even more concerning that the projected final positive net present value of $7.5 million could only be attained if the services brought back onshore were then sent offshore again after two years.

The achievement of benefits is also unclear. Because project business cases were changed, the final expected benefits are unknown. Further, actual benefits have not been provided.

It is noted that Synergy achieved its target $75 ‘cost to serve’ per customer and that Synergy is now operating with a cost to serve of $69 per customer.17

Procurement

Synergy sought tenders for a supplier to design, implement and operate the new system.18 Accenture’s proposal was accepted based on its ability to meet the requirements for systems, additional business process and technology requirements and service delivery of Synergy’s future information technology hosting model. The systems, applications and products solution proposed by Accenture was seen by Synergy as meeting all requirements.

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17 Synergy response to Special Inquiry draft findings, received 3 November 2017.
18 Synergy responses to Special Inquiry questions on notice, received 29 August 2017.
Synergy entered into contracts with Accenture for consultancy services and core services. These were to produce:

1. Blueprint 2 - $8.8 million; and
2. build, test and implement - $19.6 million.

In June 2008, after Synergy and Accenture failed to agree on terms of the application management outsourcing (run) phase of the project, Synergy sought further tenders for these services.

3. Vendor run costs for 10 years - $23.3 million.

Synergy did not provide the Special Inquirer with evaluation reports comparing the offerings of Accenture with other respondents to the first tender. According to Synergy, Accenture’s inability to deliver the run phase was based on failure to come to agreement over the ongoing commercial terms.\(^{19}\)

The tender for the run phase was packaged with selected back office outsourcing works. This process resulted in the selection of Tata Consultancy Services in March 2009 to deliver the run and back office outsourcing works, at a cost of $8.9 million and $6.8 million respectively for the initial three-year term. Tata was to provide some of the services out of India in order to take advantage of systems, applications and products solution-specific skills and lower costs. In March 2009, the Board approved the engagement of Tata and the provision of services from India.

In April 2009, following media speculation, the Minister for Energy announced that Synergy would not be sending any permanent jobs overseas. In order to comply with this statement, Synergy committed to establishing an in-house support centre which would involve locating Tata resources in Perth. This resulted in higher costs as outlined previously in this report.

In complying with the Minister’s requirement, Synergy revised the contract with Tata to $12.8 million for run costs and $18 million for back office outsourcing over five years. The total contract breached the $20 million threshold for which Ministerial approval is required.\(^{20}\)

Under Section 68 of the Electricity Corporations Act 2005, Synergy is required to gain Ministerial approval before entering into contracts valued at over $20 million. Synergy informed the office of the Minister for Energy in July 2010 that it had inadvertently omitted to inform him that Synergy had entered into a contract with Tata which was over the $20 million threshold.\(^{21}\)

Synergy has informed the Special Inquirer that all procurement roles within Synergy were centralised into a single procurement team within the Finance Business Unit in 2015. This change established accountability for purchasing and contract management, ensuring that Synergy now had consistent processes and that duplication had been removed. This was supported by the deployment of procurement technology.\(^{22}\)

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\(^{19}\) Synergy Special Inquiry hearing, 29 September 2017.
\(^{20}\) Ibid.
\(^{21}\) Ibid.
\(^{22}\) Synergy, Procurement Policy Suite, [September 2015].
Transition to operations

In September 2009, Synergy management advised the Board of the successful implementation of the customer information and relationship management systems. The project's revised costs and benefits were presented to the Board, with the forecast 10 year costs having increased to $90.4 million and forecast net present value having decreased to $7.5 million. There is no record of the Board’s reaction to the assumption that the final positive net present value was dependent on taking services offshore after two years.

Following implementation, the new customer information and relationship management systems experienced problems with processing. This led to inaccurate and untimely bills and significant transaction backlogs. While a post-implementation adjustment period had been expected, the volume of issue-related activity was significantly higher than anticipated. This resulted in significant customer dissatisfaction (680 per cent increase in complaints) and a loss of confidence in Synergy’s performance. It took more than two years for Synergy to return to a ‘business as usual’ state.

On 1 April 2010, it was reported that more than 90 000 Synergy customers had been affected by problems with the system and that the Minister for Energy told Parliament that the problems had cost Synergy $750,00023 in lost revenue. Further, on 4 December 2010 it was reported that Synergy had overcharged thousands of Western Australians for power and pocketed the windfall.24 The total overcharge of $30,000 had been caused by the rounding of all accounts up to the nearest five cents. The overcharged amount was donated to charity.

System issues resulted in more than 107,000 bills being more than three months late. This action, which was identified by the Economic Regulation Authority in a 2011 audit, was a breach of Synergy’s electricity licence requirements.

Costs and benefits realisation

It has been noted previously that the billing system replacement project formed part of a combination of projects into a program named Columbus. During its hearing with the Special Inquirer, Synergy stated that the combination of projects made it difficult to assess each individual component and that a final analysis that attempted to unwind all of the interrelated increases in costs had not been done.

Synergy contends that the actual implementation of the system came in under budget, but that associated costs were the reason for cost overruns. During its hearing, Synergy found it difficult to ascertain or substantiate the initial budget and final costs for each of the project components.

Synergy’s records and statements lead the Special Inquirer to believe that there were, and are, costs directly and indirectly associated with the billing system project that were not accounted for in their assessment that total cost was in line with budget. These include:25

25 Synergy response to questions on notice, received 17 October 2017.
• increased business engagement and ‘workaround’ costs ($1 million);
• four-week delay in go-live date ($1.8 million);
• cost of backfilling the contact centre and back office to enable systems, applications and products solution training ($2 million);
• cost of creating a post-Columbus implementation overflow capability and the implementation and operation of a contact centre in Joondalup; and
• increased operating costs due to staffing requirements to operate new systems being greater than assumed.

Further, when reporting on different elements of the various systems, Synergy’s failure to make statements about aggregated budget data does not give a complete picture of cost.

• Synergy informed the June 2015 Budget Estimates hearings that the platform cost $1 million per year for maintenance. It is not clear whether this was included in the business case ‘run’ costs.
• Synergy provided the Special Inquirer with a table of costs and noted that Project Storm’s estimated final cost was ‘N/A’. It appears that the reason for this is that Project Storm was not directly related to the billing replacement project.
• Synergy provided the Special Inquirer with a table of costs for Project Zumba totalling $9.8 million over three years ($6.5 million capital expenditure and $3.3 million operating expenditure).
• It is the contention of the Special Inquirer that neither Project Storm nor Project Zumba would have been necessary had it not been for the systems replacement project.

In addition to the above, on the closure of the project senior management informed the Synergy Board that the impact of the change in delivery model to an onshore service resulted in one off costs of $6 million and increased run costs of $6.2 million per year to 2017-18 (total $56.2 million). The Special Inquirer did not see any reference to this in the total project costs.

Staff numbers increased between 2008 and 2012 from 329 to 410, and Synergy stated that some of this increase was due to the implementation of the billing system.

On 31 May 2012, Synergy stated that the reason for the cost overrun to $93 million was due to the cost of the overflow capability and contact centre, transactional work done by Tata, and the cost of overcoming other implementation problems. Further, it was stated that the original cost was $47 million and the total cost was $93 million. The original cost was $47 million in capital costs and $23.3 million in ongoing operational costs. This lack of clarity and consistency in costs data leaves the Special Inquirer with various questions. Does this mean that the $93 million was all capital costs? How were the ongoing operating costs factored into this amount? The final cost remains uncertain.

Synergy provided the Special Inquirer with clear changes in net present value relating to some of the changes outlined above. There is still, however, no accounting for the costs of Project Zumba and Project Storm.

26 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly Estimates Committee B, 9 June 2015, E201-E202.
Table 1: Changes in net present value

<table>
<thead>
<tr>
<th>NET PRESENT VALUE</th>
<th>$ million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original business case (December 2007)</td>
<td>33.7</td>
</tr>
<tr>
<td>Refreshed business case (December 2008)</td>
<td>29.5</td>
</tr>
<tr>
<td>Refreshed business case (September 2009)</td>
<td></td>
</tr>
<tr>
<td>a. Impact of change from offshore to onshore model and other retail changes</td>
<td>-21</td>
</tr>
<tr>
<td>Net present value after impact of onshoring and retail changes</td>
<td>8.5</td>
</tr>
<tr>
<td>b. Impact of refinement of the Columbus go-live date</td>
<td>-0.2</td>
</tr>
<tr>
<td>Net present value after impact of Columbus go-live date</td>
<td>8.3</td>
</tr>
<tr>
<td>c. Impact of increased business engagement and workaround costs</td>
<td>-0.8</td>
</tr>
<tr>
<td>Net present value after impact of business engagement and Columbus workaround costs</td>
<td>7.5</td>
</tr>
</tbody>
</table>

Note: the figures are based on only incurring onshore service costs over the first two years. Should the onshore arrangement be maintained for the term of the model (10 years) the net present value would be -$5.3 million.

Parliament was informed on 6 November 2012 that full-time equivalent positions at Synergy had increased from 329 to 410 between 2008 and 2012, and that there were 65 contractors, up from 44 in 2010. This was attributed to a number of factors including the implementation of the system, and more staff than expected being required to stabilise the system to minimise customer impacts.

During its hearing with the Special Inquirer, Synergy was unable to explain project benefits in terms of savings. It was noted that the current cost to serve was around $75 per customer, which was one of the targets of the project. It was recognised that this achievement was the result of a combination of initiatives, not just the new billing system.

In a 2012 Estimates hearing, Synergy was unable to communicate the benefits to date from the new system, citing the difficulty of tracking benefits in a changing business environment. Synergy has informed the Special Inquirer, however, that ongoing benefits are being achieved and that the target cost of service of $75 per customer has been reached. Synergy also stated that efficiencies have been gained and resulted in lower staffing requirements. How this reconciles with the 2010 information provided to the Board outlined above is not clear.

27 Synergy, Submission to Board of Directors [Agenda item no. 41.6.5], 29 September 2009.
28 Western Australia, Parliamentary Debates [Hansard], Legislative Assembly Estimates Committee B, 31 May 2012, E609.
A 2011 Deloitte review reported that although the transformation program had delivered savings of approximately $17 million per annum, of which $7.7 million was attributed to the systems replacement project, it appeared that these savings had been offset by cost increases in other areas. These were identified as being driven by:

- the impact of a number of significant electricity tariff increases;
- the impact of Project Storm and other environmental influences, such as labour costs, being higher than business case assumptions;
- the increase in the number of systems, applications and products solution licences;
- an increase in the number of queries for connections; and
- the high number of complaints about new tariffs.

**Ministerial involvement**

It appears that the Minister for Energy was not fully informed of some of the material aspects of Synergy’s approach to the billing system. The agreement to send back-office functions offshore was clearly made before consulting with the Minister.

The Minister for Energy also appears to have been given inconsistent information on other occasions.

In January 2011, the Minister for Energy received a review of the project from Deloitte. The review considered:

- the effectiveness of the cost reductions and benefits to date;
- the changing short-term and business as usual cost structures; and
- opportunities to realise further cost savings.

The review found that the implementation of the systems was in the main well managed and executed by Synergy and the systems were working properly in line with business requirements. The review also noted, however, that the expected benefits would be offset by higher costs.

In May 2012, it was reported in the local media that following questions from the Shadow Minister for Energy, the Minister for Energy said the Synergy billing system project had cost $93.4 million since 2009 when the original budget had been $38.5 million. The article added that despite claims by the Minister for Energy in 2009 that the system would save $75 million over five years, the answers confirmed that no material benefits could be substantiated.

The decision to bring all services back onshore was made in April 2009, but this action appears not to have been finished until March 2013. The Special Inquirer has information from Synergy which indicates that extensions were granted by the Minister for Energy — initially until mid-2010 and then to the end of 2010. Synergy’s submissions to the Special Inquirer state there was intention to seek a further extension, but it is not clear whether this occurred.

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30 Synergy response to Special Inquiry questions on notice, received 17 October 2017.
31 Ibid.
It is also not clear from the information received from Synergy whether the Minister for Energy was informed that cost and benefits estimates assumed services could be returned offshore after two years.

**RECORD KEEPING**

The Special Inquirer has identified shortcomings in Synergy’s long-term record keeping and Synergy admitted it had been unable to locate all relevant documents that had been requested. Synergy noted that since 2014 a new record keeping platform had been in place, and a new document management system was scheduled to be introduced on 1 October 2017.

**FINDINGS**

1. The method used for determining final costs and benefits lacks transparency and appears to not include material costs directly relating to the project.\(^3\)

2. Synergy has not been able to communicate consolidated benefits from the new system. There has been growth in Synergy’s full-time equivalent staffing relating to the systems, which would indicate that savings are unlikely to have been achieved. This is substantiated by the 2011 Deloitte report.

3. The Special Inquirer recognises that Synergy’s targeted reduction in the ‘cost to serve’ measure of $75 per customer was achieved and exceeded. Synergy is now operating with a cost to serve of $69 per customer.

4. Board meeting minutes provided to the Special Inquirer only provide partial assurances that matters relating to the successful delivery of outcomes and benefits were attended to by the Board. For example, the matter of the assumptions around the final net present value were considered by the Board in September 2009 but records indicate the only discussion was around the appropriate rate of return used and recognition that the project’s qualitative benefits were difficult to measure. It would be expected that the Board discussed the assumption relating to sending services offshore after two years but there is no record of this discussion having occurred.

5. Synergy has no record, and the Department of Treasury has no recollection, of any consultation or validation of business cases sought by Synergy from Treasury. This displays a significant lack of good governance for a project of this size and risk profile.

6. The project business case did not meet the standards expected for a government project of this size and risk profile.

7. The fact that the billing system project was combined with other transformation projects added a layer of complexity to project management and the tracking of financial outcomes that Synergy apparently did not have the capability to manage effectively.

8. Synergy did not provide the Special Inquirer with procurement evaluation reports comparing the offerings of respondents to the tender. The Special Inquirer’s review of Synergy’s internal procurement policy and practice framework has determined that it is not at the same level of rigour as the general government sector, and therefore it is assumed that the evaluation was not at the standard expected of a government agency.

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\(^3\) When consulted on the Special Inquirer’s draft findings, Synergy advised that “Synergy is unable to locate any further documented evidence to assist with determining total project costs and benefits. Substantial organisational redesign following this period has made it difficult to attribute costs to the billing system project and discern these costs from other internal and external activities occurring concurrently and subsequently. An extensive forensic accounting process would be required to determine specific allocation of costs.” [Synergy response to Special Inquirer’s draft findings, received 3 November 2017]
9. The matter of the engagement of Tata Consultancy Services leads to the following conclusions.
   a) The Minister for Energy was not advised prior to Board endorsement of the offering which included some services being located offshore.
   b) The Minister for Energy was not informed of the contract, in line with the requirements of the Electricity Corporations Act 2005.
   c) When the decision to return all services onshore was made, there did not appear to be any advice to the Minister for Energy of the impact on costs and benefits (that is, the net present value declined significantly), and there does not appear to have been disclosure of the fact that the revised net present value was based on the assumption that the services would return offshore after two years (and that if they did not, the net present value would be negative).
   d) The Minister for Energy made several statements in Parliament and in Estimates Hearings that were inaccurate.

10. Planning for the transition to operations was flawed. The post-implementation adjustment period was significantly longer and more complex than anticipated and there was a large increase in customer dissatisfaction and errors.

11. The last record of Ministerial approval for delay in bringing services back onshore was for the end of 2010. Services were not returned until 2013. There is no record of the Minister having awareness of this.

12. The fact that the services were not returned offshore after two years indicates that the run costs are significantly more than that planned. This adds weight to the Special Inquirer’s view that the total project cost of $93.4 million as advised is not correct.33

13. Synergy’s record keeping systems were inadequate. Synergy was unable to provide the Special Inquirer with all requested documentation.

**Synergy’s view - project management**

Synergy board and management (past and present) requested that the Special Inquirer consider the findings of a report completed for the Minister for Energy and presented in draft form in January 2011.34

The report noted that

“Overall it would appear that the implementation of the Customer Relationship Management (CRM) and Billing system was in the main, well managed and executed by Synergy and is working properly in line with business requirements.”

The report further notes that the project was delivered on time and on budget.

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33 When consulted on the Special Inquirer’s draft findings, Synergy advised that “Synergy is unable to locate any further documented evidence to assist with determining total project costs and benefits.” [Synergy response to Special Inquirer’s draft findings, received 3 November 2017]

The report focuses on the implementation and operation phases. There is no detailed analysis of the costs or benefits of the implementation of the billing system. The report briefly discusses the decision to locate services onshore as having a significant financial impact on Synergy. It further notes that approximately $17 million of annual cost savings had been delivered by the Business Transformation Program — but that this had been offset by a number of changes to Synergy’s internal and external operating environment ($6 million per annum).

In correspondence dated 3 November 2017 in response to the Special Inquirer’s draft findings, Synergy stated that “had the processes and governance applied to Project Columbus been deficient as highlighted in the Commission’s [Special Inquirer’s] draft conclusions, Deloitte would have uncovered these deficiencies and reported as such.” The Special Inquirer does not criticise the Deloitte report as missing the issues identified by the inquiry, but notes that the issues either came to light after January 2011, or appear to have been outside the scope of the Deloitte Report.

**RECOMMENDATIONS**

In addition to the recommendations outlined in the Special Inquiry Report Volume 1 relating to governance, project management, capability and record keeping, and Government Trading Enterprises, Synergy should take the following measures in relation to this project:

1. Document and present to the Board a full financial analysis of all costs (direct and indirect, funded within the project and from elsewhere) and benefits relating to the Synergy billing project.
2. Provide a full analysis to the Board of ongoing costs for the system, including reference to the actual costs for providing all services onshore (as opposed to the previous assumption of sending services offshore after two years).
3. Undertake a full ‘lessons learned’ analysis for the Board.
MUJA POWER STATION - MUJA AB

“Despite the fact the Muja AB project was intended to be a joint venture, Verve carried the full financial risk.”

John Langoulant, Special Inquirer

Verve Energy entered into a joint venture in October 2010 with Inalco Energy Pty Ltd, which included the refurbishing of the coal fired Muja A and B generating units near Collie. Kempe Engineering Services (Australia) Pty Ltd, which had ownership links with Inalco Energy, was appointed to do the refurbishment. Verve Energy had no business case to support the decisions.

Verve Energy bore the full financial risk for the project and gave a financial guarantee over a $150 million loan taken out by Inalco Energy. When problems were encountered in mid-2012, and the joint venture had spent its initial funding, Inalco Energy was reluctant to contribute further to continue the work. The company then withdrew from the project leaving Verve Energy with both the debt and an uneconomic project.

The Special Inquirer found significant shortcomings in decision-making linked with the venture, and poor project management. The Verve Energy board was not told of early problems associated with financial and technical issues.

Technical due diligence of the plant overlooked corrosion of the external boiler tubes — which significantly added to the cost — and the refurbishing appears to have been rushed.

The total cost was $308.4 million, more than double the original assessment for the joint venture. Taxpayers paid the bill.

There was a lack of communication by Verve Energy to the central agencies of the State as to the risk to the State through the provision of the financial guarantee and being the only conceivable funder of substantial cost over-runs.
SUMMARY

Following the initial retirement of Muja Power Station Stages A and B (Muja Power Station) in 2007, Verve Energy considered several options regarding the future use of the power station such as leasing, demolition and refurbishment. In May 2008, Verve Energy concluded an expression of interest process and selected Inalco Energy as the preferred proponent. Inalco Energy was an aluminium smelter company and proposed to use Muja Power Station as a base load operation to be linked to a smaller scale aluminium smelter. The selection of Inalco Energy through this procurement process was not adequately documented and there is no documentation to demonstrate whether it was a fair process or whether the decision adequately considered the risks.

In October 2010, Verve Energy entered into a joint venture with Inalco Energy and appointed Kempe Engineering Services, which had common ownership with Inalco Energy, for the refurbishment works. Verve Energy did not develop a business case to support its decision to proceed with the project and the 50/50 joint venture. The Special Inquirer observed that while due diligence and financial modelling were done, they were disparate in nature. Verve Energy ignored the early warning signs within the due diligence report which indicated that Inalco Energy’s financial and technical capability were questionable. A later review confirmed that it was mismatched to the standing of Verve Energy. Briefing papers did not adequately disclose the full liabilities, obligations and risks.

1 Verve Energy, Submission to the Board of Directors — Muja AB Request for Proposals (February 2007)
2 Verve Energy, Submission to the Board of Directors – Muja AB Request for Proposals shortlist of proponents (August 2007)
3 Interfinancial Corporate Finance Limited, Kempe Group due diligence report (3 November 2009)
4 KPMG, Muja AB project assessment (September 2013)
Verve Energy adopted a structure where it bore most of the financial risk associated with the project by giving a financial guarantee to Inalco Energy to secure a loan for $150 million. The financial guarantee indemnified and backed the debt in the event of default by Inalco Energy. Verve Energy’s remedies for default by Inalco Energy were limited to dilution of Inalco Energy’s interest in the joint venture and termination of the joint venture.

When the project encountered significant issues in May 2012, the joint venture had expended all of its initial funding. Inalco Energy was unwilling to contribute any funds to continue and subsequently withdrew from the joint venture. This left Verve Energy with the debt and an uneconomic project. Between 2012 and 2014 Verve Energy contributed an additional $158 million to the refurbishment works.5

In the dissolution of the joint venture, the Special Inquirer is of the opinion that Verve Energy undertook a commercial compromise to prevent lengthy legal disputes. Verve Energy was required to pay $6.5 million for variation to the scope of works and gave up access to $12.8 million of bank guarantees and performance bonds provided by Inalco Energy. The total cost to complete the project was $308.4 million, which was fully funded by the State.

The Muja Power Station was officially retired from operations on 1 October 2017, at least five years earlier than the initial projections of 10 to 15 years project life. This early retirement was due to potential structural integrity issues of the cooling towers and because the market environment had changed considerably from the initial projections.6

KPMG undertook a project assessment of the Muja Power Station project in September 2013 and a post completion review of the Muja Power Station project in April 2014. The facts included in these reports have been accepted by Synergy.

The Special Inquirer’s examination of this project found significant deficiencies in governance, project planning and project management. Areas for improvement identified in the examination include governance, project management, procurement, business case development, management and reporting on costs and benefits, provision of information to the Minister for Energy, interaction with the Department of Treasury and record keeping.

**THE MUJA POWER STATION PROJECT**

**Options for the future of Muja Power Station**

Muja Power Station is a coal fired power station owned by Verve Energy and located 22 kilometres east of Collie. The power station is connected to the South West Interconnected System and is part of the WA Wholesale Energy Market.

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5 KPMG, Post completion review of the Muja AB project, (6 April 2014), i.
6 Synergy response to Special Inquiry request for information, received 22 November 2017
The Verve Energy Board had approved Muja Power Station Stages A and B for retirement in 2007. This decision was due to the imposition of a 3 000 megawatt capacity cap on Verve Energy and environmental issues with the power station.\(^7\) Approximately $18.79 million was allocated by Verve Energy for the demolition and clean-up of the Muja Power Station site.\(^8\)

In the course of this decommissioning, Verve Energy was approached by parties interested in leasing the plant.\(^9\) Following this, a request for proposal was advertised to invite proponents to submit a proposal on use of the Muja Power Station site. After an evaluation process, three companies — one being Inalco Energy — were invited to submit further binding offers in the second stage.\(^10\)

In the course of this evaluation process and in response to the explosion and subsequent disruption at the Varanus Island gas processing facility, Muja Power Station was partly returned to service in June 2008. Muja Power Station was retired again in April 2009.\(^11\)

**The selection of Inalco Energy to refurbish Muja Power Station**

Inalco Energy was selected as the preferred proponent in the second stage of the request for proposal between April 2008 and October 2008. There was no documentation provided to the Special Inquirer to determine why and exactly when Inalco Energy was selected over the other shortlisted companies.\(^12\) Inalco Energy proposed to refurbish Muja Power Station as a mid-merit or base load plant to power an aluminium smelter\(^13\), which it foreshadowed building and operating.

The initial proposal involved Inalco Energy contributing the whole of the refurbishment costs in a joint venture with Verve Energy for future operating and maintenance costs.

As the Inalco Energy proposal developed it became clear that in the absence of real security over the Muja Power Station land or plant, third party funders would only fund refurbishment costs if a guarantee by a reputable and financially secure guarantor was provided. From the earliest, it was plain that for this proposal to proceed, Verve Energy would have to provide this guarantee.

Verve Energy obtained Ministerial approval in November 2008 to progress discussions with Inalco Energy. The Minister for Energy did not guarantee approvals at this stage and stated that the impact of the project on the generation capacity cap, the environment and the development of competition, would need to be considered.\(^14\)

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\(^7\) Verve Energy, Submission to the Board of Directors – Review of the shutdown strategy for Muja AB (September 2006)
\(^8\) Verve Energy, Submission to the Board of Directors – Muja AB Request for Proposals (February 2007)
\(^9\) Ibid.
\(^10\) Verve Energy, Submission to the Board of Directors – Muja AB negotiations (April 2008)
\(^11\) KPMG, Department of Finance Muja AB Project Review (September 2013)
\(^12\) Verve Energy response to Special Inquiry hearing questions taken on notice, received 30 October 2017
\(^13\) Verve Energy, Submission to the Board of Directors – Muja AB Request for Proposals shortlist of proponents (August 2007)
\(^14\) Minister for Energy, Section 70 Consultation Refurbishment of Muja A/B Power Station (February 2009)
Financial due diligence was conducted on Inalco Energy in August 2009 by Interfinancial Corporate Finance Limited. The financial due diligence report identified some issues including inconsistencies in financial data, lack of experience in power generation and the risk of the global financial crisis on the aluminium industry affecting the company’s cash flows. Inalco Energy was a new company with no trading history and was a recent addition to the Kempe Group. The Kempe Group was, broadly, a family-owned construction business based in Geelong, Victoria. The due diligence report observed that the Kempe Group had a complex structure and that it established separate companies for specific projects. The report noted a policy of the Kempe Group refusing to provide parent company guarantees for specific project subsidiaries.

Both Inalco Energy and Kempe Engineering Services were subsidiaries of the Kempe Group.

The joint venture model

In March 2010, the Verve Energy board approved the project and formation of a joint venture company to refurbish and operate the Muja Power Station. The joint venture company was to be Vinalco Energy Pty Ltd. Verve Energy and Inalco Energy would own equal shares in Vinalco Energy. Kempe Engineering Services was to be the project’s engineering, procurement and construction contractor. As noted previously, Inalco Energy and Kempe Engineering Services had common ownership and directors.

Vinalco Energy was to have its own Board comprising an equal number of directors appointed by Inalco Energy and Verve Energy.

The legal structure for the project involved a number of interrelated agreements. They are broadly to be understood as follows.

1. There was a Securityholders Agreement between Verve Energy, Inalco Energy and Vinalco Energy governing the joint venture arrangements by which Vinalco Energy would operate the project.
2. There was an engineering, procurement and construction contract by which Vinalco Energy engaged Kempe Engineering Services to undertake refurbishment and upgrade works for a guaranteed maximum price of $107,758,439. There were the usual terms allowing increases in the event of significant change to the scope of works or delays.
3. There was a Syndicated Facility Agreement by which third party financiers agreed to provide Inalco Energy with up to $150 million to fund the project. Plainly, the bulk of these borrowed funds was to be paid to Kempe Engineering Services pursuant to the engineering, procurement and construction contract.

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15 Interfinancial Corporate Finance Limited, Kempe Group due diligence report, 10 (3 November 2009)
16 Verve Energy, Submission to the Board of Directors – Muja Stage AB Project (March 2010)
4. There was a Deed of Guarantee by which Verve Energy guaranteed all amounts due under the Syndicated Facility Agreement.

5. There was a Land and Plant Lease Agreement by which Verve Energy leased the land and existing Muja Power Station facility to Vinalco Energy for a nominal rent, with ownership of the improvements to the Muja Power Station facility passing to Verve Energy at the end of the lease.

6. There was an Operating and Maintenance Agreement by which Vinalco Energy engaged Verve Energy to operate and maintain Muja Power Station facility and provide a range of services during the pre-operating period, with the charges for all services priced on an actual cost basis.

7. There was an Electricity and Capacity Credit Agreement to provide for energy and capacity credit sales to Perth Energy for 10 years from the start of operations.

The following table summarises the timeline in the establishment of the joint venture.

Table 1: Timeline of events in the establishment of the joint venture

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>APRIL 2008 TO OCTOBER 2008</td>
<td>Conclusion of the request for proposal Stage 2 process where Inalco Energy was selected as the preferred bidder.</td>
</tr>
<tr>
<td>JUNE 2008</td>
<td>In response to the explosion and subsequent disruption at the Varanus Island gas processing facility, Muja Power Station was partly returned to service in June 2008 and retired again in April 2009.</td>
</tr>
<tr>
<td>FEBRUARY 2009</td>
<td>Minister for Energy was consulted and did not oppose Verve Energy proceeding with the joint venture discussion at this stage and did not guarantee any approvals.17</td>
</tr>
<tr>
<td>JULY 2009</td>
<td>Risk report on the allocation of risks in the proposed joint venture.</td>
</tr>
<tr>
<td>AUGUST 2009</td>
<td>Financial due diligence Report on the Kempe Group was completed by Interfinancial Corporate Finance Limited.</td>
</tr>
<tr>
<td>MARCH 2010</td>
<td>Verve Energy Board approved the joint venture and provision of a financial guarantee to Inalco Energy.</td>
</tr>
<tr>
<td>MAY 2010</td>
<td>Securityholders Agreement between Verve Energy and Inalco Energy was signed.</td>
</tr>
<tr>
<td>JULY 2010</td>
<td>Minister for Energy approved the joint venture in accordance with Section 68 of the Electricity Corporations Act 2005.</td>
</tr>
<tr>
<td>JULY 2010</td>
<td>Auditor General’s preliminary review stated that there was no disproportionate share of risk to Verve Energy.</td>
</tr>
<tr>
<td>SEPTEMBER 2010</td>
<td>Technical due diligence report completed for Inalco Energy.</td>
</tr>
<tr>
<td>SEPTEMBER 2010</td>
<td>Deed of Financial Guarantee signed by Verve Energy as the guarantor and ANZ Fiduciary Services Pty Ltd as Security Trustee. Syndicated Facility Agreement signed by Inalco Energy as the borrower, Australia and New Zealand Banking Group Limited as Agent and ANZ Fiduciary Services as Security Trustee.</td>
</tr>
<tr>
<td>OCTOBER 2010</td>
<td>Constitution of joint venture company was amended.</td>
</tr>
</tbody>
</table>

17 Minister for Energy, Section 70 Consultation Refurbishment of Muja A/B Power Station (February 2009)
The refurbishment of Muja Power Station

The following table summarises the timeline of events in the refurbishment of the Muja Power Station.

Table 2: Timeline of events in the refurbishment and engineering, procurement and construction contract

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCTOBER 2010</td>
<td>Refurbishment of Muja Power Station commenced.</td>
</tr>
<tr>
<td>MAY 2012</td>
<td>Verve Energy board provided with a Muja Power Station project update that the project had slipped behind original target schedule, the guaranteed maximum price for the engineering, procurement and construction contract had been reached and additional costs of approximately $15 million were forecast.¹⁸</td>
</tr>
<tr>
<td>JULY 2012</td>
<td>Explosion of Boiler M3 due to boiler tube walls being excessively thinned by external corrosion.¹⁹</td>
</tr>
<tr>
<td>AUGUST 2012</td>
<td>Minister for Energy approved for Verve Energy to contribute $23 million of Essential Capital Contribution for the Muja Power Station project, with $11.5 million for Verve Energy’s portion and $11.5 million for Inalco Energy’s portion.²⁰</td>
</tr>
<tr>
<td>SEPTEMBER 2012</td>
<td>Transfield Worley Power Services Pty Ltd engaged to undertake boiler repair works in place of Kempe Engineering Services.²¹</td>
</tr>
<tr>
<td>DECEMBER 2012</td>
<td>Boiler tube condition was worse than anticipated and was estimated that there were further funding shortfalls of $70.5 million. Inalco Energy confirmed that it was unable to fund its share of additional funds required (50 percent of $70.5 million) and would like to exit joint venture.²²</td>
</tr>
<tr>
<td>JANUARY 2013</td>
<td>Minister for Energy approved $46.8 million to complete refurbishment.²³</td>
</tr>
<tr>
<td>FEBRUARY 2013</td>
<td>Inalco Energy and Kempe Engineering Services lodged substantial claims against Verve Energy for degradation and out of scope works completed under the engineering, procurement and construction contract.²⁴</td>
</tr>
<tr>
<td>MARCH 2013</td>
<td>Boiler M3 returned to service.²⁵</td>
</tr>
<tr>
<td>APRIL 2013</td>
<td>Review commissioned by the Public Utilities Office on the Muja Power Station found that the project lacked comprehensive technical scoping in the early stages and the capability of Kempe Engineering Services and Inalco Energy in relation to the project was questionable. The review recommended proceeding with the project and to negotiate commercially the exit of Inalco Energy from the joint venture.²⁷</td>
</tr>
<tr>
<td>APRIL 2013</td>
<td>Joint venture between Inalco Energy and Verve Energy dissolved.</td>
</tr>
<tr>
<td>MAY 2013</td>
<td>The Verve Energy Board approved a business case to fund the project completion of Muja Power Station for $144 million.</td>
</tr>
<tr>
<td>JUNE 2013</td>
<td>Verve Energy requested and obtained Ministerial approval for additional funding of $5 million to prevent the joint venture company from being insolvent while waiting for the State Government to consider the full funding requirement.</td>
</tr>
<tr>
<td>JUNE 2013</td>
<td>The Government suspended all works on the refurbishment of the Muja Power Station.</td>
</tr>
<tr>
<td>JUNE 2013</td>
<td>Verve Energy re-estimated that the final cost estimate to complete the project was $167 million.</td>
</tr>
<tr>
<td>SEPTEMBER 2013</td>
<td>Refurbishment works recommenced after detailed engineering reviews and project reviews.</td>
</tr>
<tr>
<td>JANUARY 2014</td>
<td>Verve Energy was merged with Synergy. Synergy took over the project.</td>
</tr>
<tr>
<td>FEBRUARY 2014</td>
<td>Refurbishment of the Muja Power Station completed.</td>
</tr>
</tbody>
</table>

¹⁸ Verve Energy, Submission to the Board of Directors – Muja AB joint venture update (23 May 2012)
¹⁹ Jensen Engineering Metallurgy Pty Ltd, Interim investigation report (11 July 2012)
²⁰ Verve Energy, Muja AB joint venture Section 68 approval (13 July 2012)
²¹ Verve Energy, Muja AB briefing note to Minister for Energy (9 November 2012)
²² Verve Energy, Submission to the Board of Directors – Muja AB joint venture funding shortfall and sale of equity interest in Vinalco Energy Pty Ltd (12 December 2012)
²³ Verve Energy, Business case in support of “invest” recommendation to complete the Muja AB project (6 May 2013)
²⁴ KPMG, Department of Finance Muja AB Project Review (April 2013)
²⁵ KPMG, Muja AB project assessment (September 2013)
²⁶ Ibid.
²⁷ KPMG, Department of Finance Muja AB Project Review (April 2013)
The refurbishment of Muja Power Station commenced after the joint venture was established in October 2010 with a target completion date of October 2012. The project involved the refurbishment of the four 60MW units at Muja Power Station, the installation of pollution abatement equipment and a number of new enhancements to the plant.28

Based on the information provided to the Special Inquirer, there was no evidence that the Verve Energy Board was consulted or kept up to date until the maximum guaranteed price under the engineering, procurement and construction contract was exceeded in May 2012. Kempe Engineering Services and Inalco Energy were under cash flow pressures and were unable to contribute financially to complete the refurbishment.29

**Project cost management**

In July 2012, one of the four boilers of the Muja Power Station plant exploded due to external boiler tube walls being excessively thinned by external corrosion. A worker who was nearby received mild burns to a part of his leg due to this incident.30

It was determined at this time that there was a high likelihood of further tube bursts and consequently, a high risk of fatality. This presented an intolerable risk to Verve Energy.31 There was a view within Verve Energy that the deterioration of the boilers was caused by the “mothballing” of the Muja Power Station in 2007.32 33

Shortly after this, it was identified that an additional $23 million would be required to complete the refurbishment.34 The joint venture agreements required that each partner contribute half of this additional cost. Inalco Energy requested that Verve Energy contribute the total amount as Inalco Energy did not have the financial capacity to contribute its 50 percent share.

In August 2012 the Minister for Energy approved Verve Energy contributing the entire $23 million.35 As a result, Inalco Energy’s economic interest in Vinalco Energy was diluted to 34 per cent36 but it continued to maintain equal voting rights on the Vinalco Energy Board.

The boiler repair work was undertaken by Verve Energy, predominantly using services from Transfield Worley Power Services Pty Ltd from September 2012. During its hearing with the Special Inquirer, Synergy stated that the engagement of Transfield Worley Power Services was due to Kempe Engineering Services not being able to attract the appropriate workforce to complete the works.

28  Verve Energy, Submission to the Board of Directors – Muja AB joint venture update (March 2010)
29  Verve Energy, Submission to the Board of Directors – Muja AB joint venture update (23 May 2012)
30  Verve Energy, Muja AB briefing note to Minister for Energy (9 November 2012)
31  Jensen Engineering Metallurgy Pty Ltd, Interim investigation report (11 July 2012)
32  Verve Energy Special Inquiry hearing, 19 October 2017
33  Former General Manager Business Development and Strategy of Verve Energy, Special Inquiry hearing, 16 November 2017
34  Verve Energy, Muja AB joint venture Section 68 approval (13 July 2012)
35  Ibid.
36  Verve Energy, Submission to the Board of Directors – Muja AB joint venture funding shortfall and sale of equity interest in Vinalco Energy Pty Ltd (12 December 2012)
Corrosion in the external boiler tube walls was subsequently discovered to be significantly worse than anticipated. In December 2012 it was estimated that a further $113 million was required to complete the refurbishment.37

The Minister for Energy approved only $46.8 million of the $113 million.38 Verve Energy continued to refine the project cost estimates and by April 2013 the estimated cost to complete the project was revised to $119 million.39

Inalco Energy was unable to fund its share of the additional costs and expressed its intention to exit the joint venture.40 In February 2013 Inalco Energy made a substantial claim asserting that the corrosion was a pre-existing condition. Kempe Engineering Services made a large claim for out-of-scope works.41

**Termination of joint venture**

In April 2013 the joint venture ceased.42 An additional $6.55 million was paid to Kempe Engineering Services for variations and Verve Energy covenanted not to call on some $12.8 million of performance bonds that had been provided by Kempe Engineering Services.43 Inalco Energy and Kempe Engineering Services were released from the joint venture and the engineering, procurement and construction contract.44 It was agreed that Verve Energy was solely liable for the $150 million in external debt.45

Vinalco Energy became a wholly owned subsidiary of Verve Energy and ongoing operational and capital expenditure were borne by Verve Energy’s operations budget. Verve Energy assumed full control of the project from thereon.

**Project management — Post joint venture**

A business case was prepared by Verve Energy at this point to assess the options for the project. Verve Energy analysed three options being abandonment, partial abandonment and completion.

Based on a detailed financial analysis, the business case recommended completion as this presented the only opportunity for Verve Energy to realise some positive value from the project. According to the business case, it was estimated that a further $144 million was required to complete the refurbishment.46

Verve Energy requested and obtained approval from the Minister for Energy, in accordance with Section 68 of the *Electricity Corporations Act 2005*, to continue funding the Muja Power Station refurbishment

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37 Ibid.
38 Ibid.
39 KPMG, Department of Finance Muja AB Project Review (April 2013)
40 Verve Energy, Submission to the Board of Directors – Muja AB joint venture funding shortfall and sale of equity interest in Vinalco Energy Pty Ltd (12 December 2012)
41 KPMG, Department of Finance Muja AB Project Review (April 2013)
42 Verve Energy, Deed of settlement (15 April 2013)
43 Ibid.
44 Ibid.
45 Ibid.
47 Verve Energy, Business case in support of “invest” recommendation to complete the Muja AB project (6 May 2013)
for a further $5 million while the State Government determined its final position on whether to invest further significant funding in the project.47

The State Government directed the suspension of all refurbishment works for the project in June 2013. At this time boiler units M4 and M3 had returned to service and boiler units M1 and M2 were estimated to be approximately 72 and 69 percent complete respectively.48

A detailed engineering review was commissioned followed by a project review to outline the remaining options for the project and recommend a course of action. The review concluded in September 2013. It recommended that Verve Energy proceed with the completion of the refurbishment works as this was assessed to be the best value proposition at that time.49

At the conclusion of the review, the final cost estimate to complete the project was $164 million, with the major costs attributed to boiler repairs and capacity credit refunds.50

Government made a decision to proceed with the completion of the project in September 2013. Transfield Worley Power Services was engaged to complete the refurbishment.

It is noted that the project management improved when Verve Energy assumed full control of the project.

The refurbishment was completed in February 2014. Verve Energy was merged with Synergy in January 2014.

Project close-out

The initial estimated cost of the project was $150 million, to be funded by Inalco Energy.

The actual cost for the refurbishment was $308 million which was fully funded by Verve Energy. An additional $158.3 million of Synergy funding was required to fund the variation payments to Kempe Engineering Services, boiler repairs and schedule overrun costs.51 The most significant unanticipated costs were the $66.8 million required to repair the boilers and the capacity credit refunds of $49.4 million due to schedule overruns.52

The project was completed one month ahead of the revised schedule. The actual cost was $27.6 million less than the total amount anticipated by Synergy to complete the refurbishment.53 A summary of the total financial

47 Verve Energy, Briefing note for Minister for Energy, Exemption Section 68 continuation of funding for Muja AB refurbishment project [5 June 2013]
48 KPMG, Muja AB project assessment, ii (September 2013)
49 Ibid., viii.
50 Ibid., vi.
51 KPMG, Post completion review of the Muja AB project, (April 2014), 5.
52 Ibid.
53 Ibid.
investment for the project is included in the graph below.

**Figure 1: Summary of financial investment for Muja Power Station**\(^{54}\)

<table>
<thead>
<tr>
<th>Project Funding/Budgeted Cost</th>
<th>Total Budgeted Cost</th>
<th>Project Actual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$150M</td>
<td>$336M</td>
<td>$308M</td>
</tr>
<tr>
<td>$186 Million - Sum of Budget Increases Approved</td>
<td></td>
<td>$28 Million - Budgeted Costs Not Incurred</td>
</tr>
</tbody>
</table>

### Operation of the Muja Power Station after the refurbishment

The Government’s decision to proceed with the completion of the refurbishment works in September 2013 was based on an assumption that Verve Energy could realise $52 million to $96 million of value if the Muja Power Station continued operations for a further 10 to 15 years.\(^{55}\)

The Muja Power Station was retired from operations on 1 October 2017 after Synergy found that the cooling towers presented an unacceptable safety risk.\(^{56}\)

As a result of changed market demand, the costs to rebuild the towers and the Government’s decision to reduce Synergy’s thermal generation cap by 380 megawatts, Synergy resolved to retire the Muja Power Station.\(^{57}\)

Synergy confirmed that the closure of the Muja Power Station led to a reduction of 29 staff positions. Muja Power Station was profitable in 2015 and 2016 but as a result of large accumulated depreciation and

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\(^{54}\) Ibid.  
\(^{55}\) KPMG, Muja AB project assessment, [September 2013], 35.  
\(^{56}\) Synergy response to Special Inquiry request for information, received 22 November 2017  
\(^{57}\) Ibid.
impairment losses in 2017, Muja Power Station’s total comprehensive loss over the short operational life after its completion in February 2014 was approximately $89 million.58 59 60

**EVALUATION OF THE PROJECT**

**Governance and decision-making**

Throughout the project, a number of decisions was approved by the Verve Energy Board, and some required approval by the Minister for Energy. One of the initial approvals sought by Verve Energy from the Minister for Energy was to commence negotiations on the joint venture with Inalco Energy. At this stage no reference was made to the financial guarantee. In the period between the Minister for Energy approving Verve Energy negotiating the joint venture and the approval request to enter the joint venture, there is no documentation of consultation with the Department of Treasury on the financial guarantee. When Verve Energy sought approval from the Minister for Energy to enter into the joint venture, the Minister for Energy consulted the then Department of Treasury and Finance prior to responding to Verve Energy’s request. It was only at this point that the Department of Treasury and Finance was made aware of the financial guarantee that Verve Energy had negotiated with Inalco Energy.

Due to the lack of available documentation, it is unclear whether the Department of Treasury and Finance approved the transaction. It is also unclear as to what advice was provided to the Minister for Energy or the Treasurer, whose concurrence is required for section 68 approvals.

Based on the documentation provided to the Special Inquirer, the quality and presentation of information provided to the Board between 2009 and 2012 appears to have been inadequate and insufficiently documented.

No business case for the project was prepared to assist with decision-making. This meant that critical decisions were made by the Verve Energy Board and Minister without full visibility of material risks of the project due to the poor quality of the reporting. The quality of information and details noticeably improved from 2013 onwards.

Verve Energy had an Audit and Risk Management Committee that oversaw the risk management activities of Verve Energy. The Muja Power Station refurbishment project was considered by the committee in March 2010. The committee did not adequately assess the financial risks that Verve Energy was undertaking. The following was an excerpt from the Board submission dated 17 March 2010, where the Board approved

59 Vinalco Energy Trust, trading as Vinalco Energy, Special purpose financial report, [30 June 2016], 1.
60 Vinalco Energy Trust, trading as Vinalco Energy, Special purpose financial report, [30 June 2017], 1.
the project and the joint venture on what Verve Energy interpreted as the risk and effective mitigation strategy of the financial guarantee:

“Verve Energy’s risk pursuant to its guarantee in respect of the debt facilities reduce over time as the debt facility is repaid from the project revenue. The debt facility will be repaid after eight years whilst the project has a life of 10 to 15 years. Should the bank guarantee be called upon, the remaining 50 per cent share of the JV [Joint Venture] reverts to Verve Energy and therefore entitlement to 100 per cent of the future profits of the JV. This allows Verve Energy to ultimately recover some or all of the losses incurred.”

The above risk was assessed as “low” and the financial impact was assessed to be less than $5 million. This did not reflect the actual risk and liability that Verve Energy was undertaking. It overlooked the risk that operating profits would not be sufficient to cover debt repayment or cost of capital which was not considered in the risk register.

The Special Inquirer observed that the risks and mitigation strategies were not adequately considered by Verve Energy prior to approving the guarantee.

The design of the refurbishment project was in fundamental respects inappropriate for large government projects. Vinalco Energy had its own Board made up of an equal number of directors appointed by Inalco Energy and Verve Energy. Vinalco Energy made decisions independent of the Verve Energy Board and government more generally. During the refurbishment of the Muja Power Station between 2010 to April 2013, the decisions were made by the Vinalco Energy Board. This means Inalco Energy directors on the Vinalco Energy Board considered matters relating to the engineering, procurement and construction contract scope of works, variations and payments to Kempe Engineering Services. Inalco Energy and Kempe Engineering Services had common ownership. A clear process to manage the conflict of interest was only established in February 2013 as a result of unresolved variations being claimed by Kempe Engineering Services.

It is concerning that the Verve Energy Board was not aware of problems occurring in the project until the engineering, procurement and construction contract’s maximum guaranteed price of $110 million was

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61 Verve Energy, Submission to the Board of Directors – Muja AB project (17 March 2010)
63 Verve Energy response to Special Inquiry hearing questions taken on notice, received 30 October 2017
exceeded in May 2012. There was a lack of governance and reporting requirements between the Vinalco Energy Board and Verve Energy Board.

There was an obvious dissonance between the interests of Inalco Energy (as joint venture partner) and Kempe Engineering Services (as contractor to the joint venture) on the one hand and Verve Energy on the other. Inalco Energy and Kempe Engineering Services had common ownership. Inalco Energy (as joint venture partner) bore little risk because Verve Energy guaranteed the joint venture debt. This debt was incurred largely in paying Kempe Engineering Services.

From the inception of the project, there was no clear understanding as to how the Vinalco Energy Board would keep the Verve Energy Board informed so that the Verve Energy Board was aware of the performance, progress, risks and issues throughout the project.

This was particularly evident when the Verve Energy Board approved the project and formation of the joint venture, based on a board submission that was brief with limited consideration of the risks and timelines. There was very little consideration of project management or governance structure. The Special Inquirer was provided with little evidence to suggest that Verve Energy had strategically considered how it would resource or govern the progress and performance of the project during the joint venture.

**Procurement and evaluation process**

Synergy confirmed to the Special Inquirer that no evaluation report to the request for proposal process was prepared, and the Special Inquirer noted the lack of a probity report, even though a probity auditor had been engaged. During a hearing with the Special Inquirer, a former General Manager Business Development and Strategy of Verve Energy recalled that the principal reason for the selection of the Inalco Energy proposal was that neither of the other two bidders actually made a real bid. One proponent was inexperienced in power generation and the other proponent was apathetic to proceeding. The Special Inquirer was provided with no written documentation to support the selection of Inalco Energy.

During the shortlisting stages in 2007, the Inalco Energy proposal was identified as the riskiest and the net present value of the Inalco Energy proposal was ranked third. In 2008, the net present value of the Inalco Energy proposal was revised to be the highest, without any detailed information or justification. The Special Inquirer was unable to identify discount rate and assumptions applied to arrive at the various attributed net present values, and whether risks were factored in. The basis of the net present value calculations was, therefore, unclear. Further, there appeared to be no assessment of whether net present value analysis was an appropriate approach to compare options where there were minimal risk quantifications. The Special Inquirer also observed that when new risks were presented, the assumptions, reassessment of potential options and net present value were not recalculated.

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64 Verve Energy response to Special Inquiry hearing questions taken on notice, received 30 October 2017
65 Former General Manager Business Development and Strategy of Verve Energy, Special Inquiry hearing, 16 November 2017
66 Ibid.
Based on the documents examined, the Special Inquirer noted there did not appear to be sensitivity analysis to reflect risks, cost benefit ratio analysis or strategic option analysis to determine whether the lower risk demolition option was superior to the higher risk refurbishment option. Overall, there was lack of robust analysis of the financial consequences to inform the decision-making to proceed with the project.

Further, because of these shortcomings not only was the Verve Energy Board unable to assess adequately the Inalco Energy proposal but neither was the Minister for Energy, the Department of Treasury, nor anyone else in government.

A risk report was completed prior to the financial due diligence on the Kempe Group and technical due diligence reports of the Muja Power Station.

Financial due diligence conducted on Inalco Energy was completed in November 2009, four months after the risk report. The financial due diligence report highlighted some early warning signs including inconsistencies in financial data, lack of experience in power generation and the risk of the Global Financial Crisis on the aluminium industry affecting the company’s cash flows. The financial due diligence on Inalco Energy was incomplete because it was a new company with no trading history. The due diligence on the Kempe Group stated that the Kempe Group had a complex structure, had set up separate companies for specific projects and had a policy of not providing parent company guarantees.

It was confirmed in the hearing with the Special Inquirer that the Verve Energy Board was not made aware of this financial risk and that Verve Energy was relying on the Kempe Group bailing out its subsidiaries, even though the financial due diligence report stated that the Kempe Group had a policy of not providing parent company guarantees.

The Special Inquirer notes that the Technical Due Diligence Report commissioned by Inalco Energy plainly overlooked the external corrosion of the boilers which was the cause of the significant cost blow out.

Based on the timeline of events for the project, approval from the Verve Energy Board and Minister was obtained before the technical due diligence report was completed. During its hearing with the Special Inquirer, Synergy stated that although the report was dated September 2010, the technical due diligence report provider had been working with both Inalco Energy and Verve Energy since 2009.

The Special Inquirer observed that both the financial and technical due diligence conducted on the proponent stated that the Kempe Group had limited experience in power plant refurbishments of this size and complexity. The Kempe Group’s experience lay in the aluminium and mining industry. Even with this knowledge available Verve Energy did not reassess the risks of providing a financial guarantee and the construction risks of a contractor without adequate experience.

68 Interfinancial Corporate Finance Limited, Kempe Group due diligence report, [3 November 2009], 35.
69 Synergy Special Inquiry Hearing, 19 October 2017
Verve Energy did not assess appropriately its vulnerability in this project. It underestimated its risks and the value of its contribution into the project.

Inalco Energy was in effect contributing a fixed cost to the engineering, procurement and construction contract; but it was to receive at least $110 million. Verve Energy assumed the financial risk of this “contribution”. Verve Energy contributed the lease of the Muja Power Station facility at no cost as well as operational and management services on a cost recovery basis. Verve Energy also committed to certain guarantees and side agreements which backed the project, including third party supplies and demand contracts. This meant that Inalco Energy was able to tap into the very competitive rate of the coal fuel contract Verve Energy had with Wesfarmers Limited at the time.70

Synergy confirmed to the Special Inquirer that there was no business case developed for the project and the joint venture. During its hearing, Synergy stated that the Board approval submission dated 17 March 2010 was the single most comprehensive document for the project. The Board submission was five pages in total. According to this submission, the benefits of the Muja Power Station refurbishment project included:

- a “stop gap” measure to provide additional coal fuelled plant;
- refurbishment cost to be achieved at a lower capital cost while ensuring Verve Energy retained network access to the plant; and
- that the project was to be profitable to Verve Energy, with an expected pre-tax return of 20.93 per cent.

During its hearing with the Special Inquirer, Synergy advised that while the project was not driven by the Varanus Island crisis which caused a shortage of gas supply in Western Australia, Synergy stated that Verve Energy’s response in being able to put the Muja Power Station back into service in 2008 to mitigate the State’s gas shortfalls refocussed the Government’s perspective of energy security.71

There did not appear to be any methodical approach to project management from the project’s inception. The lack of a business case to assist decision-making is concerning as it has been observed that the level of understanding and communication of the project’s contractual framework and financial investment decision from an enterprise level was deficient. Once the contracts were executed, continuous monitoring of Inalco

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70 Former General Manager Business Development and Strategy of Verve Energy, Special Inquiry hearing, 16 November 2017
71 Synergy Special Inquiry Hearing, 19 October 2017
Energy and Kempe Engineering Services was limited or non-existent. Synergy confirmed that no contract management plan or strategy to manage the engineering, procurement and construction contract were ever developed. As a result, there was no overarching project strategy to act as a checkpoint to ensure that the project continued to meet its intended objectives and outcomes.

The Special Inquirer observed, however, that Verve Energy had improved the communication and quality of information when it became obvious that Inalco Energy and Kempe Engineering Services were unable to complete the project and expressed their intention to exit the joint venture. From this point Verve Energy became aware of its position and it became clear that the project and its liabilities would ultimately revert back to itself.

A business case was developed in May 2013 to seek the Verve Energy Board’s support to continue investing in the project to complete the refurbishment. At this point the project was $23 million over budget and it was estimated that a further $144 million was required to complete the project. Due to the significant estimated additional funding, the Government suspended the project in June 2013 and multiple reviews were conducted on the project, including detailed engineering and project management reviews to ensure that all necessary technical issues had been identified. The final cost estimate at the conclusion of the review was $167 million net funding shortfall to complete the project, with the major costs attributed to boiler repairs and capacity credit refunds.

The business case also proposed a project governance structure with clear resourcing responsibilities identified to manage the project’s requirement. The project management improved when Verve Energy assumed full control of the project.

**Project financing**

Based on a review of the agreements, the Special Inquirer was not satisfied that Verve Energy’s position was adequately protected in circumstances of default by Inalco Energy. Verve Energy’s remedies for default were limited to diluting Inalco Energy’s interest and, ultimately, terminating the joint venture.72 Having regard to the guarantee, Verve Energy bore the real financial risk of all major contingencies. If Inalco Energy failed to make financial contributions to the project, Verve Energy’s remedy was to sole fund and dilute Inalco Energy’s interest but with Inalco Energy retaining its equal management rights in Vinalco Energy.73

**RECORD KEEPING**

The Special Inquirer has identified shortcomings in Synergy’s long term record keeping and Synergy admitted it had been challenged to locate relevant documents which had been requested. Some documents were only provided after multiple requests from the Special Inquirer.

The Special Inquirer is unable to assess how Verve Energy came to the conclusion that the joint venture was the best option as documentation explaining the critical decisions was not provided either because it did not exist or it could not be located by Synergy.

72 Verve Energy, Securityholders Agreement [5 May 2010]
73 Ibid.
FINDINGS

1. There was no business case prepared by Verve Energy to justify its decision-making and support for the project prior to the joint venture commencing.

2. Verve Energy was not fully aware of the condition of the boiler tubes before their refurbishment commenced. The technical due diligence overlooked the corrosion of the external boiler tubes which would have prevented the large cost overruns. This process, including the development of the scope of works during project definition, appears to have been rushed.

3. The Verve Energy Board was not made aware of the early warning signs highlighted by the Interfinancial financial due diligence report and the Sinclair Knight Mertz technical due diligence report. The financial due diligence report discussed Inalco Energy and Kempe Engineering Services’ fragility while the technical due diligence report stated that the Kempe Group had limited experience in power plant refurbishments of this size and complexity.

4. Verve Energy did not undertake a financial assessment to value its true contribution to the project. In addition to contributing $2 million working capital upfront, market knowledge and the existing licenses, Verve Energy contributed the lease of the Muja Power Station facility at no cost and the operational and management services on a cost recovery basis. Verve Energy also committed to certain guarantees and side agreements which backed the project, including third party supplies and demand contracts.

5. Risk management practices were not adequate. Risks were not appropriately assessed or considered, and strategies to mitigate the risks were ineffective. There was no evaluation report or similar documents to confirm that the procurement process was robust.

6. Verve Energy was unaware of its vulnerable position in entering the joint venture. It did not consider how it would resource or govern the progress and performance of the project. Consequently, Verve Energy underestimated its involvement and was uninformed of the ultimate value of its contributions into the joint venture.

7. Verve Energy did not have a sound understanding of the project’s risks and therefore the terms of the joint venture did not sufficiently manage Verve Energy’s risk position. The Securityholders Agreement favoured Inalco Energy. For example, even when Inalco Energy’s economic interest was diluted, Inalco still maintained equal voting rights.

8. Verve Energy was initially only contributing $2 million up front and was committed to certain guarantees and side agreements which backed the project. The third party supplies and demand contracts that resulted in significant schedule overrun costs to Verve Energy were not valued within the total cost of the project.

9. There was a lack of transparency through inadequate reporting of the joint venture’s activities to the Verve Energy Board.

10. There was a lack of contract management strategy to manage Kempe Engineering Services for the engineering, procurement and construction contract.

11. The Deed of Settlement for the dissolution of the joint venture appears to have reflected a commercial compromise by Verve Energy.
12. The project management improved significantly when Verve Energy assumed full control of the project.
13. There was no probity auditor report prepared even though there appeared to be a probity auditor engaged for a short time.
14. There was significant lack of record keeping to justify decision-making on critical decisions.

RECOMMENDATIONS

In addition to the recommendations outlined in the Special Inquiry Report Volume 1 relating to governance, project management, capability and record keeping, and Government Trading Enterprises, State corporations should ensure the following measures flow from this project.

1. All boards must be presented with detailed information and a business case prior to undertaking major investment decisions. The business case during the planning stage must include a full financial analysis of all risks and mitigation strategies that adequately reflects the risks, costs and benefits relating to the project.
2. Guidelines must be developed around the practical implementation of any mandated approvals and consultation requirements with the responsible Minister and the government oversight body such as the Department of Treasury’s Public Utilities Office.
3. Joint ventures where a State corporation and a private company are sharing 50 percent interest each should not be undertaken. If a 50 percent split is not avoidable the joint venture arrangement must have a deadlock breaking arrangement which resolves all deadlocks in favour of the State’s position.
4. Joint ventures should only be undertaken where the State has control and must follow detailed due diligence, assessment of the financial standing of the third party and a risk allocation assessment have been conducted. Consultation with the Department of Treasury must be initiated at the initial planning stage to investigate the possible implications for the State. Ministerial approval must be sought prior to any Memorandum of Understanding or Heads of Agreement discussions with the proposed joint venture partner.
5. A governance structure, reporting requirement and communication strategy must be established between the joint venture, the corporation board and the responsible Minister from the beginning. There should be continuous monitoring of joint venture partners once the partnership has been established.
SYNERGY CONSULTING CONTRACTS

“None of the contracts was publicly tendered and the award decisions were not published.”
- John Langoulant, Special Inquirer

The Special Inquirer reviewed 10 consultancy contracts awarded by Synergy, totalling about $44 million. They ranged in value from $373,000 to $33.9 million.

The Special Inquirer was alarmed that multiple contracts with a combined value of $39.4 million were awarded to single suppliers without adequate documentation to support the decisions. Synergy only provided background material on its procurement policy. None of the contracts was publicly tendered and the award decisions were not published. In addition, during a two-year period Synergy had 21 engagements with consultants, but the work was split among only three firms.

Synergy has its own procurement policy and standards. But what was concerning in the awarding of the contracts was the lack of evidence of concern for competition. This raised questions as to whether a fair and equitable process had been undertaken, the procurement policy itself had been followed, or if value for money had been achieved.

A number of areas require attention. There is no conflict of interest policy or contract management plan, and record keeping is poor.

Synergy’s procurement practice and policy framework fail to meet Government standards. Implementing policies developed by the State Supply Commission would not only promote transparency but help to ensure taxpayers get a better deal.
**SUMMARY**

As a government trading enterprise, Synergy is not subject to general government procurement policies for goods and services purchased under the State Supply Commission Act 1991.

State Supply Commission procurement policies require Western Australian general government agencies to conduct procurement activity with high standards of open and effective competition. These policies also require probity and accountability in the management of conflicts of interest.

Synergy has its own procurement policy and standards. For the purposes of the Special Inquiry, Synergy’s procurement policy and guidelines were compared with the State Supply Commission procurement policy framework. Over the period of the Special Inquirer’s terms of reference (2008 to 2017), Synergy’s policy framework was markedly different to the State Supply Commission procurement policy framework.

The Special Inquirer acknowledges that in order for Government Trading Enterprises to meet their commercial goals they require a degree of flexibility in procurement practices. Encouragement of competition in the market, sound procurement practices and flexibility, however, are not mutually exclusive.

While Synergy is of the view that the State Supply Commission policies in their entirety represent a standard that may not offer enough flexibility, the use of State Supply Commission policies can add significant value to the procurement process for high value purchases by:

- promoting competition in the marketplace. This drives down price and encourages innovation;
- reducing the risk of undue influence; within government departments, from suppliers, or from other government officials;
- providing a framework for the management of interest; and
- ensuring the rationale for decisions is thorough and fair, and based on value for money. Documented decisions can be used to debrief unsuccessful bidders.

The Special Inquirer believes that all government procurement — including procurement undertaken by Government Trading Enterprises — should reflect these standards and practices and that inclusion of these standards does not materially affect flexibility in purchasing. This view has been supported by several people attending hearings, including Eric Hooper, Synergy’s Deputy Chair between 2006 and 2014, who stated “aren’t you better off having a transparent process....that will give you the best chance of getting the best outcome ...”

During the time period to which the terms of reference for this Special Inquiry relate, Synergy has been criticised for their use of consulting firms. In 2014/15 and 2015/16, Synergy had 21 engagements with just three consulting companies: McKinsey, Deloitte and Ernst and Young. When questioned in Parliament in

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1 Synergy Special Inquiry hearing, 28 September 2017.
2 Mr E. Hooper Special Inquiry hearing, 22 November 2017.
3 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 21 October 2015, 7801b-7802a.
October 2015, the Minister for Energy could not specifically justify Synergy’s engagement of the consulting firms and would not disclose the value of the contracts.4

The Special Inquirer’s examination of Synergy’s use of consultant contracts encountered challenges due to a lack of record keeping by Synergy. The Special Inquirer’s evaluation and conclusion is that Synergy’s procurement practices and approach to the management of consultant contracts needs improvement.

Synergy states that procurement practices and processes are now well embedded and non-conformance reports are used to track compliance.5

**EVALUATION OF SYNERGY’S PROCUREMENT PRACTICE**

**Governance**

Synergy has a Procurement policy and Procurement standard, Sourcing guidelines, and an Exemption from competitive procurement process to govern its procurement.

**Figure 1: Synergy’s policy and document hierarchy**6

![Diagram of Synergy's policy and document hierarchy]

The Procurement policy provides high level descriptions of the principles that should be adhered to when procuring goods and services. Synergy’s Procurement standard and Sourcing guidelines are inconsistent with each other. This may have been as a result of the policies and standards not being reviewed and updated in parallel.

The Sourcing guidelines contain contract value thresholds and corresponding process requirements that referred to the Procurement policy. The Procurement policy did not, however, contain any contract value thresholds. The contract value thresholds in the Sourcing guidelines are also inconsistent with the Procurement standard. The Special Inquirer observed that the Procurement standard has a separate process requirement for consultancy services. This is not reflected in the Sourcing guidelines.

Synergy’s Sourcing guidelines expressly state that open competition is not Synergy’s preferred route to

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4 Ibid.
5 Synergy response to Special Inquiry questions on notice, received 5 September 2017.
6 Synergy, Procurement policy, (2 May 2017).
market for tenders above $1 million. This is also inconsistent with the Procurement standard which encourages competition. At its hearing with the Special Inquirer, Synergy stated that the category specialists determine the best approach for whether a tender is required as Synergy believes that category specialists will know their category market well and it is an efficient way for procuring.  This is the reverse position usually taken within government, in that generally the greater the tender amount, the greater the need for scrutiny and competition.

The Special Inquirer observed that Synergy’s Procurement policy allows significant flexibility and subjectivity, lacks guiding principles and continues to use outdated references to ‘DTF [the Department of Treasury and Finance] website’ even though the policy has been recently updated. The Department of Treasury and Finance ceased to exist as of July 2011 and was replaced by the Department of Finance and the Department of Treasury as separate entities. Synergy’s reactive approach to procurement is evident both from the lack of guiding principles and the use of a case by case basis determination of approach.

**Comparison between State Supply Commission policies and Synergy policy**

There are notable differences between the State Supply Commission policies and Synergy’s policy framework that applied during the period under examination by the Special Inquirer.

**Table 1: Policy comparison**

<table>
<thead>
<tr>
<th>STATE SUPPLY COMMISSION POLICY AND REQUIREMENT</th>
<th>SYNERGY’S POLICY AND REQUIREMENT</th>
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<tbody>
<tr>
<td><strong>Value for money</strong></td>
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<tr>
<td>A public authority is required to ensure procurement of goods and services achieves the best value for money outcome through detailed assessment and comparison of cost and non-cost factors. Non-cost factors include fitness for purpose, technical and financial issues, supplier capability, sustainability, risk exposures, availability of maintenance, service and support, compliance with specifications, ease of inspection and communication and delivery.</td>
<td>Synergy’s value for money determination under the Procurement Standard does not include supplier capability, risk exposures, availability of maintenance, service and support, ease of inspection and communication and delivery.</td>
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<tr>
<td><strong>Probit and accountability</strong></td>
<td></td>
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<tr>
<td>The probity and accountability policy requires that a public authority conduct its procurement activities ethically, honestly and fairly and be able to account publicly for its decisions and take responsibility for the achievement of procurement outcomes. All communication during the bidding process must be consistent so that it does not advantage or disadvantage one supplier over others. All contracts valued over $50,000 are made available to the public via a website. Bidders are able to obtain feedback, and there are processes in place to manage supplier complaints.</td>
<td>Under Synergy’s Procurement Policy, there is a broad requirement for probity, accountability and good governance. Synergy’s procurement must ensure that all suppliers are dealt with in a fair, ethical and honest manner and any potential or perceived conflict of interest is identified and dealt with in accordance with the code of conduct. Synergy’s accountability requirement does not include requirements for contract award details to be made public. There is no process in place to provide feedback to unsuccessful bidders or to manage supplier complaints. From a probity perspective, there is no requirement to ensure that communication with suppliers is consistent and does not disadvantage or advantage one supplier over others.</td>
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</table>

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7 Synergy Special Inquiry hearing, 28 September 2017.
8 Synergy, Procurement standard, (23 November 2016).
9 Synergy, Procurement policy, (2 May 2017).
Open and effective competition

The open and effective competition policy requires that a public authority provides suppliers with fair and equitable access to government supply opportunities while maintaining the transparency and integrity of government procurement. The following table sets out the minimum requirements with which a public authority must comply to procure goods and services, unless using a common use arrangement or a specific exemption is approved.

<table>
<thead>
<tr>
<th>Monetary threshold</th>
<th>Minimum requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $50 000</td>
<td>Determined by agency. Can be direct, verbal or written quotation. Agency is required to document decisions appropriately.</td>
</tr>
<tr>
<td>$50 000 to $250 000</td>
<td>Written quotations and written offers required.</td>
</tr>
<tr>
<td>$250 000 and above</td>
<td>Open tender through public advertisement.</td>
</tr>
</tbody>
</table>

Synergy’s Policy and Requirement

Synergy’s Procurement Standard, has no requirement to conduct an open tender process and it is not clear what is considered to be a competitive tender process. Synergy’s Sourcing Guidelines state that for tenders over $1 million, “category managers should consider whether an open route would be of benefit but is not Synergy’s preferred route to market.” Although the lower value (up to $250,000) processes are similar, the higher value ones are not. This is especially true when the above statement is taken into consideration.

<table>
<thead>
<tr>
<th>Monetary threshold</th>
<th>Procurement method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $5 000</td>
<td>Direct source – 1 verbal or written quote</td>
</tr>
<tr>
<td>$5 000 to $49 999</td>
<td>1 written quote</td>
</tr>
<tr>
<td>$50 000 to $249 999</td>
<td>3 written quotes</td>
</tr>
<tr>
<td>$250 000 to $999 999</td>
<td>Competitive Request – short form</td>
</tr>
<tr>
<td>$1 000 000 and above</td>
<td>Competitive Request – long form</td>
</tr>
</tbody>
</table>

Common use arrangements

This policy specifies that a common use arrangement is a whole of government standing offer arrangement for the provision of specific goods or services commonly used within government. Where a common use arrangement has been established, a public authority must purchase under it in accordance with the relevant buyers’ guide, however alternative arrangements can be approved by the Department of Finance.

Synergy's Procurement Standard, has no requirement to conduct an open tender process and it is not clear what is considered to be a competitive tender process. Synergy’s Sourcing Guidelines state that for tenders over $1 million, “category managers should consider whether an open route would be of benefit but is not Synergy’s preferred route to market.” Although the lower value (up to $250,000) processes are similar, the higher value ones are not. This is especially true when the above statement is taken into consideration.

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<tr>
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<tr>
<td>$50 000 to $249 999</td>
<td>3 written quotes</td>
</tr>
<tr>
<td>$250 000 to $999 999</td>
<td>Competitive Request – short form</td>
</tr>
<tr>
<td>$1 000 000 and above</td>
<td>Competitive Request – long form</td>
</tr>
</tbody>
</table>

Professional services standing offer

Synergy does not have any standing offer arrangements.

Procurement planning, evaluation reports and contract management

Public authorities are required to have effective planning at the project initiation stage, quality evaluation processes, and effective contract management post-contract award which are critical to facilitating successful contract delivery. The decision-making process is to be recorded in an evaluation report for all written quotes and public tenders. For procurements with a total estimated value of $5 million and above a procurement plan, evaluation report and contract management plan must be developed and submitted to the State Tender Review Committee. Where contract variations are valued at $5 million and above either individually or cumulatively, a contract variation memo must also be submitted to the State Tender Review Committee.

Synergy’s Sourcing Guidelines provides some guidance for procurement planning which includes internal analysis, requests for information and expression of interest. Synergy does not mandate any requirements for the development of a procurement plan, evaluation report to document the decision-making process leading up to the award of a contract and contract management to monitor the performance and spend of the contract. Synergy does not have an executive group with functions to the State Tender Review Committee to approve procurement transactions with a total estimated value of $5 million and above.

Sustainable procurement

Public authorities must consider sustainable procurement in a way that achieves value for money and generates benefits not only to the organisation, but also to society and the economy, while minimising damage to the environment.

No equivalent standard or policy.

Disposal of goods

Public authorities must dispose of goods in a manner that is ethical, equitable, efficient, and where practical maximises a value outcome for government. This may be in the form of public benefit or financial return.

No equivalent standard or policy.

11 Synergy, Sourcing guidelines, [not dated].
Procurement practices

The Special Inquirer reviewed the procurement process documentation for a sample of 10 consultancy contracts valued between $372,000 and $33.9 million, with a total combined value of approximately $44 million. The sample of 10 contracts are listed in Appendix A.

It is alarming that three contracts with a combined value of $39.4 million were awarded to a single supplier without adequate documentation to substantiate decision-making. The Special Inquirer requested procurement documentation for the three contracts. Synergy provided the Special Inquirer with a submission that gave an overview of the engagement with the single supplier for only one of the contracts.

The submission provided background on the procurement process, which included an expression of interest to 12 businesses and a process to shortlist four firms to progress to the request for proposal stage. While the submission provided a background to the procurement process, it did not provide justification or evidence to support the decision-making process during the tender evaluation. Following its hearing with the Special Inquirer, Synergy advised that "Synergy remains unable to locate the full tender and evaluation documents for all ten sample contracts under examination".

In its response to the Special Inquirer, Synergy maintains that its commercial negotiations are focused on achieving value for money and all executed contracts are managed in accordance with strong contract management practices. No evidence of this was provided.

Given the lack of documentation to substantiate the procurement processes, decision-making and tender evaluations, the Special Inquirer can only observe that there are significant deficiencies in Synergy’s procurement processes and that Synergy has failed to comply with its own Procurement Policy requirements.

There was no evidence of consideration for competition. Without any documented account of the evaluation process for the 10 reviewed procurement processes, Synergy could not demonstrate that:

- a fair and equitable procurement process was undertaken;
- its procurement policy has been followed; and
- value for money outcomes were achieved.

The following points were noted when comparing these processes to the State Supply Commission policies.

- None of the 10 contracts would have met the value for money and open and effective competition policies. None of the contracts was publicly tendered and the award decisions were not publicly published.

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13 Synergy response to Special Inquiry hearing questions taken on notice, received 5 October 2017.
14 Ibid.
• None of the 10 contracts would have met policy requirements for probity and accountability. None of the contracts had an evaluation report or equivalent documentation to justify the decision-making nor were conflict of interest checks in place. Of the 10 contracts, one conflict of interest form was provided for one of the procurement processes. This document included the declaration of a potential interest. No documentation on the management of the conflict of interest was provided.

• One of the contracts was above $5 million and if subject to the State Supply Commission’s requirements would have had to go through the State Tender Review Committee for the endorsement of the procurement plan, evaluation report and contract management plan. The contract did not meet the State Supply Commission’s requirement for a contract management plan to be developed because Synergy’s policy does not have such requirements.

In addition, Synergy could not demonstrate consistent governance of procurement practices, including approval from the appropriate delegated authority for contracts of significant values.

**Managing conflicts of interest in a procurement process**

Synergy does not have a conflict of interest policy. There is a brief provision for the management of interest within Synergy’s Code of conduct but it does not provide sufficient guidance on identifying conflicts of interest and the potential remedial actions to manage any identified conflicts of interest in a procurement process.

One conflict of interest form was provided for one of the procurement processes. This document included the declaration of a potential conflict of interest, but no documentation on the management of interest was provided. The Special Inquirer observed that there is a lack of governance on the identification and management of interest during Synergy’s procurement processes.

**AUDIT OF PROCUREMENT**

The Special Inquirer requested copies of Synergy’s internal audit report on procurement. During its hearing with the Special Inquirer, Synergy advised of, and provided to the Special Inquirer an audit plan that included audits undertaken from 2015 to 2017 to ensure compliance with procurement practice and standards. The Special Inquirer notes that based on the audit plan and previous audits performed, there was an internal audit of procurement processes with a focus on recommendations to improve compliance in 2017 but to date, no specific consulting contracts have been audited.

**RECORD KEEPING**

The Special Inquirer has identified shortcomings in Synergy’s record keeping. Synergy was unable to provide documentation to support the whole procurement lifecycle for all 10 of the sample contracts selected. Full tender and evaluation documents for the sample documents could not be located.

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15 Ibid.
16 Synergy, Final annual audit plan FY17, (not dated).
17 Synergy response to Special Inquiry hearing questions taken on notice, received 5 October 2017.
FINDINGS

The chapter on Government Trading Enterprises in Volume 1 of the Special Inquiry report has a number of findings relating to the way Government Trading Enterprises procure goods and services and manage contracts. The matter of the lack of openness and transparency in their contracting activities is also covered. These findings are relevant to Synergy in the context of this report. In addition to the findings in the separate chapter, the following are findings specifically relating to this examination.

1. There are significant deficiencies in the way Synergy procures consultancy services. The sample reviewed indicates a failure to engage in open competition which is likely to be negatively impacting pricing and failing to promote innovative approaches by service providers.
2. None of the 10 of the consultancy contracts examined by the Special Inquirer was compliant with Synergy’s procurement policy and none would have met the State Supply Commission requirements.
3. Synergy’s procurement practice and policy framework does not meet the standards required of government agencies. Synergy’s procurement policy, framework and standards are difficult to understand due to inconsistencies in the standards and policies.
4. Synergy’s procurement policy allows significant flexibility and subjectivity and is in contradiction to the State Supply Commission policy, specifically in relation to the requirements for competition.
5. Synergy did not have a conflict of interest policy and could not demonstrate to the Special Inquirer how declared conflicts of interest are managed during a procurement process.
6. Synergy was unable to provide records to the Special Inquirer.

RECOMMENDATIONS

1. Synergy must rewrite its procurement policies to provide greater clarity and address the inconsistencies that exist within the suite of documents that form its procurement policy.
2. Synergy must consider strengthening its procurement policy documentation to include elements of the State Supply Commission policies, including:
   - specifying the complete definition of value for money;
   - probity, to ensure Synergy conducts its procurement activities ethically, honestly and fairly;
   - accountability, to ensure Synergy is able to publicly account for its decisions and take responsibility for the achievement of procurement outcomes;
   - the following elements of the State Supply Commission’s Open and Effective Competition Policy:
     - avoiding bias;
     - specifying a contract term;
     - notification to unsuccessful bidders; and
     - publishing contract award information for consultancy contracts;
   - requiring mandatory procurement planning, evaluation, contract management and variation documentation and processes in accordance with contract value thresholds; and
   - requiring identification of sustainability in the procurement policy, which should be of particular importance in the energy market.
3. Synergy must improve its processes by standardising procurement practices. Synergy must consider developing templates for the full lifecycle of procurement. These templates should incorporate best practice and may reflect the rigour of the procurement documentation required by general government sector agencies. Particular emphasis on the standardisation of tender documents and evaluation reports is required, including the development of weighted evaluation criteria, pricing considerations, relevant endorsement and approval. Synergy should also consider the development of alternative procurement templates for the varying monetary thresholds of contracts.

4. Synergy must use an appropriate records management system for its procurement process documentation.

5. Synergy must set and adhere to endorsement or approval thresholds for appropriate delegated authorities for clear milestones during the procurement process. This may include a specific delegation schedule for each of the key documents developed during a procurement process.
## APPENDIX A - THE 10 CONSULTANCY CONTRACTS

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>PROCUREMENT METHOD</th>
<th>CONTRACT AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor A</td>
<td>Restricted tender</td>
<td>$33 900 000</td>
</tr>
<tr>
<td>Vendor A</td>
<td>Restricted tender</td>
<td>$3 198 182</td>
</tr>
<tr>
<td>Vendor A</td>
<td>Unknown, no documentation</td>
<td>$1 450 000</td>
</tr>
<tr>
<td>Vendor A</td>
<td>Unknown, no documentation</td>
<td>$900 000</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Unapproved exemption for direct engagement with Vendor B</td>
<td>$996 385</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Unknown, no documentation</td>
<td>$600 040</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Unknown, no documentation</td>
<td>$442 451</td>
</tr>
<tr>
<td>Vendor C</td>
<td>Unknown, no documentation</td>
<td>$559 940</td>
</tr>
<tr>
<td>Vendor D</td>
<td>Unknown, no documentation</td>
<td>$1 218 479</td>
</tr>
<tr>
<td>Vendor E</td>
<td>Unknown, no documentation</td>
<td>$372 619</td>
</tr>
</tbody>
</table>
The Western Australian Government owns and operates three statutory electricity corporations: Western Power, Synergy and Horizon Power. Western Power is specifically responsible for building, maintaining and operating the electricity network within the South West Interconnected System. The Special Inquirer investigated Western Power’s management of three matters between 2007 and 2017:

- Consulting contracts;
- Woodlands transmission line; and
- Project Vista.

Throughout the examination of these projects, the Special Inquirer reviewed a range of relevant documentation and conducted hearings with Western Power representatives including present and past Chairs and present and past Chief Executive Officers.

The Special Inquirer examined a sample of ten contracts Western Power entered into with consultancy service providers over the period. Western Power’s approach, the policies applied and processes used and value for money were reviewed.

Western Power’s Woodlands transmission line project involved moving four transmission line poles that were affecting nine residents in the suburb of Woodlands in 2014 at a cost of $2.7 million (equating to $300,000 per resident). The Special Inquirer reviewed the level of community consultation, the analysis of available options, and the development of a business case to undertake the works.

The refurbishment of Western Power’s Perth head office and some depots was undertaken through Project Vista. The presence of asbestos within the Perth head office meant some level of refurbishment was inevitable. Western Power seized the opportunity to deliver a sustainable green building and upgrade building systems at a total cost of $83.7 million, which was well over the project budget of $63.4 million. The Special Inquirer focused on Western Power’s overall governance, business case development and project management to determine whether the investment represented value for money in a changing commercial real estate market environment.

Each of the projects has a number of findings and recommendations. The Special Inquirer considers that none
of the above matters was handled satisfactorily.

In addition to findings for each of the above matters, the Special Inquiry Report Volume 1 includes a separate
chapter on Government Trading Enterprises. The Special Inquirer notes that all findings and recommendations
in that chapter are consistent with the outcomes of the examination of the above three matters.

The Special Inquirer was concerned by aspects of Western Power’s approach to the inquiry. While questions
on notice were answered, and some past and present Board members and management appeared at
hearings, correspondence received following the release of draft findings to Western Power and an attempt
to obstruct the Inquiry legally were not helpful.

After the Special Inquiry had undertaken its review of Project Vista, the Woodlands Transmission Line Project
and Western Power Contracts draft findings were sent to Western Power for comment. Western Power
provided detailed responses to the draft findings and the Special Inquirer has had regard to these. In addition
to this detailed response, Western Power raised, for the first time, an issue concerning the jurisdiction of the
Special Inquiry. Western Power also included a copy of legal advice that it had received. This advice, and
the Western Power response, is dated 28 November 2017.

The Special Inquirer is aware of the terms of the Public Sector Management Act 1994 pursuant to which
inquiries have been undertaken. Section 24H empowers the holding of a special inquiry into a matter related
to the Public Sector. In this statutory setting, Public Sector means Western Australian government departments,
ministerial offices and certain organisations identified in schedules to the Public Sector Management Act
1994. These schedules also exclude certain bodies from being part of the Public Sector for the purposes of
the Public Sector Management Act 1994. Western Power is one of these excluded bodies.

The Special Inquirer can inquire into matters “related to the Public Sector” and in this sense can consider
the conduct of individuals, private corporations and others whose conduct interacts with the Public Sector.
Western Power interacts with government departments and ministerial offices in much of what it does, in
the same way that many individuals who are not employed in the Public Service interact with government
departments and ministerial offices.

To consider certain matters into which the Special Inquirer has been directed to inquire, it has been necessary
to consider certain matters concerning bodies like Western Power that are not part of the Public Sector for the
purpose of the Public Sector Management Act 1994.
It is unfortunate that Western Power has raised what appear to be concerns about the jurisdiction of this Special Inquiry after the great majority of its work has been completed and only after it was provided with draft findings. Had concerns existed they ought to have been raised up front and not in response to draft findings.

The Special Inquirer is satisfied that it has properly exercised the power given it under the Public Sector Management Act 1994.

The Electricity Corporations Act 2005, which governs the operations of Western Power, provides for the creation by Western Power of codes of conduct setting out minimum standards of conduct and integrity to be observed by members of its staff. These codes of conduct are to be adopted after consultation with the Public Sector Commissioner. The Public Sector Commissioner can require the board of Western Power to report on the observance of any code of conduct by members of its staff, and the board of Western Power is to report to the Minister annually on the observance of codes of conduct by staff of the corporation.

If the Special Inquiry has exceeded its jurisdiction in making the recommendations that it has in respect of Project Vista, the Woodlands Transmission Line Project and Western Power Contracts, then it will be necessary for the Minister and the Public Sector Commissioner to inquire, again and further into these matters to determine whether, in relation to these matters, the staff of Western Power have acted in accordance with applicable codes of conduct. It might then also be necessary to consider the reports provided to the Minister over time concerning such matters.
“Western Power’s governance and management processes on this project were inadequate...”
- John Langoulant, Special Inquirer

Asbestos provided a catalyst for change and an opportunity for Western Power to refurbish its Perth head office, deliver a sustainable green building for the business and future proof the building’s fire, mechanical, electrical and hydraulic systems.

In addition to the need to remove asbestos, the Board of Western Power had recognised that to support cultural change, the office accommodation should be made more equitable. The refurbishment plans were seen as necessary to address cultural issues arising from unbalanced accommodation standards within the building where the executive floor was “generous” and other areas were “in a deplorable state, and they were completely unfit for purpose.”

Western Power selected two contractors
— Complete Design Interiors Pty Ltd (Complete Design Interiors) and Broad Construction Services (WA) Pty Ltd (Broad Construction Services) — to manage the refurbishments as part of Project Vista between 2008 and 2013 for a total expenditure of $83.7 million.

Western Power’s governance and management processes on this project were assessed as inadequate, resulting in poor project outcomes and lack of planning leading to increased scope and budget.

There were 719 variations to the contract with Broad Construction Services alone.

Western Power has taken significant steps towards improving processes since Project Vista.

While Western Power has realised some operational benefits from Project Vista, they are not measurable. At the same time, changes in the commercial property market and an unforeseen reduction in Western Power’s head office staffing means that Project Vista has not delivered value for money.

1 Mr Paul Italiano, Special Inquiry hearing, 17 November 2017.
SUMMARY

In 2008, asbestos in Western Power’s head office was reaching end of life safety standards, requiring extensive works to most levels in the building. Project Vista used these asbestos removal works as an opportunity to:

- refurbish the Perth head office and other metropolitan depots;
- deliver a sustainable green building for the business; and
- future-proof head office fire, mechanical, electrical and hydraulic systems.

Two contractors managed the refurbishments between 2008 and 2013. Complete Design Interiors was engaged initially for head office levels 3 and 4, and then for levels 5 and 6. Broad Construction Services managed the refurbishments for the remainder of the head office. The total expenditure for Project Vista was $83.7 million.

At the time Western Power’s governance, project management, procurement and contract management were not of an acceptable standard. This led to poor project outcomes, lack of reporting and deficient risk mitigation. The current commercial property market environment means it is unlikely that the investment of $83.7 million has resulted in a commensurate increase in market value of the asset. The Special Inquirer understands that valuation of the head office that occurred during a proposed sale in 2016 was less than $70 million.

The refurbishment of depots has not occurred at the planned level due to the over-spend on the head office. What this has meant for safety and health issues and/or future expenditure requirements for those depots is unclear.
The Special Inquirer notes that Western Power states it has taken steps towards improving governance, project management and procurement processes.

**PROJECT SYNOPSIS**

In May 2004, Western Power commissioned Parsons Brinckerhoff to prepare an asbestos register and management plan for its Perth head office. Parsons Brinckerhoff concluded that serious consideration should be given to the removal of asbestos at the building.  

On 1 April 2008, Western Power management gave early notice to its Board of the Project Vista vision to solve metropolitan office accommodation issues. Western Power’s submission noted that the “passivated asbestos in the Perth office has reached end of life safety standards and must be removed urgently. The risk to Western Power staff if asbestos is not removed is extremely high.”

Following a Board request for more information, a second Board submission was made in May 2008 which clarified several points and included the Project Vista business case for approval.

The business case provided the Board with four options for addressing the asbestos problem. Management made it clear it was keen to seize the opportunity to deliver a sustainable green building for the business. This objective aligned Project Vista to the Energy Solutions Business Strategy, whereby Western Power was committed to reducing its carbon footprint.

The four options analysed were as follows:

1. Vacate the Perth office and seek alternative accommodation.
2. Asbestos removal and refurbishment of all sites without Green Star works.
3. Asbestos removal and refurbishment of all sites with works to achieve 4 star Green Star status.
4. Asbestos removal and refurbishment of all sites with works to achieve 5 star Green Star status.
   
   A 5 star rating means ‘Australian Excellence’.

Option 4 was recommended and included refurbishment of five depot sites (Jandakot, Kewdale, Balcatta/Stirling, Mount Claremont and Mandurah). The program of work was to extend over four years at a total cost of $67.4 million.

On 5 September 2008, Western Power entered into a contract with Complete Design Interiors to provide

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2 Parsons and Brinckerhoff, Identification and Risk Assessment of Asbestos Containing Materials (ACM) for Head Office West Building, (March 2005), ii.
3 Western Power, Submission for Board meeting – Project Vista, (1 April 2008), 4.
4 Western Power, Submission for Board meeting – Project Vista, (2 May 2008), 1.
6 Green Star is a recognised sustainability rating system for initiatives which contribute to savings in energy and water costs, repairs and maintenance.
head contractor services for the removal of asbestos and refurbishment of head office levels 3 and 4 for $5.6 million. Practical completion of levels 3 and 4 was achieved on 20 March 2009.

On 23 October 2008, Western Power sought Board approval for unbudgeted capital expenditure of $2.51 million for interior office fit out to accommodate an alliance partner at premises in Bentley. This represented a change in scope to the original business case. The fit out was completed by Complete Design Interiors $204,889 under budget.

In April 2009, Western Power entered into negotiations with Complete Design Interiors for the refurbishment of head office levels 5 and 6, the Kewdale and Mount Claremont depots. Complete Design Interiors provided a quote of $6.1 million for head office levels 5 and 6. This was accepted through a Board approved variation to the existing contract. Levels 5 and 6 achieved practical completion on 16 December 2009.

In July 2010, Western Power issued two requests for tenders. One was for fit out works for head office levels 7 to 12 and the other for construction and fit out works to the ground floor and basement, including backbone services and goods lift upgrades. Levels 1 and 2 were excluded from the requests.

The Board approved the award of both contracts to Broad Construction Services on 2 November 2010 for $29.4 million. At that meeting, management reported that $25.77 million of works had already been completed and that this included $2 million that was not included in the original scope, for project delivery administration and salary costs, deferral of the original program and design enhancements to meet requirements.

In addition to this, the submission specified a further $10.9 million of costs not included in the business case as outlined below.

Table 1: Additional costs not included in the business case

<table>
<thead>
<tr>
<th>ADDITIONS</th>
<th>COST ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Underestimating the cost of backbone services to meet safety and compliance requirements</td>
<td>6.5</td>
</tr>
<tr>
<td>Administration and salary costs for project delivery</td>
<td>1.5</td>
</tr>
<tr>
<td>Allowance for contingencies</td>
<td>2.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10.9</strong></td>
</tr>
</tbody>
</table>

On 5 April 2012, Board approval was sought to extend the existing contract with Broad Construction Services by $8.6 million to allow for asbestos removal and refurbishment of head office levels 1 and 2. The Board approved the proposal and the variation brought the total value of the contract with Broad Construction Services to $37.2 million.

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8 Backbone services included security, fire, electrical, telecommunications, mechanical, heating, ventilation, air conditioning and hydraulics.
On 26 March 2013, the Board was requested to approve a $3 million increase to the Project Vista business case, comprising $2.8 million to the construction contract and $0.2 million for “other associated costs”. At that time, a list of variations due to scope changes totalling a further $5.9 million, was presented to the Board. Practical completion occurred on 13 June 2013. At the close of the contract with Broad Construction Services, the total paid was $40.9 million.

It is noted that the planned depot refurbishments were only partially achieved. This is discussed further below. Western Power was awarded a 5 star Green Star rating for its head office in March 2015.10

**Financial analysis**

The approved initial project budget was $67.4 million.11 The final total expenditure was $83.7 million.12 The reasons for the difference were:

- the addition of refurbishment to the Bentley depot to the scope ($2.5 million);
- additional contingency ($2.9 million);
- unbudgeted internal costs ($1.5 million);
- underestimated costs for backbone services ($6.5 million); and
- additional payment to Broad Construction Services ($3 million).

**Project costs**

There are significant differences between the breakdown of expected costs and actual expenditure between head office and the depots.

**Table 2: Difference between approved and actual expenditure**

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>BUSINESS CASE APPROVED EXPENDITURE ($ million)</th>
<th>FINAL ACTUAL EXPENDITURE ($ million)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head office</td>
<td>54.54</td>
<td>76.54</td>
</tr>
<tr>
<td>Depots</td>
<td>12.87</td>
<td>6.41</td>
</tr>
</tbody>
</table>

* Some small differences due to rounding.

The May 2008 business case did not break down the budget between the refurbishment of the head office and the depots. In 2014, however, the following breakdown was provided in Parliament by the Minister for Energy.13

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10 Ibid., 6.
11 Western Power, Submission for Board meeting – Project Vista, (1 April 2008), 4.
12 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 20 February 2014, 487b.
13 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 1 April 2014, 1899b.
### Table 3: Depot budget break down

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>EXPECTED EXPENDITURE ON DEPOTS - AT THE TIME OF THE BUSINESS CASE ($ million)</th>
<th>ACTUAL EXPENDITURE ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kewdale</td>
<td>2.0</td>
<td>3.9</td>
</tr>
<tr>
<td>Jandakot</td>
<td>7.5</td>
<td>0.0</td>
</tr>
<tr>
<td>Mount Claremont</td>
<td>1.4</td>
<td>0.2</td>
</tr>
<tr>
<td>Balcatta</td>
<td>1.3</td>
<td>0.0</td>
</tr>
<tr>
<td>Mandurah</td>
<td>0.9</td>
<td>0.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>13.1</strong>*</td>
<td><strong>6.4</strong>*</td>
</tr>
</tbody>
</table>

* IN ADDITION, $2.3 MILLION WAS SPENT ON THE BENTLEY DEPOT.14

^ There was small expenditure at Jandakot and Mandurah ($32,000 and $25,000 respectively).

**EVALUATION OF THE PROJECT**

**Governance**

Western Power provided the Special Inquirer with evidence of Board approval of the project budget, additional budget requirements, and the awarding of contracts and variations.

Despite some Board members’ stated views of the political risk associated with refurbishment of Western Power’s offices,15 Western Power was unable to show the Special Inquirer any documentation or evidence that the Board approved expenditure of $68 million was referred to the Minister for Energy. This is despite the requirements of Sections 68 and 70 of the *Electricity Corporations Act 2005*.

Mr Paul Italiano, former Chief Executive Officer of Western Power (2012-2016) informed the Special Inquirer that part of the rationale for the refurbishment was to address equity issues arising from the disparity between the executive floor and other work areas. Mr Italiano stated that “one of the things that was done was to bring everybody onto a standard working platform, move everybody into open plan, and to provide more equitable access...to facilities”. Mr Italiano noted that the inequity in working standards was something that needed to be addressed to allow for needed cultural change.16 This objective is alluded to in the business case objectives — “Changing the mindset of employees can be achieved through a change in the physical environment in which people work.”

Section 68 requires the Board to obtain the Minister’s approval for transactions (including contracts) valued at either 1 per cent of the value of the consolidated fixed assets and investments of the corporation, or the sum

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15 Western Power Director Sally Forrier, email to General Counsel, Company Secretary, Chair, Chief Executive and others, (4 April 2008).
16 Mr Paul Italiano, Special Inquiry hearing, 17 November 2017.
of $20 million, whichever is greater. Although the total value of the Project Vista contracts was more than $20 million, technically the Board did not require Ministerial approval.

Under Section 70, however, the Minister must be consulted on major initiatives, including those likely to be of significant public interest, regardless of whether Section 68 applies or not. In light of the Board’s view of the political risk, the Special Inquirer is of the opinion that the Minister should have been consulted.

An apparent indifference to these accountability requirements by the major energy bodies was a characteristic of the time (see the chapters of this report regarding the Synergy billing system and the Muja Power Station, and the findings in the chapter on Government Trading Enterprises). Western Power did, however, notify the Economic Regulation Authority of the projected costs for Project Vista. This was through its Access Arrangement submission for the period.

As the original business case did not break down the planned expenditure for the head office and the depots, the Board was not in a position to monitor this expenditure. The Board, however, approved the reallocation of funding from the depots to cover a cost shortfall identified in November 2010. The Special Inquirer was not provided with any documentation or evidence that showed that the refurbishments at the depots, identified by the business case as being needed, were addressed.

As previously mentioned, four options to address the asbestos issue at the head office were presented to the Board. There was no consideration of an option only to remove the asbestos. This left the business case with a considerable shortfall.

The analysis of Option 1 — Vacate the Perth office and seek alternative accommodation — within the business case was cursory at best. The analysis projected costs for an ‘owner/builder’ option for a multi-storey complex in the Perth central business district to be $105 million to $115 million. The cost for leasing premises in the central business district was projected to be $80 million to $90 million over 10 years.

There was some analysis of moving to a suburban location. The projected cost for an ‘owner/builder’ option outside of the Perth central business district was $65 million to $70 million. The analysis found there would be additional costs of $12.87 million for the metropolitan depot locations.


There was no reference, however, to consultation with the Government Office Accommodation unit of the Department of Finance as part of this analysis, despite the Board having requested that management review cost estimates for moving to new accommodation with the public sector. There is no evidence to show that Western Power management followed up on that request, nor is there any evidence that the Board pursued their request for comparisons and thereby held management to account on this issue.
Given Project Vista’s total final cost of $83.7 million, there were two failures associated with the options analysis in the business case:

1. no analysis of the costs and benefits of only removing the asbestos; and
2. failure to consult with internal and available public sector expertise on commercial accommodation throughout Western Australia (that is, the Government Office Accommodation within the Department of Finance).

Western Power’s risk assessment and management and governance surrounding risk management were not effective. The likelihood of cost increases was assessed in the original business case as being low and commercial negotiations ended less favourably than expected. Further, the risk assessment did not consider potential identification of more asbestos in the building, the possibility of a market downturn for commercial real estate or a decreased need for office space due to staff reductions.

Documentation provided to the Special Inquirer by Western Power indicates that a steering committee was formed in September 2008, but was dissolved at some unknown point and for reasons that were also unknown.

Project management

Business case

The business case presented to the Board in May 2008 had some elements of a reasonable business case. There was, however, insufficient analysis of the available options, especially in light of the high value of the prospective expenditure involved. This suggests to the Special Inquirer that the desire to refurbish the head office was a foregone conclusion by management before the business case reached the Board. The benefits analysis was equally deficient, being focused on non-financial outcomes, such as cultural transformation, but without any proposed measures of such benefits (discussed further in this report).

Scope management

The scope of Project Vista included refurbishing Western Power’s Perth head office and five metropolitan depots — Jandakot, Kewdale, Balcatta/Stirling, Mount Claremont and Mandurah — over a four year period.

The later addition of the alliance facility at Bentley to the project indicates that project planning was loose at best, as was project management. On the latter, the Project Vista Detailed Review report stated:

“Over time Vista became a colloquial term used within Western Power to mean many things, including ... refurbishments of regional depots, not included in the original Business Plan presented to the Board.”

The report goes on to say that during the project, costs related to assets such as workstations and other office furniture that were delivered and used at depots, were booked against the head office:

“It is noted there are no costs booked to the Balcatta depot but a visit will show staff are utilising furniture and other items … purchased in the Vista project.”

There are other signs that planning was not adequate. Major design changes were made during contracts and in its Contract Close out Report (2014), Western Power notes “These changes should have been initiated by management earlier during internal design reviews.”

Project management disciplines
From the documentation provided to the Special Inquirer it seems there was no consistent project manager for Project Vista. Western Power was unable to provide the Special Inquirer with any details of the period of time that the Steering Committee which was formed in 2008 operated, whereas it seems a monthly project coordination group was established during the Broad Construction Services contract between 15 February 2011 and 27 March 2013.

Just how effective this project coordination group was is difficult to assess. In some evidence it seems that Western Power may have been too reliant upon Broad Construction Services’ project management services as they “produced a monthly report that included the minutes of the project control group meetings, as well as a progress report, variations register, progress claim summary, contract program and other documents”. And there were many variations to the Broad Construction Services’ contract.

Western Power conducted an internal risk assurance audit in 2013 which found that the key controls for managing and monitoring change were ineffective on Project Vista. Western Power noted there were “…no formal change control procedures, incomplete reporting on the financial status of the project and no review or challenge by any governance body on the forecast completion cost.”

Monitoring and reporting
Western Power management only sought to apprise the Board of progress on Project Vista on occasions

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18 Ibid.
21 Ibid., 25.
22 Western Power, Project Vista Risk Assurance and Audit, [March 2013], 1.
23 Ibid.
where additional funding was required and failed to update and report issues to the Board adequately. It is also not evident as to why the Board Chairman and/or the Chief Executive Officer did not apprise the Minister of the project in writing as required by the Electricity Corporations Act 2005.

In addition to the previously mentioned failure to analyse all the available options, the business case did not contain enough detail around the split between proposed expenditure on the head office and the depots. Given that the expenditure on the depots was significantly less than planned, the Board should have been apprised about alternative measures being taken to ensure safe working conditions at the depots.

Prior to granting approval, the Board emphasised its expectation that the costing estimates were accurate, factoring in contingencies and price increases over the life of the project. While the Board approved additional funding, there is no evidence that the Board expressed concern about the cost blowouts.

**Procurement and contract management**

This report has detailed how the Project Vista works were undertaken by:

- Complete Design Interiors between 2007 and 2009 (head office levels 3, 4, 5 and 6 and depots at Kewdale and Bentley); and
- Broad Construction Services between 2010 and 2013 (all other head office levels).

Complete Design Interiors works on head office levels 3 and 4 were completed under a contract for $5.6 million and levels 5 and 6 through a contract variation for $6.4 million.

Broad Construction Services initial contract value was $32.4 million to refurbish head office levels 7 to 12. There were more than 719 contract variations totalling $9.1 million, which included the cost to refurbish levels 1 and 2.

The final contract value for Broad Construction Services was $41.5 million.

The high number and value of contract variations indicates that the project scope had not been well-defined and that procurement practices did not follow appropriate standards, especially for a government entity. Issuing contract variations to cover new work is especially problematic when challenges are made about open and effective competition practices and when justification is sought of best value for money outcomes. In the case of Project Vista, Western Power was unable to justify any of these claims.

Western Power’s Contract Close out Report for Broad Construction Services notes:

> Throughout the contract period the Superintendent had to resolve many disputes resulting from the substantial amount of errors and omissions in the design and contract documentation which became apparent during construction phases.

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25 Western Power, Board Submission – Broad Construction Contract Variation, [March 2013], 2.
Costs and benefits realisation

While there was no detailed description of anticipated benefits in the business case, there were descriptions of outcomes that related to supporting Western Power’s cultural change program and the productivity and savings benefits relating to gaining Green Star accreditation. Other documentation provided by Western Power indicates additional expected benefits included:

- an asbestos free environment;
- building code compliance;
- major safety enhancement to the fire hazard system;
- more efficient floor space use;
- security system improvement;
- reduction in operational costs from energy saving devices and upgrade of backbone services;
- promotion of staff health;
- improvement in corporate image; and
- property value improvement.

Benefit realisation analysis documentation provided through close out reporting for Project Vista was basic and did not reconcile the outcomes with the stated expected benefits of the project that were presented to the Board in the 2008 business case. There is little doubt, however, that some benefits resulted from Project Vista.

The Project Vista Detailed Review found that Project Vista achieved a reduction in electricity consumption (42% per annum) and general maintenance (89% in the three years 2007 to 2009). In addition to efficiencies in terms of energy, the building, safety metrics and reliability, Project Vista is also said to have provided cultural efficiencies and improved communication, noting that prior to Project Vista, communication within Western Power was very fragmented.

Although Project Vista has realised benefits, the lack of a clear benefits realisation plan, with documented ownership and accountability for assessing all deliverables and costs to ensure value for money was achieved, makes a total cost benefit analysis of the project impossible.

**RECORD KEEPING**

Western Power was unable to provide full documentation. Some documents were provided outside of requested timeframes. Western Power says it is expressly excluded from the public sector under the Electricity Corporations Act 2005, and does not believe that it is therefore required to keep records as are other public sector agencies. Western Power states that its records management practices are prepared in consultation with the Public Sector Commission, and that it has a record keeping plan as required under the State Records Act 2000.

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28 Western Power Special Inquiry hearing, 29 September 2017.
29 Western Power response to questions on notice, received September 2017.
REMEDIAL ACTIONS

During the course of the Special Inquiry’s examination it became apparent that the lack of corporate knowledge at Western Power and inadequate record keeping on activities such as Project Vista meant that the best defence Western Power management could provide was to claim remedial actions made since.

Western Power provided evidence requested by the Special Inquirer to show that its project management disciplines have changed since the conclusion of Project Vista. This includes improved governance structures, committees reporting to the Executive, monthly reporting and reporting to the Board.30

The Special Inquirer was also pleased to note that Western Power claims it is now using principles of the Department of Treasury’s Strategic Asset Management Framework for rigorous business case development and cost benefit analysis.31

The Special Inquirer notes that post Project Vista, Western Power established a project management office with standard reporting processes into the Executive and also consolidated risk compliance coordination into the agency’s legal function. This has strengthened the quality and processes around risk assessment and management.32

The Project Vista Detailed Review report notes that Western Power recognised its weaknesses in contract management and commenced a project in May 2013 to drive transformational business improvement. Western Power now has a procurement and contract management framework to guide its staff with respect to appropriate standards. Procurement controls have improved and there is a detailed project management framework with a range of specific policies and reporting requirements.

Western Power developed and implemented a project governance framework on 1 September 2014. This framework outlines the governance arrangements, mandatory deliverables and delegations for endorsement and approval at certain stages of the project lifecycle.33 Project governance has improved to ensure that projects have steering committees and/or sub-committees and that the Board is clearly informed and information is fed through the Finance and Risk Committee. At the time, Western Power’s provision for contingencies was centrally managed. This was not effective for this project. Western Power now manages contingencies at the project level.

OTHER COMMENTS — ONGOING COSTS

None of the material provided to the Special Inquirer or discussions held with Western Power gives any indication of the repercussions relating to financial commitments, safety or other concerns emanating from the reallocation of expenditure from the depots to the head office refurbishment.

30 Western Power Special Inquiry hearing, 29 September 2017.
31 Ibid.
32 Ibid.
FINDINGS

1. Refurbishing the Head Office was undertaken to remove asbestos and to facilitate the then Chief Executive’s desire to address staff cultural issues. Perth’s “hot” property market at that time made the option of moving to another location unattractive.

2. This project was led by management with limited Board engagement. The business case submitted to the Board seeking approval to the project lacked: a comprehensive assessment of available options; a detailed explanation of the project’s scope; a detailed implementation plan; and a robust risk assessment. The Board was asked from time to time to approve additional expenditures but otherwise (based on Board minutes) took no discernible interest in the project.

3. Management did not seek advice from government experts in accommodation on alternative options that might have been available from across the properties that were managed for public sector accommodation. Nor did they seek advice on public sector accommodation standards, despite this issue being a request of the Board.

4. Project management arrangements were inconsistent. Different project managers were assigned to the task and it over took two years into the project before a project coordination group was formed. This group relied on reports from the contractor to monitor progress rather than receiving reports from an independent project manager.

5. Reflecting the poor initial planning, the project experienced a large number of scope variations which added to costs. These variations were accommodated by the contractor on site rather than being subjected to competitive procurement practices. No records of value for money assessments were produced justifying these practices.

6. No measurable benefits or outcomes were stipulated when the project commenced and it is therefore not possible to assess overall value for money outcomes from the project.

7. The Minister was not formerly advised of the project at any stage despite the requirements of the Act for this to occur. The then Chairman advised that he thought he would have mentioned the project to the Minister in periodic briefing sessions but no records of these discussions were taken.

8. It is unclear what has happened to the depot improvements which were deferred due to the extra spending incurred on the Head Office fit out.

9. Western Power has advised that it was unable to provide some documents on this project as they did not exist.

In view of the findings from the Project Vista experience it is of no surprise that Western Power has taken significant steps towards improving its governance and management processes.
WESTERN POWER’S VIEW

The Special Inquirer forwarded draft findings to Western Power and received a response on 28 November 2017. As a result of the correspondence, some changes were made to findings to add in acknowledgement of perspectives offered by Western Power. Some additional details have been added to clarify certain findings to address Western Power’s concerns.

Some of Western Power’s feedback was not incorporated into the findings and the findings stand as they were in draft. The Special Inquirer stands by the following findings but offers Western Power’s view:

- **Western Power is firm that the business case contained project scope.** The Special Inquirer found the scope to be brief and lacking in detail given the cost and complexity of the project.
- **In relation to the finding about public sector comparisons, Western Power advised that the building fitout was favourable in comparison to standards set by government.** This is not in dispute. The finding relates to Western Power’s failure to engage with government accommodation experts when analysing refurbish/relocate options.

RECOMMENDATIONS

In addition to the recommendations outlined in the Special Inquiry Report Volume 1 relating to governance, project management, capability and record keeping, and Government Trading Enterprises, Western Power should take the following measures in relation to Project Vista.

1. Assuming the original decision to refurbish the depots was made for good reason, Western Power needs to ensure that there is a thorough assessment of the remaining need for refurbishment and management of the associated cost.
2. Complete an audit of the six depots to ensure that the decision not to invest as planned has not led to non-compliance with safety and health standards.
3. Obtain advice from the Government Office Accommodation section of the Department of Finance about the management of vacant space in its head office and its Perth Murray Street office.
WOODLANDS TRANSMISSION LINE

“I’II tell you exactly what happened...we had not done customer consultation and we had built three, 18-metre high transmission towers within two metres of people’s back fences.”

- Mr Paul Italiano (former Chief Executive Officer, Western Power)

Western Power missed opportunities to discuss and negotiate more cost effective solutions to address residents’ concerns over the relocation of transmission line poles in Woodlands.

In 2007, a property developer’s application to relocate four transmission line poles — at its own expense — in the Perth suburb of Woodlands, ended up costing taxpayers almost $300 000 for each resident affected by the change.

Western Power had instructed the developer to consult the occupants of the nine residences affected. Work was completed on four new steel poles 30 metres closer to the houses in 2010, and the developer met the cost of $944 000.

The residents then complained to the Premier and the Member for Scarborough. The residents were concerned that the location and appearance of the poles would reduce the value of their properties and carry potential health risks.

In December 2012, in a pre-election climate, the Government agreed to place the relocated transmission line underground. The business case, which assessed six options to meet the concerns of the residents, was not approved until June 2014. Work was completed in November 2015.

Clearly the initial consultation process, for which Western Power had overarching responsibility, was inadequate. The cost to taxpayers to reach a satisfactory solution for the transmission line poles was $2.73 million.

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1 Mr Paul Italiano, Special Inquiry hearing, 17 November 2017.
SUMMARY

Western Power’s decision to spend $2.7 million on placing a transmission line underground in Woodlands did not represent value-for-money and was influenced by a desire to meet community and external stakeholder expectations. Western Power acknowledged that this expenditure would not meet an efficiency test set by its regulator, the Economic Regulation Authority.²

The business case for this project was completed and approved in 2014, after the Minister for Energy had announced the decision to place the line underground in 2012 and after Western Power had written to residents about the commencement of preliminary works in 2013.

In 2010, Western Power was faced with community dissatisfaction due to the relocation of a transmission line 30 metres closer to nine residences. This dissatisfaction may have been avoided had Western Power ensured that thorough consultation with affected residences was undertaken prior to the line relocation. Western Power may also have been in a position to obtain funding from the developer for placing the transmission line underground.

Western Power has acknowledged that its community consultation processes were inadequate at the time and has since made improvements in its approach.³ This includes stronger contractual obligations for developers who request works to be undertaken on the network including requirements for engagement with the community where appropriate.

³ Ibid., 12-13.
PROJECT SYNOPSIS

In August 2007, as part of a commercial property development between Ewen Street and Scarborough Beach Road, Woodlands, Delta View Pty Ltd sought to move four existing Western Power timber transmission line poles.

Western Power and Delta View entered into a contract for Western Power to relocate the poles at Delta View’s expense. Under the contract, Delta View was responsible for community consultation. Prescriptive requirements for this consultation were not included in the contract. Western Power stated that the usual practice at the time was to obtain consent only when an easement was to be registered on a private property or where new poles were to be placed immediately adjacent to a private property that was not previously affected by the line.\(^4\) Other residents close to the line were required only to be informed rather than asked about their views.

Following instructions from Delta View, Western Power moved the transmission poles 30 metres closer to the residences and placed them on a newly designed median strip. The relocation was completed in 2010 and affected nine residences. Western Power recouped the total cost of $944 000 from Delta View.

Once the relocation was completed in December 2010, nearby residents raised concerns with the Premier and the Minister for Energy regarding the visual impact of the new steel poles, potential reduction in property values, and the potential health impact caused by the proximity of the transmission lines to houses. Residents continued to express their concerns with the Minister and the local Member of Parliament throughout 2011.

Environmental tests undertaken by Western Power in April 2011 did not support the residents’ contention that the proximity of the lines could cause health problems. There was no evidence that the impact of the new poles on property values was ever tested.

Figure 1: Transmission line poles placed 30 metres closer to residents\(^5\)

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\(^4\) Ibid., 9.

\(^5\) Western Power response to Special Inquiry questions on notice, received 7 September 2017.
In December 2012, in a pre-State election climate — the election was due on 9 March 2013 — the Government committed to placing the transmission line underground.

A business case for placing the transmission line underground was completed in June 2014 — 19 months after the announced action. The business case analysed six options designed to address the concerns of the nine residents. Placing the lines underground was the most expensive of the options at $2.73 million.

Western Power fully funded the project at a cost of $2.73 million and it was completed in November 2015. The expenditure equated to over $300 000 per resident, which was far higher than any likely loss of property value.

EVALUATION OF THE PROJECT

There are two main aspects in relation to the management of this matter:

1. Western Power’s failure to oversee Delta View’s development adequately and to ensure that community consultation in relation to the movement of the transmission line was undertaken; and
2. The production of a business case recommending a decision that had been made nearly two years before.

Governance

Even before the decision to place the transmission line underground, Western Power management had not provided adequate oversight in relation to the Delta View’s operations and decisions with respect to the properties. Delta View was supposed to undertake adequate community consultation prior to making a decision about the relocation of the transmission line. This requirement was limited to obtaining written consent from all residents whose properties had been subject to an easement. As Delta View was the only property owner this applied to, it was the only signatory to agree to the move.

Broader community consultation was not undertaken. Western Power cannot provide any evidence that Delta View was asked to do such consultation.

On 17 December 2012, Western Power’s Acting Chief Executive Officer, in the presence of the Minister for Energy and the Member for Scarborough, announced to the community that the transmission line would be placed underground. The Special Inquirer can find no evidence that this decision was based on a business case, thorough options analysis or value for money assessment. This contention is reinforced by the fact that the business case was not produced by Western Power until 1 June 2014.

It would be expected that a thorough review of available options to address concerns of the nine residents would be undertaken before spending almost $3 million. In an April 2012 briefing note to the

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Minister for Energy, Western Power outlined — at a summary level — six potential options to respond to residents’ concerns about the transmission line.\(^7\)

The December 2013 Works Planning Report analysed six options.\(^8\) The options were:

1. place the transmission lines underground;
2. vegetation screening only;
3. vegetation screening and hard screening;
4. vegetation screening and replace steel poles with wood and steel stay poles;
5. vegetation screening and install lower steel poles; and
6. relocating overhead line along Scarborough Beach Road.

The cost for the selected Option 1 at $2.69 million was more than twice the cost of Option 6 and over four times the cost of the next most expensive option. Option 1 was the only option that was considered to be acceptable to the private property owners. The document also states that:

> Western Power has made a commitment to external stakeholders (landowners, residents, the Local Member of Parliament and the City of Stirling) that a portion of the MA-OP 81 line (poles 56 to 59) will be relocated underground. Any option other than Option 1 will result in reputation damage, potential for complaints to the Minister and adverse media attention.\(^9\)

The analysis of options is high level and does not consider alternative options such as providing compensation to residents. It is clear that the decision had been made in 2012 and that the analysis of options was cursory. The former Chief Executive Officer, Paul Italiano, contended in his hearing that relocating the lines and building towers above ground was

> “the wrong solution and that’s where the money was wasted…[and it was] Western Power’s accountability to ensure the processes are followed properly…where customers are disadvantaged by it, Western Power has to pay for (sic) the price.”\(^10\)

Western Power could not provide any formal documentation indicating that its Board was advised of the issues relating to this project. Although the project was relatively low cost, there were political impacts and the decision to place the lines underground did not pass Western Power’s ‘new facilities investment test’ which is designed to promote efficiency in the network. The Special Inquirer believes that on these grounds, the Board should have been kept informed.

\(^7\) Western Power, Briefing Note to the Minister for Energy – Outcome of meeting with Liza Harvey MLA and some residents of Woodlands regarding partial relocation of a 132 kV transmission line on Ewen St, (April 2012).


\(^9\) Ibid., 16.

\(^10\) Mr Paul Italiano, Special Inquiry hearing, 17 November 2017.
Project management

When the business case was completed in 2014, the rationale for selecting the option to place the transmission line underground lacked rigour. There is no proper explanation of the method used to evaluate the options, the weighting of the selection criteria, or the justification for the selection.

Table 1: The seven options considered in the business case

<table>
<thead>
<tr>
<th>OPTION</th>
<th>NOMINAL CAPITAL COST ($ million)</th>
<th>NET PRESENT COST OVER 15 YEARS ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Underground MA-OP 81 132 kV span 56-59</td>
<td>2.69</td>
<td>2.53</td>
</tr>
<tr>
<td>2. Vegetation screening only</td>
<td>0.00</td>
<td>0.12</td>
</tr>
<tr>
<td>3. Vegetation and hard screening</td>
<td>0.38</td>
<td>0.80</td>
</tr>
<tr>
<td>4. Vegetation screening and replace steel poles with wood and steel stay poles</td>
<td>0.79</td>
<td>0.79</td>
</tr>
<tr>
<td>5. Vegetation screening and installation of lower steel poles</td>
<td>0.48</td>
<td>0.49</td>
</tr>
<tr>
<td>6. Relocate MA-OP 81 132 kV along Scarborough Beach Road (overhead)</td>
<td>1.33</td>
<td>1.25</td>
</tr>
<tr>
<td>7. Do nothing</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

The business case stated that there would be a high risk of reputational damage resulting in negative State media coverage and a loss of key stakeholder (Minister for Energy) confidence if the project did not proceed.

The business case was approved in June 2014, more than 19 months after the announcement that the transmission line would be placed underground. Western Power had written to residents in December 2012 advising that the line would be placed underground and in October 2013 stating that preliminary works had commenced.

The business case stated that placing the line underground was recommended as the least cost technically feasible solution that satisfied all criteria. Evaluation criteria for options analysis were:

1. meets community and external stakeholders’ expectations;
2. technical feasibility;
3. deliverability; and
4. minimal environmental risk.

All options met criteria 2, 3 and 4. Placing the transmission line underground was the only option that met criterion 1. The relative weightings of selection criteria, the method used to define community expectation, and
the identification of those described as external stakeholders were not provided to the Special Inquirer by Western Power.

The selected option to address residents’ concerns leads to questions about Western Power missing opportunities to discuss and negotiate a more cost-effective resolution with residents and stakeholders.

**Procurement and contract management**

The lack of robustness in the initial arrangement between Western Power and Delta View led to Delta View not being compelled to undertake proper consultation with the nine affected residences. The fact that Delta View was only required to obtain its own signature in agreement with the proposal to move the transmission line closer to the residences is extraordinary. It could be argued that had Delta View properly consulted all residents, the decision to place the line underground would have been made at that stage, and at the expense of Delta View.

In light of the fact that there were no health risks found, the argument from the residents was limited to visual impact and perceived potential property value reduction.

**RECORD KEEPING**

Western Power was unable to provide full documentation. Some documents were provided outside of requested timeframes. Western Power says it is expressly excluded from the public sector under the *Electricity Corporations Act 2005*, and does not believe that it is therefore required to keep records as are other public sector agencies. Western Power states that its records management practices are prepared in consultation with the Public Sector Commission, and that it has a record keeping plan as required under the *State Records Act 2000*.

**FINDINGS**

1. Western Power’s handling of this matter cost the taxpayer $2.73 million.
2. Western Power’s lack of community consultation at the time led to this cost being incurred. In recognition of the mistake made, on 17 December 2012, the (then new) Chief Executive decided to approve placing the transmission lines underground. A business case justifying this decision was completed in 2014. The Special Inquirer finds this order of events to be puzzling.
3. There is no evidence, including from Board minutes, that Western Power management advised their Board in writing of contentious issues related to the Woodlands transmission line relocation project.
4. No written advice was provided to the Minister despite the requirements of the Act that issues of public interest be reported.
5. Western Power advised that it was unable to provide some documents requested by the Special Inquiry as they did not exist.
RECOMMENDATIONS

This project was completed in 2014 and there are no ongoing costs to Government. Western Power stated that it has since strengthened its consultation process with the community and the obligations it places on third party developers. Recommendations in relation to governance, project management and procurement relevant to this project are contained in the Special Inquiry Report Volume 1.
WESTERN POWER
CONSULTING CONTRACTS

“There are significant deficiencies in the way Western Power procures consultancy services.”
- John Langoulant, Special Inquirer

Western Power’s procurement policy has broad goals, including to achieve value for money and to promote open and effective competition, clear standards of probity, accountability and good governance.

But there are defects. For example, there is no requirement to ensure that communication with suppliers is consistent and doesn’t disadvantage one supplier over another.

The Special Inquiry acknowledges that Government Trading Enterprises require a degree of flexibility in procurement practices to meet their commercial goals, and that Western Power’s conflict of interest policy appears to be robust.

But applying State Supply Commission policies for the bigger contracts could have advantages, such as promoting competition, encouraging innovation and reducing the risk of undue influence of one party over another.

The assessment of Western Power’s use of consultants was hampered by poor record-keeping. In fact, some documents appear to have been lost. But after reviewing a sample of 10 consultancy contracts with a combined value of $49 million, the Inquiry reached the conclusion that there are significant deficiencies in the way Western Power procures consultancy services.

Western Power has also been slow to act on recommendations dealing with non-compliance and anti-competitive practices which were identified by a Management Consultancy Services Panel in 2012.

Government agency:
Western Power

Project timeline:
2012 - 2017

10 consulting contracts:
$49 million

2013
Western Power has 22 employees who were previously employed by Deloitte

2015
In 2014/15, Western Power has 43 engagements with three consultants

2016
Western Power revises procurement policies

2017
Corruption and Crime Commission states that Western Power staff had not declared conflicts of interest
SUMMARY

As a government trading enterprise, Western Power is not subject to general government procurement policies for goods and services purchased under the State Supply Commission Act 1991.

State Supply Commission policies require Western Australian general government agencies to conduct procurement activity with high standards of open and effective competition. They also require probity and accountability in the management of conflicts of interest.

Western Power has its own procurement policy and standards. For the purposes of the Special Inquiry, Western Power’s procurement policy, standards and guidelines were compared with the State Supply Commission procurement policy framework. Over the period of the Special Inquirer’s terms of reference (2008 to 2017), Western Power’s policy framework was markedly different to the State Supply Commission’s procurement policy framework, although there have been recent changes that have brought them closer.

The Special Inquirer acknowledges that in order for Government Trading Enterprises to meet their commercial goals they require a degree of flexibility in procurement practices. Encouragement of competition in the market, sound procurement practices and flexibility are not, however, mutually exclusive.

While Western Power is of the view that the State Supply Commission policies in their entirety represent a standard that may not offer enough flexibility, the use of State Supply Commission policies can add significant value to the procurement process for high value purchases by:

- promoting competition in the marketplace, which drives down price and encourages innovation;
- reducing the risk of undue influence within government departments, from suppliers, or from other government officials;
- providing a framework for the management of conflicts of interest; and
- ensuring the rationale for decisions is thorough and fair, and based on value for money. Documented decisions can be used to debrief unsuccessful bidders.

The Special Inquirer believes that all government procurement — including that by Government Trading Enterprises — should reflect these standards and practices and that inclusion of these standards does not materially affect flexibility in purchasing.

Western Power revised its procurement policies in 2016 to improve controls for the procurement of consultants and contractors. A summary of the differences between State Supply Commission requirements and the Western Power policy framework is provided below.

Western Power has been criticised for its substantial use of a small number of consulting firms. In 2014/15 and 2015/16, Western Power had 43 engagements with just three consulting companies: McKinsey, Deloitte

1 Western Power Special Inquiry hearing, 29 September 2017
and Ernst and Young. When questioned in Parliament in October 2015, the then Minister for Energy could not specifically justify Western Power’s engagement of the consulting firms and would not disclose the value of the contracts.

The Special Inquirer’s examination of Western Power’s use of consultant contracts encountered challenges due to Western Power’s inability to locate documents. The Special Inquirer’s evaluation and conclusion is that Western Power’s procurement practices and approach to the management of consultant contracts needs improvement.

**EVALUATION OF THE WESTERN POWER’S PROCUREMENT PRACTICE**

**Governance**

Western Power currently has a single broad procurement policy. The policy states that

“Western Power will conduct their purchasing activities in accordance with a set of 12 broad principles including value for money, open and effective competition and demonstrable standards or probity, accountability and good governance.”

Under the policy, there is a ‘Procurement and Contract Management Framework’ that is further supported by two standards, the ‘Contract Management Standard’ and the ‘Procurement Standard’. The Special Inquirer found the framework difficult to follow because each layer has a different number of key principles that are not consistent.

**Figure 1: Western Power procurement policy and supporting management standards**

The elements of the framework are similar to the State Supply Commission framework, and therefore comparisons can be made.

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2 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 21 October 2015, 7801b-7802a.
3 Ibid.
4 Western Power, Procurement Policy, [2 May 2017].
5 Ibid.
Comparison between State Supply Commission policies and Western Power policy

There are notable differences between the State Supply Commission policies and Western Power’s policy framework that applied during the period under examination by the Special Inquirer.

Figure 2: Policy Comparison

<table>
<thead>
<tr>
<th>STATE SUPPLY COMMISSION POLICY AND REQUIREMENT</th>
<th>WESTERN POWER POLICY AND REQUIREMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value for money</td>
<td></td>
</tr>
<tr>
<td>A public authority is required to ensure procurement of goods and services achieves the best value for money outcome through detailed assessment and comparison of cost and non-cost factors. Non-cost factors include fitness for purpose, technical and financial issues, supplier capability, sustainability, risk exposures, availability of maintenance, service and support, compliance with specifications, ease of inspection and communication and delivery.</td>
<td>Western Power’s value for money determination under the ‘Procurement Standard’ does not include supplier capability, availability of maintenance and service and support.</td>
</tr>
<tr>
<td>Probity and accountability</td>
<td></td>
</tr>
<tr>
<td>The probity and accountability policy requires that a public authority conduct its procurement activities ethically, honestly and fairly and be able to account publicly for its decisions and take responsibility for the achievement of procurement outcomes. All communication during the bidding process must be consistent so that it does not advantage or disadvantage one supplier over others. All contracts valued over $50,000 are made available to the public via a website. Bidders are able to obtain feedback, and there are processes in place to manage supplier complaints.</td>
<td>Western Power’s ‘Procurement Standard’, includes some requirement for probity, accountability and good governance. Western Power’s accountability requirement does not include requirements for contract award details to be made public. There is no process in place to provide feedback to unsuccessful bidders or to manage supplier complaints. From a probity perspective, there is no requirement to ensure that communication with suppliers is consistent and does not disadvantage or advantage one supplier over others.</td>
</tr>
<tr>
<td>Open and effective competition</td>
<td></td>
</tr>
<tr>
<td>The open and effective competition policy requires that a public authority provides suppliers with fair and equitable access to government supply opportunities while maintaining the transparency and integrity of government procurement. The following table sets out the minimum requirements with which a public authority must comply to procure goods and services, unless using a common use arrangement or a specific exemption is approved.</td>
<td>Western Power’s ‘Procurement Standard’ has no requirement to conduct an open tender process and it is not clear what is considered to be a competitive tender process. Similar to the State Supply Commission’s requirement to engage the Department of Finance for procurements above $250,000, Western Power’s ‘Procurement Standard’ requires the engagement of its specialist Commercial Function for procurements above $150,000.</td>
</tr>
<tr>
<td>Monetary threshold</td>
<td>Minimum requirements</td>
</tr>
<tr>
<td>Up to $50,000</td>
<td>Determined by agency. Can be direct, verbal or written quotation. Agency is required to document decisions appropriately.</td>
</tr>
<tr>
<td>$50,000 to $250,000</td>
<td>Written quotations and written offers required.</td>
</tr>
<tr>
<td>$250,000 and above</td>
<td>Open tender through public advertisement.</td>
</tr>
</tbody>
</table>

6 State Supply Commission, Procurement Policies, [2 May 2016].
7 Western Power, Procurement Policy, [2 May 2017].
### STATE SUPPLY COMMISSION POLICY AND REQUIREMENT

#### Common use arrangements

This policy specifies that a common use arrangement is a whole of government standing offer arrangement for the provision of specific goods or services commonly used within government. Where a common use arrangement has been established, a public authority must purchase under it in accordance with the relevant buyers’ guide. Alternative arrangements can be approved by the Department of Finance.

### WESTERN POWER POLICY AND REQUIREMENT

#### Professional services standing offer

Western Power has a consultancy services panel that is similar to the Common Use Arrangements. Purchasers of services are required to assess value for money, have written quotations for procurement above $50,000, and complete a written evaluation.

### Procurement planning, evaluation reports and contract management

Public authorities are required to have effective planning at the project initiation stage, quality evaluation processes, and effective contract management post-contract award which are critical to facilitating successful contract delivery. The decision-making process is to be recorded in an evaluation report for all written quotes and public tenders. For procurements with a total estimated value of $5 million and above a procurement plan, evaluation report and contract management plan must be developed and submitted to the State Tender Review Committee. Where contract variations are valued at $5 million and above either individually or cumulatively, a contract variation memo must also be submitted to the State Tender Review Committee.

#### Sustainable procurement

Public authorities must consider sustainable procurement in a way that achieves value for money and generates benefits not only to the organisation, but also to society and the economy, while minimising damage to the environment.

### DISPOSAL OF GOODS

Public authorities must dispose of goods in a manner that is ethical, equitable, efficient, and where practical maximises a value outcome for government. This may be in the form of public benefit or financial return.

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In the period following its hearing, Western Power provided to the Special Inquirer a list of further improvements to its procurement processes not reflected above, including:

- accreditation with Chartered Institute of Purchasing and Supply from 2013 and noting that this has been continued to be approved to date; and
- implementation of online catalogues and full transaction automation to attempt to enforce contract compliance from 2014.

EXAMINATION OF PROCUREMENT SAMPLE

The Special Inquirer reviewed the procurement process documentation for a sample of 10 of Western Power’s consultancy contracts valued between $637,000 and $26 million, with a total combined value of $49 million. The sample of 10 contracts is listed in Appendix A.

Of the 10 consultancy contracts, seven were conducted under Western Power’s Professional Services Standing Offer T0523 Management Consultancy Services Panel. The three remaining processes were conducted through a restricted tender process with a tender issued to three or more suppliers.

Services procured under the panel arrangement

As stated in the table above, buyers must adhere to certain requirements when using the Professional Services Standing Offer Management Consultancy Services Panel.

Western Power could not provide evaluation reports (or equivalent documentation) for five of the seven consultancy contracts that were conducted through its standing offer. This was not compliant with the buying rules of the Buyers Guide for the Management Consultancy standing offer. Without a documented account of the evaluation process, Western Power could not demonstrate that a fair and equitable procurement process was undertaken, whether procurement policies had been followed and whether value for money outcomes were achieved.

The Special Inquirer sighted evidence of a brief description of the evaluation process based on a basic spreadsheet evaluation for only two of the seven consultancy contracts examined.

Western Power acknowledged the ongoing instances of non-compliance and anti-competitive engagement issues in a review of the Management Consultancy Services Panel in 2012 and recommended remedial coaching to manage the compliance within that category. The Special Inquirer observed that these issues remain unresolved and were still ongoing in 2016.

Services procured under restricted tender

The Special Inquirer observed that all three restricted tender processes were compliant with Western Power’s procurement policy and delegations. The values of these three contracts were $4.7 million, $6.1 million and $26 million respectively. The following points were noted when comparing these processes to the State
Supply Commission policies.

- All three contracts would have met the Value for Money and Probity and Accountability policies, as procurement staff had considered cost and non-cost factors as well as having appropriate documentation to justify the decision-making. Conflicts of interest checks were in place.
- None of the three contracts would have met the State Supply Commission’s Open and Effective Competition policy as none was publicly tendered and the award decision was not published.
- Two of the contracts were above $5 million and would have gone through the State Tender Review Committee for endorsement of the procurement plan, evaluation report and contract management plan. The Special Inquirer acknowledged that the contracts pre-date the establishment of Western Power’s Procurement Council and that the requirements for the Procurement Council endorsement will occur for future contracts.
- None of the three contracts would have met the State Supply Commission’s requirement for a contract management plan to be developed, as Western Power’s policy does not have such a requirement.

Managing conflicts of interest in a procurement process

Western Power’s conflict of interest policy appears to be robust and adequate management strategies are documented in procedural guidelines.

The Special Inquirer noted that the format of the ‘Confidentiality and Conflict Acknowledgement’ forms did not provide for the disclosure of any conflicts of interest specifically arising during a procurement evaluation process. Rather, participants are required to sign a form that states:

“I do not currently have any conflict of interest in relation to the Project and will declare any conflict of interest arising during my participation in the Project in accordance with the Conflict of Interest Policy.”

Noting that it is impractical for employees of Western Power to be excluded from all procurement processes if they have any perceived conflict of interest at a corporate level, the form did not allow for participants to note any perceived conflicts of interest specific to the procurement process. In the event that the procurement process did present potential perceived conflicts of interest, these would need to have been added to the form without prompting.

The Special Inquirer notes the findings of the article by the Corruption and Crime Commission released on 13 April 2017, after the commencement of the Special Inquiry, on the deficiencies in procurement practices and apparent conflicts of interest between employees and external suppliers. The Corruption and Crime Commission did not find any evidence of corruption within Western Power. No conflicts were identified across the sample of consultancy contracts and as such, the Special Inquirer cannot comment on the management practices for any conflicts of interest.

1 Western Power, Project Confidentiality – Confidentiality and Conflict Acknowledgment Form.
AUDIT OF PROCUREMENT

The Special Inquirer requested copies of Internal Audit reports from Western Power on procurement. During its hearing with the Special Inquirer, Western Power advised of, and provided to the Special Inquirer, an audit plan that included audits undertaken on a sample of Western Power contracts from August 2015 to August 2017. The purpose of this audit was to ensure compliance with procurement practice and standards. The Special Inquirer notes that based on the audit plan and audits performed, there had been no consulting contracts audited to date.

An Internal Audit report from July 2017 titled ARIBA Sourcing and Procurement was provided. The scope of this audit involved data analysis on the operating effectiveness of the internal controls and sample testing to validate the accuracy and completeness of the flow of approved payments between procurement systems ARIBA and Ellipse. ARIBA is a digital procurement system which replaced Western Power’s Ellipse enterprise resource planning application for sourcing and procurement of goods and services in 2016. Based on the audit report, 96 per cent of all ordering activities have transitioned from Ellipse to ARIBA. The audit report also found that the ARIBA system controls to be operating effectively to support the accuracy of approved payments including established segregation of duties in the system whereby users who raised a purchase requisition cannot approve payments, automated three-way accuracy match is performed prior to payment and any amendments to an existing purchase requisition requires re-approval by an authorised personnel.

Report by Office of the Auditor General — April 2017

In April 2017, the Office of the Auditor General released its Tender Processes and Contract Extensions report. The focus of the report was to assess whether agencies have appropriate processes for tendering and for extending contracts. There was an assessment of the management of conflicts of interest.

The report shows that Western Power’s policies and procedures, market testing, management of conflicts of interest, monitoring and controls over variations for the sample of contracts (finalised after 1 July 2015) were ‘Good’.

The Special Inquirer acknowledges the report and its findings and notes that the sample reviewed by the inquiry included procurement processes that occurred well before July 2015 and were therefore subject to different practices. The inquiry’s sample consisted only of consultancy contracts and examined procurement practice and policy. The Special Inquirer confirms that the following findings are relevant and appropriate.

RECORD KEEPING

The Special Inquirer observed that record keeping standards at Western Power are inconsistent across tender and procurement processes. All three restricted tender processes had sound record keeping including a detailed documents register throughout the whole procurement lifecycle. The record keeping for the seven procurements under the standing offer arrangement were deficient, however, as Western Power was unable to locate a number of the documents requested.

13 Western Power response to Special Inquiry questions on notice, received 27 September 2017.
14 Ibid.
15 Western Power, IA 244 – ARIBA sourcing and procurement, (July 2017), 1.
16 Ibid., 2.
FINDINGS

The chapter on Government Trading Enterprises in Volume 1 of the Special Inquiry report has a number of findings relating to the way Government Trading Enterprises procure goods and services and manage contracts. The matter of the lack of openness and transparency in their contracting activities is also covered. These findings are relevant for Western Power in the context of this report. In addition to the findings in the separate chapter, the following are findings specifically relating to this examination.

1. Western Power’s procurement practice and policy framework is not consistent with the standards required of government agencies. Western Power’s procurement policy, framework and standards are difficult to understand due to inconsistencies between the standards and policies.
2. There are significant deficiencies in the way Western Power procures consultancy services. The sample reviewed indicates failure to engage in open competition which is likely to be negatively impacting pricing and failing to promote innovative approaches by service providers.
3. Seven of the sample contracts were conducted under Western Power’s Professional Services Standing Offer Management Consultancy Services Panel. Of these, five were non-compliant with the Western Power procurement policy.
4. In total, while five of the 10 consultancy contracts (two under the standing offer and three under restricted tender) examined by the Special Inquirer were fully compliant with Western Power’s procurement policy and demonstrated value for money, they would not have met the State Supply Commission requirements.
5. The establishment of Western Power’s Professional Services Standing Offer T0523 Management Consultancy Services Panel is similar to the public sector’s common use arrangements. Five of the seven consultancy contracts established under Western Power’s Professional Services Standing Offer T0523 Management Consultancy Services Panel examined by the Special Inquirer did not comply with Western Power’s buying rules for the standing offer. Although this has been recognised as an issue by Western Power in a previous contract review, it remains unaddressed.
6. A form is signed to confirm that there is no conflict of interest during a procurement process. As no conflicts were identified across the sample of consultancy contracts, however, the Special Inquirer cannot comment on the management practices of any conflicts of interest. It was noted that there is no process for prompting the identification of conflicts that arise during the evaluation of tenders.
7. There is a significant gap in the standards of record keeping at Western Power with respect to procurement. While some procurement processes have a detailed document register, others were significantly deficient with documents being unable to be located.
8. Western Power is taking steps to improve its procurement activities. Western Power revised its procurement policy in 2016 to improve controls of the procurement of consultants and contractors.

WESTERN POWER’S VIEW

The Special Inquirer forwarded draft findings to Western Power and received a response on 28 November 2017. As a result of the correspondence, some changes were made to findings to add in acknowledgement of perspectives offered by Western Power. Some additional details were added to clarify certain findings to address Western Power’s concerns. In some instances, Western Power’s feedback has not been addressed in this report as the Special Inquirer stands firm on them.
Western Power’s view is:

- **Western Power maintains that its procurement practices are appropriate.** The Special Inquirer finds that the policy framework contains contradictions and that there are elements of policy and standards not in the framework. These include, but are not limited to, processes for feedback to unsuccessful bidders and to manage complaints; no formal requirement to ensure communication with suppliers is consistent and does not disadvantage or advantage one supplier over others; no requirement to conduct open tender process and lack of clarity about what is considered to be a competitive tender process.

- **Western Power believes that the contracts were established in accordance with Western Power’s procurement policy.** The inquiry was not provided with proper and thorough evaluation reports for five of the seven contracts under the standing offer. This is not compliant with the buying rules of that standing offer.

**RECOMMENDATIONS**

1. Western Power must improve the clarity of the procurement policies and address the inconsistencies that exist within the suite of documents that form its procurement policy.
2. Consideration should be given to incorporating elements of the State Supply Commission policies in Western Power’s procurement policy documentation, including:
   - specifying the complete definition of value for money;
   - including probity, to ensure Western Power conducts its procurement activities ethically, honestly and fairly;
   - including accountability, to ensure Western Power is able to account publicly for its decisions and take responsibility for the achievement of procurement outcomes;
   - including the following elements of the State Supply Commission’s Open and Effective Competition Policy of:
     - avoiding bias;
     - specifying a contract term;
     - notification to unsuccessful bidders; and
     - publishing contract award information for consultancy contracts;
   - requiring mandatory procurement planning, evaluation, contract management and variation documentation and processes in accordance with contract value thresholds;
   - requiring identification of sustainability in the procurement policy, which is of particular importance in the energy market.
3. Western Power must consider developing templates for the full lifecycle of procurement. These templates should incorporate best practice and may reflect the rigour of the procurement documentation required by general government sector agencies. Particular emphasis on the standardisation of tender request documents and evaluation reports is required, including the development of weighted evaluation criteria, pricing considerations, relevant endorsement and approval. Western Power must also consider the development of alternative procurement templates for the varying monetary thresholds of contracts.
4. Western Power must use an appropriate records management system for its procurement process documentation.
5. Western Power must set, and adhere to, endorsement or approval thresholds for appropriate delegated authorities for clear milestones during the procurement process. This may include a specific delegation schedule for each of the key documents developed during a procurement process.
## APPENDIX A - THE 10 CONSULTANCY CONTRACTS

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>PROCUREMENT METHOD</th>
<th>CONTRACT AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vendor A</td>
<td>Professional Services Standing Offer</td>
<td>$3 410 375</td>
</tr>
<tr>
<td>Vendor A</td>
<td>Professional Services Standing Offer</td>
<td>$3 113 970</td>
</tr>
<tr>
<td>Vendor A</td>
<td>Professional Services Standing Offer</td>
<td>$2 665 370</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Professional Services Standing Offer</td>
<td>$1 026 658</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Professional Services Standing Offer</td>
<td>$710 383</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Professional Services Standing Offer</td>
<td>$659 008</td>
</tr>
<tr>
<td>Vendor B</td>
<td>Professional Services Standing Offer</td>
<td>$637 118</td>
</tr>
<tr>
<td>Vendor C</td>
<td>Restricted tender</td>
<td>$25 982 901</td>
</tr>
<tr>
<td>Vendor D</td>
<td>Restricted tender</td>
<td>$4 717 070</td>
</tr>
<tr>
<td>Vendor E</td>
<td>Restricted tender</td>
<td>$6 100 000</td>
</tr>
</tbody>
</table>
WA Health provides a public health system for Western Australia which spans over 2.5 million square kilometres. It is the largest geographical area in the world covered by a single health authority.¹

**CHANGES TO THE LEGISLATIVE FRAMEWORK**

The Health Services Act 2016 came into effect on 1 July 2016.² The new legislation created five Health Service Providers as separate statutory authorities governed by boards. The Boards are legally responsible and accountable for the oversight of hospital and health service delivery across Western Australia. The legislation also established the Department of Health as the system manager, responsible for the overall management, performance and strategic direction of Western Australian Health. In addition, Health Support Services provides a suite of technology, supply, workforce and financial services to the Department and the Health Service Providers.³

WA Health has 35,084 full time equivalent staff, with a total head count of 45,000 in 2016/17.⁴ The total expenditure for 2017/18 is projected to be $8.94 billion with a net cost of $5.13 billion.⁵ In 2016/17 the Department of Health also received $89 million of Royalties for Regions funding and $2.28 billion from Commonwealth grants and contributions, including funding received under the National Health Reform Agreement.⁶ For 2016/17, WA Health’s recurrent budget represented 30 per cent of the State’s total recurrent budget. This is a 4.8 percentage point increase from 25.2 per cent of the total recurrent budget for the 2007/08 financial year. WA Health’s average annual growth in expenses during the 2007/08 to 2016/17 period was 8.5 per cent in comparison to 6.4 per cent for the general government sector.

**REID REPORT**

In 2004 the State Government’s appointed Health Reform Committee released a report entitled *A Healthy Future for Western Australians*. The committee had been charged with developing a vision for the Western Australian health system while ensuring that the growth of the health budget was sustainable.⁷ Chaired by Professor Michael Reid, the report contained more than 80 recommendations, with a number addressing the improvement of access to hospital services.

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Following endorsement of the report’s recommendations, the State Government committed to the development of several infrastructure projects which included the announcement of a new tertiary hospital in the south metropolitan region and culminated in the opening of Fiona Stanley Hospital. A further recommendation was the redevelopment of the Princess Margaret Hospital site which eventually led to the new Perth Children’s Hospital project. The expansion of secondary hospitals to create four key general hospitals throughout the metropolitan area was also recommended, one of which was the development of a new health facility in the Swan region and resulted in a public private partnership for the St John of God Midland Public Hospital.

SPECIAL INQUIRY INTO GOVERNMENT PROGRAMS AND PROJECTS - HEALTH PROJECTS

The Special Inquirer examined eight Health projects, of which five were significant infrastructure projects costing in excess of $8.2 billion including their corresponding service contracts. Commencing in 2010, a number of the projects occurred in parallel, with the Perth Children’s Hospital and the Karratha Health Campus still to be completed.

In examining these projects, the Special Inquirer reviewed a range of relevant documentation, received responses to questions on notice and conducted hearings and meetings with representatives from WA Health, the State Solicitor’s Office, the Department of Treasury, the Department Finance, John Holland Group and Serco regarding the specific projects.

Due to the broad nature of the projects there is a range of findings and recommendations for WA Health. In its written submission to the Special Inquirer, the Department of Health stated that the health system has undergone much transformation and improvement, particularly in the areas of governance, procurement and project management.8

Fiona Stanley Hospital

The Fiona Stanley Hospital project is the largest project of its kind undertaken by the Department of Health, with a project value of $2 billion for construction, a $4.3 billion Facilities Management Services contract for 10 years plus two five year options and $125 million for transitioning patients and services from other hospitals. The Fiona Stanley Hospital tender decision was approved in July 2010 and the hospital opened to patients in stages between October 2014 and February 2015. The Special Inquiry focused on the decision to outsource the facilities management at Fiona Stanley Hospital.

The Special Inquirer was not provided with a stand-alone business case to justify the contracting out of these services, valued at $4.3 billion over the potential 20 year life of the contract.

8 Department of Health Submission to the Special Inquirer (August 2017), 1.
Perth Children’s Hospital

The Perth Children’s Hospital business case was approved in November 2010 with a budget of $1.17 billion for the delivery of the project infrastructure. Due to the broader planning implications for the Queen Elizabeth II Medical Centre site, in February 2010 the Government announced a revised completion target of late 2015. There has been a number of issues associated with this project during the construction phase, not the least the lead contamination of the potable water. Given the Public Accounts Committee review running in parallel with the Special Inquiry, the Special Inquirer’s examination focused on the options analysis, stakeholder management, risk management, procurement and budget for the project. The State’s internal review process does not appear to have provided for the Department of Health’s formal approval of the final detailed design and the Department of Health and Strategic Projects have become uncompromising in their behaviour towards each other. This tension has had a detrimental effect on the progress of the project. While Perth Children’s Hospital reached practical completion stage on 13 April 2017 the project is currently ongoing and in November 2017 the State Government announced a revised opening date of May 2018.

Queen Elizabeth II Medical Centre car park

The project business case was approved on May 2010 for the development of the Queen Elizabeth II Medical Centre multi-storey car park. The procurement of the car park was undertaken as a ‘BOOT’ (build-own-operate-transfer) model and involved the State engaging in a public private partnership with Capella Parking Pty Ltd. The construction of the car park commenced in September 2011 and was completed in November 2013. The public private partnership model was primarily motivated by the Government’s desire that there would be no ongoing financial liability to the State. This has not occurred.

Continued delays in the opening of the Perth Children’s Hospital, which has meant less operational beds on the site together with a decision by the previous Government to cap staff parking fees at a rate below that specified in the agreement with the operator, has required the State to pay compensation to the car park owner.

Karratha Hospital relocation

In May 2012 the Government announced the development of a new hospital — the Karratha Health Campus — in the Karratha town centre, superseding its previous plan to refurbish or rebuild the existing Nickol Bay Hospital. In December 2016, a contractor was appointed to build the Karratha Health Campus. The governance arrangements and project management approach for the project are appropriate and the options analysis presented in the business case is robust.

Public statements which put the total cost of the campus at just over $207.1 million understate the true figure of $234.2 million required to deliver the project. Site preparation and road works should be included to

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9 The Department of Treasury and Finance, New Children’s Hospital Project Business, (November 2010) 9.
provide a more accurate cost even though they are funded from different sources. The hospital is scheduled for completion in July 2018 and to open for patients in October 2018.

**St John of God Midland Public Hospital**

In June 2012 the State Government executed an agreement with St John of God Health Care to design, build, maintain and operate a new general public hospital facility in Midland. The State and Commonwealth jointly funded the $360.2 million construction cost with the State contributing 50 per cent of the cost.

As a Catholic health care provider, St John of God Health Care does not offer specific restricted procedures at the St John of God Midland Public Hospital on ethical grounds. These restricted services include contraception services, sterilisation procedures and pregnancy terminations. After market sounding, followed by an unsuccessful expression of interest process, the Department of Health entered into a service agreement with a third party provider to deliver the restricted procedures on an alternative site adjacent to the new hospital. The St John of God Midland Public Hospital has been open to patients since November 2015.

**Department of Health major IT procurement**

This project refers to the contract entered into by the Department of Health in November 2010 with Fujitsu Australia Limited to provide centralised computing services. The initial contract was $44.9 million over four years, with two two-year extension options for a further $48.9 million. The contract was the subject of an Auditor General’s report in February 2016 and a Public Accounts Committee report in September 2016.

The total expenditure on the contract as at 30 September 2017 was $166.8 million. The contract is due to expire in November 2018. The Special Inquirer notes that as the end of the contract is imminent, the Department of Health has a project in place to transition from the existing contract to new arrangements under the whole-of-government GovNext-ICT arrangement.

**NurseWest**

NurseWest was established by the Department of Health in 2003 to provide a centralised casual nurse pool and facilitate the procurement of external agency nurses on a temporary basis to resource Western Australian hospitals. The NurseWest staff pool consists of casual nurses, midwives, and mental health nurses. NurseWest also has a panel contract arrangement to procure external temporary agency nurses should additional staff be required in hospitals when staffing shortfalls occur. The Special Inquirer notes that it is appropriate for there to be flexibility in the management of front-line nursing staff to address unexpected events such as sick leave. The contract for temporary agency nurses expires in 2019. There was, however, no demonstration of an adequate business case or comparative analysis to enable the Department of Health to make an informed decision for future options.

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10 Department of Health response to Special Inquiry request for information, received 5 October 2017.
Outsourcing of non-clinical services

This matter refers to the outsourcing of non-clinical medical transcription services. The Health Service Providers have utilised a hybrid of in-house and outsourced medical transcription services for approximately nine years. Fremantle Hospital, part of the South Metropolitan Health Service, was one of the first to outsource medical transcription in 2008. The Health Service Providers have not competitively tendered the medical transcription services to date. Engagements have been either ad hoc or through a procurement exemption to engage a third party provider directly.

Health Support Services is currently leading a whole-of-health procurement solution for medical transcription services to aggregate the purchases. It is anticipated that the procurement process will conclude in 2018.

GOVERNANCE OF WA HEALTH INFRASTRUCTURE PROJECTS

The Health Infrastructure Projects Governance Framework dated May 2010 defines the project governance model, including the accountability and governance structure, key resource roles and responsibilities and approvals for major health projects.\(^1\) The governance structure was established in parallel with the transition of Strategic Projects to the then Department of Treasury and Finance. The Department of Health had a large number of planned major infrastructure projects, including Fiona Stanley Hospital, the Perth Children’s Hospital, the Queen Elizabeth II Medical Centre car park and health campuses in Midland, Joondalup, Karratha, Albany and Busselton. It was important to develop a framework to set out the roles of the Department of Health and Strategic Projects in the governance of these major projects.

The framework introduced dual accountability and responsibility between the two agencies. The Special Inquirer noted that this accountability commenced during business case development, with both parties accountable for ensuring scope, time and budget requirements are agreed upon and clearly defined. It further detailed that:

- Strategic Projects had a lead role and accountability in the development of business cases and delivery of the building asset on behalf of Government; and
- the Department of Health had responsibility for strategic health and clinical service planning to articulate the need for the facility and for ensuring that the specifications for the facility were appropriate for health service delivery requirements.\(^2\)

The governance structure included:

- a Major Health Infrastructure Projects Steering Committee for endorsement and/or recommendations to Government. The Committee reported to the Economic and Expenditure Reform Committee;
- a “Fast Track” Project Control Group to provide oversight and project direction; and
- a Project Working Group and working or user groups for the detailed project issues.\(^3\)

The Special Inquirer noted that while it was originally an active committee, the Major Health Infrastructure Projects Governance Framework (May 2010).

\(^1\) Ibid.

\(^2\) Ibid.

\(^3\) Strategic Projects and Department of Health WA Country Health Service, Project Governance Framework, (December 2012), 2-3.
Projects Steering Committee last met on 4 December 2013. The minutes of that meeting state that the future role of the steering committee was raised and that the ongoing role was to be discussed between the Under Treasurer, the Department of Health’s Director General and the Department of the Premier and Cabinet’s Deputy Director General.14

Strategic Projects, which on 1 July 2017 became a business unit in the Department of Finance, advised the Special Inquirer that:

“The MHIPSC [Major Health Infrastructure Projects Steering Committee] was effectively replaced by the PCH [Perth Children’s Hospital] and FSH [Fiona Stanley Hospital] Taskforces as the peak governance body for those projects. SP [Strategic Projects] was not a member of either Taskforce. Governance of the other major health projects overseen by the MHIPSC (Albany Health Campus, Busselton Health Campus, Joondalup Health Campus, Midland Health Campus, etc) effectively defaulted to the various Project Control Groups, of which SP was a member.”15

Upon questioning the status of the Major Health Infrastructure Projects Steering Committee, the Department of Health stated that it was:

“...wound up at the last meeting on 4 December 2013 due to the existence or creation of a number of governance structures including:

- the existence of the Fiona Stanley Hospital Taskforce;
- the creation of the Perth Children’s Hospital Taskforce; and
- the creation of the WA Health Transition and Reconfiguration Steering Committee.”16

The Special Inquirer has been provided with a project summary report for the Major Health Infrastructure Projects Steering Committee dated January 2015 which states that the report was “in lieu of March 2015 meeting”.17 It is apparent that the committee continued to exist into 2015 in name only. The Department of Health also provided the Special Inquirer with an unsigned briefing note which outlined the future of the Major Health Infrastructure Projects Steering Committee. This document proposed that the committee be abolished and be replaced by several initiatives, including the WA Health Transition and Reconfiguration Steering Committee and further suggests that “the Executive Director Strategic Projects presents (in person) a monthly report to the WA Health Transition and Reconfiguration Steering Committee”.18 The Department of Health could not locate a signed copy of the briefing note.

The Department of Finance advised the Special Inquirer that Strategic Projects’ Executive Director has never

14 Major Health Infrastructure Projects Steering Committee minutes (4 December 2013), 4.
15 Department of Finance response to Special Inquiry request for information received 23 November 2017.
16 Department of Health, response to Special Inquiry request for information received 29 November 2017.
17 Department of Health, Major Health Infrastructure Projects Steering Committee Project Summary Report Month Ending 31 January 2015, [January 2015], 1.
18 Department of Health, Briefing Note, [February 2014], 2.
reported to the WA Health Transition and Reconfiguration Steering Committee. The Special Inquirer did not receive any documentation that evidences the formal notification of the abolition of the Major Health Infrastructure Projects Steering Committee.

For projects such as the Karratha Health Campus, a project control group was established to provide oversight and project direction. The Special Inquirer noted, however, that the governance framework referred to above states that the role of the project control group was to:

“Act as a pathway for escalation to the Major Health Infrastructure Projects Steering Committee via the Chief Executive Officer, WACHS [the WA Country Health Service] and the Executive Director, Department of Treasury — Strategic Projects.”

While the Special Inquirer recognises that the majority of the WA Health infrastructure projects have been completed with the remaining two projects being close to completion, the Health Infrastructure Projects Governance Framework dated May 2010 needs to be updated to reflect the current governance arrangements.

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19 Department of Finance, response to Special Inquiry request for information received 30 November 2017.
20 Health Infrastructure Projects Governance Framework (May 2010), 16.
HEALTH SERVICE PROVIDERS

WA Health comprises the Department of Health, the Health Service Providers (North Metropolitan Health Service, South Metropolitan Health Service, East Metropolitan Health Service, Child and Adolescent Health Service, WA Country Health Service, Health Support Services and the Quadriplegic Centre) and contracted health entities that provide health services to the State. The structure of the system is depicted in the figure below.

Figure 1: WA health system structure, 2016-17

Note: The Quadriplegic Centre is not shown in this diagram.
“The absence of a stand-alone business case to underpin the $4.3 billion Serco contract was the worst case of financial risk taking for the State to be reviewed by the Special Inquirer.”

John Langoulant, Special Inquirer

The outsourcing of facilities management and support services at Fiona Stanley Hospital broke new ground for a Western Australian public hospital. It involved a $4.3 billion contract with the British-owned service provider Serco with the capacity to run for 20 years.

A market sounding exercise by the Department of Health in mid-2009 led to the view that there was a viable market for the private delivery of facilities management and support services at the hospital. These included sterilisation and porter services.

Problems emerged with the sterilisation arrangements soon after the opening. In May 2015 the Department of Health took responsibility for sterilisation procedures because of risks to patient safety.

A comprehensive business case could have helped to avoid some of the problems which plagued the early functioning of the hospital.

It is impossible to assess whether the contract represents value for money because of a lack of meaningful comparisons. But the Serco and Department of Health staff have integrated well and provide a quality service.
SUMMARY

The infrastructure for the Fiona Stanley Hospital was built on time and within budget. This aspect of the Fiona Stanley Hospital project was well managed.

The opening of the hospital was delayed, however, due to a late start in commissioning.

The focus of the Special Inquirer’s examination of Fiona Stanley Hospital is the Serco facilities management project. Many aspects of the hospital’s development have been the subject of previous reviews as outlined in Appendix A.

There is no doubt that things went wrong in the early days of the operation of the Serco contract. Media attention put these problems in the spotlight. The most notable problem was with sterilisation services.

The outsourcing of facilities management and support services for the hospital was an ambitious and complex undertaking — a first in a public hospital environment in Western Australia.

The Fiona Stanley Hospital project was the largest of its kind ever undertaken by the Department of Health, with a project value of:

- $2 billion for construction;
- $4.3 billion for the Serco Contract (10 years plus two five year options); and
- $125 million for the transition phase.

There was no stand-alone business case to support the decision to outsource facilities management and support
services. There was no assessment of the impact that decision may have on the Department of Health, no cost benefit analysis and no assessment of clinical and other risks of that decision. A well-developed business case would have assisted with better defining the service specifications, which in turn may have led to fewer disputes between the Department of Health and Serco and reduced the later need to remove services.

This is the most extreme case of risk taking by a government agency that the Special Inquirer has seen in the course of this Special Inquiry — and with a contract worth $4.3 billion.

At the commencement of the facilities management and support services contract there were a number of issues with the services provided. The most dramatic was the sterilisation service contract from which the Department of Health withdrew seven months after the opening of the hospital.

Two areas in the management of the contract remain problematic:

- the compliance burden of reporting against 482 key performance indicators which do not drive performance; and
- the ineffective dispute resolution procedures which have failed to resolve any disputes to date.

These areas take a significant amount of time, effort and resources to manage, and there remains uncertainty about the contingent liability associated with the unresolved disputes.

On a positive note, the Special Inquirer has found that Serco staff have integrated well with Department of Health staff at the hospital and according to the Department of Health they provide a quality service.¹

The Auditor General, in his 2017 report entitled Non-Clinical Services at Fiona Stanley Hospital,² found that the standard of non-clinical service delivery under the contract was acceptable and that the contract was adequately managed.³

**PROJECT SYNOPSIS**

The Fiona Stanley Hospital is a 783 bed hospital and tertiary health facility servicing the southern Perth metropolitan area. It provides a full range of acute medical and surgical services, the State burns service, the 140 bed State rehabilitation service, emergency care services, comprehensive cancer services, cardiothoracic surgery, neurosurgery, a mental health unit, obstetrics and neonatal services, facilities for pathology and biomedical engineering and a modern medical imaging centre. Some 1,000 Serco staff provide facilities management and support services at the hospital.⁴

The Serco contract is not a traditional public private partnership and it is not a standard outsourcing

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¹ Department of Health, Special Inquiry hearing, 18 October 2017, 25-26.
² Office of the Auditor General, Non-Clinical Services at Fiona Stanley Hospital - Report 14, (August 2017), 16-17.
³ Ibid., 8.
⁴ Department of Health, Special Inquiry hearing, 18 October 2017, 25.
arrangement. It is a hybrid model that combines elements of public private partnership projects, such as long contract life and transfer of risks to the private sector, with traditional models of outsourced service delivery such as the retention of the asset by the State.  

In December 2007 the Fiona Stanley Hospital Business Case Volume 1 (to be referred to in this report as the “2007 business case”) was prepared by the Department of Health Fiona Stanley Taskforce and was endorsed by Cabinet in April 2008. This business case predominantly dealt with the construction of the hospital.

The Department of Health relied upon a market sounding exercise undertaken during May and June 2009 to form the view that there was an “interested and viable market” for the private delivery of facilities management and support services at the hospital. This market sounding report was criticised by the Public Accounts Committee because it did not comment on the capacities of participants in that process. No feedback was assessed in the market sounding report about experience in delivering an “integrated, extensive and highly complex series of services”.

The market sounding exercise led to the expansion of the scope of the proposed contract to include porter and sterilisation services, which were inclusions suggested by Serco.

The first appearance of a clear intent to source the facilities management and support services from the private sector was in the document entitled Procurement Plan: Fiona Stanley Hospital Facilities Management and Support Services, dated 22 October 2009 (to be referred to in this report as the Procurement Plan). The Procurement Plan was subsequently endorsed by the Major Health Infrastructure Steering Committee which was responsible for governance at that point. It was approved by Cabinet on 2 November 2009.

The hospital budget included $148 million for furniture, fittings and equipment, to be integrated with service contracts with values ranging from $40 million to $170 million per annum, depending on which procurement approach was taken.

The Procurement Plan included an evaluation of contracting out either a small group of property management

5 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012), 2-3.
6 Ibid., Finding 14, 37-38.
7 Ibid.
8 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012), Finding 15, 39. Fiona Stanley Hospital Integrated FM Market Sounding Report, Serco suggested the inclusion of sterilisation services in the contract. See Department of Health, A Report by the Fiona Stanley Hospital Project Team (July 2009), 10, and attached Serco Meeting Record.
services or a wide range of ancillary services, such as catering and linen, under a facilities management contract. The wide range of services\(^\text{12}\) was ultimately included in the contract to “reduce the interfaces involved”.\(^\text{13}\)

On 29 July 2009 Paxon Group provided the financial modelling for the Department of Health for the public versus private-partnership options.\(^\text{14}\) Paxon Group’s preliminary financial analysis showed that the risk valuation under the proposed facilities management procurement model transferred a net present cost over 10 years of $131.3 million to the private sector, while the State retained $73.2 million. The analysis concluded that the value of the project was positive, and the risks transferred to the private sector were sufficient to justify progressing further with the project.\(^\text{15}\)

Expressions of interest for the provision of facilities management services were advertised on 4 November 2009. Service specifications for 29 services were incorporated. There were 10 responses, with five of the respondents having taken part in the market sounding process. A request for a detailed proposal was sent to three short-listed respondents on 19 February 2010. One of the short-listed respondents withdrew shortly after.\(^\text{16}\)

The evaluation of the two remaining submissions concluded that Serco’s proposal represented the best option for service delivery and the lowest price, and therefore best value for money for the State.\(^\text{17}\) Serco was, in effect, the only tenderer able to address adequately all of the demands of the proposed contract with its large bundle of services.\(^\text{18}\)

The Serco bid model was evaluated by Paxon Group against the public sector comparator model in May 2011,\(^\text{19}\) with the final public sector comparator completed on 12 July 2011 to reflect changes negotiated with Serco.\(^\text{20}\) The net present value indicates an overall saving to government over 20 years of $303 million (taking into account the proposed preoperational costs of approximately $100 million).\(^\text{21}\)

On 18 October 2010 Cabinet approved Serco as the preferred respondent to deliver the facilities

\(^{12}\) including sterilisation and portering services.

\(^{13}\) Major Health Infrastructure Project Steering Committee, [29 July 2009], item 4.3 Strategic Goods and Services Procurement Plan.

\(^{14}\) This was part of the Appendices to the FSH Draft Strategic Goods and Services Procurement Plan.

\(^{15}\) Paxon Group Fiona Stanley Hospital, Facilities Management Head Contractor Model – Preliminary Financial Analysis, Draft for Early Analysis, [21 July 2009], 39.

\(^{16}\) as per footnote 17, at 39, 43

\(^{17}\) Department of Health Fiona Stanley Hospital, Fiona Stanley Hospital Facilities Management Services Report - Project Summary, [February 2012], para 1.4.5. The Public Accounts Committee, however, considered that the effect of bundling a large number of services into a single contract resulted in such a large contract that the level of competition for the contract was reduced. The Committee found that the Department of Health, “whilst seeking to benefit from the bundling of many services into a single contract, failed to achieve a genuinely competitive procurement process”: Finding 23, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Report No. (16 June 2012), 48.

\(^{18}\) Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Report No. 16 [June 2012], Executive Summary, ii.

\(^{19}\) Paxon Group, Fiona Stanley Hospital Facilities Management Services Contract, Serco Bid Model and PSC Model: Sources and Assumptions, Draft for Review [May 2011].

\(^{20}\) Department of Health, Revised DoH Submission Attachment 1 for Public Accounts Committee (6 February 2012).

\(^{21}\) Major Health Infrastructure Project Steering Committee [22 September 2010], Action 2010/11 referring to Briefing Note prepared for endorsement of the Steering Committee.
management and support services at Fiona Stanley Hospital.

The contract was executed by Serco and the Minister for Health on behalf of the State on 30 July 2011. The Education and Health Standing Committee found that:

"the Minister for Health signed a $4.3 billion contract with Serco where the government was obligated to deliver an operational digital hospital on 1 April 2014. The Committee is not satisfied that the government had assured itself that it could achieve this before signing the contract."[22]

The Standing Committee also found that the Department of Health did not assess its capacity to meet the April 2014 opening date before including it as the operational service commencement date in the Serco contract.[23]

The Education and Health Standing Committee in a subsequent inquiry found:

"Given the inclusion of the Sterilisation Service in the Facilities Management Services Contract, the Committee questions the level of scrutiny applied to the contract by the Minister when he signed it. It should have been obvious that this service required the expertise of the Department of Health in delivering patient-centric care."[24]

The contractual arrangements with Serco included two other agreements:

• a Master Lease between Serco and the Commonwealth Bank of Australia in relation to the funding of equipment procured in the pre-operational period; and

• a tripartite agreement between the State, Serco and the Commonwealth Bank of Australia in relation to the funding of equipment procured during the pre-operational period.[25]

Under the contract Serco may engage subcontractors to perform their obligations with the State’s approval. At the time of execution, Serco had entered into approved subcontracts with Siemens Ltd and BT Australasia Pty Ltd in relation to the managed equipment service and the information and communications technology service respectively.

The hospital opened in stages between October 2014 and February 2015. The delay in opening from the scheduled April 2014 date cost the State approximately $52.7 million in payments under the contract for Serco to run an empty hospital.[26]

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22 Legislative Assembly Parliament of Western Australia, Education and Health Standing Committee Report: More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with the commissioning of the Fiona Stanley Hospital: Report No. 2 (April 2014), Finding 19, 56.
23 Ibid., Finding 15, 49.
24 Legislative Assembly Parliament of Western Australia Education and Health Standing Committee, Managing the Transition? The report of the inquiry into the transition and operation of services at Fiona Stanley Hospital, Report No. 6, (November 2015) Finding 17, 56.
25 Department of Health, Fiona Stanley Hospital, Fiona Stanley Hospital Facilities Management Services Project - Project Summary (February 2012), 2.1, 2.2.
26 Western Australia Legislative Assembly Education and Health Standing Committee, More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with commissioning the Fiona Stanley Hospital, Report No. 2 (April 2014), Executive Summary, i.
After the hospital opened problems quickly emerged with the quality and timeliness of Serco’s sterilisation services. This resulted in the Department of Health issuing breach notices to Serco in December 2014 and March 2015. Meanwhile, the hospital attempted to address the problems by deploying senior nursing staff from theatres with sterilisation qualifications and experience to supervise Serco’s service.27

On 26 May 2015 the Department of Health exercised its rights under the contract and assumed responsibility for sterilisation services. The Education and Health Standing Committee found that this decision was the ‘right and only choice’ given risks to patient safety.28

The contract is due to expire in August 2021 and the State has two five year options to extend.

A timeline of significant milestones is set out in Appendix B.

EVALUATION OF THE PROJECT

The Special Inquirer’s focus has been on three aspects of the facilities management of Fiona Stanley Hospital:

1. the decision-making process for outsourcing facilities management and support services;
2. contract scope and drafting; and
3. whether performance measures and dispute resolution under the Serco contract are effective.

Governance

Governance for this project was consistent with that of other major health infrastructure projects.

April 2009 to September 2012

The Major Health Infrastructure Projects Steering Committee, which was appointed by Cabinet, was responsible for the project’s governance and was chaired by the Department of Health’s Director General.29 The committee also included the:

• Under Treasurer;
• State Solicitor;
• Department of Planning’s Director General; and
• Strategic Projects, Department of Treasury.

The steering committee evolved from the Fiona Stanley Hospital Development Steering Committee in response to the Department of Health’s expanding capital works program.30 The steering committee’s terms of reference were “to ensure that these projects are developed in accordance with agreed scope, time, cost

27 Australian Commission on Safety and Quality in Health Care and MMK Consulting, Review of operational clinical and patient care at Fiona Stanley Hospital (June 2015), 27.
28 Legislative Assembly Parliament of Western Australia Education and Health Standing Committee, Managing the Transition? The report of the inquiry into the transition and operation of services at Fiona Stanley Hospital, Report No. 6, (November 2015) Finding 18, 57.
29 This was the initial model set up to deal with Fiona Stanley Hospital, but the Major Health Infrastructure Projects Steering Committee role expanded to look after the full range of major Health projects including Perth Children’s Hospital, QEII projects, and Joondalup Health Campus.
30 Department of Finance, Special Inquiry hearing, 20 October 2017; Department of Treasury Internal Memorandum from Executive Director of Strategic Projects to Under Treasurer, (4 November 2013).
and quality parameters, including the realisation of agreed project benefits.”

The Fiona Stanley Hospital Procurement Steering Committee reported to the Major Health Infrastructure Projects Steering Committee and was responsible for reviewing and overseeing the development of the Procurement Plan and expressions of interest, and for developing and reviewing all scope and budget issues. The steering committee membership included representatives from the Department of Treasury, Strategic Projects, the Department of Health and the State Solicitor’s Office.

The Fiona Stanley Hospital Procurement Working Group coordinated the facilities management and goods and services requirements (including furniture, fixtures and equipment). The working group was responsible for liaising with relevant reference groups, researching requirements and formulating specification documents. The working group consisted of members from the State Solicitor’s Office, Strategic Projects and Government Procurement, and the Fiona Stanley Hospital project team. Working group members from the Department of Treasury and Finance and the State Solicitor’s Office endorsed the Procurement Plan and the expressions of interest which were then endorsed by the Major Health Infrastructure Projects Steering Committee on 16 September 2009.

The Fiona Stanley Hospital Facilities Management Working Group, chaired by the Fiona Stanley Hospital’s Executive Director, provided oversight to the evaluation panel that assessed responses to the expressions of interest and request for submissions and endorsed the draft evaluation report.

The evaluation report recommendation that Serco be appointed as preferred respondent and that a negotiation process be entered into in accordance with the request for proposal was endorsed by:

- the State Tender Review Committee;
- the Facilities Management Working Group;
- the Project Control Group, chaired by the South Metropolitan Area Health Service’s Chief Executive; and
- the Major Health Infrastructure Projects Steering Committee.

Stantons International was appointed as the probity advisor to oversee the procurement process for the facilities management and support services contract.

The project was subject to a Gateway Review in relation to the tender decision for facilities management in July 2010. A further Gateway Review looking at readiness for service dealt with the partial commencement of the Serco contract.

31 Department of Finance, Special Inquiry hearing, 20 October 2017; Department of Treasury Internal Memorandum from Executive Director of Strategic Projects to Under Treasurer, (4 November 2013).
33 Ibid.
34 Department of Health, Fiona Stanley Hospital, Fiona Stanley Hospital Facilities Management Services Project - Project Summary, (February 2012), 1.4.1.
35 Ibid.
36 Ibid, 1.4.6.
37 Two previous gateway reviews had been conducted in relation to the overall Fiona Stanley Hospital Project. This gateway review was initiated by the Project Control Group. See Department of Health Fiona Stanley Hospital Summary of Facilities Management Services Contract, (July 2011).
38 Department of Finance Government Procurement, Gateway Review 5 – Readiness for Service (Part 1), issued to Department of Health and
Despite having the appearance of a robust governance team, the Major Health Infrastructure Projects Steering Committee failed to identify the risks of including sterilisation services in the Serco contract. These issues are examined later in this report.

**September 2012 to June 2015**

The Fiona Stanley Hospital Commissioning and Major Hospitals Transition Taskforce was established by Cabinet in September 2012. Its terms of reference included overseeing the commissioning of Fiona Stanley Hospital and monitoring the progress of the project against key milestones. The taskforce was responsible for identifying and managing emerging issues and risks for the Fiona Stanley Hospital project delivery and commissioning. Its members were the:

- Department of Health’s Director General (Chair);
- Under Treasurer;
- Department of the Premier and Cabinet’s Deputy Director General;
- State Solicitor;
- South Metropolitan Health Service’s Chief Executive; and
- Executive Director, Commissioning of Fiona Stanley Hospital.

The taskforce effectively replaced the Major Health Infrastructure Projects Steering Committee as the highest governance authority for the hospital.39

Governance during the commissioning phase was examined by the Education and Health Standing Committee in 2014.40 The Standing Committee found that [t]he ability of the taskforce to fulfil its oversight role was hindered due to the limited information Mr Snowball [the Department of Health’s then Director General] provided to the Taskforce."41

A significant failure in this area was the Director General’s oversight to inform the taskforce in February 2013 that there were concerns about the Department of Health’s readiness to achieve the planned 1 April 2014 opening date.42 The Education and Health Standing Committee considered that the taskforce was “a good

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39 Department of Finance, Special Inquiry hearing, 20 October 2017; Department of Treasury Internal Memorandum from Executive Director of Strategic Projects to Under Treasurer, (14 November 2013).
40 Western Australia Legislative Assembly, Education and Health Standing Committee, More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with commissioning the Fiona Stanley Hospital, Report No. 2 (April 2014).
41 Ibid., Finding 30, 82.
42 Ibid., 81-82.
idea poorly implemented", finding that [t]o truly achieve independent oversight, the Taskforce should not have been structured with the Director General as chair.\footnote{43 Legislative Assembly Parliament of Western Australia, Education and Health Standing Committee Report: More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with the commissioning of the Fiona Stanley Hospital: Report No. 2 (April 2014), Finding 19, 56.}

The Fiona Stanley Project Management Office was established in December 2012. The project management office reported against six work streams, including facilities management, as part of the commissioning project.\footnote{44 Ibid., 37.} The Education and Health Standing Committee found that the failure to establish the Fiona Stanley Hospital Project Management Office at the time the Serco contract was signed in July 2011 resulted in failures to track accurately the status of important work streams under the commissioning project.\footnote{45 Ibid., Finding 12, 38.}

Improved governance processes introduced after March 2013 were continued and strengthened, with the taskforce assuming a dominant role in overseeing the commissioning project.\footnote{46 Legislative Assembly Parliament of Western Australia Education and Health Standing Committee, Managing the Transition? The report of the inquiry into the transition and operation of services at Fiona Stanley Hospital, Report No. 6, (November 2015), 8.} The Minister for Health had a representative at each taskforce meeting after March 2013, ensuring sufficient Ministerial engagement and that the Minister was properly informed about material issues affecting the commissioning of the hospital.\footnote{47 Ibid., 9.}

Since 1 July 2016, the management of the Serco contract has been the responsibility of the South Metropolitan Health Service Board.\footnote{48 Health Services Act 2016.}

**Project management**

**Business case**

The development of a business case is essential to inform decision-making as to whether the Government should proceed with a project. The business case should express the business need, analyse options, provide information on the benefits, costs and risks of a proposal, and capture how the proposal meets that need. It is critical to ensuring that what is proposed is the right type of investment, is affordable, desirable and viable, and offers value for money.\footnote{49 Australian Government Information Management Office, ICT Business Case Guide (July 2012).} It also establishes the basis for the procurement plan’s specifications.

A stand-alone business case for the outsourcing of facilities management and support services at the Hospital has not been provided to the Special Inquirer and the Department of Health could not find one in its records.\footnote{50 Department of Health response to the Special Inquiry questions on notice, received 6 October 2017.}

The Department of Health directed the Special Inquirer to the 2007 Business Case indicating that the decision was made to test the market for its capacity and interest in the project during the development of that business
case. The 2007 Business Case contains limited references to the proposed delivery of non-clinical services. It refers to:

- facilities managers and partnerships shown in a diagram;
- private sector opportunities being identified where they are complementary to the hospital’s objectives and can support the provision of an integrated health service;
- an analysis of staff modelling that “suggests that staff efficiencies beyond the best of RPH [Royal Perth Hospital] and SCGH [Sir Charles Gairdner Hospital] are possible”, and to investigate this, further additional analysis and benchmarking was planned. The further analysis was to “consider local issues that are likely to have an impact on these staff ratios such as the extent to which services can be provided centrally and/or outsourced”; and
- the Project Investment Principles, which were inputs to the Fiona Stanley Hospital Master Plan, and which included the principle that private sector involvement should be encouraged where it is complementary to publicly provided services.

The 2007 Business Case does not otherwise directly refer to outsourcing of facilities management at the hospital.

When questioned by the Special Inquirer about the decision to proceed with an outsourced facilities management model, the Department of Health advised, “it was always intended in the development of the original business case about leaving the option in to outsource and that was certainly a fairly clear view of Treasury to leave that option on the table”.

It is astonishing that further consideration was not given to preparing a stand-alone business case for a $4.3 billion contract, especially given the complexity and uniqueness of the project, the workforce implications and the financial and non-financial risks to the State.

Opportunities to “make good” on preparing a business case for facilities management and support services at the hospital were missed. These occurred:

1. after closure of the expressions of interest on 17 December 2009;
2. after the tabling of the Education and Health Standing Committee report on 6 May 2010; and
3. after the Gateway Review — Tender Decision (Facilities Management) issued to the Department of Health on 2 July 2010.

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51 Ibid.
52 Department of Health Fiona Stanley Hospital Taskforce, Fiona Stanley Hospital Business Case Volume 1 (December 2007), Figure 1, 18.
53 Department of Health Fiona Stanley Hospital Taskforce, Fiona Stanley Hospital Business Case Volume 1 (December 2007), 83.
54 Ibid., 107.
55 Ibid., 149.
56 Department of Health, Special Inquiry hearing, 18 October 2017.
57 Legislative Assembly Education and Health Standing Committee, Destined to Fail: Western Australia’s Health System: Volume 1 – Hospital Sector, Report No. 6 in the 38th Parliament, 16 May 2010.
58 WA Gateway Unit, Gateway Review – Tender Decision, Fiona Stanley Hospital (Facilities Management), WA Gateway Number: WA0050, 2 July 2010.
Had a stand-alone business case been prepared after the expressions of interest process, it could have provided more certainty as to what the market was capable of delivering and enabled the service specifications to have been more prescriptive at the request for proposal stage.

The Special Inquirer notes that the Public Accounts Committee reviewed the procurement processes used to appoint Serco to provide facilities management services at Fiona Stanley Hospital. There were deficits in the procurement plan which contained a poorly scoped “services matrix” rather than detailed service specifications, and no key performance indicators. As a result they could not be incorporated into the costing models presented to State Cabinet, and “Cabinet endorsed a procurement plan that had been developed using ‘less than full information’...”.

Most significantly, the value for money considerations were limited only to a consideration of a preliminary financial assessment. The Procurement Plan only flagged that [Q]uestions regarding the quality of service and philosophical questions concerning private or public sector supply of some services may need further examination...” A stand-alone business case would potentially have taken into consideration important non-financial aspects. For example, exploration of quality aspects may have looked at how a lack of sterilised equipment could result in higher rates of infection. While the service itself may be cheaper, the resulting knock-on effects such as a longer hospital stay for the patient or resulting medical negligence claims against the hospital were not taken into account. It is expected that proponents would be required to meet specified quality standards but the Special Inquirer is not able to determine if the costs of a higher level of quality, if proposed, were offset by the reduction in risk to the hospital.

The Education and Health Standing Committee found that future services delivered at hospitals in Western Australia that have been built using public private partnerships may prove to be more expensive or of poorer quality than government provided services. This finding was made in the context of an unpublished review by the United Kingdom’s National Audit Office using information provided by the Healthcare Commission. The review compared the quality and cost of security services, linen, porter and cleaning services in National Health Service public private partnership projects and non-public private partnership projects. The review found that the costs of all services were higher at public private partnership and public financial investment hospitals than at non-public private partnership hospitals. Further, the majority of public private partnership hospitals performed below the National Health Service average on the quality of cleaning services.

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59 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012).
60 Ibid, Finding 3, 12,14. It was noted that the Department of Health was under significant pressure to have the hospital open by April 2014 (Finding 1), and planning processes were compressed.
61 Ibid, 12, 14.
63 Legislative Assembly Education and Health Standing Committee, Destined to Fail: Western Australia’s Health System: Volume 1 – Hospital Sector, Report No. 6 in the 38th Parliament, 2010, xii Findings 9 and 22.
This finding ought to have been a red flag to the Department of Health to review its processes to ensure they were robust.

The Education and Health Standing Committee recommended that the Western Australian Government include in each annual health budget an outline of the cost of services to be provided at public private partnership health facilities and a comparison with the cost of these services provided at government provided facilities. The Government responded that the intent of the recommendation was already met through the application of an existing Public Private Partnership Policy which required the development of a public sector comparator.66 Unfortunately, the public sector comparator assumptions were flawed and at that stage did not offer a true comparison between the public and private sector costs.67

The Gateway Review — Tender Decision (Facilities Management) also found that a separate business case for facilities management and support services was not prepared but should have been.68 The Review Team noted that “a range of KPIs [key performance indicators] have been developed for the project however in the absence of a business case no clear and measurable benefits have been articulated for the project.”69

The Gateway Review made recommendations that:

• the facilities management recommendation should demonstrate the benefits that would be achieved through the procurement; and

• a benefits realisation plan should be developed.70

No formal recommendation was made to the Department of Health, however, to develop a business case.

The Department of Health’s response and action plan71 addressed the Gateway Review — Tender Decision (Facilities Management) recommendations. It did not mention the lack of a separate business case. The Department of Health’s response gives the impression that this aspect had already been addressed.72

Given the lack of a stand-alone business case, the State is fortunate that the Serco contract has been largely successful.

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67 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012), Chapter 5, 67-98.
68 WA Gateway Unit, Gateway Review – Tender Decision, Fiona Stanley Hospital (Facilities Management), WA Gateway Number: WA0050, (2 July 2010), 7.
69 Ibid.
70 Ibid.
72 Ibid. The Response and Action Plan refers to the previous Gateway review on the overall Fiona Stanley Hospital project in respect of a Business Case review in February 2008, 2. The review area captured in a table is headed “Business Case and Stakeholders” and then talks about the Facilities Management and Support Services Procurement Plan as “the business plan for the proposed procurement methodology”.

Special Inquiry into Government Programs and Projects - Final Report Volume 2
Financial analysis

Figure 1 below compares the components of the risk adjusted net present cost under the public sector comparator and the facilities management contract over the 20-year term.

Figure 1: Comparison of Serco contract against public sector comparator

<table>
<thead>
<tr>
<th></th>
<th>Public Sector Comparator</th>
<th>Serco</th>
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<tr>
<td>Cash Costs</td>
<td>$2,387.40</td>
<td>$2,239.40</td>
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<td>Competitive Neutrality</td>
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<tr>
<td>Retained Risks</td>
<td>$441.80</td>
<td>$142.10</td>
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</tbody>
</table>

The figures above indicate that a cost saving of $515.6 million (18 per cent) over the 20 year term is achieved by the contract with Serco compared with the public sector comparator, with the cash saving being $140 million.

The quality of services is not factored into the above calculation — these are managed under the contract through a “carrot and stick” approach. Incentives are given to Serco for continuous improvement. Abatements apply where Serco fails to meet key performance indicators.

In 2012 the Public Accounts Committee made adverse findings about the public sector comparator and financial modelling relied upon by the Department of Health. The Public Accounts Committee examined this

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73 Department of Health Fiona Stanley Hospital, Fiona Stanley Hospital Facilities Management Services Project – Project Summary [February 2012], Figure 1, 1.5.3.
74 Department of Health, Fiona Stanley Hospital Facilities Management Services Project, Project Summary, [February 2012]; Department of Health, Special Inquiry hearing, 18 October 2017, 4.
75 Department of Health Fiona Stanley Hospital, Fiona Stanley Hospital Facilities Management Services Project, Project Summary, [February 2012], 1.5.3.
76 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012).
aspect of the procurement process in detail and the Special Inquirer does not propose to revisit those issues, except to highlight the problems with using the public sector comparator in this case.

The financial modelling was poorly scoped and did not accurately reflect the final scope of the services taken to the market.77 The four public sector comparators developed between September 2009 and 12 July 2011 used widely varying assumptions. The Public Accounts Committee noted that the last one, which reflected the contract as signed with Serco was “probably the first opportunity for DoH [the Department of Health] to gain an accurate understanding of the contract’s potential VfM [value for money]”.78

The public sector comparator was one of the key mechanisms used by Department of Health when determining to proceed with the contract.79

Although the use of a public sector comparator is a value for money measure which provides a benchmark for agencies, outsourcing a service of this magnitude was new to the Department of Health and the State Government. It was therefore difficult to ascertain with accuracy whether it represented value for money.

**Contract management**

The Special Inquirer has focussed on three issues that have impacted on management of the Serco contract at Fiona Stanley Hospital:

1. the contract scope and drafting;
2. the key performance indicator regime; and
3. the dispute resolution mechanism.

**Contract drafting**

The contract currently covers 25 services as set out in Appendix C.

The Health Records Management and Clinical Coding and the Scheduling and Billing services were originally included in the services to be provided by Serco but were removed from the contract by the Department of Health in the months leading up to the opening of the hospital.80 The removal of the services was resolved through “good engagement” with Serco, whereby the Department of Health determined Serco should not take those services on the basis that they were clinical services.81 As previously mentioned, sterilisation services had been removed from the contract in May 2015 after the hospital was operational.

The State Solicitor’s Office was involved in the development of the contract at an early stage.82 Herbert

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77 Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012), 35.
78 Ibid., Executive Summary at ii-iii. See findings 8, 40, 44, 45 and 48 at 19, 78, 89, 93 and 96.
79 Ibid., Executive Summary, ii.
80 These services are delivered by the South Metropolitan Health Service, together with sterilisation services.
81 Department of Health, Special Inquiry hearing, 18 October 2017, 9.
82 State Solicitor’s Office, Special Inquiry hearing, 31 October 2017.
Smith Freehills was engaged under the State Solicitor’s Office panel arrangement to provide expert advice and attend to the drafting of the contract.\textsuperscript{83}

The Special Inquirer asked the State Solicitor’s Office what major flaws in the contract should be addressed by the State Solicitor’s Office if the contract was looked at again. The State Solicitor’s Office stated that it would:

“...like to give more consideration to the separation between capital and maintenance...their contract makes a distinction between capital and maintenance, whereas, in fact, when you buy a large capital item it’ll often come with maintenance-type things bundled up with it. And we’ve had some issues with lack of clarity around that.”\textsuperscript{84}

\textbf{Contract scope — Sterilisation services}

When the Department of Health commissioning team took over in November 2012, it was faced with trying to resolve contractual matters with Serco. In particular there were scope issues with the clinical interface of sterilisation services and porter services which are a “fundamental part of the clinical care in terms of the orderly service”.\textsuperscript{85}

Sterilisation services were taken back in house by the Department of Health in May 2015.

The failure of Serco’s sterilising service was operationally significant and damaging to the reputation of the hospital.\textsuperscript{86}

The Special Inquirer was interested to understand how sterilisation services — a clinical service — came to be included in the Serco contract. Concerns of clinicians about the inclusion of sterilisation services in the Serco contract have been widely reported.

This was echoed in the hearing with the Special Inquirer where representatives of the Department of Health

\textsuperscript{83} Ibid.
\textsuperscript{84} Ibid.
\textsuperscript{85} Department of Health, Special Inquiry hearing, 18 October 2017, 6, 9.
\textsuperscript{86} Australian Commission on Safety and Quality in Health Care and MMK Consulting, Review of operational clinical and patient care at Fiona Stanley Hospital [June 2015], 27.

The requirement to comply with contractual obligations caused a delay in the Department of Health taking back the sterilisation services. This should be taken as a “lesson learned” when contemplating outsourcing of services that are clinical.
expressed strong views on the inclusion of sterilisation services in the Serco contract:

“Sterilisation should never ever have been in the FM [facilities management] contract. It was ludicrous to put a clinical service in the contract that has a direct effect on operating… It is a clinical service, has nothing to do with services management”.87

If these views about sterilisation services are representative of clinicians’ views, it indicates some significant failures in the governance and consultation process employed in developing the scope of services for inclusion in the contract.

The Department of Health told the Special Inquirer that the contract

“is complex and [it is] always going to be complex if it’s intertwined with clinical services. And obviously you would be aware of the sterilisation issue where we actually had to go through the contract and serve…notices under the contract before we could actually take out the sterilisation services.”88

The Department of Finance advised the Special Inquirer that in the sequence of formal approvals, initially a strategic procurement plan was produced by the Fiona Stanley Hospital project team, which was endorsed by the Major Health Infrastructure Steering Committee. That led to the production of a detailed procurement plan and both of those documents outlined the scope of facilities management services, which included sterilisation services but did not include key performance indicators.89

The governance and/or consultation process failed to identify the risks associated with including sterilisation services into the scope of services to be provided.

The requirement to comply with contractual obligations caused a delay in the Department of Health taking back the sterilisation services. This should be taken as a “lesson learned” when contemplating outsourcing of services that are clinical or have an operationally significant clinical interface.

**Key performance indicators**

The Education and Health Standing Committee found that the “significant financial implications” of the operation of the Serco contract required “accuracy of reporting by Serco, and rigorous contract management” by the South Metropolitan Health Service.90
The contract incorporates 482 key performance indicators across the 25 services provided.\textsuperscript{91} Serco considers this makes it the “most measured Contract in Australia, if not the world”.\textsuperscript{92}

Important details about how Serco would deliver the services at Fiona Stanley Hospital were not finalised at the time the contract was signed. These details were being resolved during the period leading up to the opening of the hospital. Many of the key performance indicators were linked to details in service plans which had not been completed.\textsuperscript{93}

The key performance indicators play a significant role in determining whether Serco’s monthly fees will be abated should its performance fall below the standard required by the key performance indicators and service specifications.\textsuperscript{94}

In practice, the key performance indicators result in more than 1,000 reporting obligations per month, and the monthly report itself is more than 12,000 pages long.\textsuperscript{95} The description of “key” performance indicators is a misnomer.

The Auditor General’s report entitled Non-Clinical Services at Fiona Stanley Hospital found that reporting is not yet actively driving service improvement and efficiencies.\textsuperscript{96} Contract reporting is one part of the management and integration service line of the contract, which cost nearly $19 million in 2016/17.\textsuperscript{97}

The State Solicitor’s Office was involved in the development of the key performance indicators, which were written by Paxon Group.\textsuperscript{98} The key performance indicators were reviewed by a non-government consultancy and by the State Solicitor’s Office.\textsuperscript{99}

The Special Inquirer asked the State Solicitor’s Office if there was scope for the KPI arrangements to be reviewed and adjusted to be more outcomes orientated and effective. The State Solicitor’s Office suggested that the key performance indicators in the contract enabled objective application which was preferable to broad subjective outcomes orientated key performance indicators as the latter could lead to more disputes. The State Solicitor’s Office acknowledged, however, that “…would we rewrite it differently? The answer is unquestionably. We forever improve our contracts based on what has gone before us.”\textsuperscript{100}

The Department of Health acknowledges that some key performance indicators do not drive performance

\textsuperscript{91} Western Australian Auditor General’s Report, Non-Clinical Services at Fiona Stanley Hospital, Report 14. (August 2017), 11.
\textsuperscript{92} Serco written submission to Special Inquiry, 21 June 2017.
\textsuperscript{93} Legislative Assembly Parliament of Western Australia, Public Accounts Committee, Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16 (June 2012), Executive Summary at iii, 103-105.
\textsuperscript{94} Facilities Management and Support Services Contract, Schedule 2, Schedule 7.
\textsuperscript{95} Western Australian Auditor General’s Report, Non-Clinical Services at Fiona Stanley Hospital, Report 14, (August 2017), 23.
\textsuperscript{96} Ibid., 8.
\textsuperscript{97} Ibid.
\textsuperscript{98} State Solicitor’s Office, Special Inquiry hearing, 31 October 2017.
\textsuperscript{99} Ibid.
\textsuperscript{100} Ibid
but states that many do drive performance and operate as a safety indicator.\textsuperscript{101} The Department of Health told the Special Inquirer that it is interested in a hospital’s outputs around safety quality, specific incidents and financial performance. It sees the management of the key performance indicator regime as an operational issue for the Chief Executive of the particular hospital.\textsuperscript{102} The observation was made that “482 [key performance indicators] is far too many” and the Department of Health advised by comparison that the St John of God Midland Public Hospital is subject to 159 key performance indicators.\textsuperscript{103}

The Department of Health informed the Special Inquirer that for St John of God Midland Public Hospital, a public private partnership, it has the ability to review the key performance indicators and ensure that they are relevant. The process enables the Department of Health to exchange existing key performance indicators for more contemporary measures and these are worked through with St John of God Midland in a “fairly collaborative” manner.\textsuperscript{104} This has recently occurred and changes have resulted.\textsuperscript{105}

The Department of Health is currently working through the recommendations of the recent Auditor General’s report,\textsuperscript{106} including reviewing the key performance indicators to make them more effective and consulting with Serco to streamline reporting requirements.\textsuperscript{107}

\textbf{Dispute Resolution}

The lengthy contractual disputes on foot between Serco and the South Metropolitan Health Service impact on the costs of the contract. Currently there are seven ongoing contractual disputes, with a potential retrospective cost to the State of $6 million to 7 million.\textsuperscript{108} Contract interpretation issues may also have significant cost implications with around $10.4 million in financial claims unresolved.\textsuperscript{109}

The Auditor General’s report gives an example of how future costs may be affected by contractual disputes.\textsuperscript{110} A current dispute on whether cleaning of emergency department bays between patients is within the scope of the contract could result in additional costs of $1 million to the South Metropolitan Health Service. Serco’s estimates put this potential cost at $4.6 million per year if it is determined to be outside the scope of the services that it is contracted to provide.\textsuperscript{111}

The smaller disputes regarding recovery of abatements, additional costs and entitlements to uniform laundering for Serco staff total $2.56 million.\textsuperscript{112}
The Department of Health rated disputes around isolation cleaning as being the most material, with a potential liability of $1 million to $1.9 million per annum.\(^\text{113}\)

There is also a stalemate in relation to the upgrade works schedule provided by Serco to the South Metropolitan Health Service, which estimated upgrade works would cost $36 million over the remaining five years of the initial term of the contract. The South Metropolitan Health Service has not approved the upgrade works schedule.\(^\text{114}\)

The dispute resolution mechanisms established under the contract\(^\text{115}\) require that if a “dispute” arises between Serco and the Department of Health it is then dealt with by way of a dispute notice referred to the Fiona Stanley Hospital Facilities Management Advisory Group. The group is to use “reasonable endeavours” to resolve the dispute, in whole or in part, within 15 business days or by a later date as agreed by the parties.

If the Facilities Management Advisory Group is unable to resolve certain disputes, including Serco’s performance against the continuous improvement indicators and key performance indicators, then the relevant party may refer the dispute to an advisor nominated by the Facilities Management Advisory Group.\(^\text{116}\)

In addition, if the Facilities Management Advisory Group is unable to resolve a dispute, in whole or in part, then the dispute may be referred by the relevant party for expert determination by an agreed expert. The determination of the expert is final and binding on the parties.\(^\text{117}\)

Where a dispute that has been referred to the Facilities Management Advisory Group remains unresolved for 15 business days after the date on which the dispute notice is received (or such later date as the parties may agree), the parties to the dispute may commence legal proceedings to resolve all or part of the dispute.\(^\text{118}\) No disputes have been litigated to date.\(^\text{119}\)

The State Solicitor’s Office advised the Special Inquirer that the advisor appraisal process has been utilised once and “It yielded an unanticipated result for us. And we’ve respected that, but it was insufficient to resolve the dispute.”\(^\text{120}\)

Serco advised the Special Inquirer that it considers the dispute resolution processes under the contract to be ineffective and as at 21 June 2017 said the processes had not resolved a single dispute.\(^\text{121}\)

The Department of Health’s view is that the dispute resolution process has not been tested properly because Serco has not invoked the formal dispute resolution mechanism.\(^\text{122}\)

\(^{113}\) Department of Health, Special Inquiry hearing, 18 October 2017.
\(^{114}\) Western Australian Auditor General’s Report, Non-Clinical Services at Fiona Stanley Hospital, Report 14, (August 2017).
\(^{115}\) Clause 35.
\(^{116}\) Clause 35.3.
\(^{117}\) Clause 35.4.
\(^{118}\) Clauses 35.5 and 35.2.
\(^{119}\) Department of Health, Special Inquiry hearing, 18 October 2017.
\(^{120}\) Serco written submission to the Special Inquiry dated 21 June 2017; See clause 35 Facilities Management Services Contract.
\(^{121}\) Department of Health, Special Inquiry hearing, 18 October 2017.
The State Solicitor’s Office view is that the facilities manager’s representative and the principal’s representative are

“advised by operational people who have been at loggerheads in respect of the dispute in the first instance, and so were we to do that [dispute mechanism] again I think we’d escalate to a somewhat higher level within each organisation.”

The State Solicitor’s Office has proposed an alternative dispute resolution process to the one set out in the contract to move the disputes along but say

“...the dispute resolution mechanism works well. And to the extent that Serco are unwilling to advance their claims, then it is a matter for them as and when they choose to do that. We’re more than happy to go there in the dispute resolution process or contractual process for those disputes.”

The fact that a substitute for the alternative dispute mechanism in the Serco contract has been suggested highlights the ineffectiveness of the existing contractual mechanism for resolving disputes.

**COST AND BENEFITS**

The 2017 Auditor General’s report *Non-Clinical Services at Fiona Stanley Hospital* found that the standard of non-clinical service delivery under the contract was acceptable and the contract was adequately managed.

The Department of Health informed the Special Inquirer that the Serco staff have “integrated very well” with WA Health staff, “so much so that we’ve had several of them get the South Metro employee of the month award even though they work for Serco.”

The Serco contract covered the following three phases to ensure the delivery of the services from opening of the hospital.

1. Pre-operational phase — from July 2011 to December 2013 involving the planning and procurement required to establish the services before practical completion of the infrastructure.
2. Transition phase — from December 2013 to the operations commencement date (originally planned to be April 2014 but phased opening was delayed and occurred between October 2014 and February 2015).
3. Operational phase — from when the Fiona Stanley Hospital opened to the public to the expiry of the term, including two five year extension options (June 2030).

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124 Ibid.
126 Department of Health, Special Inquiry hearing, 18 October 2017, 25, 26.
127 Department of Health, Fiona Stanley Hospital Facilities Management Project – Project Summary (February 2012).
Due to the delay in opening the hospital, the transition phase estimates are compared below to the actual costs in the delay/phased opening period but prior to full operations.

The following costs were incurred by the Department of Health prior to the hospital opening.

- $52.7 million payment to Serco under the contract due to the delay in opening of the hospital. These costs are included in the $125 million allocated to the transition/delay-phased period costs below.\(^{128}\)
- $1.82 million plus ongoing salary costs to engage an additional 170 Assistants-in-Nursing to bridge the gap between traditional orderly services and porter services as scoped under the contract.\(^{129}\) These costs are not payments under the contract but arose as a result of a lack of clarity about the scope of porter services provided by Serco.

The total facilities management service payments over the three phases of the contract to 30 June 2017 amounted to $630.1 million.\(^{130}\) This was less than the planned costs of $650.7 million for that period, even taking into account the payments associated with the delay in opening.\(^{131}\)

Figure 2 below shows the comparison of the planned costs against the actual payments to Serco under the contract to 30 June 2017.

\(^{128}\) Western Australia Legislative Assembly Education and Health Standing Committee, *More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with commissioning the Fiona Stanley Hospital*, Report No. 2 (April 2014), Executive Summary at i.

\(^{129}\) Western Australia Legislative Assembly Education and Health Standing Committee, *Managing the transition? The report of the inquiry into the transition and operation of services at Fiona Stanley Hospital*, Report No. 6 (November 2015), Finding 10, 37.


\(^{131}\) Ibid.
After two years of full operation in 2015/16 and 2016/17 facilities management and support services cost $331 million, approximately $24.6 million more than initial base estimates approved in 2011. Initial estimates did not include the final prices for four services, separate one-off payments for estates and information and communications technology and contract variations.

There are more patients using the hospital than had originally been estimated with approximately 22 per cent more than forecast. This directly affects the costs of provision of services such as catering and linen.

The Auditor General says the indications are that the cost of facilities management and support services will be higher than estimated for the full operational phase over the term of the contract.

The contract has proved challenging at a number of levels. A significant amount of Fiona Stanley Hospital Executive time has been spent understanding the limitations of the contracted services and managing the interface with Serco. Both Serco and the South Metropolitan Health Service have executives dedicated to managing this relationship. Ten or eleven Department of Health staff are engaged in contract management.

The South Metropolitan Health Service tracks the costs of the contract management by reference to an internal guideline overhead of about 0.6 per cent of the annual contract value but the costs may run up to 0.8 per cent. The guideline relates to contract managers as well as to legal support, consultant support and specialist advice.

When asked by the Special Inquirer if the overheads required to manage the Serco contract would be different if the services were delivered publicly, the Department of Health responded:

“it would absolutely be different whether it would be less or simply redistributed. So Serco runs some 200 subcontracts that we’re aware of and that includes, for example, quite technical things like maintaining the elevators which, even if Serco weren’t there, we would. So it’s whether we would have a model of managing one large contract or whether we have a model of managing 10 or 30 or 200 small (contracts)”.

The Department of Health was unable to say whether the services provided by Serco cost less than providing the same services in public hospitals, such as Royal Perth Hospital. While some service lines, such as cleaning and catering could be compared, it is “such an intertwined FM [facilities management] service”, without the ready ability to calculate a per patient cost as occurs with other hospitals on a full public private partnership.
model such as with Peel Health Campus.

With Fiona Stanley Hospital it is “extraordinarily hard” to work out if the services are cheaper or not. It was suggested by the Department of Health that the cost of the same bundle of services for Fiona Stanley Hospital and Royal Perth Hospital could be calculated but that the Department had not done this.

It is unsatisfactory that a decision was taken to outsource facilities management and support services at Fiona Stanley Hospital without a clear understanding of whether those services are being provided on a more cost effective basis and to the same standard as within publicly operated hospitals. It remains unsatisfactory that the Department of Health is unable to understand readily what savings it is making compared with:

- providing the same services itself; or
- those services which were being provided under a full public private partnership hospital model.

The outstanding contractual disputes may impact on the bottom line for the WA Health both retrospectively and prospectively depending on the outcome of those disputes.

In the circumstances, the Special Inquirer was unable to determine whether the Serco contract represents value for money for the Government or not.

GENERAL COMMENTS

The Special Inquirer asked the State Solicitor’s Office about its role in assisting agencies to understand how to manage these key performance indicators effectively when outsourcing services. The State Solicitor’s Office advised that it was not unusual for an agency to retain a commercial entity to provide advice in relation to key performance indicators. The State Solicitor’s Office would “in broad terms challenge whether or not the key performance indicators were appropriate in the circumstances” and “question whether or not the KPI [key performance indicator] does the work which the client agency thinks that it does.” It is the agency that determines what it wants the contract to do, however, and the model of key performance indicators will be taken by the agency in conjunction with its commercial advisor.

RECORD KEEPING

The Departments of Health and Finance provided all information and documentation requested by the Special Inquirer.

FINDINGS

1. The Department of Health failed to prepare a stand-alone business case for the outsourcing of facilities management and support services at Fiona Stanley Hospital. This contributed to inadequate attention being directed towards non-financial issues, such as the quality of services, and a lack of clarity about the scope of services the hospital was contracting.

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141 Ibid., 27-29.
142 Ibid., 27.
143 State Solicitor’s Office, Special Inquiry hearing, 31 October 2017.
2. It was exceptional that the Department of Health failed to prepare a business case for a $4.3 billion contract and that the Government proceeded without that business case.

3. The governance structures for the project failed to prevent sterilisation services — a clinical service — from being inappropriately included in the facilities management and support services contract.

4. a) While the key performance indicators provide measures which drive accountable service delivery, they lack measures to track the impact on benefits to patients.

   b) The key performance indicators across service lines under the Serco contract impose a significant compliance burden on the South Metropolitan Health Service and on Serco Australia Pty Limited.

5. Dispute resolution mechanisms are ineffective.

6. Dispute resolution mechanisms have thus far had limited effectiveness. Where the Facilities Management Group process has failed, disputes have languished without other dispute resolution options under the contract being engaged or litigation commenced.

7. Serco staff have integrated well with Department of Health staff.

**THE DEPARTMENT OF HEALTH’S VIEWS ON FINDINGS**

The Department of Health did not accept two draft findings provided. The Special Inquirer made changes to Finding 4 to provide greater clarity. In relation to Finding 5, since the examination by the Special Inquirer concluded, the Department of Health advised that the South Metropolitan Health Service and Serco have worked together to improve the clarity of the existing process. They have now agreed to send all current disputes through the expert process contemplated under the contract. As at December 2017, the dispute process has commenced for two of the open disputes, with a staggered commencement planned for the remaining disputes.\(^{144}\)

**RECOMMENDATION**

1. The South Metropolitan Health Service to ensure it implements the recommendations outlined in the 2017 Auditor General’s report in the timeframe specified (July 2018).

\(^{144}\) Department of Health, response to the Special Inquirer’s proposed findings, received 13 December 2017.
# APPENDIX A
## REPORTS – FIONA STANLEY HOSPITAL AND RELATED MATTERS

<table>
<thead>
<tr>
<th>DATE</th>
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<tr>
<td>MAY 2010</td>
<td>Legislative Assembly Parliament of Western Australia Education and Health Standing Committee, Destined to Fail: Western Australia’s Health System Volume 1 – Hospital Sector, Report No. 6 in the 38th Parliament, 2010.</td>
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<tr>
<td>JUNE 2012</td>
<td>Legislative Assembly Parliament of Western Australia Public Accounts Committee: Building Foundations for Value: An analysis of the processes used to appoint Serco to provide non-clinical services at Fiona Stanley Hospital – Western Australia’s largest ever services contract, Report No. 16, June 2012.</td>
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<tr>
<td>APRIL 2014</td>
<td>Legislative Assembly Parliament of Western Australia Education and Health Standing Committee More than Bricks and Mortar: The report of the inquiry into the organisational response within the Department of Health to the challenges associated with the commissioning of the Fiona Stanley Hospital: Report No.2,  April 2014.</td>
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<tr>
<td>JUNE 2015</td>
<td>Australian Commission on Safety and Quality in Health Care and MMK Consulting, Review of operational clinical and patient care at Fiona Stanley Hospital, June 2015 (independent review instigated by the Acting Director General, Department of Health).</td>
</tr>
<tr>
<td>NOVEMBER 2015</td>
<td>Legislative Assembly Parliament of Western Australia Education and Health Standing Committee, Managing the Transition?: The report of the inquiry into the transition and operation of services at Fiona Stanley Hospital, Report No. 6, November 2015.</td>
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## APPENDIX B

### TIMELINE OF SIGNIFICANT MILESTONES – FIONA STANLEY HOSPITAL FACILITIES MANAGEMENT AND SERVICES CONTRACT

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
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<tr>
<td>20 MAY 2009</td>
<td>Working group established to further progress the development of strategy and framework for the procurement of facility management.</td>
</tr>
<tr>
<td>26 MAY 2009 - 1 JUNE 2009</td>
<td>Meetings held between Fiona Stanley Hospital Project Team Representatives and organisations, including Serco, seeking feedback to assist in preparation of the expression of interest including regarding key performance indicators.</td>
</tr>
<tr>
<td>JULY 2009</td>
<td>Fiona Stanley Hospital Integrated FM Market Sounding Report prepared by Department of Health Fiona Stanley Hospital Project Team.</td>
</tr>
<tr>
<td>JULY 2009</td>
<td>Draft Strategic Goods and Services Procurement Plan.</td>
</tr>
<tr>
<td>21 SEPTEMBER 2009</td>
<td>First public sector comparator prepared by Paxon Group.</td>
</tr>
<tr>
<td>29 JULY 2009</td>
<td>Major Health Infrastructure Project Steering Committee endorses delegation to working group to finalise procurement plan for approval by Department of Health’s Director General.</td>
</tr>
<tr>
<td>2 NOVEMBER 2009</td>
<td>Cabinet approves procurement strategy.</td>
</tr>
<tr>
<td>4 NOVEMBER 2009</td>
<td>Expressions of interest for facilities management and support services advertised – 29 services.</td>
</tr>
<tr>
<td>17 DECEMBER 2009</td>
<td>Closing date for expressions of interest.</td>
</tr>
<tr>
<td>19 FEBRUARY 2010</td>
<td>Request for detailed proposals sent to three short-listed respondents.</td>
</tr>
<tr>
<td>2 MARCH 2010</td>
<td>One short-listed respondent withdraws.</td>
</tr>
<tr>
<td>MAY 2010</td>
<td>Second public sector comparator prepared by Paxon Group.</td>
</tr>
<tr>
<td>31 MAY 2010</td>
<td>Request for submissions closing date.</td>
</tr>
<tr>
<td>AUGUST 2010</td>
<td>Third public sector comparator prepared by Paxon Group.</td>
</tr>
<tr>
<td>AUGUST 2010</td>
<td>Fourth public sector comparator prepared by Paxon Group.</td>
</tr>
<tr>
<td>1 SEPTEMBER 2010</td>
<td>State Tender Review Committee endorses evaluation report recommending Serco as preferred respondent.</td>
</tr>
<tr>
<td>15 SEPTEMBER 2010</td>
<td>Project Control Group endorses evaluation report recommending Serco as preferred respondent.</td>
</tr>
<tr>
<td>22 SEPTEMBER 2010</td>
<td>Major Health Infrastructure Projects Steering Committee endorses evaluation report recommending Serco as preferred respondent.</td>
</tr>
<tr>
<td>18 OCTOBER 2010</td>
<td>Cabinet approves Serco as preferred respondent for the Facilities Management and Support Services Contract.</td>
</tr>
<tr>
<td>OCTOBER 2010</td>
<td>State bid team commences negotiations with Serco.</td>
</tr>
<tr>
<td>MAY 2011</td>
<td>Serco bid model evaluated against the public sector comparator model by Paxon Group.</td>
</tr>
<tr>
<td>JUNE 2011</td>
<td>State bid team negotiations with Serco conclude.</td>
</tr>
<tr>
<td>25 JULY 2011</td>
<td>Cabinet approves the contract with Serco.</td>
</tr>
<tr>
<td>30 JULY 2011</td>
<td>Facilities Management and Support Services Contract executed by the State via the Minister for Health and by Serco.</td>
</tr>
<tr>
<td>OCTOBER 2014</td>
<td>Fiona Stanley Hospital Stage 1 opens.</td>
</tr>
<tr>
<td>26 MAY 2015</td>
<td>Department of Health takes back responsibility for sterilisation services.</td>
</tr>
</tbody>
</table>
## APPENDIX C
### FACILITIES MANAGEMENT – CURRENT SERVICES DELIVERED BY SERCO

<table>
<thead>
<tr>
<th>NON-Clinical Services</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Audio visual</td>
<td>Manage the operation and security of audio visual equipment and all telehealth (health consultation via phone or video) requirements</td>
</tr>
<tr>
<td>2. Cleaning</td>
<td>Cleaning all clinical and non-clinical areas in the hospital</td>
</tr>
<tr>
<td>3. Electronic records management</td>
<td>Manage the mail room, scanning, filing, storage, security and management for all non-patient records</td>
</tr>
<tr>
<td>4. Energy and utilities</td>
<td>Manage the central plant operation and maintenance, mechanical, electrical and hydraulic services</td>
</tr>
<tr>
<td>5. Estates</td>
<td>Manage and maintain fire systems, lifts, security systems, nurse call systems and pneumatic tube systems. Also a first response team attends to immediate faults, repairs and minor works</td>
</tr>
<tr>
<td>6. External transport</td>
<td>Provide transport for eligible patients and equipment between hospitals and to the community</td>
</tr>
<tr>
<td>7. Fleet management</td>
<td>Manage fleet vehicles for use by authorised hospital employees</td>
</tr>
<tr>
<td>8. Grounds maintenance</td>
<td>Maintain the hospital’s 5 hectares of natural bushland, parks, gardens and courtyards</td>
</tr>
<tr>
<td>9. Help desk and communications</td>
<td>Provides a single point of contact for access to all facilities management services and includes coordination of all service requests and switchboard functions, including coordination of all patient enquiries</td>
</tr>
<tr>
<td>10. Human resource management</td>
<td>Provide selected human resource services for FSH employees and volunteers, including non-clinical training and induction, occupational safety and health, and workers compensation</td>
</tr>
<tr>
<td>11. ICT</td>
<td>Provide technology that will establish the hospital as a digital hospital and support and complement WA health systems</td>
</tr>
<tr>
<td>12. Internal logistics</td>
<td>Provides functions performed in other hospitals by orderlies and patient care assistants, including the movement of patients, specimens, samples and pathology, and furniture</td>
</tr>
<tr>
<td>13. Linen service</td>
<td>Provide an uninterrupted supply of linen to support patient care at the hospital</td>
</tr>
<tr>
<td>14. Managed equipment</td>
<td>Procurement, installation and maintenance of all medical equipment, including supply and accessories, upgrades, enhancements and training</td>
</tr>
<tr>
<td>15. Management and integration</td>
<td>Provide services in a manner that ensures all of the elements of each service is fully integrated, with transparent performance reporting</td>
</tr>
<tr>
<td>16. Patient catering</td>
<td>Procure, manage and deliver a high-quality and nutritious catering service to patients</td>
</tr>
<tr>
<td>17. Patient entertainment</td>
<td>Provide patient entertainment services which gives patients access to meal ordering, television, internet, movies, Skype and telephone at their bedside</td>
</tr>
<tr>
<td>18. Pest control</td>
<td>Provide pest control for the 64 hectare hospital site</td>
</tr>
<tr>
<td>19. Property management</td>
<td>Management service for all leasable spaces in the hospital including retail catering</td>
</tr>
<tr>
<td>20. Reception</td>
<td>Information service points at main hospital building, rehabilitation building and education building</td>
</tr>
<tr>
<td>21. Safety and incident management</td>
<td>Maintain and promote the safety and security of all individuals, equipment and the hospital site</td>
</tr>
<tr>
<td>22. Sterilisation support</td>
<td>Managing the movement of sterilisation instruments around the hospital, maintaining an instrument tracking system, and organising repairs and maintenance</td>
</tr>
<tr>
<td>23. Supplies management</td>
<td>Management and delivery of supplies across the hospital site</td>
</tr>
<tr>
<td>24. Vehicle and traffic management</td>
<td>Manage traffic flows, incidents, parking on site, staff permits, infringements and fines</td>
</tr>
<tr>
<td>25. Waste management</td>
<td>Manage waste segregation, storage and disposal of hospital waste</td>
</tr>
</tbody>
</table>
PERTH CHILDREN’S HOSPITAL

“The curiosity with this project compared with the construction component of the Stadium and Fiona Stanley buildings is why did the Children’s Hospital encounter so many difficulties when these two other projects experienced so few.”

John Langoulant, Special Inquirer

The original estimated completion date for the Perth Children’s Hospital was 2014. To say that this was ambitious – with the projected opening now being set for mid-2018 – would be an understatement. The project has been plagued by one problem after another.

The procurement process for the building stage was robust and well documented, the decision to appoint John Holland as the managing contractor was reasonable, and the cost plan and construction program considered achievable.

But as site works progressed, significant issues were encountered which led to major delays. These issues have brought into question not only the performance of the managing contractor but also the governance of the project and revealed friction between key Government agencies.

One lesson is that all parties involved in the governance arrangements for these projects must be prepared to share information with other Steering Committee members on all aspects of the project. And Ministerial accountability on major works needs to come through a committee of Cabinet, and include the delivery agency minister, the minister responsible for public works, and one other senior minister, preferably the Premier.

Government agency:
Strategic Projects, and Department of Health

Project timeline:
2006 – Current

Total cost to Government
Current approved budget of $1.163 billion
SUMMARY

This project, originally named the New Children’s Hospital, was conceived in 2006 by the Department of Health. In 2008, the Government announced the development of a new paediatric hospital to replace the ageing Princess Margaret Hospital on the Queen Elizabeth II Medical Centre site. Initially it had an estimated completion date of 2014 which was later revised to June 2015. This was regarded to be an aggressive but achievable project timeframe. The project business case, approved in November 2010, estimated a budget of $1.17 billion for delivery of the infrastructure and recommended a Managing Contractor procurement model.

The Department of Health had overall accountability for the project and was responsible for commissioning the site and transitioning services from Princess Margaret Hospital to the new facility. The Department of Treasury’s Strategic Projects branch was responsible for the delivery of the asset, in accordance with the functionality specified by the Department of Health. This arrangement has been referred to as a “dual accountability”, with the Department of Health and Treasury’s Strategic Projects reporting to separate ministers.

Following the approval of the business case, the project underwent a sound planning phase which included the development of a project definition plan. This plan was assessed as being satisfactory for a project of this scale and importance.\(^1\)

\(^1\) Department of Finance, New Children’s Hospital Gateway Review 4 – Tender Decision, [15 November 2012], 5.
Following the project planning phase, the procurement process was undertaken for the infrastructure requirement. This process was robust and well documented, and the decision to appoint the Managing Contractor was reasonable. The procurement process also met all key procurement milestones as detailed in the approved business case.

According to the State Solicitor’s Office, the contract which was agreed with the Managing Contractor was “State-friendly”, providing reasonable levers to effect contractual compliance.\(^2\) This contract was divided into two stages. Stage one involved undertaking early site works and the management of design development for stage two. Stage two involved undertaking the main works. The process to assess the Managing Contractor’s stage two offer was robust and the decision to accept the offer was reasonable. This assessment confirmed that the Managing Contractor’s cost plan and construction program were achievable. Upon acceptance of the stage two offer in late 2012 and commencement of the main works in early 2013 the project was on track to meet the targeted completion date of 30 June 2015.

During this period the project also underwent a comprehensive design phase. It is evident that the State’s processes to review the Concept, Schematic and Detailed designs were robust and provided the Department of Health, as well as end users, with sufficient opportunity to provide input. Sufficient processes were also in place to facilitate design change requests during the life of the project.

The Special Inquirer is aware there are no formal documented sign offs by the Department of Health for the building’s design and that there is some conjecture around which agency had the authority on this point. He has concluded that despite the absence of these documents, the different Directors General of the Department of Health were chairing the project’s peak governing committee as the building progressed through each of the design stages. As such, Health’s approval of the design must have been in place. The Special Inquirer, however, notes that the documentation of these design approvals was inadequate and proper documentation protocols need to be formalised in future by the receiving agency.

As the main site works progressed the project increasingly encountered significant issues that have contributed to substantial project delays. These issues have brought into question the performance of the Managing Contractor as well as the State’s governance of the project and its relationship management.

It is evident to the Special Inquirer that the Managing Contractor did not demonstrate a strong understanding of the construction program status during the project delivery phase and did not perform the analysis required to forecast a realistic date for practical completion. Without a sound understanding of the work requirement, the Managing Contractor failed to achieve its own forecast dates for practical completion on multiple occasions.\(^3\) In addition, the State encountered significant difficulty in acquiring an accurate and complete construction program from the Managing Contractor. This subsequently impeded the governance of the project and the commissioning of the site.

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\(^2\) State Solicitor’s Office, Special Inquiry Hearing, 31 October 2017
\(^3\) Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (August 2017), 14 & Attachment – Project Timeline.
The underperformance of the Managing Contractor’s subcontractors contributed significantly to project delays. In addition, the Managing Contractor was divested by its parent company during a key stage of construction which as best the Special Inquirer can determine contributed to further delays in the construction process.

It is apparent that the Department of Health and Strategic Projects have increasingly been uncompromising in their behaviour towards each other. Signs of this tension emerged as early as 2015. This tension has had a detrimental effect on the progress of the project.\(^4\) Intervention by the Department of Premier and Cabinet in its position as the most senior leadership entity in the public service to resolve these working issues should have occurred at an earlier stage. In addition, the consistent construction delays called for an enhanced level of integration between the State’s construction and commissioning work streams. As presented in multiple Gateway Reviews, this integration was inhibited by an interrupted flow of information coming from Strategic Projects.\(^5 \, 6\) It is evident that the project’s peak governance body should have addressed the communication and relationship management issues of the State’s Principal Project Director at an earlier stage in the project.

It is apparent that the composition and structure of the Major Health Infrastructure Projects Steering Committee was appropriate. This committee was superseded by the Perth Children’s Hospital Commissioning and Transition Taskforce whose focus on governance rather than attempted project management evaporated as construction difficulties emerged. At the ministerial level it is evident that both accountable ministers were regularly briefed by their line agencies and often together at the same meeting. The project, however, would have benefited from the establishment of a committee of cabinet to ensure objective consultation and consensus at the ministerial level.

It is the Special Inquirer’s view that the significant number of governance issues is unique to this project and should not result in questioning of the effectiveness of the “dual accountability” model which has a positive track record across many major State projects in recent times.

Project disruptions can be attributed only partly to major scope changes directed by the State during the project delivery phase. These changes included the addition of a 24-bed short stay unit, an additional child care facility, and multiple pharmacy redesigns. The timing of these changes created significant difficulties for the Managing Contractor. The decisions to include the additional child care facility and Short Stay Surgical Unit should have been made prior to finalisation of the detailed design. The State also directed a high volume of minor scope and design changes which caused additional difficulties for the Managing Contractor.

During the project the State transferred its responsibility for procuring a majority of the furniture, fittings and equipment to the Managing Contractor. The State then made a significant number of changes to the design of these items which caused difficulties for the Managing Contractor.

\(^5\) Ibid.
\(^6\) Department of Finance, New Children’s Hospital Gateway Review 5 – Readiness for Service (5), (July 2017), 6-7.
Major issues of non-compliance have also contributed to project delays. One such issue required the reinstallation of approximately 900 door frames and approximately 100 fire doors. This issue was a supply chain fault that the Managing Contractor should have recognised earlier, noting however that the quality assurance processes proved effective in identifying and reconciling the issue. The asbestos material identified in the roof panels originated from deep within the Managing Contractor’s supply chain. It is evident that a reasonable quality assurance process was followed by the Managing Contractor and the State to ensure the supplied products met Australian standards and should have precluded asbestos.

The lead contamination of the potable water supply was clearly a more complex matter. The cause and solution of the problem has been the subject of much conjecture and review. It would appear that at the time of concluding this Inquiry, water quality standards at the hospital have been improved to an acceptable level. The Public Accounts Committee has undertaken a detailed review of this matter and its findings are expected early in 2018. The Inquiry did not attempt to replicate the Public Accounts investigations on this matter.

As of October 2017 the project’s estimated final capital cost will be $1.163 billion. This budget has been well managed since the project budget of $1.17 billion was established in the November 2010 business case. Forecasts of the recurrent costs of running the Perth Children’s Hospital are unclear. The Department of Health must finalise the hospital’s operating cost model as a matter of priority.

Throughout the Perth Children’s Hospital Project, Strategic Projects has retained responsibility for managing the infrastructure delivery, including administering the Perth Children’s Hospital Managing Contractor Contract. It is important to note that since the commencement of the project there have been multiple changes in departmental reporting structures impacting on Strategic Projects due to progressive machinery of government changes. To assist the consideration of this report, these changes are as follows:

- from commencement of the Perth Children’s Hospital Project to June 2012 – Strategic Projects, Department of Treasury and Finance;
- July 2012 - July 2014 – Strategic Projects, Department of Treasury;
- August 2014 - June 2017 – Strategic Projects and Asset Sates, Department of Treasury; and
- from 1 July 2017 – Strategic Projects, Department of Finance.
For simplicity, this project report will refer to the business unit as “Strategic Projects”. In addition, the reader is to note that, in accordance with the current agency structure, the Department of Finance provided responses to the Special Inquiry’s questions on notice that were directed towards the Strategic Projects business unit.

**SYNOPSIS**

Strategic Projects has stated that a concept/business proposal was developed by the Department of Health in December 2006 that identified a number of potential locations to replace the ageing Princess Margaret Hospital facility. The preferred location, as presented in that proposal, was influenced by the 2004 Report of the Health Reform Committee (“Reid Report”), which identified significant clinical benefits flowing from the redevelopment of both Princess Margaret Hospital and King Edward Memorial Hospital and collocation with an adult tertiary hospital. In 2008, consistent with the recommendations of the concept proposal, the then newly elected Liberal-National Government undertook to replace Princess Margaret Hospital with a new paediatric hospital at the Queen Elizabeth II Medial Centre site with an estimated completion date of 2014.

The New Children’s Hospital Project Business Case, approved November 2010, estimated a budget of $1.17 billion for the delivery of the project infrastructure. Following a full review of the campus master plan it was identified that a central plant and additional car parking would be required to enable works on the Perth Children’s Hospital project. The central plant project was particularly important to the Perth Children’s Hospital program as the old central plant facility was located on the Perth Children’s Hospital site. Strategic Projects has stated that the central plant and car parking projects were delivered on time.

From early 2009 it was apparent to Strategic Projects that the Government’s target completion date of 2014 was unachievable. This message was conveyed to Government in a series of communications. In February 2010, the Government acted on this advice and announced a revised completion target of late 2015. This enabled a further 12 months in the project’s planning phase and aligned with the business case which targeted a practical completion date of November 2015. Following further program analysis, the forecast construction period was reduced with the target date for practical completion revised to 30 June 2015.

A two-stage procurement process was undertaken to appoint the Managing Contractor to construct the Perth Children’s Hospital. This process consisted of an expression of interest followed by a request for proposal. Approved business case program targets for procurement milestones and commencement of construction were met.

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7 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
9 Department of Treasury and Finance, New Children’s Hospital Project Business Case, (November 2010) 9.
10 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
11 Ibid.
12 Ibid.
13 Ibid.
14 Ibid.
15 Ibid.
16 Ibid.
Following commencement of the main works in early 2012 issues increasingly emerged as construction progressed, the impacts of which were exacerbated by the scale and complexity of the project and there being multiple interfaces on a constrained site. By late 2013, the Special Inquirer understands that the project was consistently failing to meet its programmed productivity targets. The resulting lost time was never recovered and the delays accumulated.

The project delivery phase has been plagued by numerous issues which have contributed to significant project delays. Following 15 separate extensions to the target date for practical completion, the State waived numerous conditions necessary to grant practical completion on 13 April 2017. This was done to gain control of the site and complete site commissioning. Since practical completion, an ongoing issue with lead contamination within the potable water supply has dictated the critical path for the hospital opening. It is understood that ongoing commissioning activities and defect rectification is occurring while the potable water supply issue is being addressed. In late November 2017 the Minster for Health announced that the hospital would be open by May 2018.

While there have been minor variations to the capital budget, the figure has remained reasonably constant since the estimate of $1.17 billion included within the business case. As at October 2017 the approved development budget of $1.163 billion represented the current forecast total capital cost of the project. It must be noted that there are outstanding defects being disputed by the Managing Contractor and additional works being completed such as a pharmacy redesign. There are also major contractual claims being lodged by the Managing Contractor. The Special Inquirer notes that collectively these issues represent a significant risk to the capital budget.

The Department of Health has developed an initial Operating Cost Model for the Perth Children’s Hospital and provided the Special Inquirer with a figure of $341.3 million as the current forecast expenditure for a full operating year. The assumptions behind this estimate are detailed in the body of this report. The existing facility, Princess Margaret Hospital, has a recurrent net “cost of service” budget of $306 million for 2016/17.

The cost structure and business model at Perth Children’s Hospital are significantly different to that at Princess Margaret Hospital. Many clinical areas have been expanded at the new facility, including an increase in the neonatal and oncology capacity, an expanded Surgical Day Stay Unit and the introduction of a High Dependency Unit alongside the Intensive Care Unit. Perth Children’s Hospital will have 298 beds, 48 more than Princess Margaret Hospital. In addition, the footprint at Perth Children’s Hospital is significantly larger and revenue is anticipated to increase due to higher private patient elections and higher rates for single room accommodation.

17 Ibid.
18 Ibid.
19 Department of Health response to Special Inquiry request for information, received 2 November 2017.
20 Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
21 Department of Health response to Special Inquiry request for information, received 7 December 2017.
22 Ibid.
23 Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
The Child and Adolescent Health Services will continue to review the assumptions behind the estimated cost of operations, including the Clinical Service Plans and the facilities management requirements. The Department of Health intends to refine the Perth Children’s Hospital Operating Cost Model as the commissioning is further advanced.  

**EVALUATION OF THE PROJECT**

The Special Inquiry’s examination of the Perth Children’s Hospital has focused on the following aspects of the project:

- project governance;
- procurement process;
- project management;
- contract performance;
- issues of non-compliance; and
- procurement of furniture, fittings, and equipment.

The Special Inquirer acknowledges that the Parliamentary Accounts Committee is undertaking a concurrent inquiry into the Perth Children’s Hospital project, with its findings to be reported by 22 March 2018. In summary, the Parliamentary Accounts Committee inquiry will focus on:

- the effectiveness of the project’s overall governance structure in identifying and responding to risks;
- the processes in place to provide assurance that materials and systems used on the project meet the required standards; and
- the risks and benefits associated with granting practical completion.

The Special Inquirer and the Parliamentary Accounts Committee have met on two occasions during the course of this Special Inquiry.

**Project governance**

The Department of Health’s Director General has overall budget accountability for the planning, management and delivery of the project. The Executive Director of Strategic Projects is responsible for the delivery of the completed asset according to agreed scope, time and budget parameters with the functionality articulated by the Department of Health. The Project Management Plan noted of this arrangement that there is “in effect a dual accountability”.

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24 Department of Health response to Special Inquiry request for information, received 2 November 2017.
26 Department of Treasury and Finance & Department of Health, The New Children’s Hospital Project Business Case, (November 2010), 84.
The requirement to establish this dual accountability stems from the Public Works Act 1902 which provides for the Minister for Works to undertake activities relating to the provision of public works.\(^{28}\) These powers have ultimately been delegated to Strategic Projects for the construction of the Perth Children’s Hospital. It is important to understand the two separate and distinct reporting roles resulting from the dual accountability. The Department of Health’s Director General reports to the Minister for Health. Strategic Projects report to the Under Treasurer, who then reports to the Treasurer.

To emphasise the need for the two work streams to work in unison, the business case stated:

> “Given the dual accountability arrangement now in place, throughout the project planning and delivery stages, the health and asset delivery project teams must work in close partnership to ensure that health service specifications are accurately reflected in the physical facility design, and that approved time, scope and program parameters are maintained… While within each project, the team leader has allocated responsibilities and, in their delivery of such, is accountable to their respective chief executive, there is also an overall shared responsibility for ensuring the project is delivered. In particular, as the design work is progressed, there is a shared responsibility to work through time, cost, quality and scope issues to achieve the best overall outcome for the State.”\(^{29}\)

**Project governance 2009 – 2013**

The governance structure of the Perth Children’s Hospital was developed in accordance with the Health Infrastructure Projects Governance Framework March 2010, which allocated the strategic oversight of the project to the Major Health Infrastructure Projects Steering Committee.\(^{30}\) This committee was established in April 2009 to provide leadership for major health projects assigned to Strategic Projects for delivery.\(^{31}\) The Major Health Infrastructure Projects Steering Committee reported to the Economic and Expenditure Reform Committee. As stated in the New Children’s Hospital Procurement Plan, core membership of this committee was as follows:

- Director General, Department of Health (Chair);
- Under Treasurer, Department of Treasury;
- Director General, Department of Planning;
- Deputy Director General, Department of the Premier and Cabinet;
- State Solicitor, State Solicitor’s Office; and
- Executive Director, Strategic Projects.

\(^{28}\) Department of Finance, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2017), 2.

\(^{29}\) Department of Treasury and Finance & Department of Health, The New Children’s Hospital Project Business Case, (November 2010), 84.

\(^{30}\) Department of Treasury and Finance, New Children’s Hospital Project Management Plan, (October 2012), 26.

\(^{31}\) Department of Finance, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2017), 3.
A Perth Children’s Hospital Project Control Group was established to provide oversight and coordination in relation to the finalisation of the planning phase and delivery of the project.32 As stated in its terms of reference, the Project Control Group is responsible to the Major Health Infrastructure Projects Steering Committee, is chaired by the Child and Adolescent Health Services Chief Executive and consists of representatives from the following:

- Child and Adolescent Health Services;
- North Metropolitan Health Services;
- the Department of Health;
- Strategic Projects;
- the then Department of Treasury and Finance; and
- the State Solicitor’s office.33

Key responsibilities of the Project Control Group include providing recommendations to, and receiving instructions from the Major Health Infrastructure Project Steering Committee, monitoring the progress of the project’s delivery against timetables, and providing input into the delivery of all aspects of the project.34 Those issues that are beyond its delegation, or that involve unresolved, conflicting objectives were to be referred to the Major Health Infrastructure Projects Steering Committee for its endorsement and/or recommendation to government.35

The governance structure shown in Figure 1 was adopted at the commencement of the project and specified within the business case.

32 Department of Treasury and Finance, New Children’s Hospital Procurement Plan, (January 2011), 28.
33 Department of Treasury and Finance, New Children’s Hospital Procurement Plan, (January 2011), 28–29.
34 Department of Treasury and Finance, New Children’s Hospital Procurement Plan, (January 2011), 28.
35 Ibid.
Project governance 2013 – 2017

In September 2013, based on learnings from the Fiona Stanley Hospital project, the Perth Children’s Hospital Commissioning and Transition Taskforce was established with a focus on managing service transition risks to ensure safe introduction of clinical services. The terms of reference for the taskforce also included oversight of asset delivery. In addition to its accountabilities to the newly established taskforce, for a brief time the project continued to report to the Major Health Infrastructure Projects Steering Committee until that committee’s final meeting on 4 December 2013. The terms of reference for the taskforce listed membership are as follows:

- Director General, Department of Health (Chair);
- Director General, Department of the Premier and Cabinet;

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37 Department of Finance, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2011), 3.
38 Ibid.
Under Treasurer, Department of Treasury;
Deputy State Solicitor – Commercial, State Solicitor’s Office; and
Executive Director, Economic and Regulation, Cabinet and Policy Division, Department of the Premier and Cabinet.

When not available to attend taskforce forums, members were represented by delegates. Under this governance structure the project control group continued in its original capacity but commenced reporting to the taskforce. This governance structure is illustrated in Figure 2.

Figure 2 Perth Children’s Hospital Commissioning Project Governance – Decision Making and Change Tolerance.39

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39 Department of Health, Perth Children’s Hospital Governance Committees Overview Map, [August 2016], 4.
Project governance 2017 – current

Upon practical completion on 13 April 2017 the care and control of the Perth Children’s Hospital site was transferred from the Managing Contractor to the Health Ministerial Body under the care and control of the Director General, Department of Health.40 The subsequent July 2017 Gateway Review found the taskforce and Project Control Group governance structure required revision to recognise the required shift in focus towards the commissioning of the site.41 In response to the Gateway Review findings the taskforce and project control group were amalgamated to form the Perth Children’s Hospital Commissioning Oversight Committee.42 The Department of Health stated in its written submission to the Parliamentary Accounts Committee Inquiry that it is proposed that the revised governance structure will enable opening of the hospital:

• with appropriate consideration of patient and staff safety issues;
• in line with phased opening schedules;
• within the allocated commissioning and operational budget;
• with consideration of post-commissioning activities and transition to business as usual governance arrangements; and
• with necessary monitoring and management of impacts on the wider health system.43

Project governance observations

Dual accountability has been a feature of the governance of other major State projects in recent times, including the Fiona Stanley Hospital. A variation in the Perth Children’s Hospital project from the Fiona Stanley Hospital project was that the Major Health Infrastructure Project Steering Committee did not oversee the project to the end, instead devolving its responsibility as the peak governing committee to the taskforce in late 2013. Strategic Projects’ Executive Director was a member of the Major Health Infrastructure Projects Steering Committee but was not a member of the taskforce. In this case the Under Treasurer was the sole Treasury member and often represented by a delegate.

It is evident to the Special Inquirer that the governance structure for this project has been tested by the considerable delay to infrastructure delivery. The governance issues became pronounced when the agency ultimately responsible for the delivery of the Perth Children’s Hospital project, the Department of Health, which is also the agency that receives the facility, became reliant on the performance of another agency’s business unit - Strategic Projects – to administer the contract for the delivery of the infrastructure. The Department of Health’s Director General expressed frustration to the Special Inquirer with the dual accountability model. The Director General stated that with no formal authority he cannot effectively instruct Strategic Projects and at times has had either inadequate visibility over construction issues or was not notified.

40 Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (August 2017), 16.
41 Department of Finance, Perth Children’s Hospital Gateway Review 5 – Readiness for Service (5), July 2017), 8
42 Department of Treasury, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 9 October 2017
43 Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (August 2017), 2.
early enough.\textsuperscript{44} The Department of Health’s Director General clearly presented his position that he should have full accountability of all work streams, including construction.\textsuperscript{45}

The Special Inquirer understands the Director General’s concerns but does not support his proposed solution. The State adopted a decentralised approach to the delivery of projects prior to the formation of the Strategic Projects business unit in 2008. The establishment of the Strategic Projects model was designed to address the cost overruns and general dysfunction with major projects. Since its establishment, Special Projects has achieved considerable success in improving outcomes on major projects. The Perth Children’s Hospital is an exception and the Special Inquirer has concluded the main cause of the tensions are personality based rather than structural. It is regrettable that these conflicts have been allowed to develop and the lessons to be learnt for the public sector are clear: stronger leadership is required to address such personality conflicts at earlier stages. The operation of the dual accountability model is discussed further below.

It is evident to the Special Inquirer that taskforce forums were, at times, not effective at overseeing the management of construction issues. Subsequent to the initial date for practical completion being missed, a Gateway Review was undertaken in June 2015. This Gateway Review stated:

“Interviewees, Task Force members and Task Force attendees stated that the Task Force was ineffective as a forum for stewardship and decision making for the project.”\textsuperscript{46}

It is also evident that the communication at taskforce forums deteriorated as these construction issues evolved. The July 2017 Gateway Review stated:

“Interviewees stated that Task Force meetings have been a source of frustration due to recent clashes between Attendees who are not designated Members of the Task Force. It is unclear to the Review Team why the Task Force has such a high number of Attendees nor the reason as to their domination of the discussion on risks and issues that have also been discussed at PCG [Project Control Group].”\textsuperscript{47}

The Special Inquirer observes that the Perth Children’s Hospital Commissioning and Transition Taskforce model was effective in steering the Fiona Stanley Hospital project through challenges in the commissioning and transition of that site. It therefore made sense to apply those learnings to the Perth Children’s Hospital’s governance structure. The Special Inquirer also understands the importance of clinical commissioning and the necessary focus on the significant work streams that stem from that requirement. The Special Inquirer is concerned, however, that at the time the taskforce effectively became the project’s peak governing committee in late 2013, a significant portion of the infrastructure work stream was yet to be delivered. It is also evident that the constructions work stream was the major source of significant project issues. The taskforce’s terms of reference,

\textsuperscript{44} Department of Health, Special Inquiry hearing, 18 October 2017.
\textsuperscript{45} Ibid.
\textsuperscript{46} Department of Treasury and Finance, Perth Children’s Hospital Gateway Review – Readiness for Service, (June 2015), 9.
which were heavily weighted towards the commissioning and transition of the hospital, should have taken
greater account of the ongoing infrastructure requirement. Significantly, the taskforce included a member from
the Department of Treasury but not from its Strategic Projects business unit. Although Strategic Projects’ Executive
Director was a frequent attendee at taskforce meetings, the Special Inquirer would expect that position to sit on
the committee to ensure direct communication between members on construction matters.

The Special Inquirer observes that the Major Health Infrastructure Project Steering Committee was
apparently disbanded during this project. The Special Inquirer has not received any formal notification of the
abolishment of this committee. This report details this issue within the introduction to the chapter on Western
Australian Health.

The Special Inquirer has made an observation regarding the ministerial oversight of the project. It is understood
that the Department of Health met with the Minister for Health at monthly meetings to discuss key issues
impacting the Health portfolio, including the Perth Children’s Hospital project status. The Department of
Finance, then the Department of Treasury and Finance, regularly briefed the Under Treasurer on Perth Children’s
Hospital status at weekly meetings. It is also understood that the Department of Health’s Director General and
Treasury’s Strategic Projects’ Executive Director attended regular meetings about Perth Children’s Hospital with
the Minister for Health and the Treasurer throughout 2016. In consideration of the project’s dual accountability
arrangement, the Special Inquirer is of the opinion that a formal committee of Cabinet should be established to
ensure that objective consultation and consensus at the ministerial level is achieved during the decision making
process. The Special Inquirer suggests that this committee should comprise the delivery agency minister, the
Minister for Public Works and one other senior minister, if not the Premier.

**PROCUREMENT PROCESS**

In accordance with the recommendations contained within the business case, a two stage procurement
process (Expression of Interest followed by Request for Proposal) was successful in appointing a Managing
Contractor for the design and construction of the hospital under a two stage contract.

**Expression of Interest and Request for Proposal**

John Holland Pty Ltd presented responses to the Expression of Interest and Request for Proposal that were
assessed as qualitatively suitable and compared favourably with the other respondents to the procurement
process. Of particular note, John Holland presented an international design team with experience
in health infrastructure that was considered to be directly comparable with the requirement of the Perth
Children’s Hospital project. In addition, the proposed net construction cost included within John Holland’s
response to the Request for Proposal was considered to be very competitive.

48 Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s
Hospital Project, (August 2017), 6.
49 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017
50 Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s
Hospital Project, (August 2017), 6.
52 Department of Health and Department of Treasury and Finance, New Children’s Hospital Project Request for Proposal Evaluation Report, (June
53 Department of Health and Department of Treasury and Finance, New Children’s Hospital Project Request for Proposal Evaluation Report, (June
2011), 21.
It was identified by the State’s commercial consultant, and communicated in the Request for Proposal Evaluation Report, that the preferred Respondent’s lump sum price for management fees and related allowances was significantly lower than the State’s estimates. The low margins were identified in the Evaluation Report as presenting a risk to the achievement of the State’s contract performance expectations. As evidence of the strategies to mitigate this risk, the Department of Finance has stated that State representatives met with the Managing Contractor’s Regional Manager who provided unequivocal undertakings on both the commitment from John Holland to the financial structure of the bid and commitment to support team resourcing. Following on from this meeting, the Managing Contractor’s undertaking was expressly incorporated into the Managing Contractor contract. The risk associated with the Managing Contractor’s pricing strategy, and the project team’s corresponding mitigation strategies were detailed within the Request for Proposal Evaluation Report which subsequently required approval by the Minister for Health and the Treasurer.

In accordance with recommendations contained with the Evaluation Report, the contract was awarded. Stage 1 of the contract involved the Managing Contractor managing the design development for Stage 2 (main works), as well as undertaking early site works. It should be noted that programmed targets for procurement milestones and the commencement of construction were met.

From the information provided to the Special Inquirer, it would appear that due process was undertaken during the procurement process for the infrastructure and that the decision to award to the Managing Contractor was sound. The decision making processes have been well documented and probity certificates have been provided at all key stages during the process.

**Evaluation of Stage 2 offer**

Leading up to the completion of Stage 1, the State assessed the Managing Contractor’s offer for Stage 2. The Stage 2 offer sets out the Guaranteed Construction Sum, representing the maximum amount payable to the Managing Contractor for completion of the design and construction of the hospital, in accordance with the design documents, construction program, cost plan, project plans and other matters that also form part of the Stage 2 offer. In addition to its conforming Stage 2 offer, the Managing Contractor submitted an alternative offer, proposing a change to the payment mechanism under the contract, whereby the Guaranteed Construction Sum is replaced by a conventional fixed lump sum price. The Guaranteed Construction Sum and the lump sum price submitted under each of the offers were within the approved project budget and

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54 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
55 Department of Health and Department of Treasury and Finance, New Children’s Hospital Project Request for Proposal Evaluation Report, [June 2011], 32.
56 Ibid.
57 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
58 Ibid.
59 Department of Health and Department of Treasury and Finance, New Children’s Hospital Project Request for Proposal Evaluation Report, [June 2011], 32.
60 The Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
61 Government of Western Australia, New Children’s Hospital Project Managing Contractor Stage Two Offer Evaluation Report, (November 2012), 5.
both were confirmed by the State’s Cost Planner as representing value for money.\(^{62}\) The alternative Stage 2 offer was accepted as it presented a lump sum price that was $2 million less than the Guaranteed Construction Sum and $2.7 million less than the value assessed by the State’s Cost Planner.\(^{63}\) In addition, the Cost Planner’s analysis confirmed that it was unlikely that a share of savings would be realised under the Managing Contractor contract and that the fixed sum within the alternative offer was deemed preferable as compared to the Guaranteed Construction Sum within the conforming offer.\(^{64}\) The State Solicitor’s Office has stated that while the procurement model continues to be referred to as the “Managing Contractor Model”, the acceptance of the Managing Contractor’s lump sum alternative offer in effect converted the arrangement into a conventional “Design and Construct” contract.\(^{65}\)

An external commercial consultant, time planner, and cost planner were engaged as part of the due diligence process to review the Managing Contractor’s Stage 2 offer. The Time Planner confirmed that the Managing Contractor’s construction program was achievable and the Evaluation Report noted that overall the program provided confidence that the project could be delivered in accordance with the stated 30 June 2016 date of practical completion.\(^{66}\) In addition to this, the commercial consultant found that the Managing Contractor’s resourcing plan over the life of the project was consistent with other respondents to the Request for Proposal.\(^{67}\) Subsequently, the Cost Planner’s detailed analysis of the Managing Contractor’s Stage 2 offer confirmed that the project could be delivered within the Managing Contractor’s cost plan, including provision for a reasonable profit margin.\(^{68}\)

From the information presented to the Special Inquirer it would appear that the assessment of the Managing Contractor’s Stage 2 offer was robust and the decision to accept the offer was reasonable. The decision making processes have been well documented and probity certificates provided at all key stages during the process.

**PROJECT MANAGEMENT**

This section focuses on the role undertaken by the State to manage the project from inception through to commencement of operations. Strategic Projects has played a key role in managing the planning and delivery of the infrastructure, including the administration of the contract with the Managing Contractor which includes the management of the Managing Contractor. The receiving agency, the Department of Health, has played a key role in managing the commissioning of the hospital to ensure that all clinical, workforce, information communication technology, facilities management and corporate transition requirements are in place for successful operation of the hospital.

\(^{62}\) Government of Western Australia, New Children’s Hospital Project Managing Contractor Stage Two Offer Evaluation Report, (November 2012), 19.
\(^{63}\) Ibid., 5.
\(^{64}\) Ibid., 19.
\(^{65}\) State Solicitor’s Office, Special Inquiry hearing, 19 October 2017.
\(^{66}\) Government of Western Australia, New Children’s Hospital Project Managing Contractor Stage Two Offer Evaluation Report, (November 2012), 15.
\(^{67}\) The Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
\(^{68}\) Ibid.
Business case

The New Children’s Hospital Project Business Case was approved in November 2010 and assumed a budget of $1.17 billion for the development of a new paediatric hospital on the Queen Elizabeth II Medical Centre site. While the March 2011 Gateway Review found the business case to be comprehensive, it made several recommendations for the project team to incorporate into the document.

From its review of the document, the Special Inquirer was concerned to know that the procurement model assessment within the business case did not assess a Public Private Partnership option. The business case stated that preliminary procurement options analysis confirmed that a Public Private Partnership model could deliver significant benefits to the State. Strategic Projects has stated that this was reflected in the Government’s 2008 election commitment that Perth Children’s Hospital would be delivered under that model. The business case then states that:

“in July 2010, following a negotiated agreement with major mining interests in respect of an increase in revenue from iron ore royalties, the State Government determined that the NCH [New Children’s Hospital] Project would be fully funded by the State.”

It is evident that the final procurement model options analysis included in the business case reflects that decision. This options analysis recommended the two stage Managing Contractor design and construction procurement strategy which was subsequently adopted by the project. It is the Special Inquirer’s view that the apparent increase in State revenue should not have influenced the delivery model decision. If there was potential for the Public Private Partnership model to deliver the greatest value for money to the State then that model should have been included in the assessment of procurement options.

The Special Inquirer notes that the business case did not include a detailed cost-benefit analysis of site options. As stated in the business case, and confirmed by Strategic Projects, it was concluded that no alternative option could deliver the future benefits anticipated from the collocation of Princess Margaret Hospital and King Edward Memorial Hospital with an adult tertiary hospital central to metropolitan Perth, consistent with the Department of Health reform directions of the Reid Report.

A separate business case was developed for the transition of operations from Princess Margaret Hospital to the new Perth Children’s Hospital site as this process is complex and represented a significant project in its own right. The recommended option within this business case required a total of $245.5 million for the transition to Perth Children’s Hospital. This consisted of $230.3 million unfunded and $15.2 million

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70 Department of Treasury and Finance & Department of Health, The New Children’s Hospital Project Business Case, (November 2010), 79.
71 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
72 Department of Treasury and Finance Response to Special Inquiry Questions on Notice, received 25 October 2017.
73 Department of Finance, Gateway Review – Readiness for Market - New Children’s Hospital, (March 2011), 5.
74 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
from existing funding. During the Special Inquirer’s examination of this project no significant issues have been raised with respect to this document or the transition of health services. Thus, the Special Inquirer’s examination has not included the transition of operations business case within its remit.

The November 2012 Gateway Review followed the project evaluation and project definition stages, during the assessment of the Managing Contractor’s Stage 2 offer for the performance of the main infrastructure works. Overall the review was positive. With the bulk of the project planning satisfactorily complete, the Gateway Review found the project to be “on track to succeed”. The review noted the significant and commendable work that the project had achieved to date, including the development of a design which satisfied the project brief and the identification and inclusion of user requirements into the design. The Gateway Review team reviewed the Project Definition Plan and commented that it was produced to a standard expected for a project of this scale and importance.

**Project timeframes**

The Department of Health stated in its hearing that the timeframe for the delivery of the hospital in June 2015 was “unrealistic”. The March 2011 Gateway Review also found the project timeframes to be “aggressive” and the timeframes for the procurement process in particular to be “extremely optimistic”. The Special Inquirer is of the view that the project timeframes were aggressive but manageable. The Special Inquirer notes that all procurement milestones were met and the achievability of the State’s design and construction program was verified by a third-party time planning adviser. Notably, the time planning adviser also confirmed the achievability of the Managing Contractor’s program included within its Stage 2 offer. In addition, all respondents to the Request for Proposal confirmed the achievability of the delivery program. The Special Inquirer also notes that, during the planning phase, the Government followed a recommendation from Strategic Projects to extend the target completion date for the project by 12 months to reflect an achievable program. It is understood that this extension enabled a further 12 months for the project’s planning phase.

**Facilities management services**

The business case stated that facilities management services could be included in the design and construction procurement process. It was then stated in the Perth Children’s Hospital Project Management Plan that project time constraints restricted facilities management services from being included within the design and construction procurement process but that a separate procurement process for the provision of these services from existing funding. During the Special Inquirer’s examination of this project no significant issues have been raised with respect to this document or the transition of health services. Thus, the Special Inquirer’s examination has not included the transition of operations business case within its remit.

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services would be considered by the Department of Health and Strategic Projects.\textsuperscript{88} A consultant was engaged in January 2011 to assess the viability of outsourcing facilities management services at Perth Children’s Hospital. The study found there to be a low likelihood that the outsourcing of cleaning services at Perth Children’s Hospital would be commercially advantageous.\textsuperscript{89} The study also found there to be a medium likelihood that the outsourcing of estate services would be commercially advantageous.\textsuperscript{90} Estate services include the maintenance of the building and furniture fittings and equipment, and building engineering operations.

The Special Inquirer understands that the North Metropolitan Health Service will be providing facilities management services at the Perth Children’s Hospital site via an agreement with the Child and Adolescent Health Service. The Department of Health has informed the Special Inquirer that the following list presents the total range of services provided by the North Metropolitan Health Service at Perth Children’s Hospital.

- Facilities and asset management services
- Energy and utilities management
- Gardens and grounds maintenance
- Mail services
- Fleet management and vehicle bookings
- Security services (including access management)
- Telephony switchboard operations
- Waste auditing and reporting
- Project management for minor works\textsuperscript{91}

It should be noted that the Managing Contractor contract includes the provision of the “Planned and Preventative Maintenance” component of estate services (building maintenance) to be delivered by the Managing Contractor for the duration of the two-year defects liability period following practical completion. Strategic Projects has stated that, among other reasons, this two-year period was established to encourage a smooth transition to full control of building maintenance by the North Metropolitan Health Service.\textsuperscript{92}

\textsuperscript{88} Ibid.
\textsuperscript{89} Paxon Group, New Children’s Hospital Project – Feasibility Study for Procurement of Facilities Management Services, (January 2011), 37.
\textsuperscript{90} Paxon Group, Children’s Hospital Project – Feasibility Study for Procurement of Facilities Management Services, (January 2011), 37.
\textsuperscript{91} Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
\textsuperscript{92} Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
Project communications and relationship management

From the information presented within the project Gateway Reviews, as well as evidence given at Special Inquiry hearings, it is apparent that at times significant frustration has been experienced among the members of the project’s governing committees. This evidence suggests that a significant source of these frustrations has been the restricted access to information from Strategic Projects and the Managing Contractor regarding the construction work stream.

The parties to the Managing Contractor Contract are the Minister for Works (representing the State) and John Holland Pty Ltd (Managing Contractor). Under the contract, the State is represented by Treasury (and from 1 July 2017, the Department of Finance), acting under delegated authority from the Minister for Works pursuant to the Public Works Act 1902. The State’s Representative specified within the contract is Strategic Projects’ Principal Project Director. Under this arrangement, the project’s governing committees and the Department of Health’s commissioning team are heavily reliant on the timely provision of construction-related information from Strategic Projects and in particular, the State’s Principal Project Director. The Department of Health told the Special Inquirer that information regarding the construction work stream has been at times difficult to obtain from Strategic Projects93.

The Special Inquirer observes that significant project communications issues were documented at around the time that the original target date for practical completion in June 2015 was missed. The June 2015 Gateway Review found that the interactions between the construction and commissioning project teams were “dysfunctional”, noting that there was a lack of transparency in the way construction risks impacting commissioning were being mitigated and a lack of integration of key activities into the overall master program.94 Gateway Review interviewees generally did not have a clear understanding of the role and function of Strategic Projects and stated that the build program lacked transparency.95 Interviewees also stated that it was unclear as to how the activities of the build program informed specific work streams and how these work streams, in turn, informed the build program.96 Interviewees believed this risk associated with these communication issues should be rated as extreme due to the frustration and resultant impairment of other critical project activities.97 The Gateway Review recommended that the risk associated with the information-sharing between Strategic Projects and the commissioning teams be escalated to the taskforce for resolution.98 Interviewees for the recent July 2017 Gateway Review expressed increasing frustration at the lack of transparency in the management of the Managing Contractor on critical issues.99 The interviewees stated that this lack of transparency has led, in some cases, to a deterioration in the relationship between members of Strategic Projects and the clinical commissioning teams.100

93 Department of Health, Special Inquiry hearing, 18 October 2017.
96 Ibid.
97 Ibid.
98 Department of Finance, New Children’s Hospital Gateway Review – Gateway Review 5 – Readiness for Service, (June 2015), 10
100 Department of Finance, New Children’s Hospital Gateway Review – Gateway Review 5 – Readiness for Service (5), (July 2017), 7.
In its capacity operating the integrated program management office, PricewaterhouseCoopers observed that the relationship between the State and the Managing Contractor appeared to turn adversarial at an early stage in the project.101

The evidence presented to the Special Inquirer often provided a comparison between Strategic Projects’ project management services provided at the Fiona Stanley Hospital project with that provided on the Perth Children’s Hospital project. It is apparent that the Fiona Stanley Hospital project enjoyed a high level of site-level integration between the construction and commissioning work streams with Strategic Projects’ Project Director working intimately with the Department of Health during the commissioning process.102,103 The Fiona Stanley Hospital project, however, did not encounter the same level of construction issues as Perth Children’s Hospital, and there was therefore less pressure on the construction work stream to manage the Managing Contractor actively while maintaining strong relationships with both the Department of Health and the Managing Contractor. It is relevant as well that the experience at the Perth Stadium project, which had an even more formal dual accountability system and engaged with the same builder as the Fiona Stanley Hospital project, experienced no difficulties when compared to those of the Perth Children’s Hospital.

Numerous views have been presented to the Special Inquirer regarding the abrupt communication style of the State’s Principal Project Director. Strategic Projects have acknowledged these views but vigorously defended the officer, stating:

“...at the end of the day what he wanted to deliver was an outstanding world class hospital that's going to deliver great health outcomes for kids and there wouldn't be anyone, whether they liked the way he went about it or not, there wouldn't be anyone who would doubt that commitment... once we finally get the thing operational I'm absolutely confident that he's going to achieve his objective he sought out to do.”104

The Special Inquirer does not doubt the commitment of the Principal Project Director, however, the project would have benefited from a more collaborative approach similar to that experienced on the Fiona Stanley Hospital project.

It is evident to the Special Inquirer that the commissioning work stream has suffered from a lack of visibility over the construction work stream. It is understood that the flow of information received from the Managing Contractor was inadequate (see section “Contract Performance”). It is evident, however, that Strategic Projects’ relationship management skills were lacking and that, at times, it did not operate with the level of transparency required within a dual accountability model. The Special Inquirer is of the view that the project’s peak governing committee should have addressed the communication and relationship management issues at an earlier stage in the project.

101 PricewaterhouseCoopers, Special Inquiry hearing, 16 November 2017.
102 Department of Health, Special Inquiry hearing, 18 October 2017.
103 PricewaterhouseCoopers, Special Inquiry hearing, 16 November 2017.
104 Department of Finance, Special Inquiry hearing, 20 October 2017.
Design process

The Special Inquirer has investigated the level of stakeholder consultation performed during the design of the hospital, with a particular focus on end-user consultation. Strategic Projects has stated that in August 2011, Strategic Projects and the Department of Health agreed to the process for clinical end user consultation prior to submission of the initial Perth Children’s Hospital Concept Design by the Managing Contractor. It is understood that this process was consistent with established practice on other major projects, including other Department of Health projects, which are managed by Strategic Projects.

The Managing Contractor’s contract provided for the State’s formal design review at three prescribed design phases — Concept Design, Schematic Design, and Detailed Design. Strategic Projects has stated that at each phase, the Managing Contractor submitted formal design reports which were forwarded to relevant Department of Health representatives for review. This review process was coordinated by the Child and Adolescent Health Service’s Perth Children’s Hospital Project Director. Strategic Projects and the Child and Adolescent Health Service then conducted internal quality checks and forwarded comments to the Managing Contractor for comment and subsequent close-out.

Strategic Projects has stated that the design review process involved 100 separate user groups and Department of Health representatives attended detailed design presentations by the Managing Contractor at each design development phase to assist in understanding the design and to facilitate review. It was also stated that several thousand design issues were raised by the State project team which included end users, and communicated to the Managing Contractor for resolution. The Managing Contractor was then required to document formally and comply with the user group consultation process through the “Design Development Plan”, which was approved by the State under the Managing Contractor contract. In addition, the Evaluation Report for the Managing Contractor’s Stage 2 offer notes the following with respect to stakeholder input into the design.

- “In excess of 350 clinical staff from CAHS and TICHR (Telethon Institute for Child Health Research) have attended 235 meetings with the JHPL design team, where the design has been examined in detail to ensure it meets all requirements of the Project Brief. This user group consultation has been undertaken through concept and schematic design development.
- The State’s design review has been supported by input from expert advisors Thinc Health, Sinclair Knight Merz, Cameron Chisholm Nicol, CHW Consulting and Hospitech...”

105 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
106 Ibid.
107 Department of Finance response to Special Inquiry request for information, received 16 November 2017.
108 Ibid.
109 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
110 Department of Finance response to Special Inquiry request for information, received 16 November 2017.
111 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
112 Ibid.
113 Government of Western Australia, New Children’s Hospital Project Managing Contractor Stage Two Offer Evaluation Report, (November 2012), 16.
And also:

“Review by the State’s project team has confirmed that the Design Documentation submitted with the Stage Two offer substantially complies with the current Project Brief, with only minor issues requiring further attention. A schedule of review comments on the current design will be provided to the JHPL (the Managing Contractor) for resolution through the remainder of the design phase.”

The Department of Health stated to the Special Inquirer that reasonable steps were made to ensure appropriate stakeholder engagement occurred during the design phase. The Department of Health did note, however, that several aspects of the build did not account for the stakeholder input provided.

Regarding end user-directed changes to the design, the Special Inquirer understands that the project has a governance process in place to manage the Department of Health’s change requests relating to the build design, furniture, fittings and equipment, and information communication technology. These change requests are approved by a Change Control Group, then submitted to Strategic Projects for consideration and action. Change requests are registered in an issue-tracking application and project management tool, and monitored and actively managed by the Child and Adolescent Health Service and Strategic Projects.

It is evident to the Special Inquirer that the Department of Health, and end users in particular, were provided with sufficient opportunity to provide input into the design. Adequate processes were put in place to facilitate the Department of Health’s Design Change Requests.

**Design approval process**

The Special Inquirer examined the Department of Health’s involvement in the approval of the final concept, schematic and detailed designs stages. In undertaking this examination it is important to note that Strategic Projects’ Principal Project Director is the State’s representative under the contract with the Managing Contractor. In this capacity, the Principal Project Director is responsible for providing contractual approval on behalf of the State.

Upon questioning as to whether it approved the design, the Department of Health has provided the following:

“As the client of the Department of Treasury and Finance (Strategic Projects), the Department of Health was reliant on the expertise, project management and coordination undertaken by Strategic Projects, with responsibility for engaging the Managing Contractor on the procurement process which includes approval of the concept, design and drawing development processes and also fixtures, furnishings and equipment selection processes.

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114 Ibid.
115 Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
116 Ibid.
117 Ibid.
The arrangement was agreed at the time with assurances that the Department of Treasury has the appropriate governance, stakeholder engagement, clinical consultation and probity control all in place, and that all procurement would proceed under the government established contract arrangements.\footnote{118}

Strategic Projects has stated that the State approved the Concept Design Report in September 2011 with the endorsement of the Department of Health, subject to resolution of a number of issues identified during the design review.\footnote{119} The Special Inquiry was provided with a copy of the letter from Strategic Project’s Principal Project Director to the Managing Contractor, approving the Concept Design Report, subject to the resolution of specified issues.

Strategic Projects provided the Special Inquirer with a communication from the Child and Adolescent Health Services Project Director approving the issue of a notice to the Managing Contractor releasing it to proceed from Schematic Design to Detailed Design, subject to the resolution of State review comments.\footnote{120}

It is understood that a substantially completed Detailed Design submission is included as part of the Managing Contractor’s Stage 2 offer. The Managing Contractor’s Stage 2 offer, inclusive of the design documentation, was endorsed by the Major Health Infrastructure Project Steering Committee. This was chaired by the Director General Department of Health, and subsequently approved by the Minister for Health on 2 December 2012.\footnote{121}

As a final point of approval, representatives from the Department of Health are required to inspect all rooms within the hospital and confirm that their design and construction meets the operational functional requirements necessary for the operation of the facility. Strategic Projects has stated that, to date, the Department of Health has accepted 4,674 rooms, with the exception of recorded defects.\footnote{122}

As mentioned earlier the Special Inquirer has concluded the different Directors General of the Department of Health, in their capacity as the Chair of the project’s peak governing committee, were a party to the approval of the progression of the design through each of the design stages. In consideration of this, the Special Inquirer accepts that the Department of Health provided sufficient approval of the design of the hospital. The Special Inquirer, however, notes that the process was indirect and would expect the Department of Health, as the receiving agency, to be able to produce its clear formal approval of each of the finalised design stages.

**Design impact on ongoing costs**

The Special Inquirer investigated the project team’s consideration of ongoing facilities management costs during the design process. It was noted in the June 2015 Gateway Review that the business case for the build...
was predicated on improved efficiencies at Perth Children’s Hospital arising from back-of-house efficiencies, improved service models and new building efficiencies.\textsuperscript{123} Gateway Review interviewees raised concerns with the ability to achieve these efficiencies due, in part, to the unexpected imposts from the increased floor space and the additional cleaning and maintenance costs associated with the atrium and internal and external façade.\textsuperscript{124} During hearings with the Special Inquirer, the Department of Health continued to express its concerns with the design’s impact on ongoing facilities management costs.\textsuperscript{125}

In its response to questions on notice\textsuperscript{126} and during Special Inquiry hearings, Strategic Projects vigorously defended the design of the hospital, noting that John Holland’s design team possessed significant international experience in designing contemporary paediatric specific facilities and, while there had been some issues, overall it had performed a “superb job”.\textsuperscript{127} Strategic Projects acknowledged that the Perth Children’s Hospital design followed contemporary design trends that are significantly different to the Princess Margaret Hospital environment to which many stakeholders are accustomed.\textsuperscript{128} In responding to questions on the ongoing management costs during the design process, Strategic Projects noted that the design process was subject to feedback on facilities management impacts through the Facilities Management User Group, which met on eight occasions between September 2011 and May 2012.\textsuperscript{129} It is understood that this group comprised members from Child and Adolescent Health Services, North Metropolitan Area Health Service, the Managing Contractor and Strategic Projects. North Metropolitan Health Services, as the Facilities Manager at Perth Children’s Hospital, were represented by the Campus Facility Manager, Maintenance Supervisor and Manager of Infrastructure and Support.\textsuperscript{130} Strategic Projects has stated that the Facilities Management User Group considered all design-related facilities management issues, with a focus on cleaning.\textsuperscript{131}

Strategic Projects provided the Special Inquirer with the “Whole of Life Report”, which the Managing Contractor was obliged to develop under the contract. Strategic Projects also provided a small number of specific examples of whole-of-life design considerations such as automated guided vehicles and modular operating theatres. Strategic Projects also noted that key design decisions were considered by the Perth Children’s Hospital Project Control Group and subject to their significance, referred to the Major Health Infrastructure Project Steering Committee/Taskforce for consideration.

The Special Inquirer is of the view that the Department of Health and the project governing committees had sufficient opportunity to scrutinise the design’s impact on ongoing facilities management costs at key stages of the design process.

\textsuperscript{123} Department of Finance, Perth Children’s Hospital Gateway Review 5 – Readiness for Service, (26 June 2015), 6.
\textsuperscript{124} Ibid.
\textsuperscript{125} Ibid.
\textsuperscript{126} Department of Health, Special Inquiry hearing, 18 October 2017
\textsuperscript{127} Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
\textsuperscript{128} Ibid.
\textsuperscript{129} Ibid.
\textsuperscript{130} Ibid.
\textsuperscript{131} Ibid.
Design and Scope Changes

At its hearing and in response to questions taken on notice, John Holland expressed its view that major scope changes and a large volume of minor design and minor scope changes, as directed by the State, had a detrimental effect on the construction program.\(^{132}\) John Holland expressed its view that major scope changes, including the addition of a 24 bed short-stay surgical unit and major redesign to theatres and pharmacy, have had a significant impact on project timeframes.\(^{133}\)

John Holland stated that the addition of a 24-bed short stay unit resulted in the relocation of a department to an area of the hospital that it was not previously required to fit-out, which significantly increased the scope of the required works.\(^{134}\) In its submission to the Parliamentary Accounts Committee Inquiry, Strategic Projects stated that modelling undertaken by the Department of Health in 2013 indicated that projected demand for paediatric beds exceeded the demand assumed during Perth Children’s Hospital planning.\(^{135}\) In September 2013, following the presentation of four options to address the projected increased bed demand, Government approved the option to provide an additional 24 beds at an estimated cost of $37.1 million.\(^{136}\)

Strategic Projects stated that in October 2013 Government approved a proposal for the addition of an 82-place, childcare centre within the Perth Children’s Hospital.\(^{137}\) When questioned as to why the design did not initially provide for such facilities, Strategic Projects stated that originally the child care function may have been provided campus-wide and that a 120-place child care facility had already been included within the scope of the car park project.\(^{138}\) The Special Inquirer can only conclude that this policy decision should have been made prior to finalisation of the detailed design. The estimated cost of $6.9 million for the variation was reached following the Managing Contractor’s formal revision of the initial cost estimate.\(^{139}\)

The Special Inquirer understands that the Perth Children’s Hospital pharmacy has been subjected to significant rebuild on several occasions due to recent changes to the Pharmacy Board of Australia’s

\(^{132}\) John Holland, Special Inquiry hearing, 31 October 2017.

\(^{133}\) Ibid.

\(^{134}\) Ibid.

\(^{135}\) Department of Finance, Submission to Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2017), 10.

\(^{136}\) Ibid.

\(^{137}\) Ibid.

\(^{138}\) Department of Finance, Special Inquiry Hearing, 20 October 2017.

\(^{139}\) Department of Finance, Submission to Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2017), 10.
guidelines. In response to questions from the Special Inquirer, the Department of Health noted that the Perth Children’s Hospital pharmacy has also required significant rework resulting from identified defects and failure of the facility to meet the requirements of the clinical staff.\textsuperscript{140} It is understood that the total cost of the pharmacy rework has not been finalised.

Strategic Projects expressed its view that the major scope changes have not impacted on the final project completion date as the performance of the Managing Contractor’s subcontractors and the Managing Contractor’s management of those subcontractors created significant concurrent delays.\textsuperscript{141} The Special Inquirer understands that there is ongoing work being performed to establish the true time and cost impact of the major scope changes, which are the subject of an ongoing commercial disagreement between John Holland and the State.

John Holland also noted that the change in scope for furniture, fittings, and equipment procurement presented a significant challenge and impacted on project timeframes. Upon commencement of the project, the initial separation of responsibilities for the procurement of furniture, fittings, and equipment was as follows.

- Group 1 – Major furniture, fittings and equipment procured by the Managing Contractor. Primarily ‘fixed’ items of major equipment with an interface to the base building works.
- Group 2 – Furniture, fittings and equipment procured by the State but requiring Managing Contractor to undertake works to accommodate the items.
- Group 3 – Furniture, fittings and equipment procured by the State with no requirements for the Managing Contractor to undertake works.
- Group 4 – Furniture, fittings and equipment relocated from other sites.

As stated by Strategic Projects, the scale and complexity of the furniture, fittings, and equipment procurement was beyond the Department of Health’s capacity at the time and represented a significant cost and program risk.\textsuperscript{142} As a result, in May 2013 the Major Health Infrastructure Project Steering Committee approved a proposal to transfer responsibilities to Strategic Projects for the management of all furniture, fittings, and equipment procurement and associated activities, predominantly through the Managing Contractor. John Holland told the Special Inquirer that this task required it to “add significantly more services” to enable the procurement of the additional items.\textsuperscript{143} In addition, John Holland stated that the State’s failure to coordinate its furniture, fittings and equipment requirements and advise it of its needs subsequently required John Holland to change the design and construction of the hospital to accommodate “thousands of additional fittings and items of equipment”.\textsuperscript{144}

\textsuperscript{140} Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
\textsuperscript{141} Department of Finance, Special Inquiry Hearing, 20 October 2017.
\textsuperscript{142} Department of Finance, Submission to Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project, (July 2017), 11.
\textsuperscript{143} John Holland, Special Inquiry hearing, 31 October 2017.
\textsuperscript{144} Ibid.
In addition to the major scope changes, John Holland noted that the State made “thousands of small design and scope changes” to the build and furniture, fittings, and equipment during an advanced stage of construction which impacted on project timeframes.\textsuperscript{145} John Holland is of the opinion that the majority of the design and scope changes “were sought later than you would expect on a project of this size” and had a significant impact on procurement and construction activities which caused disruption to the project.\textsuperscript{146} When asked by the Special Inquirer to provide the key lessons learned from the project, John Holland stated: “That would probably be the standout area in terms of lessons learned, that when you’re dealing in a live construction environment the sheer number of changes and the lateness of change was something that both parties would prefer to have mapped out prior to that.” \textsuperscript{147}

The Special Inquirer accepts that the State directed major and minor design and scope changes which created significant inconvenience for the Managing Contractor.

**Financial management – Capital**

The 2010 business case assumed a budget of $1.17 billion for the delivery of the project infrastructure. While there have been minor variations to this budget, the figure has remained reasonably constant. At October 2017, the approved development budget of $1.163 billion represented the current forecast total capital cost of the project.\textsuperscript{148} It has been stated on several occasions throughout the Special Inquiry that limited contingency remains within the current budget. It must also be noted that the resolution of outstanding defects disputed by the Managing Contractor, other additional works – for example, the upgrade of the pharmacy department – and major contractual claims lodged by the Managing Contractor collectively represent a significant budget risk.\textsuperscript{149} It has been stated in hearings held by the Special Inquirer and in the media that these contractual disputes may be in the order of more than $300 million. From the evidence provided, the Special Inquirer can only conclude that, notwithstanding the ongoing budget risks stated above, the capital budget has been well managed since its establishment in the November 2010 business case.

**Financial management – Operational expenditure**

The Department of Health developed an Operating Cost Model and provided the Special Inquirer with a figure of $341.3 million as the current forecast Perth Children’s Hospital expenditure for a full operating year.\textsuperscript{150} It was stated that this figure does not include the “beacon effect” – that is, additional activity during the first six months of operation which is expected to account for an additional $3 million.\textsuperscript{151} The estimated expenditure forecast, provided in response to an information request from the Special Inquirer is:

“The total cost is based on an estimated full time Employee level of 1,680. However, in order to achieve the above mentioned estimate, a change in the staffing mix will be required as the current medical salary and

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\textsuperscript{145} Ibid.
\textsuperscript{146} Ibid.
\textsuperscript{147} Ibid.
\textsuperscript{148} Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
\textsuperscript{149} Ibid.
\textsuperscript{150} Department of Health response to Special Inquiry request for information, received 2 November 2017.
\textsuperscript{151} Ibid.
wages costs are higher than that within the forecast. If this is not achieved, then salary and wages could increase by a further $15M, thus revising the total cost upwards to $356M.”152

In developing the estimated expenditure, the Department of Health noted the following key assumptions.

• “Workforce costs are to be aligned with the available budget.
• Significant increase in footprint spending (electricity, cleaning etc.).
• Significantly increased furniture, fittings, repairs and maintenance contracts.
• Increased revenue (anticipated higher private patient elections and higher rates for single room accommodation). This does not impact total expenditure, but assists with the net cost of services.
• Operating Cost Model estimates exclude once-off commissioning and transition costs, additional Information Communication Technology costs.
• That Child and Adolescent Health Services can transition to a new workforce profile with a different mix of staff. There will be an actual cost associated with the transition not included in the attachment.”153

The Department of Health stated that the Perth Children’s Hospital forecast expenditure estimate compares to the 2016/17 recurrent net cost of service budget of $306 million to operate the existing Princess Margaret Hospital.154 The Department of Health noted the following estimated increases in annual costs resulting from the move from Princess Margaret Hospital to the Perth Children’s Hospital:

• additional footprint costs of $6.8 million;
• additional information and communications technology costs of $2.5 million; and
• additional facilities management costs of $2.6 million.155

It should be noted that the Department of Health intends to refine the Perth Children’s Hospital Operating Cost Model as the commissioning is further advanced and the Child and Adolescent Health Service will continue to review the assumptions behind the estimated cost of $341.3 million, including the Clinical Service Plans and the facilities management requirements, to revise the forecast.156

**CONTRACT PERFORMANCE**

Concerns regarding the performance of the Managing Contractor have been raised consistently throughout the Special Inquirer’s examination of the Perth Children’s Hospital project. Given the prominence of this theme the Special Inquirer deems it necessary to present some of these views and examine the related evidence. It is evident to the Special Inquirer that the State’s project team considers the performance of the Managing Contractor to be the key reason for the considerable project delays experienced on the project. In its response to questions on notice the Department of Health has stated that there has been numerous and

152 Ibid.  
153 Department of Health response to Special Inquiry questions on notice, received 16 October 2017.  
154 Ibid.  
155 Department of Health response to Special Inquiry request for information, received 2 November 2017.  
156 Ibid.
persistent delays by the Managing Contractor in either meeting timeframes specified in the contract or in achieving dates outlined in the Managing Contractor’s own program.\textsuperscript{157} Issues raised by the Department of Health include the Managing Contractor’s repeated failure to:

- document and maintain an achievable program of works and measure the delay or slippage to its milestones;
- accurately estimate the amount of work or resourcing required to achieve practical completion; and
- achieve its own forecast dates for practical completion.\textsuperscript{158}

Strategic Projects currently resides within the Department of Finance. In its response to questions on notice, the Department of Finance has also presented its strong view that the predominant cause of delays experienced in the delivery of the Perth Children’s Hospital project is the Managing Contractor’s “inadequate management of its design and construction resources and processes”.\textsuperscript{159} The Department of Finance is of the view that the scale and complexity of the Perth Children’s Hospital project exposed weaknesses in the Managing Contractor’s management capability, which resulted in a series of delays through the design, construction and building commissioning phases.\textsuperscript{160}

Before exploring this evidence it must be noted that John Holland expressed its view to the Special Inquirer that the predominant cause of delays to the project have been scope and design changes directed by the State, and in particular, the timing of those changes. Further details of this issue are included in the section of this report entitled “Design and scope changes”.\textsuperscript{161}

Performance of early site works

A Gateway Review was undertaken in November 2012, when early site works were nearing completion and prior to commencement of Stage 2 main works. Interviewees for the Gateway Review differed in their views on the Managing Contractor’s ability to deliver Stage 2 of the construction, given its size and complexity, and noted several concerns, which included:

- “Inadequate Project Management and Building Services capability
- Poor quality of document control
- Inconsistency of design documentation and drawings
- Effective understanding and utilisation of the BIM [Building Information Modelling]
- Lack of quality with some early site works (eg concrete cover on pile caps)
- Level of experience of the JHPL [John Holland Pty Ltd] construction team with regard to project of this scale and complexity
- JHPL [John Holland Pty Ltd] inexperience with the form of contract used (Managing Contractor) for this project.”\textsuperscript{162}

\textsuperscript{157} Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
\textsuperscript{158} Ibid.
\textsuperscript{159} Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
\textsuperscript{160} Ibid.
\textsuperscript{161} John Holland, Special Inquiry hearing, 31 October 2017.
\textsuperscript{162} Department of Finance, New Children’s Hospital Gateway Review 4 – Tender Decision, (November 2012), 8.
The Special Inquirer notes that while there were concerns with the performance of the Managing Contractor at this early stage in construction, the key milestones for this stage were met.\textsuperscript{163}

**Maintenance and provision of the construction program**

It is evident that the State’s project governing committees were considerably constrained in their oversight of the project by the inability of the Managing Contractor to maintain and provide construction program documentation that complied with the Managing Contractor’s contract.

In its capacity as the Integrated Project Management Office, PricewaterhouseCoopers in its Parliamentary Accounts Committee Inquiry hearing stated that it witnessed an ongoing failure of the Managing Contractor to deliver a construction program, and when it was delivered there were issues with its technical linkages and dependencies.\textsuperscript{164}

The Department of Health has stated:

"However, it remains the case that both the PCH [Perth Children Hospital] Project and Strategic Projects and Asset Sales have been frequently limited by the MC’s [Managing Contractor’s] program documentation, which has been of inconsistent quality, and managed without the necessary program management rigour that would be expected in a program of this scale and complexity. Issues noted have included:

- Incomplete or limited data that is not representative of all key activities or milestones planned for completion;
- Inconsistent dates of completion (either incorrect, or driven by contractual issues, rather than actual program progress);
- Overdue milestones and key activities with no or inaccurate forecast completion dates;
- Poorly managed change control processes, where milestones or activities have been renamed, updated, closed or completed with no indication in the program of the rationale (or escalation to the State where appropriate);
- Improper construction of the program itself, with linkages between activities and milestone within the program, resulting in logic issues, and inaccuracies in the critical path and forecast dates; and
- Lack of appropriate or timely response from the MC [Managing Contractor] when requested to provide updated and accurate program reporting."\textsuperscript{165}

When asked whether there had been any difficulty in obtaining accurate and timely construction program documentation from the Managing Contractor, the State Solicitor’s Office noted that this had proved to be a difficult task and a source of great frustration for the State.\textsuperscript{166} The State Solicitor’s Office noted that it was a contractual obligation on the part of John Holland to provide the program as required by the State and...
acknowledged that the drafting of the Managing Contractor contract could have included additional levers
to encourage the provision of a contractually compliant construction program.167

During its hearing with the Special Inquirer, Strategic Projects stated that the linkages between activities
within the construction program were not correctly depicted and this often produced a critical path which
led to an inaccurate completion date.168 The Special Inquirer notes the date for practical completion was
extended 15 times according the project timeline included in the Department of Health’s written submission to
the Parliamentary Accounts Committee Inquiry.169 Further, the recent July 2017 Gateway Review concluded
that practical completion was granted following “a succession of missed PC [practical completion] dates
by the MC [Managing Contractor]”.170 Based on the evidence reviewed, the Special Inquirer supports
PricewaterhouseCoopers’ view that the Managing Contractor was not performing the level of analysis
required to understand the construction program status to forecast a realistic date for practical completion.171
At its hearing with the Special Inquirer, John Holland’s Chief Executive Officer stated that to his knowledge
the programs were fit for purpose and complied with standards and procedures for a facility of Perth
Children’s Hospital’s scale and complexity.172

Divestment and acquisition process

The Special Inquirer understands that John Holland was divested by Leighton Holdings and acquired by
China Communications Construction Company International Holding Ltd in April 2015. It is understood that
this process was first announced in June 2014 and coincided with peak construction activity on the project,
12 months ahead of the original date for practical completion in June 2015. It has been stated by Strategic
Projects in its response to questions on notice that this had a significant unsettling impact on the project,
particularly in relation to the Managing Contractor’s ability to attract and retain key project resources.173
During its hearing with the Special Inquirer, John Holland’s current Chief Executive Officer stated that the
divestment process had no impact whatsoever on the delivery of the project, with the management of the
project remaining consistent during the project.174

Contract performance post-practical completion

Post practical completion it is evident that there have been ongoing issues with the performance of the
Managing Contractor. It was noted in the July 2017 Gateway Review that defect notices had been issued
to the Managing Contractor in relation to overdue works and that Strategic Projects had undertaken some
of these works “as a consequence of the non-performance of the MC [Managing Contractor]”.175 This

167 State Solicitor’s Office, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project
hearing, 18 September 2017.
168 Department of Finance, Special Inquiry hearing, 20 October 2017.
169 Department of Health, Submission to the Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth
Children’s Hospital Project, [August 2017], 14 & Attachment – Project Timeline.
170 Department of Finance, Perth Children’s Hospital Gateway Review 5 - Readiness for Service [5], July 2017), 3.
171 PricewaterhouseCoopers, Special Inquiry hearing, 16 November 2017.
172 John Holland, Special Inquiry hearing, 31 October 2017.
173 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
175 Department of Finance, Perth Children’s Hospital Gateway Review 5 - Readiness for Service [5], July 2017), 8-9.
Gateway Review also recommended the development of a business continuity plan in case the State needed to assume further responsibilities of the Managing Contractor.

At the time of submitting its response to the Special Inquirer, the Department of Health expressed concern with the quantity of unresolved construction issues listed as “minor defects” on the certificate of practical completion. Further, PricewaterhouseCoopers noted that, at the time of its hearing, only two of the 23 defects listed on the certificate for practical completion had been resolved by the Managing Contractor, some six months after practical completion was granted.

Subcontractor performance

The performance of the Managing Contractor’s subcontractors has been called into question by attendees at Special Inquiry and Parliamentary Accounts Committee Inquiry hearings. Strategic Project’s former Principal Project Director for the Perth Children’s Hospital project stated that there appeared to be a high level of commercial tension between the Managing Contractor and its subcontractors. Interviewees for the September 2016 Gateway Review stated that ongoing commercial disputes between the Managing Contractor and its key building systems subcontractor were impacting the achievement of practical completion. The minutes of the taskforce meeting held on 23 January 2014 detailed the discussion of a dispute between the Managing Contractor whose design team was seeking an additional $12 million from the Managing Contractor and refusing to continue the design work until the issue had been resolved. While this information may bring into question the subcontractor payment levels, Strategic Projects’ former Principal Project Director stated that the State’s independent quantity surveyor was satisfied that, based on current market pricing, adequate amounts had been allocated to subcontracts within the Managing Contractor’s cost plan.

The issue of the Managing Contractor’s payment of subcontractors for work rendered has been well publicised, which led to the State undertaking an audit of payments. Strategic Projects’ former Principal Project Director has stated that the subcontracts were rigorous. The audit satisfied the State that the Managing

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176 Department of Health response to Special Inquiry questions on notice, received 16 October 2017.
177 PricewaterhouseCoopers, Special Inquiry hearing, 16 November 2017.
178 Former Principal Project Director, Strategic Projects, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 18 October 2017.
179 Department of Finance, Perth Children’s Hospital Gateway Review 5 – Readiness for Service (4), [September 2016], 5.
180 Perth Children’s Hospital Commissioning and Transition Taskforce, Meeting Minutes, [23 January 2014], 4.
181 Former Principal Project Director, Strategic Projects, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 18 October 2017.
Contractor was paying its subcontractors in accordance with those subcontracts.\textsuperscript{182}

Regarding the capability of subcontractors, Strategic Projects has stated that it reviewed the capability of the Managing Contractor’s subcontractors responsible for the technical, design and construction requirements at various stages during the bid phase.\textsuperscript{183} It is apparent that, on paper, the State did not find any significant issue with the capability of the Managing Contractor’s major subcontractors as Strategic Projects was required under the Managing Contractor contract to approve all subcontractor arrangements valued in excess of $100,000.

**Management of the Managing Contractor**

Strategic Projects is of the view that the State has made a concerted effort to manage issues relating to the Managing Contractor’s performance, stating that 25 formal notices under the Managing Contractor contract have been issued which raise concerns with the adequacy of the Managing Contractor’s management resourcing.\textsuperscript{184} Strategic Projects noted that these formal notifications supported regular discussions at various forums including monthly Project Advisory Group meetings between the Managing Contractor’s and the State’s senior contract management representatives and meetings with the Managing Contractor’s Regional Manager, Chief Executive Officer, Chairman and parent company President.\textsuperscript{185} Strategic Projects has also stated that it regularly issued formal notices to the Managing Contractor directing the correction of resourcing issues observed in the project programming.\textsuperscript{186} It is understood that the Managing Contractor responded with a series of changes to key management resources which required the State’s approval under the contract.\textsuperscript{187}

Another measure the State has taken to manage the performance of the Managing Contractor was to issue a direction to the Managing Contractor to conduct an audit of the design development process prior to the submission of its Stage 2 offer. Strategic Projects has stated that, in accordance with the recommendations of the audit, the Managing Contractor increased resourcing in the design team, cost planning team and administrative support.\textsuperscript{188}

The Special Inquirer has been provided with various minutes from Major Health Infrastructure Project Steering Committee/Taskforce/Project Advisory Group meetings which address the performance of the Managing Contractor and its subcontractors. It is evident from a review of these minutes that the governing bodies had robust discussions regarding the performance of the Managing Contractor and potential measures to be taken to improve productivity on site. Early in the project, during a Project Advisory Group meeting, the State expressed serious concerns with the Managing Contractor’s ability to deliver the project on time given the “significant delays to the delivery of the detailed design and continued failure to meet on-site performance

\textsuperscript{182} Ibid.
\textsuperscript{183} Department of Finance, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 18 September 2017.
\textsuperscript{184} Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.
\textsuperscript{185} Ibid.
\textsuperscript{186} Ibid.
\textsuperscript{187} Ibid.
\textsuperscript{188} Ibid.
targets. The State noted that while the increase in on-site resources was evident, this had not had a positive impact on total production. The minutes from the taskforce meeting on 18 June 2015 address the State’s review of the Managing Contractor’s program, which identified “serious concerns” with apparent “hidden” delays that could impact the forecast date for practical completion. The minutes state that these concerns were discussed in detail with the Managing Contractor’s senior management on 15 June 2015. The response, however, had been “disappointing thus far, with no commitment to take action to address the State’s concerns.” The State was in the process of escalating the issue to the Managing Contractor’s highest level (China Communications Construction Company International Holdings) and intended to seek liquidated damages unless immediate action was taken by the Managing Contractor.

Issues of non-compliance

Significant issues of non-compliance were experienced during project delivery, including the presence of asbestos in some of the building materials used, the initial installation of fire door-sets that did not comply with Australian standards, and the presence of excessive levels of lead in the potable water supply. These issues have contributed to significant delays to the project with practical completion, originally targeted for June 2015, not occurring until 13 April 2017.

John Holland stated in its Parliamentary Accounts Committee Inquiry hearing that its quality assurance inspection of over 100 installed fire-rated doors identified that the spacing of the fixing points in the installed doorframes did not meet Australian standards for fire door frames. Approximately 900 frames, which were installed into the walls, had to be removed, brackets welded onto them, repainted, and reinstalled. John Holland has stated the State’s functional and technical brief specified a relatively unique door system that was difficult to acquire in Australia and was therefore procured from the United Kingdom and made in India. John Holland stated that the drawings and certification supplied ahead of delivery of the product demonstrate compliance with the Australian standards. The delivered product differed from the drawings. Strategic Projects stated in its Parliamentary Accounts Committee Inquiry hearing that the issue with the fire doors was a “clear failing in the quality chain”, noting that the design was compliant in one jurisdiction but not in this jurisdiction. The Special Inquirer supports Strategic Project’s view that while the Managing Contractor is accountable for the issue and it could have been recognised earlier, the quality assurance processes proved effective in identifying and reconciling the issue.

The Special Inquirer understands that the asbestos in the roofing panels was the result of a significant issue.

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189 Perth Children's Hospital Project Advisory Group, Meeting Minutes, (5 August 2013), 6.
190 Ibid.
191 Ibid.
192 Ibid.
193 Ibid.
194 John Holland, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children's Hospital Project hearing, 13 October 2017.
195 Ibid.
196 Ibid.
197 Department of Finance, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children's Hospital Project hearing, 18 September 2017.
with John Holland’s supply chain for which it has accepted responsibility.\textsuperscript{198} John Holland stated that the sample provided by its supplier in China was compliant, and that the documentation accompanying the sample also indicated compliance with Australian standards.\textsuperscript{199} It is also understood that the State performed its own testing regime for the initial sample which was found to be compliant. Strategic Projects supported this version of events in its Parliamentary Accounts Committee Committee hearing. John Holland stated that the issue stemmed from the supply chain leading into the facility in China which manufactures the products.\textsuperscript{200} John Holland stated that it visited the facility in China on multiple occasions to assess the panel production process.\textsuperscript{201} It is understood that the identification of the asbestos was by chance, when a panel was cut to accommodate additional fan capacity for exhaust of the hospital atrium.\textsuperscript{202} The Special Inquirer accepts that significant effort was made to ensure the supplied products met the Australian Standards and did not include asbestos. The Special Inquirer notes that the State must remain vigilant with the inspection of these building materials sourced from jurisdictions with different building standards to Australia.

Another significant issue of non-compliance at the Perth Children’s Hospital project involves the detected levels of lead in the potable drinking supply. According to Strategic Projects in its Parliamentary Accounts Committee Inquiry hearing, the State undertook testing of the Perth Children’s Hospital site’s potable drinking water in May 2016 which identified elevated levels of lead.\textsuperscript{203} Strategic Projects stated that the testing focused on microbiological contamination but given the facility was a paediatric hospital an added level of rigour saw additional testing undertaken for heavy metals.\textsuperscript{204} Strategic Projects noted that while the Managing Contractor and the State’s hydraulics expert expected routine flushing would address the issue, lead levels remained elevated. The Perth Children’s Hospital Taskforce was notified of the issue on 2 August 2016.\textsuperscript{205} It appears that at the time of concluding this Special Inquiry, water quality standards at the hospital have improved to acceptable standards. The Public Accounts Committee has undertaken a detailed review of this matter and its findings are expected early in 2018. The Special Inquirer did not attempt to replicate the Public Accounts investigations on this matter.

**Procurement of furniture, fittings and equipment**

As described in the above section entitled Design and scope changes, in May 2013 the State transferred responsibilities to Strategic Projects for the management of all furniture, fittings and equipment procurement and associated activities, predominately through the Managing Contractor contract. In its hearings with the Special Inquirer, the Department of Health raised significant concerns with the interface risk associated with the ongoing management of major medical equipment that has been procured by the Managing Contractor.\textsuperscript{206} The Managing Contractor is responsible for performing all planned and preventive maintenance on all major medical equipment.

\textsuperscript{198} Ibid.
\textsuperscript{199} John Holland, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 13 October 2017.
\textsuperscript{200} Ibid.
\textsuperscript{201} Ibid.
\textsuperscript{202} Department of Finance, Parliamentary Accounts Committee Inquiry into the Management and Oversight of the Perth Children’s Hospital Project hearing, 18 September 2017.
\textsuperscript{203} Ibid.
\textsuperscript{204} Ibid.
\textsuperscript{205} Ibid.
\textsuperscript{206} Department of Health, Special Inquiry hearing, 18 October 2017.
that it procured for a period of two years post practical completion, which was granted 13 April 2017. Should the hospital open within that two year period the Department of Health is concerned that it will be reliant on the Managing Contractor to provide this maintenance during the operation of the hospital. The Department of Health stated that under the arrangement it will be required to liaise with Strategic Projects, which will in turn liaise with the Managing Contractor, which will in turn engage its provider of the items to perform such maintenance. In addition, the Department of Health is concerned that the performance of this maintenance is not linked to any key performance indicators or other levers to encourage adequate performance under the arrangement.

While this arrangement appears cumbersome, Strategic Projects stated during its hearing with the Special Inquirer that the Major Health Infrastructure Project Steering Committee, chaired by the Department of Health’s Director General, approved the decision to transfer the procurement of furniture, fittings, and equipment to the Managing Contractor. Strategic Projects stated that the Child and Adolescent Health Service recommended this course of action following an assessment of its capacity to deliver the estimated $140 million package of furniture, fittings and equipment within the project program. The Special Inquirer notes that the Department of Health appears to have been intimately involved in this decision and it should work closely with Strategic Projects and the State Solicitor’s Office to mitigate any interface risk inherent in the resultant arrangement.

**RECORD KEEPING**

The Departments of Health and Finance provided all information and documentation requested by the Special Inquirer.

**FINDINGS**

**Project planning**

1. The project underwent a sound planning phase and the established project timeframes were aggressive but manageable.
2. Overall, the contract with the Managing Contractor was friendly to the State.

**Governance**

3. The Major Health Infrastructure Projects Steering Committee’s structure and composition was appropriate. This committee was superseded by the Perth Children’s Hospital Commissioning and Transition Taskforce whose focus on governance rather than engaging in project management practices evaporated as construction difficulties emerged.
4. The consistent construction delays called for an enhanced level of integration between the State’s construction and commissioning work streams. This was inhibited, in part, by inadequate transparency of the management of the Managing Contractor.

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207 Ibid.
208 Ibid.
209 Department of Finance, Special Inquiry hearing, 20 October 2017.
210 Ibid.
5. The Department of Health and Strategic Projects, at the executive governance level, have been uncompromising in their attitudes towards each other. The development of this tension:
   - coincided with the Major Health Infrastructure Project Steering Committee being superseded by the Perth Children’s Hospital Commissioning and Transition Taskforce;
   - was driven by the delays to construction;
   - was exasperated by the Department of Health seeking to take sole decision-making responsibility for all aspects of the project; and
   - has had a detrimental effect on the progress of the project.

6. The project’s peak governing committee should have addressed the State’s Principal Project Director’s communication and relationship management issues at an earlier stage in the project.

7. Intervention by the Department of Premier and Cabinet in the relationship between the Department of Health and Strategic Projects should have occurred at an early stage.

8. The significant number of governance issues is unique to this project and should not result in questioning the effectiveness of the dual accountability model, which has a positive track record across many recent major State projects.

9. In considering the Major Health Infrastructure Project Steering Committee was effectively replaced by the Perth Children’s Hospital Commissioning and Transition Taskforce in 2013, the terms of reference of the taskforce and possibly its membership should have accounted for the significant construction requirement remaining on the project. While it is acknowledged that Strategic Projects attended taskforce meetings, the Special Inquirer would expect the committee’s membership to include a representative from that business unit.

**Contract performance**

10. The Managing Contractor did not demonstrate a strong understanding of the construction program status and did not perform the analysis required to forecast a realistic date for practical completion. Without a sound understanding of the work requirement the Managing Contractor failed to achieve its own forecast dates for practical completion on multiple occasions.

11. The State encountered significant difficulty in acquiring an accurate and complete construction program from the Managing Contractor over a prolonged period. This impeded the governance of the project and the commissioning of the site.

12. The underperformance of the Managing Contractor’s subcontractors contributed significantly to project delays. Ongoing commercial disputes between the Managing Contractor and its subcontractors contributed to this underperformance.

13. The Managing Contractor underwent a process of divestment and acquisition during a key stage of construction which contributed to delays in the construction process.

**Procurement and contract development**

14. The procurement process undertaken for the infrastructure was robust and well documented, and the decision to appoint the Managing Contractor was reasonable.
15. A robust process was undertaken to assess the Managing Contractor’s Stage 2 offer, and the decision to accept the offer was reasonable. This assessment confirmed:
- the Managing Contractor’s cost plan was achievable, including provision for a reasonable profit margin; and
- the Managing Contractor’s construction program was achievable and could be delivered in accordance with the initial target date for practical completion of 30 June 2016.

Design process

16. The State’s process to review the design was robust and provided the Department of Health, as well as end users, with sufficient opportunity to provide input. Sufficient processes were also in place to facilitate design change requests.

17. There were no formal documented sign offs by the Department of Health for the building’s design. The different Directors General of the Department of Health, in their capacity as the Chair of the project’s peak governing committee, were a party to the approval of the progression of the design through each of the design stages. In consideration of this it is accepted that the Department of Health provided sufficient approval of the design of the hospital. The process, however, was indirect and the Department of Health, as the receiving agency, should have been able to produce its clear formal approval of each of the finalised design stages.

Scope changes

18. The State directed the Managing Contractor to undertake major design changes during advanced stages of construction. These changes included the addition of a 24-bed Short Stay Surgical Unit, an additional child care facility, and multiple pharmacy redesigns. The decisions to include the additional child care facility and Short Stay Surgical Unit should have been made prior to finalisation of the Detailed Design.

19. The State directed a high volume of minor scope and design changes. The high volume of changes to the scope and design created difficulties for the Managing Contractor.

20. During the project the State required the Managing Contractor to procure a significantly larger portion of the furniture, fittings and equipment than was originally agreed. The State then made a high volume of changes to the design of the furniture, fittings and equipment. The changes to the furniture, fittings and equipment created difficulties for the Managing Contractor.

Procurement of furniture, fittings and equipment

21. The Managing Contractor is responsible for performing all planned and preventive maintenance on the major medical equipment it purchased during the two year period post practical completion. The multiple interfaces required to conduct this maintenance presents a risk to the operation of the hospital. This risk is manageable.
Non-compliance

22. Major issues of non-compliance have contributed to project delays. The non-compliance of the fire door systems was a supply chain fault that the Managing Contractor could have recognised earlier. The quality assurance processes proved effective, however, in identifying and reconciling the issue. The asbestos in the roof panels originated from deep within the Managing Contractor’s supply chain. A reasonable quality assurance process appears to have been followed by the Managing Contractor and the State to ensure the supplied products met Australian Standards and did not contain asbestos.

Budget

23. As of October 2017 the approved budget of $1.163 billion represents current forecast total capital cost of the project. This budget has been well managed since the project budget of $1.17 billion was established in the November 2010 business case. It must be noted that limited contingency remains and outstanding defects disputed by the Managing Contractor, major contractual claims lodged by the Managing Contractor, and other additional works, including the pharmacy upgrade, collectively represent a significant capital budget risk.

24. While initial work has been undertaken to forecast the operational costs of Perth Children’s Hospital, the Department of Health must finalise the hospital’s Operating Cost Model as a matter of priority.

AGENCIES’ VIEW

Department of Health

The Special Inquirer forwarded draft findings to the Department of Health and received a response on 11 December 2017. In consideration of this correspondence the Special Inquirer made a number of amendments to this report.

Department of Finance

The Special Inquirer forwarded draft findings to the Department of Finance and received a response on 11 December 2017. In consideration of this correspondence the Special Inquirer made a number of amendments to this report.

RECOMMENDATIONS

The Special Inquirer recommends the following be implemented with respect to the Perth Children’s Hospital project:

1. The Department of Health must finalise the Operating Cost Model for the Perth Children’s Hospital as a matter of priority.
2. The Department of Health, in consultation with Strategic Projects and the State Solicitor’s Office, is to consider options for streamlining the performance of planned and preventive maintenance of major medical equipment procured by the Managing Contractor. This process should seek a reduction in the interface risk inherent in the current arrangement.
The Special Inquirer recommends the following be implemented for future major projects of a similarly complex infrastructure requirement.

1. A formal committee of Cabinet should be established to ensure joint consultation and consensus at ministerial level for major projects.
2. Intervention from the Department of Premier and Cabinet is required to resolve promptly relationship issues that arise between government departments at the project’s executive governance level.
3. Project peak governance committees are to promptly address relationship issues that arise at the project team level.
4. When developing contracts for future infrastructure requirements, the State Solicitor’s Office is to consider additional levers to encourage the Managing Contractor (or similar entity) to provide a contractually compliant construction program.
5. The State’s internal design review process must include the receiving agency’s clear and formal approval of the final design documentation at each of the specified design stages.
6. A representative from Strategic Projects, or the equivalent entity, should sit on major project’s peak project governing committee.
ST JOHN OF GOD MIDLAND PUBLIC HOSPITAL

“The governance, procurement and decision-making process in appointing St John of God Health Care...was well managed and provided value for money for the State.”

- John Langoulant, Special Inquirer

When St John of God Health Care was awarded a 20-year contract in 2012 to build and operate a general public hospital in Midland in a Public Private Partnership arrangement, the Government was aware that procedures such as sterilisations and terminations were not included.

Arrangements had to be made for another provider to undertake the procedures close to the new hospital. The North Metropolitan Health Service undertook market soundings to assess the level of interest in building and operating a new facility. When two interested parties withdrew, the Department eventually successfully negotiated with a company with which it already had a contract.

The Special Inquirer notes that the Department of Health could have tested the market for the provision of the restricted procedures in the vicinity of the Midland Health Campus. Despite this the governance, procurement and decision-making process was well managed and provides value-for-money for the Government.

The capital cost for the extra facility was about $1.4 million - relatively insignificant when compared to the expected savings to the State of $1.5 billion over 20 years for the new hospital.

Government agency:
Department of Health
Department of Finance Strategic Projects

Project timeline:
2012 - 2015

Total cost
$360.2 million

Total cost to Government
$180.1 million

Capital to provide restricted services
$1.4 million

2012
State and Commonwealth Government allocate $360.2 million for new hospital, partnering with St John of God Healthcare

2013
Government commits to delivering restricted procedures in a separate facility

2014
Expressions of interest sought to develop complementary surgery - no commercial interest

2015
Agreement established between Minister for Health and Marie Stopes International to deliver restricted procedures

2015
St John of God Midland Public Hospital opens. Restricted procedures delivered at a separate facility nearby
SUMMARY

In 2012, the State Government entered into contractual arrangements with St John of God Health Care to build a new 307 bed general public hospital facility in Midland under a Public Private Partnership arrangement. As a Catholic health care provider, St John of God Midland Public Hospital does not offer specific restricted procedures in their hospitals on ethical grounds. These restricted services include contraception services, sterilisation procedures and pregnancy terminations.

In 2012 the Minister for Health made a commitment to provide the restricted procedures on the Midland Health Campus site early in the project and the Department of Health looked at various options to achieve this.

After market sounding, followed by a failed expression of interest process, in 2015 the Department of Health entered into a service agreement with Marie Stopes International to deliver the restricted procedures on an alternative site adjacent to the new hospital.

The restricted procedures were low in number and of a non-complex nature and the financial impact was not high in context of the overall value of the new hospital. St John of God Health Care provided a competitive offer for the new hospital. Excluding them from the final assessment on grounds of not providing the restricted procedures would not have represented value for money for the Government.
PROJECT SYNOPSIS

The State Government’s original plan was to redevelop the Swan District Hospital site in Middle Swan by September 2010 from an approved budget of $181.2 million. The decision to construct the new general public hospital at an alternative greenfield site near the Midland town centre was a project scope change with a significant cost variation. Funding to meet this cost variation was secured from the Commonwealth Government.

The State and Commonwealth governments allocated combined capital funding of $360.2 million, contributing equal amounts of $180.1 million to the project.

In June 2012, the State Government executed an agreement with St John of God Health Care to design, build, maintain and operate a new 307 bed general public hospital facility in Midland as part of a Public Private Partnership. The contract term was 20 years. The Minister for Health stated that:

“...the proposal by St John of God was of significant benefit and was lower than the other quote, and will save this state $1.5 billion over the term of the contract.”1

The Minister for Health also made a commitment to provide restricted procedure services to the residents of Midland catchment area on site at the new Midland Health Campus.2 Although these restricted procedures formed part of the original scope for the new public hospital, when the request for proposal was released to market the provision of these procedures was non-mandatory.

Following the award of the contract for the hospital in 2013, the Department of Health undertook an analysis of options for the construction of a facility at the Midland Health Campus site that would enable the provision of the restricted procedures. There were several limitations to building a stand-alone clinic on the site, including the resulting loss of car parking bays, which would potentially require a multi-deck car park on the site to meet the minimum car parking requirements, with the cost to be borne by the State.3

In 2014, a market sounding process was undertaken to construct a complementary facility for the provision of the restricted procedures on the Midland Health Campus site near the St John of God Midland Hospital. The market sounding process generated 14 registrations and was followed by an expression of interest being released. Only two interested parties responded to the expression of interest. After further consideration, however, both interested parties withdrew due to the significant onsite construction and service related limitations.4

1 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 12 June 2014, 3789.
2 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 7 August 2012, 4584-4585.
3 Department of Health, Briefing Note to the Minister for Health – Provision of “Restricted Procedures” that are not able to be undertaken at the Midland Public Hospital by St John of God Health Care, (20 January 2015), 2.
4 Ibid.
In October 2015, the Department of Health Director General recommended that the Minister for Health enter into a service agreement with a company that had an existing agreement with the North Metropolitan Health Service. This contract would be for provision of an alternative to government funded restricted procedures not available to public patients at the St John of God Midland Public Hospital. A Clinical Services Agreement was established between the Minister for Health and Marie Stopes International in November 2015. Under the agreement, the services are provided at a facility approximately 500 metres from the St John of God Midland Public Hospital.

The new public hospital facility, the St John of God Midland Public Hospital, has been open to patients since November 2015. St John of God Health Care will operate the hospital for a 20-year term.

EVALUATION OF THE PROJECT

The Special Inquirer’s examination of this project focused on the process for the provision of the restricted services. The other aspects of the project were well managed, had the appropriate governance arrangements in place and achieved a value for money outcome.

The St John of God Midland Public Hospital project was subject to the following six Department of Finance co-ordinated Gateway Reviews:

- Business Case (in 2008 and 2010);
- Readiness for Market (in 2011);
- Tender Decision (in 2012);
- Readiness for Service (in 2015); and

These independent reviews noted that the project’s planning, management, procurement and execution processes were acceptable, at times noting instances of significant good practice.

In addition, through research undertaken by the Special Inquirer, there were no issues that had been raised by Members of Parliament, the Auditor General, the media or members of the public in respect to the project, other than those relating to the provision of the restricted procedures.

The Department of Health estimated that the number of procedures was approximately 250 out of a total of 29,000 and that the procedures were of a non-complex nature that other providers could offer.
Governance

A market sounding process was undertaken in early 2010 to assess private sector interest in delivering and operating the Midland Health Campus under a Public Private Partnership. In July 2010, St John of God Health Care wrote to the North Metropolitan Health Service seeking reassurance that their inability to provide the restrictive procedures would not eliminate them from further consideration.6

The North Metropolitan Health Service noted the relatively low number of procedures that the restrictive practices entailed annually and determined that if necessary, other general hospitals could provide such services. It also noted alternative non-government providers as potential future providers of the services.7 The North Metropolitan Health Service confirmed with St John of God Health Care that their inability to provide the restrictive services would not result in a non-conforming bid.8 The expression of interest for the Midland Health Campus was released in October 2010. The expression of interest was phase one of a two stage process to seek a fully financed design, construction and operation solution for the new hospital.

The Department of Health advised the Special Inquirer that the Minister for Health was briefed on this matter by the Department of Health’s Director General and the North Metropolitan Health Service’s Chief Executive Officer before the appointment of St John of God Health Care as the preferred respondent in December 2011.9

The Department of Health engaged its Minister and key stakeholders throughout the 2014 market sounding and expression of interest process to determine the approach for restrictive procedures. The steps taken here were as follows:

• an expression of interest process was conducted for the restricted procedures;
• the two respondents from the expression of interest withdrew due to the site’s limitations and issues;
• a Department of Health process followed to re-engage with potential candidates and offer a potential greater scope of service; and
• discussions were held with Marie Stopes International regarding the options for the provision of the restrictive services at an alternative location, determining potential financial implications of any resultant contract.

Project management — Examination of options for the restricted procedures

The Department of Health estimated that the number of procedures was approximately 250 out of a total of 29,000 and that the procedures were of a non-complex nature that other providers could offer.10

6 Department of Health, Briefing Note to the Minister for Health – Provision of “Restricted Procedures” that are not able to be undertaken at the Midland Public Hospital by St John of God Health Care, (20 January 2015).
7 Department of Health response to Special Inquiry questions on notice – St John of God Midland Public Hospital, received 6 October 2017, 2.
8 Department of Health, Briefing Note to the Minister for Health – Provision of “Restricted Procedures” that are not able to be undertaken at the Midland Public Hospital by St John of God Health Care, (20 January 2015).
9 Department of Health response to Special Inquiry questions on notice – St John of God Midland Public Hospital, received 6 October 2017, 2.
10 Department of Health Special Inquiry hearing, 18 October 2017.
The business need for the restrictive procedures component of the St John of God Midland Public Hospital project was well established and the Department of Health explored a number of options to provide the services.

The Special Inquirer is of the view that the options analysis was appropriate for the restricted procedures issue, given the low number of procedures and the insignificant financial impacts when compared to the total project budget for the new hospital, and consequently considers that a separate business case was not necessary. The Department of Health considered eight options to deliver the procedures, including five land options on the Midland Health Campus site and three offsite options using existing facilities at Kalamunda Hospital and the Midland GP Super Clinic.11

The Department of Health’s July 2013 options paper identified the Marie Stopes Clinic as the State’s most active provider of pregnancy terminations and contraceptive and vasectomy procedures, but did not present Marie Stopes International’s Dr Marie Clinic as a stand-alone option at that stage. The North Metropolitan Health Service assessed the operational cost, capital cost and viability, noting that the capital and operating costs were at an indicative level only to determine the short listed options.12

The North Metropolitan Health Service recommended that Kalamunda Hospital provide the restricted procedures, as this option used existing infrastructure and was the lowest cost option. Additional options were also pursued due to the Minister for Health’s previous commitment to providing the services on the Midland Health Campus site.

**Procurement and contract management**

In early 2014, the North Metropolitan Health Service undertook a market sounding process to develop a complementary medical and surgical facility on the Midland Health Campus site. This market sounding generated 14 registrations and was followed by an expression of interest process. The expression of interest was specifically to identify a provider to

“Design, Build, Fund and Operate (DBFO) the proposed facility on the Midland Health Campus to provide (at a minimum) a range of services under contract with the State Party, which the Operator of the Midland Health Campus is otherwise unable to provide.” 13

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11 Department of Health response to Special Inquiry questions on notice – St John of God Midland Public Hospital, received 6 October 2017, Attachment 1.
12 Ibid.
13 Department of Health, Request for Expression of Interest (EOI) for Health Care Facility Midland Health Campus, (February 2014), 3.
Only two interested parties responded to the expression of interest. After further consideration, however, both interested parties withdrew. The Midland Health Campus Site was not seen as a viable option due to:

- moderate to high capital and operating costs;
- the likelihood of requiring a multi-deck car parking facility at the State’s cost; and
- poor vehicle access.14

The Minister for Health requested that the North Metropolitan Health Service determine the level of interest from both respondents if the State was to increase the public contracted services beyond that of the restricted procedures. One provider reiterated their earlier position, noting the site limitations and other issues, while the other provider requested services far in excess of the restrictive procedures to improve service viability.15

The Minister for Health then requested that the North Metropolitan Health Service approach suitable candidates from the previous market sounding process to ascertain their interest in the proposal involving a greater scope of publicly contracted services.16 All candidates approached by the North Metropolitan Health Service declined the opportunity.

The Department of Health then commenced negotiations with Marie Stopes International. Marie Stopes International’s Dr Marie Clinic had an existing contract with the North Metropolitan Health Service, providing pregnancy terminations for public patients referred by King Edward Memorial Hospital. The Dr Marie Clinic was also providing a number of additional restricted procedures unable to be provided by St John of God Health Care, with the exception of laparoscopic sterilisation/tubal ligations. Following discussions with the North Metropolitan Health Service, Marie Stopes International presented a final proposal to the North Metropolitan Health Service on 19 December 2014 to enable the provision of the laparoscopic sterilisation procedures and meet private licensing requirements over and above pregnancy terminations. The final agreement included capital works estimated to cost $750,000, theatre equipment costs of $490,000 and project management costs of $200,000, for a total cost of $1,440,000, to be paid by the Department of Health.17

The contract stipulated agreed minimum annual procedure numbers for patients referred to from King Edward Memorial Hospital and for patients from the Midland catchment area.18 The contract term was three years, with two one-year extension options. In March 2015, the Department of Health submitted a request for a ‘sole source’ exemption, pursuant to the State Supply Commission’s Open and Effective Competition policy, due to the approximate total contract value of $8.5 million. Their justification to the Department of Finance was that “…the particular supplier is the only supplier of services that are required in order to

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14 Department of Health response to Special Inquiry questions on notice – St John of God Midland Public Hospital, received 6 October 2017, Attachment 1.
15 Department of Health, Briefing Note to the Minister for Health – Provision of “Restricted Procedures” that are not able to be undertaken at the Midland Public Hospital by St John of God Health, (20 January 2015), 2.
16 Ibid.
17 Department of Health, Clinical Services Agreement Minister for Health and Marie Stopes International, (3 November 2015), 45.
18 Ibid., 59.
integrate with the existing service provision...". Marie Stopes International’s Dr Marie Clinic is located approximately 500 metres from the Midland Health Campus site.

**Figure 1: Location of Marie Stopes International’s Dr Marie Clinic**

The Special Inquirer notes that the Department of Health could have tested the market for the provision of the restricted procedures in the vicinity of the Midland Health Campus. The Department of Health’s initial assessment of the restricted procedures concluded that these procedures were not complex and a number of service providers could offer them. The limiting factor in the expression of interest was the services were to be provided on the Midland Health Campus site. It is difficult for the Special Inquirer to determine, however, what the level of interest may have been from other providers operating at a different location, particularly given the low number of procedures.

**Costs and benefits realisation**

The total capital cost for providing the services at Marie Stopes International’s Dr Marie Clinic was approximately $1.4 million. Such capital costs are relatively insignificant when compared to the overall Midland Health Campus project budget of over $300 million and the potential savings the contract with St John of God Health Care provided to Government.

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19 Department of Health, *Request for exemption or approval pursuant to the State Supply Commission’s Open and Effective Competition policy*, (March 2015), 4.
20 Department of Health Special Inquiry hearing, 18 October 2017.
21 Department of Health, *Clinical Services Agreement Minister for Health and Marie Stopes International*, (3 November 2015), 45.
In 2012, the former Minister of Health stated that

“...the capital budget for Midland Health Campus does not contain an allowance for this facility. The operational costs for these services have been met through Swan District Hospital in the past, and would be similarly provided for by the Department of Health in the future.”

**RECORD KEEPING**

The Departments of Health and Finance provided all information and documentation requested by the Special Inquirer.

**FINDINGS**

1. The governance, procurement and decision-making process in appointing St John of God Health Care as the preferred respondent, irrespective of not providing the restricted procedures, was well managed and provided a value for money outcome for the State.
2. The Department of Health and Strategic Projects managed the St John of God Midland Public Hospital project well and used the independent Gateway Review process.
3. The Minister for Health made a commitment to provide the restricted procedures on the Midland Health Campus site. The Department of Health examined a number of alternatives in an attempt for this to occur but no viable option could be identified. The number of restricted procedures, however, was low in number and of a non-complex nature and a suitable alternative has been provided close to the Midland Health Campus site.
4. The steps taken by the Department of Health to resolve the restricted procedures issues, including the options analysis, market sounding, expression of interest and request for exemption was thorough and adhered to policy and best practice.
5. The Department of Health focused the market sounding and expression of interest process on delivering the restricted procedures on the Midland Health Campus site, which may have limited potential respondents submitting a proposal.
6. The capital cost outlay for the restricted procedures was insignificant when compared to the overall Midland Health Campus project budget of $360.2 million and the potential savings the contract with St John of God Health Care provided.
7. Outsourcing the restricted procedures to Marie Stopes International’s Dr Marie Clinic appears to have been justified and offers value for money.

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22 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 7 August 2012, 4585.
KARRATHA HEALTH CAMPUS

“Despite the failure to include the cost of earthworks in the hospital’s construction budget, the governance and other project requirements have been satisfactory.”

John Langoulant, Special Inquirer

The decision to build the Karratha Health Campus in the town centre was announced in May 2012. The budget was set at $207.15 million, and included a range of items such as hospital and ambulatory care, information and communication technology and a helipad.

The central location was considered desirable but there was an unacceptable level of risk with flooding from cyclonic rain. The level of the site was subsequently lifted to the maximum probable flood level to resolve the problem.

The Special Inquirer is satisfied that the governance arrangements and project management approach are appropriate, and that the options analysis presented in the business case is robust. Due diligence was applied in the decision to place the campus in the town centre, including having to build up the site to offset the threat of flooding.

Public statements which put the total cost of the campus at $207.15 million understate the true figure of $234.2 million required to deliver the health service needs of the West Pilbara District. Site preparation, and road works are all part of the project and should be included to provide a more accurate cost, even though they might be funded from different sources.
SUMMARY

The release of a strategic plan for health needs in the catchment area of the existing Nickol Bay Hospital and the West Pilbara Health District was a catalyst for the State Government to consider a range of potential options for future service delivery.1 A number of options was considered, including:

- reconfiguration of the existing Nickol Bay Hospital;
- build new facilities at the Nickol Bay Hospital site; and
- build new facilities at an alternative site in the Karratha town centre on the corner of Balmoral and Warambie Roads.

A risk of the proposed alternative site in the town centre was its location in a flood prone area. A risk assessment of the town centre site did not, however, find any material reason to discount the location of the alternative site.2

In May 2012, the State Government announced the development of a new Karratha Health Campus to be built on the proposed alternative town centre site, subject to a further detailed site assessment. Cabinet approval for additional funding brought the total budget to $207.15 million, which superseded a previous 2010/11 budget commitment of $150.7 million to refurbish or rebuild the existing Nickol Bay Hospital, some 3.7 kilometres away.

When the project was announced, community concerns were raised about the suitability of the town centre

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2 Strategic Projects and Department of Health WA Country Health Service, Karratha Health Campus Business Case, (February 2012).
site. A detailed due diligence study identified a potentially unacceptable level of risk of inundation to the
town centre site, should a storm surge occur during a cyclonic event. This risk was mitigated through the site
level being raised and through surrounding road and infrastructure modifications.

The Karratha Health Campus project is progressing well. It is within the $207.15 million budget — that is, as
far as the $207.15 million budget excludes the initial site and infrastructure works undertaken by LandCorp —
and is scheduled for completion in July 2018. As the largest specialised hospital in the West Pilbara Health
District, once completed, the Karratha Health Campus will be an integrated district health service and will
act as a hub to support the smaller health services in the West Pilbara, such as Roebourne, Wickham, Tom
Price, Onslow and Paraburdoo.

**PROJECT SYNOPSIS**

As part of the 2010/11 budget, the State Government committed $150 million of Royalties for Regions
funding to redevelop health services on the existing Nickol Bay Hospital site in Karratha. A further
$650,000 was funded through the Pilbara Health Initiative to include a helipad, making the total project
budget $150.7 million.

In September 2010, the WA Country Health Service’s service plan for the catchment area of the Nickol Bay
Hospital and surrounding area in the West Pilbara Health District was endorsed.

In February 2012, a business case was endorsed by the WA Country Health Service and the Department
of Treasury’s Strategic Projects branch (Strategic Projects) and approved by the Department of Health and
the Department of Treasury. The business case proposed six options and shortlisted three. A new building
development, including the hospital, ambulatory care and support services at an alternative site in the
Karratha town centre on the corner of Balmoral and Warambie Roads was recommended as the preferred
option.

In May 2012, the Government announced the development of a new Karratha Health Campus on the
site in the Karratha town centre, to replace the Nickol Bay Hospital and the Warambie Community and
Population Health Centre. Additional Royalties for Regions funding of $56 million was approved for the
development, bringing the total budget to $207.15 million. The Minister for Health stated that the additional
funds would enable the development of a ‘one stop shop’ for health care, bringing together in one place
services such as acute care, population health and community mental health and drug services on to a new
site.45

In January 2013, the Minister for Health approved acceptance of the risk profile associated with the town

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4 The Pilbara Health Initiative is a partnership between the State Government’s Royalties for Regions program and the Chamber of Minerals and
Energy’s Pilbara Industry’s Community Council members.
5 Government of Western Australia Media statement, $207m Karratha Health Campus under way, (30 July 2014).
6 Government of Western Australia Media statement, $57.15 million Royalties for Regions funding increase for new Karratha Health Campus,
(25 May 2012).
centre site option and approved the progression of the project plan based on an increased site level of RL 10.3 for critical infrastructure.\(^6\)

In November 2013, a project definition plan was endorsed by the WA Country Health Service and Strategic Projects and approved by the Department of Health and the Department of Treasury.

Site works associated with the new Karratha Health Campus were part of a separate funding agreement. In January 2014, LandCorp received approval for $101.4 million of Royalties for Regions funding for Stage 2A (design, documentation and statutory approvals) and Stage 2B (earthworks and civil works construction) of the Karratha City Centre Infrastructure Works Project,\(^7\) which sought to further implement the City Centre Masterplan.\(^8\) LandCorp sought the allocation of $81 million of this funding to the site works associated with the new Karratha Health Campus.\(^9\)

In August 2014, LandCorp appointed Downer EDI Works Pty Ltd as the preferred bulk earthworks contractor for the Karratha City Centre Infrastructure Works Project. In April 2015, LandCorp appointed Downer EDI Works Pty Ltd as the preferred civil works contractor to complete Stage 2 of the Karratha City Centre Infrastructure Works Project.

In April 2015, the State Government announced that Brookfield Multiplex was the preferred respondent for the design and construction of the Karratha Health Campus. Contract negotiations were completed in August 2015.

In June 2016, the site preparation works for the Karratha Health Campus were completed. It is noted that only $27.047 million was spent out of the $81 million budget for these works.

In December 2016, after completion of design and early works, the State Government announced that Multiplex Construction Pty Ltd (the trading name for Brookfield Multiplex) was awarded the main building contract for the Karratha Health Campus.

Subject to practical completion being successfully achieved, and a smooth transitioning process to relocate services, equipment and staff, the Karratha Health Campus is currently scheduled to "Go Live" for patients from October 2018.\(^{10}\)

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\(^6\) Reduced Level of 10.3 metres. Reduced Level refers to equating elevations of survey points with reference to a common datum which in Australia is the Australian Height Datum. The Commonwealth Government’s Geoscience Australia, state that in 1971 the mean sea level for 1966-1968 was assigned the value of 0.000m on the Australian Height Datum at thirty tide gauges around the coast of the Australian continent.

\(^7\) Government of Western Australia, Memorandum of Understanding between Department of Regional Development and LandCorp - Karratha City Centre Infrastructure Works Project Stage 2A and 2B, (20 January 2014).

\(^8\) Department of Health, Karratha Health Campus Master Plan Report, (October 2011).

\(^9\) LandCorp response to Special Inquiry request for information, received 21 August 2017. 12.

\(^10\) Department of Finance response to Special Inquiry questions on notice, received 27 September 2017.
Business case

A business case, including detailed supporting documentation, was developed for the Karratha Health Campus project in February 2012. The business case included consideration of the strategic need, project governance, procurement strategy, identification and analysis of options and costs, and risk and issue management.

The need for and the outcomes to be delivered by the Karratha Health Campus project were informed by a health service delivery strategy, and guided by a range of national, state and local government requirements and policies for ongoing health planning.

As previously mentioned, two sites were considered:

- the existing site of the Nickol Bay Hospital on Dampier Road; and
- an alternative site within the Karratha town centre, on the corner of Warambie and Balmoral Roads.

The alternative site was proposed to align with the intent of the Pilbara Cities initiative, which aimed to modernise and transform the Karratha town centre into a vibrant and attractive city centre.

The WA Country Health Service advised the Special Inquirer that

“There was strong representation and advocacy from both local government (City of Karratha) and the Pilbara Development Commission...for the State to consider relocating the site of the new KHC [Karratha Health Campus] to the Karratha City Centre location.”

The 2012 business case proposed six options for the delivery of the Karratha Health Campus facility. The following three of the six options were shortlisted.

- Option 3 — new build, ambulatory care with existing hospital reconfigured on existing Nickol Bay Hospital site.
- Option 4A — all new build (hospital, ambulatory care and support services) on existing Nickol Bay Hospital site.
- Option 4B — all new build (hospital, ambulatory care and support services) at alternative Karratha town centre site.

12 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
Whole-of-life cost considerations, including recurrent, capital and transition costs, formed part of the comparative financial analysis of the shortlisted options. All three options exceeded the original $150.7 million budget approved by the Government in 2010/11. Option 4B was the final recommendation in the business case, as this option met the full scope of the services identified in the Karratha Health Campus strategic service plan. The findings and recommendations within the site assessment report were considered in recommending Option 4B.13

The benefits of locating a new campus within the town centre were stated to be:

- facilitating the WA Country Health Service strategy to provide a better continuum of care through opportunities for private sector partnerships and collocation as part of a commercial city centre;
- providing greater opportunities for the WA Country Health Service to access proximal accommodation for short stay patients, visitors and transient staff; and
- providing greater opportunities for specialist staff attraction and retention, as they can work within a connected city centre.14

The Department of Finance advised the Special Inquirer that

“...the joint Cabinet submission of March 2012 between the Minister for Health and the Minister for Regional Development and Lands, recommended that Cabinet proceed with option 4B, and identified additional requirements for site preparation associated with the city centre location for the Karratha Health Campus. It included commentary on cost impacts and advice in relation to Option 4A (being the Nickol Bay Hospital location) and Option 4B (being the city centre location).”15

13 Department of Finance response to Special Inquiry questions on notice, received 27 September 2017.
14 Strategic Projects, Karratha Health Campus Business Case, [February 2012], 14, 19.
15 Department of Finance response to Special Inquiry questions on notice, received 27 September 2017.
It was envisaged that relocation of the hospital to the Karratha town centre site would free up the existing 14 hectare Nickol Bay Hospital site for other uses and minimise the potential for service disruption. Following the State Government announcement in May 2012 to build the new hospital, some concerns were raised about the level of community consultation in relation to the decision, and the suitability of the site. In responding to a Parliamentary question about the new hospital from the Hon Robin Chapple MLC in October 2014, the Hon Colin Holt MLC advised

“...the development of a new hospital was included in the Karratha City of the North Plan which underwent community consultation at the start of 2010 prior to its finalisation in June 2010. In addition, in May 2012, community feedback was sought and provided at both the Nickol Bay hospital forum and community announcement forum regarding the city centre location.” 16

Further due diligence studies on the town centre site, including detailed coastal/hydrological engineering, geotechnical and traffic engineering surveys identified a potentially unacceptable level of risk of site inundation should a storm surge occur during a cyclonic event. The project definition plan states “In summary, the consultants’ reports highlight the significant risk to the site from storm surge and flooding during cyclonic events.” 17 It further states that the Minister for Health was alerted to and accepted the risk based on a risk mitigation strategy.” 18 The advice received was that a maximum probable flood level was to be allowed for in order to minimise any risk of inundation during a cyclonic event.” 19

The WA Country Health Service advised the Special Inquirer that

“in the early years following the announcement ... concern was raised about the site being located in a flood prone area. This issue has been dealt with by the adoption of the hydrological consultant’s recommendations to raise the site ... providing the KHC [Karratha Health Campus] with protection from ... storm surge event...” 20

**EVALUATION OF THE PROJECT**

**Governance**

The Karratha Health Campus was designated as a WA Country Health Service major project due to its high risk profile and value of greater than $100 million. In line with this, a cross-agency project governance framework was established. Under the framework, Strategic Projects, in collaboration with the Department of Health and the WA Country Health Service, is responsible and accountable for the definition and delivery of the Karratha Health Campus project.

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16 Western Australia, Parliamentary Debates (Hansard), Legislative Council, 23 October 2014, 7861 c-7862a.
17 Strategic Projects and Department of Health WA Country Health Service, Karratha Health Campus Project Definition Plan, [November 2013], 1.
18 Ibid., 2.
19 Ibid., 14.
20 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
Figure 2: Project Governance Framework\textsuperscript{21}

\textsuperscript{21} Strategic Projects and WA Country Health Service, Project Governance Framework, [December 2012], Appendix 1.
The Health Infrastructure Projects Governance Framework dated May 2010 defines the project governance model including the accountability and governance structure, key resource roles and responsibilities and approvals for major health projects. The governance structure was formed to accompany the establishment of Strategic Projects in the Department of Treasury and Finance (Department of Treasury from 2011) and in recognition of the Department of Health having a large number of major infrastructure projects planned, including Fiona Stanley Hospital, the Perth Children’s Hospital, QEII Car Park and health campuses in Midland, Joondalup, Karratha, Albany and Busselton.

As discussed in the WA Health introduction chapter of this report the framework sets out the roles of the Departments of Treasury and Health in the governance of these major projects.

It introduces dual accountability and responsibility between the two agencies and notes that this accountability commences during business case development, with both parties accountable for ensuring scope, time and budget requirements are agreed upon and clearly defined.

The WA Health introduction chapter of this report discusses in detail the changes that were made to the framework. It notes the discontinuation of the meetings of the Major Health Infrastructure Projects Steering Committee from December 2013.

A Project Control Group was established to provide oversight and project direction for the Karratha Health Campus. This group, chaired by the Chief Executive of the WA Country Health Service, is responsible for all aspects of the planning phase, including scope and design refinement and approval and holds formal, minuted monthly meetings. It is currently responsible for overseeing the building phase to ensure that the Karratha Health Campus is delivered on time, within budget and to an acceptable quality.

The Special Inquirer noted that the governance framework referred to above states that the role of the Project Control Group was to

“Act as a pathway for escalation to the Major Health Infrastructure Projects Steering Committee via the Chief Executive Officer, WACHS [the WA Country Health Service] and the Executive Director, Department of Treasury — Strategic Projects.”

It appears that the construction of the Karratha Health Campus has not encountered any major issues during the design and build phases. Should there have been complications that could not be resolved by the Project Control Group, the pathway for escalation is unclear to the Special Inquirer, given the informal winding up of the Major Health Infrastructure Projects Steering Committee.

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23 Ibid.
24 Ibid.
Project management

A project definition plan developed in November 2013 defined the project scope, cost, procurement strategy, delivery program and risk assessment, within the parameters set by the previously approved business case. It also addressed previously unresolved project delivery risks and issues.

The WA Country Health Service advised the Special Inquirer that it

“...established a Community Reference Group as part of the KHC [Karratha Health Campus] Projects community engagement. This engagement has included key local community representatives such as the City of Karratha and local community groups, service providers and individuals.”25

Strategic Projects advised the Special Inquirer

“...that apart from any unknown future potential impacts of the upcoming cyclone season, for the Karratha Health Campus:

• project costs are currently tracking satisfactorily against the current budget of $207.15 million;
• the project schedule is currently programmed to achieve practical completion on 12 July 2018; and
• subject to practical completion being successfully achieved on the above date, the “Go Live” for the KHC [Karratha Health Campus] should be in the latter half of 2018. This would potentially be October 2018 after transition-to-operations activities have been undertaken.”26

Procurement and contract management

Karratha Health Campus business case phase — procurement

In August 2011, a procurement workshop was held to provide input to the preferred procurement method for the Karratha Health Campus. A range of procurement models and risk profiles were considered for the three shortlisted options, with the following procurement delivery methods assessed:

• construct-only after full design;
• design and construct;
• novated design and then construct;
• design and construct and maintain;
• early contractor involvement; and
• managing contractor.

25 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
26 Department of Finance response to Special Inquiry questions on notice, received 27 September 2017.
Using an agreed set of criterion weightings, the managing contractor procurement model achieved the highest weighted score over the early contractor involvement procurement method. It was stated that a detailed definition of the appropriate procurement method would be undertaken during the project definition plan stage.27

In August 2012, a second procurement options analysis workshop was held to ensure the managing contractor procurement solution remained accurate, in light of the current knowledge and understanding of the project. The managing contractor procurement model was confirmed to be the recommended mechanism for project delivery.

The project definition plan was approved in November 2013.

In December 2014, the Karratha Health Campus Project Probity Plan, on behalf of WA Country Health Service with the Minister for Works as Principal, was endorsed for approval by the Probity Advisor, Protiviti Pty Ltd, and approved by Strategic Projects.

The Karratha Health Campus has been developed using a two stage managing contractor procurement model.

• The first procurement decision was the appointment of a managing contractor. This contract (Stage 1) was awarded to Brookfield Multiplex in July 2015.
• The second procurement decision involved consideration of the Stage 2 Offer, submitted at the conclusion of the Stage 1 Managing Contractor contract. This construction contract (Stage 2) was awarded to Multiplex Construction Pty Ltd (trading name for Brookfield Multiplex) in December 2016.

**Bulk earthworks and civil works - procurement**

The procurement for site enabling works associated with the Karratha Health Campus formed part of the Karratha City Centre Infrastructure Works Project, for which LandCorp was the contract principal. Competitive tender processes were undertaken for the bulk earthworks contract and the civil works contract in August 2014 and April 2015 respectively.

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Patient and staff accommodation
The WA Country Health Service advised that patient and staff accommodation were decoupled from the business case but not deleted from the project scope because they could be funded from an alternative source.\(^{28}\)

At the business case approval stage in May 2012, it was noted that analysis by the Western Australian Treasury Corporation “…indicated that staff accommodation for Karratha could be procured from the local supply that already existed and/or was proposed…”\(^{29}\)

The project definition plan noted that the scope of the works for the patient accommodation component was not defined and nor was a procurement model for delivery. The WA Country Health Service advised:

“In late 2014 the Housing Authority transferred 24 units in the Pelago East block of units located in central Karratha to WACHS [WA Country Health Service]. These are currently fully occupied with two held available for transient/visiting staff accommodation.”\(^{30}\)

Financial analysis
The objective of the Karratha Health Campus project is to provide optimal health services and facilities that support the community and enable future expansion requirements. Site preparation works, as well as staff and patient accommodation proposed to service the Karratha Health Campus, were deemed critical components to achieving this and considered as part of the 2012 business case.

The delivery of these elements, however, was not in the approved project budget. The WA Country Health Service advised that “It is noted that the final approved budget of $207.1 million excluded these items, in accordance with the EERC [Economic Expenditure and Reform Committee] decision of March 2012.”\(^{31}\)

As previously noted the WA Country Health Service advised that these issues were removed from the business case as the staff and patient accommodation could be funded from an alternative source. This approach was further articulated in the business case, where it was recommended that the staff and patient accommodation be funded from the Delivering Affordable Housing for Key Workers in regional Western Australia program, which would require the development of a separate business case.\(^{32}\) The project definition plan identified these elements within a list of critical issues.

LandCorp advised the Special Inquirer that its expenditure on land assembly and site and civil works for the Karratha Health Campus site was $27.047 million.

\(^{28}\) Department of Health response to Special Inquiry questions on notice, received 29 September 2017.  
\(^{29}\) Ibid.  
\(^{30}\) Ibid.  
\(^{31}\) Ibid.  
\(^{32}\) Ibid. This program was a separate project managed by the Housing Authority (now part of the Department of Communities) and funded from Royalties for Regions.
Table 1: Land assembly, site and civil works expenditure

<table>
<thead>
<tr>
<th>EXPENDITURE TYPE</th>
<th>$ MILLION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land assembly (relocation of Karratha Family Centre)</td>
<td>1.420</td>
</tr>
<tr>
<td>Site works (building demolition and filling site to RL10.3)</td>
<td>8.529</td>
</tr>
<tr>
<td>Civil works (utility services and 50% costs of roads contiguous to KHC site)</td>
<td>14.885</td>
</tr>
<tr>
<td>Design documentation and approvals</td>
<td>2.213</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>27.047</strong></td>
</tr>
</tbody>
</table>

Given the costings outlined above it is unclear why LandCorp initially sought $81 million in funding for the land assembly and site and civil works for the Karratha Health Campus site. In the hearing with the Special Inquirer, LandCorp noted that the costs were lower than anticipated on the earthwork component costs.

The figure of $207.15 million for the construction of the Karratha Health Campus is not, however, a true reflection of the entire project cost. The $27.047 million cost of site enabling works has not been included in the public statements on the project costs. For improved transparency, a minimum figure closer to $234.2 million should be used.

**Forecast recurrent cost projections**

The analysis outlined in the January 2012 report titled *Karratha Health Campus: Financial Analysis of Options*, included forecast recurrent costs projected for the first 20 years of operation of the Karratha Health Campus.

The WA Country Health Service acknowledged the decline in economic activity in the Pilbara, including Karratha. It advised the Special Inquirer that “Forecasts are undertaken at a point in time and factor in a range of planning assumptions...” and that “The WA hospital funding model incorporates annual planning assumptions to align to expected service delivery and cost profile.”

The WA Country Health Service further advised that:

“...a revaluation of the forecasted recurrent costings as per the business case has not been undertaken. WACHS [WA Country Health Service] does however undertake annual activity modelling to ensure the latest planning assumptions and trends are incorporated into ABF [Activity Based Funding]. In addition WACHS undertakes a detailed annual hospital costing exercise which informs budget allocation.”

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33 LandCorp response to Special Inquiry hearing questions taken on notice, received 20 October 2017.
34 LandCorp response to Special Inquiry request for information, received 2 August 2017.
35 LandCorp Special Inquiry hearing, 11 October 2017, 37.
36 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
37 Ibid.
Value for money
A financial analysis undertaken by the Paxon Group indicates that the Karratha Health Campus will cost marginally less to operate compared to Nickol Bay Hospital.38

“This includes a range of factors:
- Clinical activity: adjustments to the activity profile assumptions39
- Patient transport costs: Karratha Health Campus will increase self-sufficiency and reduce the requirements for patients to be transferred to Perth.
- Facilities Costs: Karratha Health Campus has a larger footprint which increases operating costs.
- ICT: the introduction of new technology will need to be maintained and supported which increases operating costs.
- Ambulatory Care Centre: increase in revenue which decreases the net cost of service.
- Accommodation: new staff accommodation options would reduce operating costs. Whilst the accommodation item in the business case did not progress, alternative accommodation options have since become available.
- Operating Efficiencies: improved configuration and amenity of the new building will create operating efficiencies.”40

Strategic Projects advised the Special Inquirer that

“It should be noted that through the design process for the KHC [Karratha Health Campus], there has been a strong focus on minimising the recurrent operational and maintenance expenditure, through the selection of efficient architecture, room and departmental layouts, plant and equipment and construction materials.”41

The tender decision Gateway Review undertaken in March 2015 made a recommendation to “Review any impact of the Super Clinic on the service delivery model.”42 The WA Country Health Service advised that the impact of the Super Clinic that was to be opened in Karratha was taken into account during the early planning for the Karratha Health Campus. The Karratha Super Clinic is intended to serve as the hub for general medical practice and educational programs and clinical training in regional health practices. The WA Country Health Service further advised that service planning confirmed that the Super Clinic would have no material impact on the services to be delivered at the Karratha Health Campus.43

38 Paxton Group, Department of Treasury (Strategic Projects) - Karratha Health Campus: Financial Analysis of Options, [January 2012].
39 The new hospital will enable patients to be treated in shorter timeframes, hence reducing their stay in comparison to the current Nickol Bay Hospital, therefore reducing costs.
40 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
41 Department of Finance response to Special Inquiry questions on notice, received 27 September 2017.
42 Department of Finance, Gateway Review – Tender Decision 30 March to 2 April 2015, 15 April 2015.
43 Department of Health response to Special Inquiry questions on notice, received 29 September 2017.
**Benefits realisation**

The analysis of benefits of this project cannot be undertaken until the construction is complete and the hospital is operational.

The tender decision Gateway Review noted that it may be beneficial to coordinate all of the complementary projects (patient accommodation, staff accommodation, complementary collocated services, land assembly [for the Karratha Health Campus], and road and civil works) under a program of works and to assess the impact on the overall benefits to be realised by the Karratha Health Campus. The Special Inquirer acknowledges that while this may be challenging given the coordination required across the multiple agencies, consideration should be given to this approach.

**RECORD KEEPING**

Strategic Projects, the Department of Health and LandCorp provided all documentation and information requested by the Special Inquirer.

**FINDINGS**

1. The governance arrangements which support the Karratha Health Campus project appear appropriate for the value and level of complexity of the Karratha Health Campus project. The Major Health structure Projects Steering Committee however, is no longer active and this presents a gap in the governance framework for the Karratha Health Campus project.

2. The project management approach, including the business case and project definition plan documentation, has provided a sound basis for the success of the Karratha Health Campus project.

3. The options analysis presented in the 2012 business case appears to be robust and the decision to relocate to an alternative site in the Karratha town centre appears to have occurred with an appropriate level of due diligence to determine site location and suitability.

4. The procurement and contract management appear appropriate.

5. The Public statements which put the total costs of the Karratha Health Campus at $207.15 million underestimate the true cost of $234.2 million required to deliver the health service needs identified in the Karratha Health Campus service plan.

**RECOMMENDATIONS**

1. The Department of Health must develop a summary of total costs to improve transparency of total costs required to deliver on the business need.

2. The Health Infrastructure Projects Governance Framework, May 2010 requires updating to reflect that the Major Health Infrastructure Projects Steering Committee is no longer an active committee.

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44 Department of Finance, Gateway Review – Tender Decision 30 March to 2 April 2015, 15 April 2015.
QUEEN ELIZABETH II
MEDICAL CENTRE CAR PARK

“...it is questionable whether the project will deliver value for money.”
John Langoulant, Special Inquirer

The decision to build a multi-storey car park at the Queen Elizabeth II Medical Centre site was understandable. A shortage of car bays on the site and the prospect of increased numbers of daily visitors with the completion of the Perth Children’s Hospital needed to be addressed. What is in question is whether the model chosen to deliver the car park and manage the site’s parking arrangements overall will generate value for money for taxpayers.

The public private partnership model was primarily motivated by the Government’s desire to limit the increase in State debt. One of the key objectives in proceeding with the car park was there would be no ongoing liability to the State.

But this has not been achieved. Continued delays in the opening of the Perth Children’s Hospital have meant less operational beds on the Queen Elizabeth II Medical Centre site than expected. This, together with a decision by the previous government to cap staff parking fees at a rate below that specified in the agreement with the operator, have required the State to pay compensation to the car park owner.

In effect, the taxpayer is subsidising staff parking costs by paying the owner the difference between the capped charge and the agreed contract fee. Compensation is paid for material adverse effect events. As at 31 August 2017, these payments have cost the State around $15.89 million. This is an additional and unexpected cost that WA Health must meet in its budget.

* The North Metropolitan Health Service has also previously been referred to as the North Metropolitan Area Health Service (up to the financial year 2011/12).

**Government agency/entity:**
Strategic Projects, Department of Health, North Metropolitan Health Service*, Queen Elizabeth II Medical Centre Trust

**Project timeline:**
2009 - 2037

**Total cost to Government**
$7.3 million (planning and administration costs)
$15 885 843 (compensation payments paid to 31 August 2017)

2009
Government approves development of new car parking facility

2011
Capella partnership signed to build-own-operate-transfer facility until 2037. Includes management of Perth Children’s Hospital car bays and existing 2000 bay car park

2011
Construction of car park commences

2013
Car park complete

2015
Complaints regarding high parking costs result in Government subsidising costs

2017
Perth Children’s Hospital delays result in Government paying Capella compensation
**SUMMARY**

The Queen Elizabeth II Medical Centre car park project involved the building of a multi-deck car park and the management of ground level parking bays on the Queen Elizabeth II Medical Centre site. This brought the total car parking capacity at the site to approximately 5,000 bays.

The project was led by the Strategic Projects Branch of Treasury (now with the Department of Finance). The Major Health Infrastructure Steering Group endorsed the procurement plan but was not “directly involved in the business case approval process and accordingly, its endorsement should not be considered to extend to the underlying business case justification”.1

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1 Department of Treasury and Finance Memorandum to the Under Treasurer from the Executive Director Strategic Projects, Approval of Queen Elizabeth II Medical Centre (QEIIMC) Car Parking Procurement Plan, 27 May 2010
The expression of interest and request for proposal responses for the project were assessed by a panel from Strategic Projects, the Department of Health, the Department of Treasury and Finance, the North Metropolitan Health Service\(^2\) and the State Solicitor’s Office.\(^3\)\(^4\) The contracts for the multi-deck car park and the at-grade bays are between the State and Capella Parking Pty Ltd.

The Government’s decision to build a multi-storey car park facility at the Queen Elizabeth II Medical Centre to supplement the existing car bays at the site was reasonable.

While the Government’s desire to limit increases to the State’s debt was a commendable objective, the priority placed on this objective appears to have compromised the State’s negotiating position.

The setting of car parking rates on the site at levels lower than those agreed with Capella, delays to the opening of the Perth Children’s Hospital and other material adverse effect events, have resulted in the State having to make compensation payments to Capella totalling around $15.89 million to the end of August 2017.\(^5\) These risks should have been anticipated and better mitigated. They are still in play today.

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\(^2\) Known as North Metropolitan Area Health Services at the relevant time.

\(^3\) Government of Western Australia, Department of Treasury and Finance, EOI Evaluation Report – Queen Elizabeth II Medical Centre Car Parking Project, 4 August 2010

\(^4\) Government of Western Australia, Department of Treasury and Finance, Request for Proposal Evaluation Plan – Queen Elizabeth II Medical Centre Car Parking Project, 25 October 2010

\(^5\) Department of Health response to Special Inquiry request for information, received 4 December 2017
PROJECT SYNOPSIS

*By way of clarification as to the respective roles of the Queen Elizabeth II Medical Centre Trust (Trust), the Delegate, North Metropolitan Health Service (NMHS) and the Department of Health (DOH):*

- **a)** The Trust is a statutory authority established under its own Act of Parliament in 1966 (Act).
- **b)** The Trust is vested with the Queen Elizabeth II Medical Centre site (Site) and under the Act is reposed with the development, control and management of the Site.
- **c)** Through delegated authority from the Trust, the Delegate acts as the executive arm of the Trust and effectively “controls and manages” the Site’s day-to-day operations. The “development” of the Site is non-delegable by the Trust.
- **d)** The Delegate, until 2016, was ... defunct Board of ... Sir Charles Gairdner Hospital, whose functions ... vested in ... Minister for Health ..., the Minister performed the functions of the Delegate via the DOH through ... NMHS.
- **e)** From 1 July 2016 upon the discrete incorporation of NMHS, the incorporated entity NMHS assumed the role of the Delegate and performs the Delegate functions through the NMHS executive and a discrete management team assigned to the Trust for this purpose.
- **f)** With respect to the arrangements for the QEII Medical Centre car parking project, the developer Capella Car Parking Pty Ltd (Capella, or as the case may be, “Project Co”), the Trust and the Delegate worked with the DOH, the Minister and the State generally to assist in the provision of a piece of key infrastructure to the Site which was essential to support the ongoing development of the Site.

The objective of the Queen Elizabeth II Medical Centre car park project was to enhance the car parking facilities for patients, visitors and staff at the Queen Elizabeth II Medical Centre. The availability of adequate visitor and patient parking in a safe and secure environment was considered to be critical to the success of the Queen Elizabeth II Medical Centre redevelopment.

**Figure 2: Aerial view of the Queen Elizabeth II Medical Centre site**

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6 Queen Elizabeth II Medical Centre Trust response to Special Inquiry questions on notice, received 2 October 2017
7 North Metropolitan Area Health Service, QEII Medical Centre Multi-Deck Car Parks Development Business Case (April 2010)
8 Ibid.
New multi-deck car parking facilities were assessed as being required to address three primary drivers:

1) the increase in forecast demand associated with the anticipated commissioning of the new Perth Children’s Hospital and organic growth in demand at Sir Charles Gairdner Hospital;
2) the forecast reduction in existing at-grade car parking, as existing car parks are replaced by new developments under the broader Queen Elizabeth II Medical Centre redevelopment; and
3) the proposed site redevelopment was also seen to restrict the space available for future at-grade parking facilities, thereby creating a requirement for a multi-deck solution.\(^9\)

Table 1: Timeline of events in the development of car parking arrangements at the Queen Elizabeth II Medical Centre

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAY 2009</td>
<td>2009/10 State Budget media statement refers to the commencement of development for the upgrade of parking, access roads and site infrastructure at the Queen Elizabeth II Medical Centre site.</td>
</tr>
<tr>
<td>APRIL 2010</td>
<td>Business case developed.</td>
</tr>
<tr>
<td>21 MAY 2010</td>
<td>Approval of business case.</td>
</tr>
<tr>
<td>2 JUNE 2010</td>
<td>Invitation for expression of interest issued.</td>
</tr>
<tr>
<td>30 JUNE 2010</td>
<td>Closing date for submissions of expression of interest.</td>
</tr>
<tr>
<td>SEPTEMBER 2010</td>
<td>Approval of short-listed respondents.</td>
</tr>
<tr>
<td>4 OCTOBER 2010</td>
<td>Request for proposal released to three short-listed respondents.</td>
</tr>
<tr>
<td>23 DECEMBER 2010</td>
<td>Closing date for request for proposal responses.</td>
</tr>
<tr>
<td>7 FEBRUARY 2011</td>
<td>Public sector comparator approved.</td>
</tr>
<tr>
<td>25 FEBRUARY 2011</td>
<td>Announcement of dual negotiation with preferred respondents.</td>
</tr>
<tr>
<td>13 MAY 2011</td>
<td>Capella approved as preferred respondent.</td>
</tr>
<tr>
<td>5 JULY 2011</td>
<td>Project Agreement between the State and Capella is signed (contractual close).</td>
</tr>
<tr>
<td>6 JULY 2011</td>
<td>Financial close.</td>
</tr>
<tr>
<td>10 OCTOBER 2012</td>
<td>Media statement – First stage of multi-deck car park opens.</td>
</tr>
<tr>
<td>28 NOVEMBER 2013</td>
<td>Media statement – Final stage of multi-deck car park opens.</td>
</tr>
</tbody>
</table>

In April 2010 the business case for the project was completed. The business case noted that the project differed from other public infrastructure projects due to the cash flow positive nature of the car park asset.

\(^9\) Ibid.
This introduced the potential for the asset to be funded by the private sector without the requirement for public sector concessions or funding.

The build-own-operate-transfer model involved the State granting a long term lease to a private sector partner or consortium. This would allow the partner or consortium to construct and operate the car park at its own cost for the term of the project, whereupon it would be transferred back to the State at no cost.

The business case commented that Cabinet had noted in November 2009, some five months earlier that the project was to be delivered as a build-own-operate-transfer model. The car parking demand risk would be transferred to the private sector and no capital or recurrent contribution would be required by the State.10

**Public sector comparator**

The business case included a public sector comparator analysis. The public sector comparator provided a measure of the potential costs to the State if it was to develop and manage the project itself. The development of the comparator entailed identification and valuation of the risks that might be faced by the State if it undertook the project itself. An assessment of the risks which would be transferred to the private partner under a build, own, operate and transfer arrangement are also assessed.

The public sector comparator for this project illustrated that it would take 33.9 years for the State to recover the costs of the project if the State was to construct and operate the parking facilities.11 By comparison, the expected project term for Capella is just over 26.33 years.12 There was also a sizeable difference of approximately $34 million — in favour of Capella — in the capital costs for constructing the multi-deck car park. The public sector comparator assumed that there was a transfer of operating risk and construction risk. The value of the transferred operating risk was $11.078 million (nominal value).13

A procurement process was conducted by Strategic Projects following finalisation of the business case. An expression of interest documentation was released to the market in June 2010.

From the expression of interest process, three respondents were invited to proceed to the request for proposal phase. The request for proposal document was released in October 2010, followed by an interactive tendering process from October 2010 to December 2010. The two final respondents, Capella and International Parking Group, were invited to participate in a dual negotiation phase.

In July 2011, the Government signed a public private partnership agreement with Capella to build, own and operate the multi-storey car park. This agreement included the car park being transferred back to the State at the end of the agreement in 2037.

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10 Ibid.
12 Capella Parking - Financial Model - Financial Close.XLSB [July 2011]
13 PriceWaterhouseCoopers, QEII Car Park Project – Public Sector Comparator, 1 October 2010, 8
Construction of the multi-storey car park commenced in September 2011 and was completed in November 2013, approximately eight months ahead of schedule.

The Project Agreement with Capella included the management of and revenue collection for the 300 bays located beneath the newly built Perth Children’s Hospital and the existing 2,000 ground level car park bays. In exchange for providing Capella with the existing at-grade car park bays, Capella is required to pay a licence fee to the Queen Elizabeth II Medical Centre Trust equating to approximately $2 million per annum paid in quarterly instalments.15

The new multi-story car park together with the 300 bays located beneath the Perth Children’s Hospital

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14 QEIIMC Car Parking Project – Contract Administration Plan (October 2014)
15 Queen Elizabeth II Medical Centre Car Parking - At-Grade Car Parks Management Agreement between The Minister for Health incorporated as the board of the Sir Charles Gairdner Hospital under s7 of the Hospitals and Health Services Act 1927 (WA) in its capacity as delegate of the Queen Elizabeth II Medical Centre Trust and Capella Parking Pty Ltd in its capacity as trustee of the Capella Parking Unit Trust (unsigned execution version).
increased the total number of car park bays across the Queen Elizabeth II Medical Centre site from 3,035 bays to 5,140 bays.\textsuperscript{16} The number of car park bays on the site is "restricted to 5,350 bays (inclusive of 150 exempt bays), with 4,000 made available for staff parking, unless otherwise approved by the WAPC [Western Australian Planning Commission]."\textsuperscript{17}

The car bays located beneath the Perth Children’s Hospital were built and funded by the State. The management rights for these bays were transferred to Capella at no cost under the Project Agreement.

The Project Agreement effectively creates parking management monopoly rights for Capella across the precinct. These rights include Capella having first right of refusal to operate any new car parking facilities on the Queen Elizabeth II Medical Centre site until November 2037. The agreement also granted Capella the exclusive right to pursue other specified commercial opportunities at designated locations within the site. The specified opportunities include a child care facility, convenience retail facilities, essential daily services retail facilities, automated vending machines and a restaurant or café. Under the Project Agreement, the State has restrictions around opening a competing childcare centre at the site at non-commercial or subsidised rates.

There are 13 material adverse effect event provisions built into the contract that are in favour of Capella. The principal ones are:

- operational beds, which relates to a quota for operational beds open on the site;
- competing car parks, which relates to additional parking within a 2.3 kilometre band from the centre of the site;
- change in car parking charges, which relates to changes in the parking rates set legislation;
- variation to the number of parking bays, which relates to the minimum number of bays the State needs to provide for Capella to manage; and
- competing subsidised childcare centre, which relates to the State opening a subsidised competing childcare centre on the Reserve\textsuperscript{18} at non-commercial rates or the State provides a benefit or subsidy to childcare users that is not available to Capella to provide (including salary sacrifice or equivalent schemes).\textsuperscript{19}

As a result of several material adverse effect events being triggered, the State has been required to make compensation payments to Capella. These payments have totalled $15.885 million to the end of August 2017\textsuperscript{20} and are ongoing as at the date of this report. The two primary drivers of these compensation payments were:

\begin{itemize}
  \item Queen Elizabeth II Medical Centre Car Parking Project - Contract Administration Plan (October 2014)
  \item Western Australian Planning Commission Minutes of meeting No. 7423, 27 April 2011, 5
  \item \textsuperscript{18} "Reserve" means the Queen Elizabeth II Medical Centre Reserve established in accordance with section 6(1) of the Queen Elizabeth Medical Centre Act 1966 (WA) and which includes the Construction Areas and the Operating Areas. These terms are as defined in the Queen Elizabeth II Medical Centre Car Parking Project, Project Agreement between the State of Western Australia and Capella Parking Pty Ltd in its capacity as trustee of the Capella Parking Unit Trust, dated 5 July 2011.
  \item Queen Elizabeth II Medical Centre Car Parking Project, Project Agreement between the State of Western Australia and Capella Parking Pty Ltd in its capacity as trustee of the Capella Parking Unit Trust, dated 5 July 2011, 76-77
  \item Department of Health response to Special Inquiry request for information, received 4 December 2017
\end{itemize}
payments have been the State’s decision not to increase car parking charges in line with the Project Agreement and delays in the opening of the Perth Children’s Hospital.21

The decision not to increase car parking charges in line with the Project Agreement followed concerns expressed about the cost of staff parking fees, particularly in view of the lack of public transport alternatives for shift workers at the site.22 In effect, the Government is subsidising staff parking costs by paying Capella the difference between the reduced charge and the agreed fee structure. The following table provides a summary of the payments made by the State to Capella for the material adverse effect events payments being parking charges difference, competing car park and parking bay variation.23

**Table 2: Summary of the payments**

<table>
<thead>
<tr>
<th>Invoice offset by construction credits (May 2014)</th>
<th>$1 363 204</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/2013/2014</td>
<td>$341 183</td>
</tr>
<tr>
<td>2014/2015</td>
<td>$2 095 675</td>
</tr>
<tr>
<td>2015/2016</td>
<td>$1 424 611</td>
</tr>
<tr>
<td>2016/2017</td>
<td>$1 358 345</td>
</tr>
<tr>
<td>2017/2018</td>
<td>$234 15724</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6 817 175</strong></td>
</tr>
</tbody>
</table>

The State is also paying compensation to Capella of around $700 000 per month linked to the delayed opening of the Perth Children’s Hospital.25 The Project Agreement includes a requirement that the State pays Capella compensation if the number of operational beds across the Queen Elizabeth II Medical Centre site is less than 883 beds, effective 1 July 2016. The number of beds was agreed on the assumption that the Perth Children’s Hospital would be open by this date.

Strategic Projects advised that

>"Capella was also concerned that the State could procure a competing car park within walking distance to the reserve that would have significant impact on its [Capella’s] ability to meet its revenue forecasts."26

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21 Western Australia, Parliamentary Debates (Hansard), Legislative Assembly, 19 September 2012, 6136f-6137a
22 Ibid.
23 Department of Health response to Special Inquiry request for information, received 4 December 2017
24 As at end of 31 August 2017
25 Western Australia, Parliamentary Debates (Hansard), Assembly Estimates Committee B, 19 September 2017, 130b-155a
26 Department of Health response to Special Inquiry questions taken on notice, received 1 November 2017
The competing car park bands apply within 2.3 kilometres of the “Reserve” and the agreement effectively provides Capella with a monopoly within these bands.

Commercial terms were requested by Capella in which Capella would be provided with compensation if the State was to impact demand by procuring a competing car park. To date there have been two circumstances in which this ground for a compensation claim by Capella have been triggered. One related to parking made available during the construction of the multi-storey car park and the other as a result of 30 car bays being located beneath Ronald McDonald House. In both circumstances the State has reached a commercial settlement with Capella.

There have also been several smaller issues that have resulted in the State paying compensation to Capella. These include incorrect designation of staff users, competing car parks and processes undertaken in relation to parking infringements. A settlement deed with Capella was signed in June 2016 and included residual amounts associated with these issues, with a payment of $550,000 made to Capella.

In 2014, and as a result of subordination provisions within its financing arrangements, Capella was unable to make its quarterly licence fee payments to the Queen Elizabeth II Medical Centre Trust. These amounts accrued to a total of $5.8 million as at March 2016 and the amount was repaid to the State as part of a settlement deed in June 2016. In the interim period the State was required to pay the Trust for the unpaid licence fees, in accordance with the Co-operation Deed between the Trust and the State. Responsibility for payment was to be agreed between the Department of Treasury and Department of Health. In September 2014 the Department of Health indicated it was determining the appropriate funding mechanisms to deal with the licence fee payments. The Special Inquirer was not provided with any information that established what funding mechanism was put into place.

The project was handed over to the North Metropolitan Health Service as the State representative in July 2014.

**EVALUATION OF THE PROJECT**

Governance for this project was consistent with the arrangements that applied for the State’s major health infrastructure projects. The Major Health Infrastructure Projects Steering Committee was responsible for the project’s governance and was chaired by the Department of Health’s Director General. The steering committee membership also included the Under Treasurer, the State Solicitor, the Department of Planning’s Director General and Strategic Projects’ Executive Director.

The Treasurer was the responsible Minister for the project, with approval authority delegated by Cabinet in November 2009.

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27 Queen Elizabeth II Medical Centre Car Parking - At-Grade Car Parks Management Agreement between The Minister for Health incorporated as the board of the Sir Charles Gairdner Hospital under s7 of the Hospitals and Health Services Act 1927 (WA) in its capacity as delegate of the Queen Elizabeth II Medical Centre Trust and Capella Parking Pty Ltd in its capacity as trustee of the Capella Parking Unit Trust (Execution version).
28 Department of Health response to Special Inquiry request for information, received 22 November 2017.
A project executive group was established to oversee the day-to-day running of the project and to report to the steering committee. The project executive group included representatives of Strategic Projects, the North Metropolitan Health Service, the Department of Treasury and Finance and the State Solicitor’s Office.

A Gateway Review of the business case was completed in March 2010. The conclusion reached by this review was that

“the Review Team finds that [a] range of activities are currently being undertaken in delivery of the project. These activities appear ad hoc and often governed by informal arrangements between individuals. The Gateway Review Team has not identified any action or non-action that exposes the project to any significant risk. However, as the project increases its momentum, in particular given its aggressive timelines, a range of significant risks will emerge requiring strong governance and effective project management methodologies.”

From the documentation provided to the Special Inquirer, the governance oversight applied to the negotiation of key Project Agreement terms that have subsequently been the source of compensation payments by the State is not clear.

**PROCUREMENT**

**Business case and procurement model**

The State conducted market soundings in late 2009 and early 2010 to assess the likelihood of success of a build-own-operate-transfer model, which was followed by an expression of interest process then a request for proposal process. The evaluation of responses to the request for proposal recommended a dual negotiation phase between the final two respondents.

Cabinet approved the procurement to proceed on a build-own-operate-transfer model basis. A public sector comparator was developed and the bids were assessed against the public sector comparator. The bid from

“...Capella funded the construction of the project with no initial financial outlay from the State on the expectation that it would recover its investment in the project over time from car park revenue. Forecast demand from PCH [Perth Children’s Hospital] staff and visitors was a key component of Capella’s revenue projections underpinning its investment.”

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29 Known as North Metropolitan Area Health Services at the relevant time.
30 Department of Finance, Gateway Review – Business Case (Queen Elizabeth II Hospital Car Park Project) (17 March 2010)
31 North Metropolitan Area Health Service, QEII Medical Centre Multi-Deck Car Parks Development Business Case (April 2010)
32 Department of Finance response to Special Inquirer, received 4 October 2017.
The following four options were identified in the business case to address the investment objectives of the project.

- Option 1 — Do nothing.
- Option 2 — Retain current parking facilities and build extra bays on-grade to meet future parking demand.
- Option 3 — Off-site development of car bays to meet future parking demand.
- Option 4 — Development of two multi-deck car parks located on the eastern side of campus to meet future parking demand.

The business case provided high level analysis of the different procurement options. The build-own-operate-transfer model was cited as the best suited model as:

“...alone of all the models considered, the BOOT [build-own-operate-transfer] model was the only model that resulted in the private party taking full car park demand risk and no direct payments being required from the State over the duration of the Project. As such, funding for the Project will be derived from tolls imposed on car park users and a greater degree of risk transfer is achievable relative to other procurement models.33

The other procurement models assessed were:

- public build, own and operate;
- design and construct;
- design-build-maintain;
- design-build-maintain-operate;
- design-build-fund-maintain; and
- build-own-operate-transfer.

The business case was prepared with assistance from the advisory firm Paxon Group. The structure of the business case meets the requirements of the Strategic Asset Management Framework, including commentary on the project’s drivers and objectives, options analysis and procurement models.

The project’s objectives, however, are lacking in detail. A Gateway Review completed in October 2013 commented that the business case did not contain any outcome focussed measures which compromised the tracking and assessment of benefits.34

The Special Inquirer was concerned that a clear inference, as reflected in the Cabinet note of November 2009, was taken in assessing the two development options. The public sector comparator was central to the decision to favour the private approach.

33 North Metropolitan Area Health Service, QEII Medical Centre Multi-Deck Car Parks Development Business Case (April 2010)
34 Department of Finance, Gateway Review – Benefits Evaluation (QEII Car Park Project) (31 October 2013)
Risk transfer

The business case noted:

“...on 30 November 2009 Cabinet noted that the Project is to be delivered as a BOOT [build, own, operate, transfer] model, with car parking demand risk transferred to the private sector, and no capital or recurrent contribution required by the State.”

The State’s view was that the adopted build-own-operate-transfer model saw significant risk transfer to the private sector provider. Within the public sector comparator model only 8.4 percent of the operational risk was attributed to the State with the remainder transferred to Capella. The build-own-operate-transfer model allocated 100 per cent of the construction risk to Capella.

By using a build-own-operate-transfer model it was viewed that:

“The two greatest Project risks are demand risk and construction cost risk. These are risks that are most often experienced by the private sector for car parking projects in commercial developments. These are not risks that the public sector is best placed to manage. The model that transfers these risks to the private sector, the sector best placed to deal with such risks, are preferred.”

Fine judgements are often required in assessing the value of risk transfers in public sector comparators. While that is appreciated, the Special Inquirer was not convinced that the demand and construction risk factors were as material as assessed. For example, the $34 million construction risk represented a public sector premium for the construction of 44 per cent. That is high by any standard considering that the public sector would have engaged in exactly the same process as Capella in tendering for the construction of the car park.

The demand risk for car parks on a major WA Health site that has future expansion plans was considered to be low. This was especially so given that there are no alternative transport options of any significance in planning at this time. That Capella may be finding that its revenues have been less than estimated has more to do with the Perth Children’s Hospital not having opened. And yet the State took much of that risk away with its agreement to ‘guarantee’ Capella’s returns if the operational bed numbers were less than assumed.

35 North Metropolitan Area Health Service, QEII Medical Centre Multi-Deck Car Parks Development Business Case (April 2010), 7
36 North Metropolitan Area Health Service, QEII Medical Centre Multi-Deck Car Parks Development Business Case (April 2010), 107
37 PriceWaterhouseCoopers, QEII Car Park Project – Public Sector Comparator, 1 October 2010
The Gateway Review undertaken in March 2010 noted the following as a finding:

“The parking fees embedded in the financial model and PSC [public sector comparator] has been established at a whole of Department of Health level. The final approval of these fees remains outstanding and will be subject to a consultation process with affected staff, patients and visitors to the site. The PSC includes the established whole of department parking fees. In the event that such fees are not applied then the financial outcomes will be affected.”38

Despite demand risk purporting to be allocated to Capella, the price risk retained by the State acts as a quasi-demand risk while the parking rates are below the rates specified in the Project Agreement with Capella. This effectively provides an artificial floor for Capella’s demand risk, as Capella is being compensated irrespective of whether the car bays are being used or not.

Under the Project Agreement, the procurement by the State of a competing car park (that is, a car park not operated by Capella) within specified bands is assessed as a Material Adverse Effect Event for which Capella may be entitled to compensation. The competing car park bands apply within 2.3 kilometres of the “Reserve”39 and provides Capella with an effective monopoly within these bands.

A more detailed risk allocation assessment undertaken for the purposes of the public sector comparator noted that the Government would retain risks including price risk (the setting of parking rates) and health planning risk (the risk that a move in health services would cause an adverse shift in demand for car parking facilities). This is based on the business case assessment that these risks would be retained by the Government. These risk positions are reflected in the Project Agreement requirement for the State to compensate Capella under the material adverse effect event clauses relating to parking rates and number of operational beds.

The Government’s retention of the risk that car parking rates would change highlights the importance of ensuring that the projected rates used in the Project Agreement were likely to proceed. The level of consultation undertaken within government to gain sufficient confidence in the forecasted parking rates is not clear through any of the documentation provided to the Special Inquirer.

It has been put to the Special Inquirer that while it is normal for the project counterparty to assume ‘general’ demand risk (for example, an increase in the use of public transport), given the State has a high level of control over the Perth Children’s Hospital and given that the hospital is a key determinant of demand, it was a requirement for the State to assume this risk.

38 Department of Finance, Gateway Review – Business Case (Queen Elizabeth II Hospital Car Park Project) (17 March 2010)
39 Queen Elizabeth II Medical Centre Car Parking - At-Grade Car Parks Management Agreement between The Minister for Health incorporated as the board of the Sir Charles Gairdner Hospital under s7 of the Hospitals and Health Services Act 1927 [WA] in its capacity as delegate of the Queen Elizabeth II Medical Centre Trust and Capella Parking Pty Ltd in its capacity as trustee of the Capella Parking Unit Trust (Execution version).
Strategic Projects advised that:

“Forecast demand from PCH [Perth Children’s Hospital] staff and visitors was a key component of Capella’s revenue projections underpinning its investment … Material adverse effect event clauses whereby the State takes the risk for material impacts on project finances within its control are standard in BOOT [build-operate-transfer] contracts and other forms of public private partnerships.”

Strategic Projects did not believe that Capella would have been able to invest in the project without the demand associated with the Perth Children’s Hospital. The Special Inquirer notes that this position is not aligned with either the business case or the public sector comparator model that assumes the demand risk is transferred to the private provider. In the negotiation of commercial terms with Capella, the State compromised on its original position for the material adverse effect event relating to operational beds. The memorandum to the Under Treasurer seeking approval of the contract execution noted:

“While this was not the State’s original preferred commercial position, it is understandable given Capella’s dependence on site activity for its revenue and clinical planning suggests that activity at the site will not decrease.”

The North Metropolitan Health Service advised the Perth Children’s Hospital commissioning team on 29 July 2015 that “it was clear that there was a necessity to ensure that obligations of PCH [Perth Children’s Hospital] under the commercial agreements with Capella were communicated further.” The two conditions highlighted within the letter were that a material adverse effect event could be triggered by the minimum number of visitor bays to be delivered under PCH and the planned number of beds being in operation. The possible impact of a “competing subsidised child care centre” on the Queen Elizabeth II Medical Centre site was also highlighted in the context of staff being able to salary sacrifice child care fees at the new Perth Children’s Hospital child care facility. It also stated that “The fiscal penalties under the [Project] agreement for any breaches of the above discussed clauses can be substantial and are not straightforward.” The Special Inquirer was not provided with any documentation which demonstrated resolution of these issues by the State.

In addition to the material adverse effect event relating to the Perth Children’s Hospital, the arrangements to which the State agreed for the payment of the licence fee by Capella to the Queen Elizabeth II Medical Centre Trust is not a full transfer of demand risk. The subordination of licence fees payable to a status below Capella’s debt financing payments sees the State, in practice, assuming some of the consequences of demand risk. The cooperation deed requiring the State to guarantee payments to the Queen Elizabeth II Medical Centre Trust accentuates this position.

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40 Department of Finance response to Special Inquiry questions on notice, received 4 October 2017
41 Department of Treasury and Finance Memorandum to the Under Treasurer from the A/Director, Public Private Partnerships, Approval of Contract Execution - Queen Elizabeth II Medical Centre Car Parking Project, 30 June 2011
42 Department of Health, North Metropolitan Health Service, Letter to Executive Director, PCH Commissioning from Project Coordinator – Strategy, Planning and Redevelopment, North Metropolitan Health Service, QEII Medical Centre Car Parking Project – Perth Children’s Hospital Car Park, 29 July 2015
43 Ibid.
The consideration given to the State’s risk that car parking rates may not align with the rates specified in the agreement with Capella is not clear. Strategic Projects has stated that the Department of Health and the North Metropolitan Health Service\(^{44}\) approved all major decisions,\(^{45}\) including parking fees and bay requirements. The Special Inquirer was not provided with any documentation that indicates that a robust assessment was undertaken of the risks to the State flowing from the commercial terms agreed with Capella. The Special Inquirer is of the view that the demand risk that was assumed to have been fully transferred to Capella has been retained materially by the State.

The requirement of the State to compensate the Queen Elizabeth II Medical Centre Trust for any licence fee payments not made by Capella did not represent an equitable allocation of risk between the various State parties. Ownership of the multi-storey car park will be transferred to the Trust at the end of Capella’s lease term and the Trust has its revenue during the build-own-operate-transfer period guaranteed by the State when Capella does not pay the licence fee. Further, the Trust’s income is not affected by payments to be made to Capella under material adverse effect event clauses. The final commercial position is favourable to Trust but a financial drain on the North Metropolitan Health Service’s budget. These competing interests will be further complicated once the Perth Children’s Hospital opens and the Child and Adolescent Health Services’ interests are added to the mix.

**PROJECT MANAGEMENT**

The multi-deck car park was delivered early and without any construction issues. No project management concerns have been raised with the Special Inquirer through examination of documentation, hearings held or submissions received.

**CONTRACT MANAGEMENT**

The Gateway Review completed in October 2013 found that the project did not place enough focus on the operational aspects of the site during the planning stages and that a plan for the transition from construction to the operational phase should have been developed at an earlier point.\(^{46}\) The car park experienced a number of operational and administrative teething problems, such as identification tag reading errors, delays in vehicle egress and errors in deducting parking fees. A high number of complaints were received in its first 12 months of operation.

In its project close-out report, Strategic Projects stated that the Gateway Review’s recommendations for the operations phase had or were in the process of being implemented. This included the designation and appointment of a State Representative and contract manager for the North Metropolitan Health Service. Key performance indicators are also being developed to assist with benefits and operating performance measurement.

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\(^{44}\) Known as North Metropolitan Area Health Services at the relevant time.

\(^{45}\) Department of Finance response to Special Inquiry questions on notice, received 4 October 2017.

\(^{46}\) Department of Finance, Gateway Review – Benefits Evaluation (QEII Car Park Project) (31 October 2013).
As part of the project handover, Strategic Projects in conjunction with the North Metropolitan Health Service developed a contract management plan and contract administration manual. The contract management plan provides high level guidance on managing contract risk and stakeholder relationship management. It does not, however, provide specific guidance about handling the Project Agreement’s material adverse effect event regime.

The North Metropolitan Health Service advised the Special Inquirer that monitoring of material adverse effect events is managed and monitored by its dedicated contract manager who represents both the North Metropolitan Health Service and the Queen Elizabeth II Medical Centre Trust. Material adverse effect event risks are managed through monthly operational meetings and ad hoc communication.

The North Metropolitan Health Service further stated that it undertakes monitoring of the cost of the contract including compensation paid but has not undertaken a comparison to the public sector comparator for the project. The Special Inquirer is of the view that a benefits realisation analysis of the actual project outcomes documented in the project business cases and/or options analysis should be undertaken. This analysis would contribute to the State’s project knowledge in reflecting on the lessons learned, given that this was one of the State’s first public private partnerships.

**COST BENEFIT REALISATION**

The business case and the public sector comparator developed for the procurement of a multi-deck car park were strongly in favour of a build-own-operate-transfer model. The commercial terms negotiated reflected a position whereby it was better value for money to have a private company undertake the construction and operation of the car park and the State retain risk in relation to areas it was felt the State could control. In hindsight, this view of the risk transfer did not fully reflect the practical operation of the contract provisions and the political risk from the issue of car parking charges.

At the Special Inquirer’s hearings with the Department of Health, the Queen Elizabeth II Medical Centre Trust and Strategic Projects, a resounding position was put forward that the arrangements with Capella are a “good deal”. The Special Inquirer is of the view, however, that the compensation payable to Capella has the potential to make the current arrangement a “costly deal” for the State.

The comparison of the public sector comparator’s cost to construct and maintain the multi-deck car park against Capella’s final model illustrated that the main difference between both models was the capital expenditure.

All revenue from the multi-deck car park and the at-grade car bays are collected and retained by Capella in

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47 Department of Health response to Special Inquiry questions on notice, received 5 October 2017
accordance with the Project Agreement. This includes the collection of parking charges, income derived from commercial opportunities within the multi-deck car park and compensation paid by the State.48

Capella is not entitled to collect revenue derived from any additional bays made available by the State over and above the Minimum Number of Parking Bays as specified in Schedule 19, column 5 of the contract administration manual.49

The parking rates charged by Capella are specified in the Queen Elizabeth II Medical Centre (Delegated Site) By-Laws 1986. Fines and penalties for parking are imposed by and collected by the North Metropolitan Health Service as the Delegate of the State.

A revenue sharing model applies when the parking charges are increased to a level above the agreed parking charges in the Project Agreement and the increase has a positive effect on Capella’s revenue, defined as the Revenue Positive Effect. Where this event occurs, the State and Capella will negotiate the revenue positive effect. When the parties agree this amount, the revenue positive effect is paid by Capella to the State.

The revenue sharing provisions are yet to be triggered. In fact, the opposite has occurred and the State has paid Capella millions of dollars under compensation provisions. As at the end of August 2017, compensation payments have totalled $16,899,245 with an offset of $1,013,402. The cash payment to Capella has been $15,885,842 in compensation.50 The most significant claims have related to the reduced parking fees and the compensation payable in relation to the shortfall in the number of operational beds available on the Queen Elizabeth II Medical Centre site as a result of the delayed opening of the Perth Children’s Hospital. Both of these claims are ongoing and are being funded by the North Metropolitan Health Service.

Figure 4: Compensation paid by the State

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48 QEIIMC Car Parking Project – Contract Administration Manual (October 2014)
49 Ibid.
50 Department of Health response to Special Inquiry request for information, received 4 December 2017.
RECORD KEEPING

The Department of Health, the Department of Finance and the Queen Elizabeth II Medical Centre Trust provided the Special Inquirer with all information and documentation requested.

FINDINGS

1. This project was undertaken under a clear inference from Cabinet that it would be developed by the private sector. This was to avoid any impact on the State’s balance sheet.
2. The decision to contract Capella to build the multi-story car park and operate all car parking at the Queen Elizabeth II Medical Centre site was supported by a public sector comparator. The public sector comparator attributed a value for the transfer of operational risk and construction risk. The value attributed to construction risk transferred was too high. The value for money assessment based on the public sector comparator was not revised to take into account the value of demand risk the State actually retained following the commercial terms negotiated with Capella. It has not been possible, therefore, to assess the likely value for money outcome from this project.
3. The project’s objective of there being “no financial support from the State” is not achieved in the current commercial arrangements with Capella.
4. The contractual arrangements between the State and Capella are limiting on the State. For instance, they do not enable the State to adopt policy positions such as staff parking rates or fines infringement management without potentially triggering compensation payments to Capella.
5. When the commercial terms for the arrangement with Capella were being negotiated the Perth Children’s Hospital project was in its infancy. There should have been greater flexibility provided for delays in the delivery of the Perth Children’s Hospital to mitigate the risk to the State.
6. Failure to adopt a “whole of term” approach to the procurement of new parking facilities and the ongoing management of new and existing parking facilities has resulted in deficiencies within the contractual documentation.
7. The commercial arrangements agreed with Capella do not adequately address the manner in which the parking facilities are affected by policies such as the Queen Elizabeth II Medical Centre Trust’s approach to parking infringement management, and setting of parking rates for staff and visitors. This misalignment has been the root cause of most disputes that have arisen to date.
8. The Government’s decision to cap staff parking rates at a level below the rate specified in the agreement with Capella has been and continues to be a financial burden on the State.
AGENCY/ENTITY’S VIEWS ON FINDINGS

The Department of Finance and the Department of Health did not accept findings 1 and 4. The Special Inquirer is of the view that the inherent linkage between changes to State policy related directly or indirectly to parking at Queen Elizabeth II Medical Centre site and compensation payable to Capella is inhibitive on policy decisions. The Special Inquirer stands by the findings.

Queen Elizabeth II Medical Centre Trust notes finding 4 but disagrees with the reference to fines infringement management. This view is noted by the Special Inquirer, however, the potential financial impact to the State associated with any policy position on fines infringement management is viewed as limiting.

RECOMMENDATIONS

1. The State must review and amend the existing governance framework to account for stakeholder approval of State policy changes that will trigger compensation under the Queen Elizabeth II Medical Centre car parking contract.
2. The State must undertake a value for money review which takes into account the compensation already paid under the contract to assess the ongoing value for money position of the current arrangement.
3. The contract management plan for the Queen Elizabeth II Medical Centre car park project must be amended to specify what Material Adverse Effect Events could trigger compensation being paid by the State and escalation triggers for informal and formal contractual disputes.
4. The State must review the contractual framework for its agreement with Capella.
MAJOR IT PROCUREMENT

“A strong governance framework from the inception of the project is crucial to the successful delivery of a complex project such as HealthNext.”
John Langoulant, Special Inquirer

The Department of Health’s eight year Centralised Computing Services contract was signed in 2010. The initial contract value was $93.8 million. With 77 variations, the actual cost has almost doubled to an estimated $175 million.

In a 2016 review of the contract the Auditor General found that the contract had been ineffectively managed and governance and leadership had been poor.1 This resulted in the Department of Health receiving unnecessary information technology services worth millions of dollars.2 With the imminent end of the contract, WA Health is now preparing its exit.

WA Health’s project to transition from the existing contract to new arrangements is called HealthNext. HealthNext will guide the procurement of and transition to a new information and communications technology platform under the State Government’s GovNext-ICT Common Use Arrangement managed by the Office of the Government Chief Information Officer.

The Special Inquirer notes that WA Health has established governance arrangements to manage and monitor the HealthNext project through the relevant stages. The Special Inquirer recommends a stakeholder engagement plan and a project team roles and responsibilities charter to ensure that the new arrangement delivers value for money.

A strong governance framework from its inception is crucial to the successful delivery of a complex project such as HealthNext, which will replace the existing information and communications technology system and provide additional services. A robust framework will ensure that WA Health can quickly transition from the centralised contract.

In addition, the business case must identify the resourcing needs, skills and capabilities required for effective contract management.

1 Office of the Auditor General, Western Australian Auditor General’s Report – Health Department’s Procurement and Management of its Centralised Computing Services contract, (February 2016), 5.
2 Ibid.

Government agency:
WA Health

Project timeline:
2010 - 2018

Total cost to Government:
Potentially $175 million by 2018
SUMMARY

In November 2010 the Department of Health entered into a Centralised Computing Services contract with multinational company Fujitsu Australia Limited.

The initial contract term was four years at a cost of $44.9 million, with two extension options, each for a period of two years, valued at a further $48.9 million. The Department of Health has exercised both extension options and the contract will cease on 30 November 2018.

Noting the comprehensive reviews by the Auditor General and the Education and Health Standing Committee on the Centralised Computing Services contract, the Special Inquirer did not revisit the issues raised by those reviews. The focus of the Special Inquirer’s examination was to:

• review the improvements that resulted from implementation of the recommendations of the Auditor General and the Education and Health Standing Committee reviews; and
• review the Department of Health’s planning and project management for exiting the Centralised Computing Services contract, given its impending expiration, to limit the potential for any further cost escalations.

The Special Inquirer noted that the Department of Health has taken significant steps to improve its management of the current Centralised Computing Services contract and has taken actions to address the recommendations of the Auditor General’s and the Education and Health Standing Committee’s reviews.

WA Health, through Health Support Services is preparing for its exit from the Centralised Computing Services contract to transition to new arrangements under the State Government’s GovNext-ICT Common Use Arrangement by November 2018. It is yet to commenced transition planning and acknowledges that the timeframes will be challenging.3

Minor improvements to project governance, project management and transition planning may assist WA Health to deliver a successful project on time and on budget.

PROJECT SYNOPSIS

In November 2010, the Department of Health awarded a $44.9 million contract for Centralised Computing Services to the multinational company, Fujitsu Australia Limited. The contract comprised two core components:

1. centralised core hosting, computing and network platforms including two commercial data centres, and server, storage and network device management; and
2. managed services, including incident, problem, capacity, change and release services, database administration, an after-hours service desk and network and email service management.

3 Department of Health response to Special Inquiry request for information, received 1 November 2017
The initial contract term was four years, with extension options, each for a period of two years valued at a further $48.9 million. The Department of Health has exercised both extension options and the contract will cease on 30 November 2018.

In February 2016, the Auditor General completed a comprehensive review of the Centralised Computing Services contract and estimated that due to 77 contract variations, the contract at the time of this report, value had increased to $175 million, almost double the initial contract value of $93.8 million. The total expenditure on the contract as at 30 September 2017 was $166.8 million. With 12 months remaining on the contract at the time of this report, it is likely that by November 2018 the actual contract value will exceed the expenditure forecasted by the Auditor General in 2016.

The review uncovered significant problems with the contract and resulted in six key findings. The Auditor General concluded that the Department of Health had not effectively managed the contract which, in addition to overall poor contract governance and leadership, resulted in the purchase of unnecessary information technology services worth millions of dollars. To address the findings, the Auditor General made 13 recommendations (see Appendix A), which covered contract management, governance and financial control. The recommendations were grouped into actions that the Department of Health needed to take by:

- March 2016;
- June 2016;
- December 2016; and
- June 2017.

In September 2016, subsequent to the Auditor General’s report and as a follow up to this report, the Education and Health Standing Committee undertook a further review of the procurement and management of the centralised computing services contract. The Standing Committee’s findings and recommendations (see Appendix B) related mainly to actions the Department of Health was to take to address the Auditor General’s findings. In November 2016, the Department of Health reported to the Standing Committee that all of the Auditor General’s recommendations had been addressed and implemented.

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4 Office of the Auditor General, Western Australian Auditor General’s report – Health Department’s procurement and management of its Centralised Computing Services contract, (February 2016) 5.
5 Ibid, 6.
6 Department of Health response to Special Inquiry request for information, received 5 October 2017.
7 Education and Health Standing Committee, <System error> Auditor General’s report on Health Department’s procurement and management of its centralised computing services contract, (September 2016).
8 Government Response Legislative Assembly Education and Health Standing Committee Report No.10 System Error, (November 2016), 6-11.
**HealthNext**

A key step that WA Health is taking to address the issues with the Centralised Computing Services contract is to make new arrangements to receive ‘platform as a service’ through the State Government’s GovNext-ICT Common Use Arrangement. Health Service Provider Health Support Services will work with the Office of the Chief Information Office to achieve this.

The GovNext-ICT Common Use Arrangement “for the supply of compute, storage, cloud computing, and a unified government communications network for whole of WA government” is a mandatory whole-of-government standing offer with three contractors. There are three categories under the GovNext-ICT Common Use Arrangement, including collocation services, cloud services and network and communication services.

WA Health through Health Services Support has commenced planning for the exit from its current Centralised Computing Services contract and its transition to the GovNext-ICT Common Use Arrangement through a project named HealthNext. The Department of Health advised the Special Inquirer that it has been unable to determine, however, the full scope of HealthNext, stating that there is lack of clarity regarding the ability of the GovNext-ICT Common Use Arrangement contractors to provide WA Health with the required managed services beyond core infrastructure managed services. The Office of the Government Chief Information Officer is yet to provide clarification regarding the scope of the managed services that can be procured under the GovNext-ICT Common Use Arrangement.

As a result of the uncertainty about whether the GovNext-ICT Common Use Arrangement can replace all of the components and services of the Department of Health’s current Centralised Computing Services contract, WA Health has not yet developed a detailed schedule to transition out of the contract.

Health Support Services is currently developing a high level outline business case for the initial transitioning of WA Health’s central information and communications technology services from their current arrangement to the GovNext-ICT arrangement. The business case estimates that it will cost $20.335 million over a two year period to implement Stage 1 of a two stage program. Once the business case and funding is approved, the Health Support Services will develop a project initiation document and project implementation plan.

**EVALUATION**

**Management of the Centralised Computing Services contract**

In 2016, the Auditor General found that 77 contract variations had added at least $78 million to the contract.
Further, variations totalling approximately $44 million were not appropriately authorised and should have been procured through an open tender process, as they were not within the scope of the initial contract. The Auditor General estimated that the contract value had most likely increased to $175.2 million, almost double the initial contract value of $93.8 million. As at 30 September 2017, the actual total expenditure on the contract was $166.8 million.

The managed infrastructure services component of the contract is based on a hybrid use model — that is, there is a commitment to use a certain capacity for a fixed monthly fee and any excess use is charged at an agreed rate. The current monthly charge for these services is $269,000. As at 30 September 2017, the Department of Health’s expenditure under the contract is approximately $2.43 million per month. The managed infrastructure services represent about 10 per cent of the total contract value.

Addressing review findings

In November 2016, the Department of Health’s response to Recommendation 4 of the Education and Health Standing Committee’s review was that all of the Auditor General’s recommendations had been addressed and implemented. The Special Inquirer observed, however, that the Department of Health did not address the Auditor General’s Recommendation 3(f) in its response to the Standing Committee, to which the Health Department subsequently advised:

“During the 2016/17 financial year, Health Support Services negotiated the payout of all financial leases associated with the Centralised Computing Services Contract. This payment was $3,199,605.37. As such, the Western Australia Health system now owns the associated assets. As the WA health system now owns these assets, the transition to the GovNext-ICT Common Use Arrangement will be managed in the same manner for these assets as for the rest of the Western Australia Health system’s information and communication technology infrastructure assets. At this stage, it is anticipated that a percentage of the Western Australia health system’s assets (approximately 33 percent) will be transferred to the GovNext-ICT Data Centres, with the remaining assets will be decommissioned as the applications that are hosted on the infrastructure are transitioned.”

In response to further questioning by the Special Inquirer, the Department of Health confirmed the following.

- The Department worked with the Office of the Government Chief Information Officer and the Department of Finance to implement the Auditor General’s Recommendation 2 which suggested that unused data centre space be opened to other agencies. Currently, 52 racks are used by four other government agencies and approximately 17 per cent of the racks remain unused. The Department of Health plans to use these racks for inflight projects or urgent infrastructure upgrades that need to occur prior to the transition to the GovNext-ICT arrangement.

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17 Ibid.
18 Department of Health response to Special Inquiry request for information, received 5 October 2017.
19 Department of Health, Health Support Services, Current State ICT infrastructure transition planning project, (December 2016), 31-32.
20 Department of Health response to Special Inquiry request for information, received 5 October 2017.
21 Ibid.
22 Ibid.
• In response to the Auditor General’s Recommendations 3(a) and 5, that the Department of Health develop a contract management plan and conduct an assessment of the Centralised Computing Services contract performance in accordance with the contract terms and conditions, the Department has developed a contract management plan and undertaken three reviews (in March and October 2016 and March 2017). As a result of these reviews, the Department explored cost reduction opportunities prior to exercising the final extension option in June 2016. The Department advised the Special Inquirer that the renegotiation resulted in estimated savings of $5.9 million to the end of the contract term (November 2018).

• In accordance with the Auditor General’s Recommendation 3(e), that the Department of Health ensure that expenditure authorisation limits are suitable and adequately understood, the extension of the centralised computing service contract was approved by the Department’s Director General in September 2016, and found to be compliant with the Department’s authorities, delegations and directions schedule.

The Special Inquirer is of the view that the Department of Health has taken steps to improve its procurement processes and management of the contract. Additionally, the Department of Health has demonstrated that it has maintained continuous improvement by developing documents to monitor use and expenditure under the contract through a reconciled invoice register and a savings register.

Management of the transition from the Centralised Computing Services contract

It is important that WA Health through Health Support Services plans and executes its exit from the Centralised Computing Services contract and arrangements with Fujitsu in a disciplined and orderly way. This will require strong governance, robust project management and a well-planned approach to procurement.

Health Support Services developed an initial business case for the procurement of and transition to new services. This business case did not include managed services. Following a review of the initial business case and recommendations by the Office of the Government Chief Information Officer, a second business case for the HealthNext project was developed.

The scope of HealthNext includes managed services, network transformation and internet gateway services to be provided under the GovNext-ICT Common Use Arrangement.
HealthNext will replace the Centralised Computing Services contract as well as the following four other current arrangements.

1. Telecommunications carrier services procured under the Telecommunications Services Common Use Arrangement.
2. Server computing and storage environments, including hardware maintenance services, sourced from the Information and Technology Servers and Data Storage Devices Common Use Arrangement.
3. Local area network and wide area network infrastructure, including hardware maintenance services, sourced from the Information and Communication Technology Network Communication Solutions Common Use Arrangement.
4. Gateway (internet and security) services currently sourced through ServiceNet.28

To mitigate the potential risk of GovNext-ICT Common Use Arrangement contractors not being able to provide the services required which may delay the transitioning out of the current Centralised Computing Services contract, the Health Support Services are concurrently scoping and planning another tender for managed services. The Department of Health estimates that approximately 50 per cent of the managed services that it requires will not be covered by the GovNext-ICT Common Use Arrangement.29

**Governance**

The Department of Health introduced an information and communication technology governance structure in April 2014. In July 2016, the structure was updated to align with the new *Health Services Act 2016*.30 The governance structure outlines the roles, responsibilities and accountabilities involved in the decision-making framework for all of WA Health’s information and communications technology investments. Under the structure, each information and communications technology project is to have a project board that reports to the first three tiers, as depicted in Figure 1 below.

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28 Health Support Services, Procurement Plan: Transition of ICT Infrastructure Services to GovNext ICT GNICT2015 (HealthNext), (October 2017), 12.
29 Department of Health response to Special Inquiry request for information, received 7 November 2017.
30 Department of Health, WA Health information and communications technology governance structure, (July 2016), 2.
The ICT Infrastructure Transition Project — Project Control Board has been established to manage the development of a new replacement contract under the GovNext-ICT Common Use Arrangement and the transition out of the current Centralised Computing Services contract. Members of the Project Board include representatives from Health Support Services, the Department of Health and the Office of the Government Chief Information Officer. The Project Board convenes monthly and receives weekly program status reports. The weekly program status reports monitor the status and timelines of key deliverables, including the development of the business case, procurement plan and the work packages for compute and storage, data centre connectivity and gateway, metropolitan site network and the remaining managed services and operational information and communication technology contracts. The weekly program status report also reports on key project risks and issues.

31 Ibid.
Based on the risks and issues register for the HealthNext project, the Health Support Services keeps the register current with details of the project risks and issues, including risk status, owner and mitigation strategies. The risk register includes six active risks that have been assessed as extreme risks and 10 active risks that have been assessed as high risks.

**Project management**

WA Health is in the early stages of developing its project management framework for HealthNext. The project to transition to the GovNext-ICT Common Use Arrangement covers a number of existing contracts, in addition to the Centralised Computing Services contract.

The Special Inquirer observed that Health Support Services has considered and established some elements of project governance to manage and monitor the project through project status reporting. To strengthen its project governance framework, a stakeholder engagement plan and a charter for project team roles and responsibilities should also be included. A strong governance framework from the inception of the project is crucial for the successful delivery of a complex project such as HealthNext to ensure that the Department of Health can promptly exit from the Centralised Computing Services contract.

**Business case**

The Special Inquirer observed that based on the procurement plan and the current draft of the business case, WA Health has assessed the project options and has recommended a preferred option to undertake a transformation program in two stages.

The preferred option has detailed the key transformation benefits which include improved efficiency in the delivery of services, reduced complexity through optimisation of the infrastructure platforms, reduction in capital funding requirements and improved stability, and also provides agility to leverage new technology as it becomes available.

The business case has also considered a financial assessment of the alternative options over a 10 year period and researched approaches undertaken by other Australian jurisdictions.

While project strategy and business needs are well documented in the business case, neither the resourcing requirements nor the capabilities required to manage and maintain the contract once it is in place is identified. The business case should take into consideration a long term asset management strategy as the benefits of the HealthNext project are long term.

The Special Inquirer considers the draft business case to be reasonably comprehensive. In the development of the business case, however, there has not been adequate consideration and documentation of the roles and responsibilities of the project team. Further, the Special Inquirer has not found any communication strategy or stakeholder engagement plan for the overall project.

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32 Department of Health, HSS HealthNext Registers, (1 November 2017).
33 Ibid.
34 Health Support Services, Transition to GovNext-ICT (HealthNext) outline business case, (draft as at 31 October 2017), 8.
Taking into consideration the scale of the HealthNext project and the various current arrangements with the 13 incumbent suppliers, including Fujitsu, of information and communications technology services to WA Health, the development of a stakeholder engagement plan is necessary. This will support timely information exchange and higher quality decision-making, transparency and enhanced stakeholder confidence, such as from the Minister for Health. It will also reduce the potential for negative issues through early involvement and continuous engagement.35

Components of the business case
Health Support Services has developed a draft business case for the HealthNext project which includes managed services, network transformation and internet gateway services and, subject to the outcomes of the procurement from the GovNext-ICT Common Use Arrangement to replace the collocated datacentre facilities, infrastructure assets and managed services. There may be requirements to replace components of this contract that are not sourced under the GovNext-ICT Common Use Arrangement.

The business case outlines the following work packages for the two-stage program.

Stage 1

- Work Package 1 - Enterprise compute, storage and managed services: Replacement of existing services relating to co-located data centre facilities, infrastructure assets and managed service components of the current Centralised Computing Services contract.
- Work Package 2 - Data centre connectivity transitional network management and gateway services: Connection of the current data centres used by WA Health, including its legacy core network, to GovNext-ICT data centres, transitional network services and internet gateway services.
- Work Package 3.1 - Network connectivity metropolitan: Relocation of WA Health owned and operated data carriage wide area network services (metropolitan only) to the GovNet Core.

Stage 2 will be subject to approval of a separate business case likely to involve the following work packages.

- Work Package 3.2 - Initial campus (site) network transformation: Survey, transform and on-board a subset of six sites to an end-to-end GovNext (to the wall plate) service delivery model.
- Work Package 3.3 - Remaining campus (site) network transformation: On-boarding the remaining metropolitan sites to an end-to-end GovNext (to the wall plate) service delivery model.
- Work Package 4 - Remaining managed services: Provision remaining managed service requirements that are not available from the GovNext-ICT Common Use Arrangement.
- Work Package 5 - Operational ICT Contracts: transition, terminate or novate current Western Australia health system information and communications technology operational services and contracts with expiring or deprecated support arrangements.

**Transition planning**

The Department of Health stated that transition planning is yet to commence and that a transition plan will only be developed once the services available under the GovNext-ICT Common Use Arrangement have been established.\(^{36}\)

The major transition will be from the centralised computing service contract. In accordance with the contract disengagement schedule, the Health Support Services procurement plan states that it will work with Fujitsu to develop a detailed disengagement plan to ensure a smooth transition.\(^{37}\)

Due to the tight timeframes to transition out of the centralised computing service contract, WA Health should not defer the transition planning and should develop a transition plan as soon as possible. This will assist in the identification of deliverables that will enable smooth transitioning which can then be factored in to the qualitative criteria when assessing the tenders from GovNext-ICT Common Use Arrangement vendors and, therefore, limit the requirement for any future contract variations. Early transition planning will also provide Fujitsu with sufficient time to plan the resources it requires to assist WA Health to transition out of the current arrangement.

The timing and requirements of the transition should also be factored into the development of the communication strategy and stakeholder engagement plan.

There are many components to a large and complex information and communications technology project such as HealthNext. Being well prepared and well informed from the early stages of the project will assist WA Health to deliver a successful project on time and on budget.

The Special Inquirer understands that the business case is still in draft and that transition planning is yet to commence. The Special Inquirer observed that the timeframe to transition out of the Centralised Computing Services contract is tight. The Department of Health acknowledged that this will be challenging and that it will actively monitor the issues and risks to prevent delays in transitioning to the GovNext-ICT Common Use Arrangement.\(^{38}\)

**Procurement**

The Special Inquirer understands that Health Support Services is currently entering into a quotation process with GovNext-ICT Common Use Arrangement vendors and recognises that the full scope of the HealthNext project is yet to be determined.

The HealthNext procurement plan recognised the need to replace the collocated datacentre facilities, infrastructure assets and managed services. Whether the GovNext-ICT Common Use Arrangement can provide all the necessary services is yet to be confirmed. The Department of Health recognised there may be a requirement to replace components of the Centralised Computing Services contract that are not available

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\(^{36}\) Department of Health written submission, received 1 November 2017.

\(^{37}\) Health Support Services, Procurement Plan: Transition of ICT Infrastructure Services to GovNext ICT GNICT2015 [HealthNext], (October 2017), 29-30.

\(^{38}\) Department of Health response to Special Inquiry request for information, received 1 November 2017.
under the GovNext-ICT Common Use Arrangement. The HealthNext procurement plan was endorsed by the State Tender Review Committee on 11 October 2017.

WA Health has provided all three contractors under the GovNext-ICT Common Use Arrangement full descriptions of scopes of work. A detailed background of the data centre transformation approach for the procurement process workshops and the request for quote will be issued in November 2017. Evaluations and recommendations from the request for quote will be used to determine whether a single provider or more than one provider will be the best and most efficient approach for the services to be procured.

The Special Inquirer considers that the procurement planning for the HealthNext project is progressing well.

**Timelines**

Health Support Services is currently drafting the business case, a quotation process with the GovNext-ICT Common Use Arrangement vendors is being undertaken and the full scope of the HealthNext project is yet to be determined. WA Health has approximately 12 months to complete up to five work packages depending on the outcome of the quotation process. Based on the timelines proposed in the procurement plan and the draft business case, the Department of Health has acknowledged that the timeframes will be challenging and that it will actively monitor the issues and risks to prevent delays in transitioning to the GovNext-ICT Common Use Arrangement. The Department of Health has stated that it will prioritise those activities that will enable complete transition out of the Centralised Computing Services contract prior to the contract expiry.

The Special Inquirer observed that WA Health has not factored the mandatory independent Gateway Review process in its timelines. On 1 September 2016, Cabinet approved a recommendation to mandate the Gateway Review process for information and communications technology projects or programs valued at $10 million or more. As the estimated contract value of the HealthNext project is $408.8 million, a Gateway Review process will be mandatory. While the procurement plan states that, as a minimum course of action, WA Health will consider undertaking the “Readiness for Service” Gateway Review, the timelines have not factored in any requirement to develop recommendation action plans in the event of any red or high risk recommendations resulting from the review.

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39 Health Support Services, Procurement Plan – Transition of ICT Infrastructure Services to GovNext ICT (HealthNext), (October 2017), 5-6.
40 Department of Finance, State Tender Review Committee Item 1612 Meeting 426 STRC Decision Letter (11 October 2017).
41 Department of Health response to Special Inquiry request for information, received 1 November 2017.
42 Ibid.
43 Ibid.
44 Health Support Services, Procurement Plan: Transition of ICT Infrastructure Services to GovNext ICT GNICT2015 (HealthNext), (October 2017), 10.
RECORD KEEPING

The Department of Health provided all information and documentation the Special Inquirer requested.

FINDINGS

1. The Department of Health has implemented all the recommendations of the reviews by the Auditor General and the Education and Health Standing Committee. The Department of Health has demonstrated that it has maintained the improvements with:
   a. regular contract management plan updates;
   b. quarterly contract reviews;
   c. development of tools to monitor the progress of the contract; and
   d. the renegotiated reductions in rates and contract extension that has been approved by the appropriate Department of Health delegated authority.

2. WA Health has developed a project governance structure to manage the HealthNext project, in line with the June 2016 information and communication technology governance structure.

3. WA Health is still in the early stages of the project management for the HealthNext project. The timelines proposed in the procurement plan and draft business case are tight and have not factored in the time required to conduct the mandatory Gateway Review process.

4. WA Health has not developed a communication strategy or a stakeholder engagement plan for HealthNext.

5. The business case defined the project strategy, assessed a number of project options and has a clear preferred option. It did not, however, identify the resourcing requirements or the capabilities required to manage and maintain the contract once it is in place.

RECOMMENDATIONS

1. Timelines in the HealthNext business case must factor in the requirement for a Gateway Review process to occur as well as sufficient time to develop an action plan in the event any red or high risk recommendations found during the review.

2. Transition planning must commence as soon as possible and not be deferred until after the services under the GovNext-ICT Common Use Arrangement have been established.

3. WA Health must develop as soon as possible a communication strategy or a stakeholder engagement plan for transitioning out of the Centralised Computing Services contract and the HealthNext project as part of the governance structure.

4. The HealthNext business case must identify the resourcing requirements and the skills and capabilities required for ongoing contract management.
APPENDIX A
WESTERN AUSTRALIAN AUDITOR GENERAL’S REPORT — HEALTH DEPARTMENT’S PROCUREMENT AND MANAGEMENT OF ITS CENTRALISED COMPUTING SERVICES CONTRACT 45 46

Key findings

Contract variations

Seventy-seven variations to the contract almost tripled its value in the first 4 years.

- The contract was initially valued at $44.9 million but due to 77 contract variations worth $78 million, the value, including the option to extend the contract, will now potentially exceed $175 million. The number and value of the variations suggests Health did not properly plan the initial contract.
- Two variations to the contract totalling $41.5 million were arguably inconsistent with the purpose and terms of the initial contract and given their size should have been procured under a competitive public tender process to obtain assurance that value for money was obtained. The 2 variations increased Health’s data centre capacity and provided a nonproduction environment.
- Evidence indicates that the Contractor undertook the majority of the scoping work for the data centre expansion and that Health accepted the Contractor’s proposal without its own independent validation. Health now finds itself with significant excess capacity and ongoing unwarranted expenditure. Health is using only 65 of the 167 racks, or frames for mounting computer and related components, in 1 of its data centres. The value of the unused racks is $2,040,000 ($20,000 each). As well, Health is obligated to making ongoing payments to the Contractor for the space taken up by these unused racks. We estimate the cost of this unnecessary expenditure at around $90,000 per month.
  - Health is not using 5 network switches purchased in 2013, to connect devices together on the computer network, at a cost of $1.25 million ($250,000 each). These switches have guarantee periods that may expire before Health actually uses them.
- The second of the major contract variations, which runs until March 2019, was established to provide Health with access to a non-production environment (NPE). Health initially intended to utilise the capacity of this system to test applications before implementation and for training purposes. However, Health found that the capacity it acquired far exceeded NPE requirements and therefore now also uses this cloud environment for email and archiving software. The contract variation requires Health to pay the Contractor a baseline fee of around $265,000 per month, if the NPE is used or not, with additional fees to be negotiated as and when extra capacity is required. We were unable to assess how Health had determined the initial capacity requirement for the NPE or the required duration for the contract.

45 Office of the Auditor General, Western Australian Auditor General’s Report – Health Department’s Procurement and Management of its Centralised Computing Services contract, (February 2016)
46 Office of the Auditor General, Western Australian Auditor General’s Report – Supplementary Health Department’s Procurement and Management of its Centralised Computing Services contract, (June 2016)
• The Health officer who authorised the above 2 contract variations massively exceeded his $100,000 expenditure authorisation limit. The 2 variations were arguably also outside the original contract scope and should have been treated as new purchases. New purchases exceeding $150,000 must involve the Department of Finance to ensure transparency and value for money in the procurement processes. Approving what should have been new purchases as a contract variation resulted in Health breaching its partial exemption from State Supply Commission requirements.

• The original contract will run to 2018 if Health exercises the second of the 2-year extension options. However, the major variations referred to above have terms that expire in either 2019 or 2020. How Health resolves these timing differences is unclear though it may require for instance the payment of ‘early termination’ charges for these variations.

• To help ensure staff act within their delegated authority, Health has updated its delegations to be more specific regarding the circumstances in which contract variations are approved. It has also trained senior staff involved in authorising procurement.

Contract management
Health’s contract management and governance were insufficient, largely ineffective and meant that emerging issues went unaddressed:

• Despite the importance and value of the contract, Health did not adequately assess the performance of the contract or Contractor until November 2014. Health had not, as we expected:
  - assessed whether the Contractor was meeting the terms and conditions of the contract
  - assessed the accuracy and content of monthly performance reports from the Contractor. These included details of any incidents that were identified and resolved, disaster recovery testing completed and the operational performance against targets.
  - addressed areas of concern identified in the monthly reports.

• Health did not act to address serious concerns about the contract raised by a consultant conducting a mid-term review in 2013 and from 2 general IT procurement reviews in 2013. The concerns included procuring services outside the scope of the contract and the lack of a business case for significant variations to the contract. Poor documentation meant that we could not determine the extent that the issues were escalated to the various executive levels in Health.

• The Acting Director General improved the governance arrangements around ICT procurement and projects shortly after becoming aware of these significant issues. He also requested a comprehensive internal review of contracts and procurement, concerns from which led to this audit.

• Health did not monitor key contract deliverables to ensure its expectations on services were met. One of the key deliverables of the contract was for the primary data centre to be available for 99.98% of the time (out of action for 1.6 hours per year or less). One of the reviews in 2012 identified that Health was not testing this part of the contract. The effect became evident when the primary data centre had two outages causing the computer systems and the IT network to crash for a period of 14 hours in February 2015. This meant Health could not use clinical and non-clinical computer applications and the IT network.
• Health did not have a contract management plan for this complex and high value contract. A plan would identify the risks to contract delivery and set out how to mitigate these. It would also identify the resources required to manage the contract effectively and define roles and responsibilities. The State Supply Commission Act 1991 requires a contract management plan for contracts greater than $5 million.

• Despite the value and importance of the contract, Health did not appoint a dedicated contract manager until midway through the fourth year of the contract. Instead, a senior Health officer partially took on this role in addition to other roles as a member of the IT executive and the contract sponsor. It was evident that these other roles meant that he lacked sufficient time to properly monitor and assess the deliverables of the contract.

• Health’s recordkeeping in relation to the contract is poor and as such, it has failed to comply with the State Records Act 2000. Health was unable to provide us with key documents including the business case and procurement evaluation reports or documents setting out the reasons for the millions of dollars of contract variations. The Act aims to provide security and retention of records for purpose of transparency and accountability and includes a penalty for non-compliance.

• An IT equipment and component check conducted by Health in mid-2015 showed that essential equipment purchased in late 2013 was not tagged (recorded) to enable suboptimal performance of the equipment to be speedily identified and resolved. Tagging also enables Health to confirm that equipment purchased under the contract was installed and used. Both the Contractor and Health had some responsibility for tagging the equipment.

Financial management

Financial management was ineffective, contributing to regulatory non-compliance, large unbudgeted expenditure commitments, probable overpayments and a general lack of transparency:

• Health could not meaningfully monitor and compare expenditure against the contract budget as it was not increasing the contract value for variations or coding all relevant invoices to the contract. It also did not adequately consider the terms of multi-million dollar finance leases or check the accuracy of invoices, leading to unbudgeted expenditure commitments and overpayments. Examples of these are:

  - Health paid the Contractor ‘mark-up’ fees valued at $104,000 on 8 invoices it submitted to Health on behalf of a third party contractor despite mark-up fees being excluded from the contract. Health could not explain why it made the payments. The mark-up was the Contractor’s fee for passing on to Health the invoices of a subcontractor. The Contractor advised us that Health requested it engage the third party as a subcontractor as the third party was not at the time registered with the Department of Finance as an approved provider under the relevant Common Use Agreement. For this reason, Health could not themselves directly engage the third party. The mark-ups represented 10% of the third party’s fee.
We tested the accuracy of the invoiced services against the contract schedule of rates and noted numerous discrepancies that Health could not explain. Most of the discrepancies were over payments. We sampled 30 of the 642 invoices to 17 March 2015. The overpayments totalled $41,000 from 26 invoices, representing 8.8% of the value of the invoices. Of the other invoices in our sample, we agreed 1 to the schedule of rates and could not find 3 invoices. Health has done its own review of the rates and also identified discrepancies. The contractor advised us that ‘Health may have misinterpreted how the rate card applies to project service invoices’ and that it is having meetings with Health to discuss the issue.

Health entered into 8 leases through the Contractor for software and to move or supply and install racks, cabling and hardware for the data centres. The value of the leases was $27 million. However, essential governance steps were not taken with Health entering into the leases without a good understanding of the arrangements and without the necessary authority.

Health did not properly assess whether the leases should be classified and treated as ‘operating’ or ‘finance’ leases. Operating leases are paid from operating funds while finance leases are paid from capital funds. Agencies can self-approve operating leases but a finance lease requires the Treasurer’s approval. This aims to prevent agencies committing the State to unbudgeted expenditure without the Treasurer’s knowledge and approval:

- Health classified 4 leases as operating leases but all 4 had financial lease components and should therefore have received Treasurer’s approval.
- Health did not seek the Treasurer’s authorisation to enter into the other 4 finance leases.

The schedule of operating lease payments and financial lease repayments agreed by Health for 5 of the leases were unusual in that they involved significant up-front payments. The combined value of these leases, the last of which expires in January 2020, was $16 million, of which $10.8 million or 68% was paid up-front, in June 2013. Health could not explain the rationale for this unusual payment arrangement, but it appeared to be linked to a desire to use the operating budget for that financial year. By making large up-front payments on an operating lease, Health runs the risk that the usage value from the asset will be less than the payment.

When Health entered into the finance lease agreements, it assumed that it became the owner of the assets at the end of the lease. However, the Contractor disputes this and advised us that the terms of the agreement are clear. Health will need to resolve this issue.

1. Health should immediately ensure compliance with the Treasurer’s Instruction 822 Borrowings for all future lease financing activity.
2. As soon as possible to minimise unnecessary expenditure, Health should negotiate with the Contractor and the Government Chief Information Officer for other government agencies to use the non-production environment and the unutilised data centre space.
3. By March 2016, Health should:
   a. develop and implement a contract management plan for contract DoH 27210 as required by the State Supply Commission
   b. conduct a comprehensive risk assessment of the contract
c. determine the level of contract management, including the need for a dedicated contract manager required for contract DoH 27210 and other contracts
d. ensure that appropriate records for this contract are collated and maintained as required by the State Records Act 2000
e. ensure that expenditure authorisation limits, including for contract variations, are suitable, defined and adequately understood
f. clarify with the Contractor the ownership of the leased assets.

4. By June 2016, Health should:
a. clearly separate the roles and responsibilities for contract management with that of contract management oversight
b. define the policies and procedures it requires to achieve good practice in contract administration
c. review all invoices for this contract to determine the accuracy of rates used in the calculations.

5. By December 2016, Health should ensure that there is adequate assessment and review of this contract’s performance in accordance with the contract terms and conditions.

6. By June 2017, Health should:
a. assess its required or predicted capacity requirements to ensure that appropriate data centre space, IT hardware and software are available as part of this contract
b. ensure that appropriate records management policies are revised, communicated to staff and enforced by all Health entities as per the State Records Act 2000.
### RECOMMENDATION 1

That the Minister for Health report to the Assembly on disciplinary proceedings or performance improvement action undertaken, if any, which arose from the actions of Employees A and B as set out in the Auditor General’s report Health Department’s Procurement and Management of its Centralised Computing Services Contract, including as a result of an investigation into this conduct undertaken by the Public.

### FINDING 1

The Department of Health has been inconsistent in its use of the Gateway review process for major ICT procurement projects, which reflects a disregard for the value of the process in improving project delivery performance.

### FINDING 2

The Department of Health has not utilised the Gateway review process as recommended by the Department of Finance.

### RECOMMENDATION 2

That the Minister for Health report to the Parliament on the reasons the Department of Health has failed to utilise the Gateway review process for ICT procurement projects with an investment value of greater than $10 million.

### RECOMMENDATION 3

That the Minister for Finance and the Minister for Culture and the Arts report to the Parliament on the State Supply Commission and State Records Commission’s consideration of available penalties or actions for the Department of Health’s breaches of agency obligations.

### RECOMMENDATION 4

That the Minister for Health reports to the Assembly on the Department of Health’s progress in implementing the recommendations made by the Auditor General in the report Health Department’s Procurement and Management of its Centralised Computing Services Contract.

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47 Education and Health Standing Committee, *<SYSTEM ERROR> Auditor General’s report on Health’s Department’s Procurement and Management of its Centralised Computing Services Contract*, (September 2016), xi.
OUTSOURCING OF NON-CLINICAL SERVICES

“There is still no ‘whole of health’ contract for the transcription needs of the hospitals ... which have an ad hoc approach to the transcription of letters and other material about patients.”
- John Langoulant, Special Inquirer

Efficient and accurate medical transcription in hospitals is a crucial step in the patient care process. The information provides a summary of diagnoses and treatment plans and can also be used to guide follow up care in the community. The transcription service was traditionally supplied ‘in-house’, but was placed under pressure due to a sustained increase in the workload without additional staffing. This led to a backlog of typing which could have put patients at risk.

Consequently, hospitals started outsourcing transcriptions to keep the services up to date. There is still no ‘whole of health’ contract for the transcription needs of the hospitals. A variety of methods is used by the Health Service Providers, which have an ad hoc approach to the transcription of letters and other material about patients.

The Special Inquirer noted that none of the providers has competitively tendered for the transcription services, which cost more than $2 million in 2016/17, and that the approach across the system lacks uniformity.

Child and Adolescent Health Services has identified that outsourcing of the medical transcription services represents significant cost savings and provides a quicker turnaround in comparison to in-house medical typing.
SUMMARY

This project refers to the outsourcing of non-clinical medical transcription services. The examination is separate to that of the Fiona Stanley Hospital Facilities Management Services Contract.

Between 2014 and 2017, the five Health Service Providers spent $3.9 million for outsourced medical transcription services in public hospitals across the WA Health system. There is no existing whole of health contract for medical transcription services. With no standard work practice, policy or procedure across hospitals, a variety of solutions are implemented, including a combination of voice activated software programs, digital transcription and medical typists transcribing audio tapes. Currently, each of the five Health Service Providers, South Metropolitan Health Service, North Metropolitan Health Service, East Metropolitan Health Service, Western Australia Country Health Service and Child and Adolescent Health Service, has an ad hoc approach to the management of medical transcriptions.

The Health Service Providers have used a hybrid of in-house and outsourced medical transcription services for approximately nine years. Fremantle Hospital, part of the South Metropolitan Health Service, was a pioneer in outsourcing medical transcription in 2008. Since then, other hospitals such as Fiona Stanley Hospital, Princess Margaret Hospital and Sir Charles Gairdner Hospital have also extensively embraced the outsourced service due to sustained increases in workloads which resulted in backlogs of transcriptions. These delays have an impact on patient care. Prior to undertaking extensive outsourcing of medical transcription services, the Health Service Providers demonstrated that extensive cost and benefit analyses were undertaken and have taken steps to protect the privacy, security and disclosure of patient information.

The Special Inquirer notes that Health Support Services is currently leading a whole of health procurement solution for medical transcription services. It is anticipated that the procurement process will conclude in 2018. This would provide some much needed standardisation of the management of medical transcriptions, risk management of risks associated with the outsourcing approach and also introduce competition in the industry. A large portion of the spend was through direct engagement with National Transcription Service and a very small portion of the total expenditure is with Lanier and Pacific Transcriptions.

The Health Service Providers have not competitively tendered the medical transcription services to date. Engagements were either ad hoc or through a procurement exemption to engage National Transcription Service directly.

Prior to undertaking the decision to outsource medical transcription services, Health Service Providers have conducted cost and benefit analysis. The Health Service Providers found that outsourcing of medical transcription services represents significant cost savings and provides a quicker turnaround in comparison to

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1 The five Health Service Providers include Child and Adolescent Health Service, North Metropolitan Health Service, South Metropolitan Health Service, East Metropolitan Health Service and WA Country Health Service.
2 Department of Health Office of the Director General written submission, received 10 October 2017.
3 Health Support Services is WA Health’s shared service centre, which provides technology, supply, workforce and financial services to Western Australia’s public Health Services.
in-house medical typing. The Health Service Providers have taken some steps to protect the privacy, security and disclosure of information when seeking to outsource medical transcription services. There are, however, further precautions that should be undertaken prior to outsourcing the medical transcription services, including conducting a risk assessment with mitigation strategies for the potential risks of sending patient data offshore.

In the development of the whole of health or an aggregated procurement process, factors such as governance, value for money, data security, privacy of patient information, risks of offshoring data, and employee screening of the outsourced provider need to have been thoroughly considered.

**PROJECT SYNOPSIS**

Medical transcription is a crucial step in patient care where the medical typing of patient letters provides a summary of diagnoses and treatment plans and assists with follow-up care in the community. The information is also stored in the patient record to inform the provision of future care.

Traditionally, medical transcription services were maintained in-house with medical typists employed by the WA Health system. Medical typists are classed as G2 with a salary range of $52,260 to $56,242 (2013 figures). WA Health has used a hybrid of in-house and outsourced medical transcription services for approximately nine years.

The total expenditure of all outsourced medical transcription services in WA Health is shown in Table 1.

**Table 1: Total expenditure of all outsourced medical transcription across WA Health**

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<td>South Metropolitan Health Service</td>
<td>$288,081</td>
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<tr>
<td>WA Country Health Service</td>
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<td>$177,955</td>
<td>$183,573</td>
<td>$546,779</td>
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<tr>
<td>Child and Adolescent Health Service</td>
<td>$0</td>
<td>$19,890</td>
<td>$293,352</td>
<td>$313,242</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$575,464</strong></td>
<td><strong>$1,333,232</strong></td>
<td><strong>$2,045,431</strong></td>
<td><strong>$3,954,127</strong></td>
</tr>
</tbody>
</table>

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4 Fiona Stanley Hospital, Briefing Note to Chief Executive – Medical transcription service gap at Fiona Stanley Hospital, (March 2013).
5 Department of Health Office of the Director General written submission, received 10 October 2017.
Typically, outsourced medical transcriptions involve the following process:

- dictation by clinicians using a digital voice recorder, telephone, computer microphone or mobile phone;
- secure uploading of recordings through the internet by an automated system;
- transcription of audio files by the private provider; and
- retrieval, review and saving or printing of documents by hospital employees.

The introduction of the outsourcing arrangements was due to sustained increases in workloads as a result of increased volumes without additional staffing resources, which resulted in backlogs of transcriptions.\(^6\) The North Metropolitan Health Service advised that

> “The backlog of medical typing was directly impacting on patients’ ongoing management (delayed notification of treatment plans causing delays of treatments being implemented/acted upon), therefore an increased patient clinical risk.”\(^7\)

There is no existing whole of health contract for medical transcription services. With no standard work practice, policy or procedure applied across hospitals, a variety of solutions are implemented including a combination of voice activated software programs, digital transcription and medical typists transcribing audio tapes. Currently, each of the five Health Service Providers has an ad hoc approach to the management of medical transcriptions.

**South Metropolitan Health Service**

Fremantle Hospital, part of the South Metropolitan Health Service, was a pioneer in outsourcing medical transcription in 2008. New hospitals, such as Fiona Stanley Hospital, have also embraced the service. In March 2013, Fiona Stanley Hospital assessed three options for the medical transcription requirements. It supported the option to outsource the service on the basis that there were potential cost savings and a quicker turnaround time based on a case study at Barwon Health in Victoria.\(^8\)

An exemption from the State Supply Commission’s Open and Effective Competition policy was approved in September 2013 which enabled Fiona Stanley Hospital to directly engage National Transcription Service to provide medical transcription services due to time constraints. This was to ensure that the establishment of transcription services could occur prior to the opening of the hospital. National Transcription Service was chosen based on its track record at Fremantle Hospital and that many clinicians were familiar with its service. The initial estimated cost was $600,000 for 12 months, expiring in September 2015.\(^9\) Although this contract was established initially for 12 months to provide time for a competitive procurement process, multiple

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\(^{6}\) North Metropolitan Health Service, OPH outsourcing of non-clinical services: Medical typing summary, [August 2017].

\(^{7}\) Ibid.

\(^{8}\) Fiona Stanley Hospital, Briefing Note to Chief Executive – Medical transcription service gap at Fiona Stanley Hospital, [March 2013].

\(^{9}\) Fiona Stanley Hospital, Request for exemption from the competitive requirements of the State Supply Commission’s Open and Effective Competition policy.
contract variations have been implemented, including extensions of contracts beyond term and the addition of Fremantle Hospital and Health Service and Rockingham General Hospital to the contract.

The South Metropolitan Health Service initiated a procurement process to establish a new contract. As the Health Support Services’ Chief Procurement Officer also initiated a whole of health process for transcription services about the same time, the procurement process by the South Metropolitan Health Service was terminated. The contract that was established in 2014 has been extended to 2018, with a further extension option of 12 months. The estimated total contract expenditure under this contract as at 14 September 2017 was $2,039,000, three times more than the initial contract value.

The South Metropolitan Health Service does not have any available resources to provide medical typing in-house.

**North Metropolitan Health Service**

In April 2015, a review by PricewaterhouseCoopers of the administration and clerical services at Sir Charles Gairdner Hospital and the Osborne Park Health Care Group, found that 27 per cent of medical typing and patient letters were not meeting the hospital policy of a two-week turnaround. The review also found that the structure of typing services across the hospital was inconsistent, with some areas utilising a central typist pool and others with dedicated departmental typists. The review recommended that standardised processes and alternative means for delivering a transcription service be implemented. In December 2015, the hospital gained approval to proceed with the outsourcing of medical typing. The hospitals are currently piloting the outsourcing of medical typing in a number of departments, including Respiratory Medicine, Ear Nose and Throat and Medical Oncology.

A procurement business case was developed in October 2016 and legal advice in relation to privacy and data security was sought and approved in July 2017. The procurement process is still in progress and the tender documentation, as at August 2017, has not been released.

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11 South Metropolitan Health Service, Variation to contract HSCN450314 for the provision of medical transcription services, (24 January 2017).
12 North Metropolitan Health Service, Briefing Note to Chief Executive – Delays in the production of clinical letters following outpatient consultation at Sir Charles Gairdner Hospital, (7 December 2016).
13 North Metropolitan Health Service, response to Special Inquiry request for information, received 1 August 2017.
East Metropolitan Health Service

The East Metropolitan Health Service has limited use of outsourced medical transcription services. This is limited to short-term requirements such as sickness of typing staff or lack of available typists. Between 2014 and 2017, the hospitals in this region have spent approximately $132,000 on outsourced medical transcription services.\(^{14}\) The dollar value has been historically low, averaging below $50,000 annually.\(^{15}\)

WA Country Health Service

Each region within the WA Country Health Service manages its engagement of external providers. Within the WA Country Health Service, only Albany Hospital has an existing contract in place for medical transcription services, however, the use of the contract is low. Regional health sites such as the Kimberley, Kalgoorlie, Karratha, Bunbury, Geraldton, Carnarvon and Exmouth outsource some of their medical typing when required. For example, in the Kimberley, when the existing typist for the Paediatric division resigned, the hospital was unable to source another medical typist in the region and outsourced the service for the division to National Transcription Service.\(^{16}\)

Child and Adolescent Health Service

Princess Margaret Hospital has 9.6 full time equivalent positions\(^{17}\) in-house for typing services, using the centralised Patient Information Management Services Typing Service, and department specific medical typists. In December 2014, the hospital identified there was a significant backlog of untyped letters. Throughout 2015 and 2016, the hospital undertook detailed options, costs, risks and benefit analyses. The analyses included the balancing of workforce implications such as the abolition of the permanent positions, implementation plans and change management. Based on the outcomes of the analysis, approval was obtained for outsourcing to commence in 2016.

As with South Metropolitan Health Service, an exemption from the State Supply Commission’s Open and Effective Competition policy was approved in October 2015, to enable Princess Margaret Hospital to directly engage National Transcription Service to provide medical transcription services as a temporary solution. A new whole of health contract for medical transcription services is currently being considered by Health Support Services.

Princess Margaret Hospital’s justification for directly approaching National Transcription Service was on the basis that Fiona Stanley Hospital also uses the same ‘WebPAS’ Patient Information System, and that National Transcription Service’s system is custom built to deliver directly to the ‘BOSSnet’ digital medical record. It was identified that while it may be possible to work with another vendor, significant time would be required to set up the process and integrations. As the engagement was to be only temporary, however, it was considered

\(^{14}\) Department of Health Office of the Director General written submission, received 10 October 2017
\(^{15}\) Ibid.
\(^{16}\) Western Australia Country Health Service, Briefing Note to Regional Director – Approval to use NTS Transcripts for the typing for Paediatric Outpatient Reports, (September 2015).
\(^{17}\) Child and Adolescent Health Service, Options paper outsourcing of medical typing PMH/PCH, (May 2015).
ineffective to expend significant time, cost and effort to build the process and integration with another vendor. A contract with National Transcription Service was established for one year with a one-year extension option expiring in April 2018.

Health Support Services

In June 2016, the Health Support Services’ Chief Procurement Officer identified that medical transcription services as a category of spend would benefit from an aggregated procurement approach. Health Support Services was unable to immediately resource the establishment of an aggregated procurement process, however, due to a significant number of other aggregation opportunities.  

Health Support Services has confirmed that a resource has been allocated to initiate the development of an aggregated buying arrangement and, on behalf of WA Health, Health Support Services is currently leading a whole of health procurement solution for medical transcription services. The procurement planning has commenced with market sounding, research and scope development. It is anticipated that the procurement process will conclude in 2018.

Health Support Services is working with the Health Service Providers to develop interim solutions for medical typing requirements that will allow for subsequent transition into the aggregated buying arrangement once it is established.

EVALUATION OF THE PROJECT

Governance

The governance structure for medical transcriptions and medical typist services in WA Health is fragmented and inconsistent. The Special Inquirer observed that there is lack of a standardised process or policy with respect to the management of medical transcription. There are various models, systems and processes across the different hospitals and Health Service Providers.

As previously mentioned in 2016, the Health Support Services’ Chief Procurement Officer identified that medical transcription services as a category of spend would benefit from an aggregated procurement approach. The Department has advised the Special Inquirer that Health Support Services was however unable to immediately resource the establishment of an aggregated procurement process. As a consequence, the Health Service Providers were only putting in place temporary and transitional arrangements while waiting for the whole of health contract to be developed.

Health Support Services is working on closing this gap and is currently leading a whole of health procurement solution for medical transcription services. This would provide some much needed standardisation of the management of medical transcriptions and introduce competition into the industry. The governance practices of each Health Service Provider vary with respect to the current contracts they

18 Department of Health Office of the Director General written submission, received 10 October 2017.
19 ibid.
have for medical transcription services. The South Metropolitan Health Service, North Metropolitan Health Service and Child and Adolescent Health Service have developed business cases and obtained the appropriate approvals and endorsement from the Chief Executive prior to outsourcing medical transcription services. The Health Service Providers conduct regular reviews and monitor the spend of medical transcription services. Where a contract extension beyond term is required, the appropriate procurement approvals and endorsement from the Chief Executive and the Department of Finance Government Procurement business unit were obtained.

The justifications for exemption to extend the contract beyond term were on the basis of technology compatibility. It was identified that while it may be possible to work with another vendor, significant time would be required to set up the process and integrations. As the engagement was to be only temporary, it was considered ineffective and inefficient to expend significant time, cost and effort to build the process and integration with another vendor. The justifications were found to be consistent with the requirements of the State Supply Commission’s Open and Effective Competition policy exemption circumstance that:

“the use of goods and services from a particular supplier that must be integrated within an existing contractual arrangement, project or ICT standard operating environment and an alternative product is not suitable”.20

The East Metropolitan Health Service did not develop a business case and has not demonstrated that any reviews have been undertaken prior to extending their contracts on the basis that their spend is low and use is only at times of short term need due to sickness of typing staff or lack of available typists.21

The Special Inquirer observed that the WA Country Health Service has limited oversight of the existing contractual arrangements for medical transcription services across the regional health sites, as each region manages its engagement of external providers without any formal contractual arrangements at most sites except for Albany Hospital.22

None of the Health Service Providers has demonstrated that there was consideration on whether the total contractual spend justified building in-house capabilities in comparison to outsourcing medical transcription services. It would be good governance for the Health Service Providers to undertake regular cost analyses to support the current view that outsourcing medical transcription services was still the most suitable option.

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20 State Supply Commission, Open and Effective Competition policy, [2 May 2016].
21 Department of Health Office of the Director General written submission, received 10 October 2017.
22 Ibid.
Procurement processes and value for money

A large portion of the medical transcription services spend was through direct engagement with National Transcription Service, and a very small portion of the total expenditure is with Lanier and Pacific Transcriptions.

The Health Service Providers that have outsourced some or all of the medical transcription services have developed business cases and conducted cost and benefit comparisons between medical typing in-house and outsourcing, as well as basic cost comparisons between different providers. Based on the documentation provided, the Child and Adolescent Health Service estimated that including salaries and on-costs, the production of a one-page letter in-house costs $15.22.23 The cost of outsourcing a one-page letter was determined to be between $5.5024 and $7.8025.

An in-house team of 9.6 full time equivalents in Princess Margaret Hospital at the centralised Patient Information Management Services produced 21,608 letters but there was a backlog of 878 letters in 2014.26 An interim outsourcing solution to clear the backlogs followed by a phased implementation was established. A contract review of the outsourced medical transcription services by the Child and Adolescent Health Service in 2017 demonstrated that National Transcription Service could deliver the medical transcriptions within 48 hours.27 Results from surveys conducted in 2017 also demonstrated that there was an overall improvement of 41 per cent in clinician satisfaction of the timeliness of receiving the outpatient letters, compared with when letters were typed in-house in 2011.28

In the North Metropolitan Health Service, a pilot was undertaken in the Department of Respiratory Medicine at Sir Charles Gairdner Hospital from December 2015. At the commencement of the pilot, there was a backlog of 360 letters and it took an average of eight weeks from the time of dictation to the distribution of the letters.29 Following the implementation of the outsourced system, all letters were typed within 48 hours.30

Based on the documentation provided, the requirement to outsource medical transcription services was supported by the continued inefficiency of the in-house service and backlogs of letters. The Special Inquirer found that there have been documented economic and efficiency benefits by the North Metropolitan Health Service, South Metropolitan Health Service and Child and Adolescent Health Service for the outsourcing of medical transcription services. In the absence of a competitive tendering process and a detailed cost comparison between in-house medical typing and outsourcing, however, the Special Inquirer is unable to determine whether the current rates offered to the Health Service Providers represent value for money.
Risks and data security

The Health Service Providers have taken steps to protect the privacy, security and disclosure of information when seeking to outsource medical transcription services. The North Metropolitan Health Service, South Metropolitan Health Service, and Child and Adolescent Health Service have Chief Executive Officer approvals as per the requirements of the Privacy Act 1988 (Commonwealth) and the Western Australian Government Risk Management Guidelines for Offshore ICT Arrangements.31 32 33 The Health Service Providers provided evidence to the Special Inquirer that they have considered data sovereignty and security in various ways including:

• using the research and investigation from Queensland Health;
• understanding the technological and data security protective measures of the provider; and
• obtaining approval from the Legal and Legislative Services unit within the Department of Health and the State Solicitor’s Office for assurance on the lawful disclosure of patient information.

None of the Health Service Providers obtained legal advice on whether the National Privacy Principles and Commonwealth privacy legislation applied to the outsourcing of medical transcription services or conducted a risk assessment relating to having medical transcription service data stored offshore.34 None of the Health Service Providers has requested police clearance certificates or criminal screening of contractors from the medical transcription service providers stating that their employees are required to sign privacy and confidentiality agreements.35

The Special Inquirer observed that while the Health Service Providers have taken some steps to protect the privacy, security, and unauthorised use and disclosure of information when seeking to outsource medical transcription services, there are further precautions that should be undertaken. There has been an over-reliance by the Health Service Providers on the confidentiality provisions within contractual documentation.

The Health Service Providers should be conducting a comprehensive risk assessment of the risks related to sending patient data offshore, including the formulation of mitigation strategies and risk treatment plans where the risks are outside of accepted risk appetite. In the meantime, all Health Service Providers should request their medical transcription service provider to provide the police clearance and criminal screening of employees working on transcriptions for the respective Health Service Provider.

Ongoing management strategy and whole of health aggregated buy

Health Support Services is currently working with key stakeholders to finalise the operational requirements, integration requirements and costings to inform the development of a business case. The process is still in

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31 Fiona Stanley Hospital, Briefing Note to Chief Executive – National Transcription Service for medical dictation at Fiona Stanley Hospital – storage of data overseas, (October 2014).
32 Child and Adolescent Health Service, Briefing Note to Chief Executive – The overseas location of vendor’s server for outsourced medical typing, (September 2015).
33 North Metropolitan Health Service, Letter to Chief Executive – Approval release of patient information for the outsourcing of medical typing services at Sir Charles Gairdner Hospital, (July 2017).
34 Department of Health Office of the Director General written submission, received 6 November 2017.
35 Ibid.
the early planning stages. An approved business case is required to commence the procurement process. Health Support Services anticipates that the contract will be publicly tendered in accordance with the State Supply Commission’s policy requirements and that a contract will be awarded in the fourth quarter of 2018. Once a contract is in place, it will be centrally managed and administered by Health Support Services.$^{36}$

**RECORD KEEPING**

The Department of Health provided all information and documentation the Special Inquirer requested.

**FINDINGS**

1. Engagements for medical transcription services were either ad hoc or coordinated through an exemption to directly engage National Transcription Service. There is no coordinated approach to the market for the whole of WA Health.
2. There are various models, systems and processes across the different hospitals and Health Service Providers. Health Support Services is working on a whole of health procurement solution for medical transcription services.
3. The South Metropolitan Health Service, North Metropolitan Health Service, WA Country Health Service and Child and Adolescent Health Service all undertook varying levels of basic cost and benefit analysis prior to undertaking the decision to outsource medical transcription services.
4. Health Service Providers have taken some steps to protect the privacy, security and disclosure of information when seeking to outsource medical transcription services. None of the Health Service Providers conducted a risk assessment of having medical transcription service data stored offshore and none has requested police clearance certificates or criminal screening of contractors.
5. Due to the delays in the establishment of a whole of health aggregated buy, the Health Service Providers have been putting in temporary arrangements with National Transcription Service, Lanier and Pacific Solutions Pty Ltd.

**RECOMMENDATIONS**

1. WA Health must consider standardising the process or policy for the management of medical transcription.
2. Further precautions should be undertaken by the Health Service Providers prior to further outsourcing the medical transcription services including conducting a comprehensive risk assessment of storing patient data offshore, and requiring police screening of employees.
3. Proper financial analysis across WA Health including current in-house medical typing costs and workforce implication costs should be undertaken and assessed by the Health Service Providers prior to large scale outsourcing of medical transcription services.
4. If the establishment of the whole of health contract is not completed by the first quarter of 2018, current arrangements should be re-evaluated taking into consideration value, risk and performance of the service providers.

$^{36}$ Ibid.
NURSEWEST ARRANGEMENT

“There is little up to date financial information that documents cost savings achieved through Health Service Providers using NurseWest services…”

- John Langoulant, Special Inquirer

NurseWest was established in December 2003 to help contain agency nursing costs by providing a centralised casual pool of nurses, midwives and mental health nurses for Western Australian hospitals.

An overview of the NurseWest program in June 2017 by Health Support Services said that savings of about 25 per cent resulted when hospitals engaged NurseWest staff ahead of agency nurses.

But more information is needed to accurately assess the cost effectiveness of the NurseWest program, as the cost comparison related simply to the staffing aspect and did not include the overall cost of the NurseWest operation.

The Special Inquirer is of the view that the NurseWest program provides an important service for WA Health. But there are several shortcomings, including apparent inadequate oversight of its operations, to be able to fully appraise its effectiveness.

Of concern was the failure of the Department of Health to provide relevant documents so that the business need for the agency and its subsequent effectiveness could be properly assessed.
**SUMMARY**

NurseWest is a directorate within Health Support Services. Health Support Services is a Health Service Provider under the Health Services Act 2016, which reports through to the Department of Health’s Director General and therefore implicitly to the Minister for Health.

NurseWest was established in 2003 to provide a centralised casual nurse pool and facilitate the procurement of external agency nurses on a temporary basis to resource Western Australian hospitals. It had an initial annual operating budget of $948,000, which has grown to $2 million at present. This budget provides administration of the service, and is independent of the cost of nursing care provided by NurseWest staff and the cost to procure agency nurses under the panel contract. NurseWest’s staff pool consists of casual nurses, midwives, and mental health nurses. When a position cannot be filled with its own staff, NurseWest sources agency nurses for the respective hospitals on a temporary basis through a panel contract arrangement, which was established on 22 December 2003. The panel contract arrangements set out the external providers from which agency nurses can be obtained on a temporary basis. The panel contract was renewed in 2008 and again in 2014. Additionally, hospitals manage their own internal casual staff pools, with NurseWest providing support for any staffing shortfalls through its own casual staff pool and the procurement of external agency nurses engaged on a temporary basis.

It is necessary for there to be flexibility in the management of front-line nursing staff to address unexpected events such as fluctuations in demand and to manage unexpected events such as sick leave. WA Health seeks to achieve this using the following three options to fill temporary nursing positions, in the order of preference:

1. each hospital’s specific internal casual staff pool;
2. the NurseWest casual staff pool; and
3. external agency nurses engaged temporarily, sourced by NurseWest through the panel contract arrangement.

Health Support Services provided the Special Inquirer with the comparison rates for NurseWest nurses versus agency nurses engaged on a temporary basis. The analysis does not provide the complete picture, however, because the costs of operating NurseWest are not included in the comparison. Given the size of NurseWest’s annual operating budget this situation is unlikely to change the ultimate position that validates the use of NurseWest.

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1 State Health Management Team, Agenda item summary sheet, (19 February 2003).
2 Department of Health Special Inquiry hearing, 10 October 2017.
3 Department of Health, Briefing Note to the Minister for Health – Nursing agency fees – Establishment of maximum price payable for agency nursing services, Reference number 4-54134, (8 Dec 2003).
4 Department of Treasury and Finance, Procurement plan - Common use arrangement for the provision of temporary personnel nursing – Regional areas 53407/1, (2009).
5 Department of Treasury and Finance, Procurement plan - Temporary personnel nursing services in the Perth metropolitan area, (2008).
6 Department of Treasury and Finance, Procurement plan – Provision of temporary nursing personnel services to Western Australia public health care units, (April 2013).
PROJECT SYNOPSIS

Prior to 2003, various Health Service Providers were directly procuring external agency nurses on a temporary basis and the Department of Health did not have appropriate contract management processes in place to monitor all of the individual contract arrangements. This resulted in rising expenditure on nursing staff placed temporarily across WA Health. In 2002, the Auditor General conducted a performance review on the management of nursing shortages in the public health system.\(^7\) The Department of Health subsequently proposed that there be a central point for health services to procure nursing staff on a temporary basis.

In 2003, funding of $500,000 was approved to establish the NurseWest branch in the directorate of the Chief Nursing Officer and $948,000 per annum was allocated to its ongoing management.\(^8\) The Department of Health advised the Special Inquirer that the NurseWest model currently costs $2 million per annum to operate\(^9\) and that in 2015/16 a total of $45 million was spent on external agency nurses placed temporarily.\(^10\)

Health Support Services has estimated that savings in the order of 25 per cent occur when a NurseWest nurse fills a shift instead of an agency nurse. Additional information provided to the Special Inquirer regarding cost comparison suggests, however, that the 25 per cent saving only takes into account staffing costs and does not include other administrative costs of operating NurseWest. The Special Inquirer was not provided a like-for-like cost comparison of a NurseWest nurse and an agency nurse.

Since 2003, there have been two renewals (in 2008 and 2014) of the NurseWest panel contract arrangement. Each renewal has been for up to a five year term, with the 2008 contract granted an additional nine month extension. The renewal is a three year term, with authority to extend for an additional two years. Within the period of the Special Inquiry’s terms of reference, the approved contract values for the panels arrangements totalled $175 million for the 2008 contract and $200 million for the 2014 contract.

EVALUATION OF THE NURSEWEST ARRANGEMENTS

Governance

NurseWest provides a needed service which contributes to a flexible and skilled nursing workforce for WA Health. When examining the overall arrangements, however, there appear to be inadequate policy guidance to address governance oversight and the extent and frequency of NurseWest reporting to Health Support Services. The Special Inquirer received limited information on NurseWest’s governance structure and reporting requirements.

A review of the policy documentation is required. The Special Inquirer was not provided with any whole of Health policy documentation that sets out the requirements that need to be met before a hospital engages NurseWest’s services. The Department of Health stated that there is no overarching WA Health policy

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\(^7\) Office of the Auditor General, Performance examination – A critical resource: Nursing shortages and the use of agency nurses, (August 2002).

\(^8\) State Health Management Team, Agenda item summary sheet, (19 February 2003).

\(^9\) Department of Health Special Inquiry hearing, 10 October 2017.

\(^10\) Department of Health, Health Support Services, Provision of temporary nursing personnel, (June 2017).
regarding a hierarchy of use when procuring nursing staff on a temporary basis and as set out above.\textsuperscript{11} Hospitals are required to develop their own policy documents on the procurement process and the necessary steps taken to engage with NurseWest.\textsuperscript{12} The Special Inquirer received some procedure documents, including NurseWest business rules but none of the documentation could be viewed as satisfactory policy documentation.

Further to the service engagement, the overall strategic direction of NurseWest appears to be unclear. The Department of Health noted that Health Support Services intends to grow the NurseWest casual staff pool to a level that will significantly reduce the use of external agency nurses engaged temporarily via the panel contract arrangement managed by NurseWest.\textsuperscript{13} This is not reflected in any recent policy documentation, however, and seems to be at odds with the management of the panel contract arrangement, which increased by $25 million during its most recent procurement in 2014.

The lack of governance oversight extends to the management of the panel contract arrangement. There is a lack of formal reporting by Health Support Services to the Department of Health’s Corporate Executive regarding the panel contract arrangement.\textsuperscript{14} Reliance is placed on a monthly service level agreement key performance indicator report, which is provided to all Health Service Providers, to address governance oversight. This report includes information on NurseWest’s performance and WA Health’s demand for nursing staff from NurseWest engaged temporarily.\textsuperscript{15}

\textbf{Project planning}

NurseWest was established to reduce the reliance on nursing agencies for the provision of casual staffing by:

- implementing a common use arrangement to provide a standard approach and control costs; and
- developing a casual nursing pool to service the whole of WA Health.\textsuperscript{16}

The Special Inquirer did not identify any initial business case or options analysis that specified how the business need would be addressed through the establishment of NurseWest or an alternative directorate structure.

The initial policy document titled NurseWest, dated February 2003, introduced the proposed model, benefits, governance structure and reporting, and a performance management strategy for NurseWest.\textsuperscript{17} Most of this initial policy work appears not to be referenced in the NurseWest strategic management document dated October 2003.\textsuperscript{18} This includes an apparent failure to proceed with the NurseWest Advisory Council, which was proposed to meet every three months to make recommendations on NurseWest policies.

\textsuperscript{11} Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017, 1.
\textsuperscript{12} Ibid.
\textsuperscript{13} Department of Health Special Inquiry hearing, 10 October 2017.
\textsuperscript{14} Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017, 1.
\textsuperscript{15} Ibid.
\textsuperscript{16} Department of Health, Strategic management for the supply of agency nurses, (October 2003), 2.
\textsuperscript{17} Department of Health, Office of the Chief Nursing Officer, NurseWest, (February 2003), 7-9.
\textsuperscript{18} Department of Health, Strategic management for the supply of agency nurses, (October 2003).
plans and practices. Other recommendations that were not adopted included the development of a strategy for ongoing employee performance, and the establishment of key performance indicators to evaluate the effectiveness of the NurseWest model. The Special Inquirer was not provided with any documentation that reflects the adoption of the Auditor General’s report recommendations when NurseWest was established later in 2003.

**Procurement**

In the lead up to the latest renewal of the panel contract arrangement in 2014, robust analysis of the arrangement was not undertaken prior to the procurement request being approved. The Special Inquirer noted a briefing note provided to the Department of Health’s Director General, dated 14 December 2012. The briefing note provided out-dated expenditure trends from 2000 to 2003 and limited information to justify statements made regarding the 25 per cent savings achieved by using the NurseWest casual staff pool compared to external temporary agency nurses.

Noting that the total value of the procurement was $200 million, best practice would require the procurement process to include a comparative options analysis. A detailed breakdown of the costs associated with filling a temporary nursing vacancy through the NurseWest casual staff pool compared to the engagement of external agency nurses engaged on a temporary basis should have been undertaken. The Department of Health stated that stakeholder engagement and research was undertaken to determine the effectiveness of the contract. No documentation was provided to the Special Inquirer to confirm this.

Additionally, the briefing note depicted a steady decline in vacant shifts being filled by external agency nurses engaged on a temporary basis. The decline indicated an approximate 35 per cent reduction of such nursing shifts being staffed by external agency nurses during the period of 2008 to 2012. The Special Inquirer was provided with recent data on nursing agency use for the period 2013 to 2017 which show that NurseWest staff continue to fill a greater number of vacancies than agency staff. During the Department of Health’s hearing with the Special Inquirer it was noted that two percent of the nursing workforce, which equates to an estimated 250 full time equivalent positions, is outsourced to agency nurses.

Overall, the procurement planning process was poor due to its lack of detailed analysis to substantiate the business need. In addition, the documentation provided to the Special Inquirer by Health Support Services

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20 Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017, 10.
22 Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017, 7-8.
23 Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017.
24 Department of Health response to Special Inquiry hearing questions taken on notice, received 10 November 2017.
25 Department of Health Special Inquiry hearing, 10 October 2017.
did not include established processes to undertake regular reviews of NurseWest and the panel contract arrangement.

Based on the information provided to the Special Inquirer, it appears that there has been a significant reduction in business need for the panel contract arrangement in recent years. Further, this arrangement does not fully align with the strategic direction of NurseWest, which is to build the NurseWest casual staff pool and reduce the use of external agency nurses engaged on a temporary basis. The Department of Health confirmed that an analysis of the existing contract demand and performance over the contract term will be undertaken when the panel contract arrangement is up for renewal in 2018. This would be a suitable time to consider how the panel contract arrangement best fits within the strategic direction of NurseWest.

**Cost benefit analysis**

The Department of Health’s Director General noted concerns that there was a lack of visibility regarding the expenditure and ongoing requirements of NurseWest. In a memorandum dated 12 November 2012, the Director General rejected a procurement request of $200 million for the engagement of temporary nursing personnel through the panel contract. This was on the basis that a “more detailed analysis of our current and future requirements under agency nursing” was required before expenditure was approved. Although some high level analysis was provided to the Director General in December 2012, the resulting action item — the April 2013 procurement plan — did not include a rigorous assessment of the panel contract arrangement. Concerns were further highlighted in the procurement plan, when a nine month extension was requested to the 2008 - 2013 panel contract arrangement to allow sufficient time for NurseWest to complete research and planning for a replacement contractual arrangement. The Department of Health advised that stakeholder engagement and research was undertaken to determine the effectiveness of the contract. The Special Inquirer was not provided with any documentation to substantiate this.

**Ongoing management of the public sector’s use of agency nurses**

Since the introduction of NurseWest in 2003, the number of nurses in the NurseWest pool has grown from 239 nurses in September 2004 to 1,127 active NurseWest casual nurses in September 2017. As at September 2017, there were 1,824 private agency employees in the temporary personnel pool.
The Special Inquirer did not receive any documentation that evidenced the analysis undertaken in October 2003, which compared the permanently employed nursing workforce (expressed as full-time equivalents) to agency nurses, has been updated or reviewed. The Department of Health advised that the vast majority of nurses in the public health system were permanently employed nurses. As at September 2017, there were 13,308.8 Full Time Equivalent nurses in the workforce. Two percent of this workforce represents NurseWest nursing staff and three percent represents agency nurses.36

RECORD KEEPING

The Department of Health was unable to provide relevant documents that referred to the initial business need and evaluation for the establishment of NurseWest. The Special Inquirer received limited documentation to evidence the procurement processes and on-going management of the panel contract arrangement. Documents showing regular monitoring and review of NurseWest operations, including details on the panel contract arrangement, have been below best practice standards.

FINDINGS

1. The administrative, reporting and governance oversight of NurseWest is of a poor standard. Health Support Services were unable to provide whole of Health policy documentation on reporting requirements and operational activity reporting.
2. The project management method to produce a detailed analysis to identify the business need of NurseWest and the panel contract arrangement is not available.
3. The panel contract arrangement does not have a benefits realisation plan assessing the contract deliverables and their alignment with the strategic direction of NurseWest and the WA Health system.
4. The panel contract will be up for renewal in 2019 and to date NurseWest has not demonstrated the capability to produce an adequate business case or comparative analysis to enable the Department of Health to make an informed decision.
5. NurseWest requires greater support and monitoring from Health Support Services to improve governance and reporting processes.
6. It is essential that the costs for each casual nursing category, that is:
   - each hospital’s specific internal casual staff pool;
   - the NurseWest casual staff pool; and
   - external agency nurses engaged temporarily through the panel contract;
   over the financial years of the operation of NurseWest are provided so that an informed decision can be made about the cost effectiveness of each approach.

RECOMMENDATIONS

1. Prior to a procurement decision being made on the Panel Contract, the Department of Health must undertake a comprehensive analysis of the options available to address the demand of temporary nursing personnel, including:
   - a detailed business case that has comparative financial analysis of the various option available to address the identified business need; and
   - a risk analysis of the options identified within the business case and the interdependencies with other whole of Health policies.

36 Department of Health response to Special Inquiry request for information, received 6 December 2017.
Royalties for Regions has been the focus of the regional development agenda in Western Australia since the election of the Liberal-National Government in 2008. It is enshrined in the Royalties for Regions Act 2009 which provides the legislative framework for the Royalties for Regions Fund. The Act provides for the equivalent of 25 per cent of the State’s forecasted annual mining and onshore petroleum royalties to be hypothecated into a fund that is separate from the Government’s Consolidated Account.

Prior to the machinery of government changes that were implemented on 1 July 2017, the Regional Development portfolio comprised government entities primarily responsible for the delivery of the State Government’s regional development agenda. The Department of Regional Development (now part of the Department of Primary Industries and Regional Development), the nine Regional Development Commissions and the Regional Development Trust were all independent statutory authorities with their own administration and executive function.

According to the Regional Development Trust’s 2016/17 Annual Report, approximately $6.7 billion of funding for projects and programs in regional Western Australia has been disbursed from the Royalties for Regions Fund since its inception. The largest share of the funding has been distributed to the Pilbara region (30 per cent). The Special Inquiry Report Volume 1 provides a more detailed examination of Royalties for Regions.

It is clear from the projects examined by the Special Inquiry that there was a significant deficit in the rigour applied to project selection and poor targeting of funding towards projects that would deliver lasting economic and social outcomes to regional Western Australia.

The Special Inquirer examined nine projects which were totally or partially funded by Royalties for Regions. The expenditure on these projects totalled more than $730 million. The Karratha Health Campus which is examined in the WA Health section of the report also received $230 million of Royalties for Regions funding. The value of the Royalties for Regions funded projects examined by the Special Inquiry is therefore close to $1 billion.
PILBARA UNDERGROUND POWER PROJECT

The objective of the Pilbara Underground Power Project was to provide cyclone protection to the electricity system by replacing above ground power poles and wires with an underground system to residential and industrial lots in various towns in the Pilbara. The process to seek government funding for the project was inadequate. There was no specific business case for the initial $100 million contribution from the Royalties for Regions program. Horizon Power, the nominated project delivery agent, was not experienced in delivering projects of such a scale and complexity at that time. The project got off to a poor start but was reassessed in 2015. A report by the Auditor General acknowledged that improvements had been made to strengthen governance, project management and reporting on costs and benefits.

The project is now expected to cost a total of $239 million when completed in mid-2018, with $175 million of that funded from Royalties for Regions. Despite forecasted capital savings of $14.2 million, the total cost is $109 million more than initially budgeted. Completion of the project will take approximately five and a half years longer than originally planned.

THE NINGALOO CENTRE

The proposal for a research centre in the vicinity of the iconic Ningaloo Reef dates back to 2003. The proposal for the Ningaloo Centre project originated from two separate projects, the Ningaloo Ocean and Earth Research Centre and the Exmouth multi-purpose community centre. There is evidence of a number of concerns being raised by various stakeholders relating to the viability of the Ningaloo Centre, with a particular focus on the Shire of Exmouth’s ability to fund the ongoing operation and maintenance of the facility. The centrepiece exhibition, a 55,000 litre aquarium to display fish and coral from the nearby reef, remains empty even though the centre opened in September 2017. Despite the concerns about the Ningaloo Centre’s viability, more than $30 million was secured for the construction phase from a number of funding sources, including more than $19 million from Royalties for Regions, $3.5 million from Lotterywest and $7 million from the Commonwealth Government.

The key decision makers are no longer employed at or involved with the Shire of Exmouth following a Corruption and Crime Commission investigation in 2016.

BULGURRA REGIONAL SPORTS COMPLEX

The construction of the new $4.6 million community facility – the Frank Butler Community Centre – was funded through several sources. This included the Shire of Roebourne, the Royalties for Regions Country Local Government Fund, the Department of Sport and Recreation (now the Department of Local Government, Sport and Cultural Interests) Community Sport and Recreation Facilities Fund and the Pilbara Development Commission.

The additional components of the upgrade to the surrounding grounds were funded through a separate $2.5 million grant from the Royalties for Regions Regional Infrastructure and Headworks Fund. Under Royalties
for Regions requirements, a business case was not required for either aspect of the sports complex upgrade. Overall, the upgrades to the facilities appear to have been undertaken effectively and have been well received by the community of Karratha as the patronage of the facility indicates.

**WANANGKURA STADIUM**

Plans for the Wanangkura Stadium, a multipurpose recreation centre in South Hedland, began in early 2006 as part of the Town of Port Hedland’s Community Development Project. Construction commenced in 2010 and was plagued with delays, which included design and engineering flaws. While the stadium seems to have been delivered close to budget at just over $35 million, there have been additional costs due to delays and remediation. Ongoing costs were not well thought through and the annual deficit to the Town of Port Hedland is $380,000. Use of the facility is at the low end of expectations and there are ongoing issues with flooding.

The opening of the stadium was fraught with problems. It was closed three days after opening as it did not meet the requirements of the Building Code of Australia. Funding of $11.1 million was provided from Royalties for Regions for the project.

**ORD RIVER IRRIGATION EXPANSION PROJECT**

The Ord River Irrigation Expansion Project was undertaken to increase irrigation that would enable parcels of viable farming land to be sold in the Kimberley region. The desired outcome was that agricultural and pastoral interests would develop over 22,000 hectares of irrigated farming land and provide additional socio-economic benefits to the region, including the delivery of positive Aboriginal outcomes and strong local industry engagement.

The Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) was the lead agency for the project. Progress was slow and the work was not completed until 2014, three years behind schedule. Protracted negotiations between the State Government and the single developer appointed in 2012 for the Goomig land have meant that the development agreement was only signed in early November 2017. The $334 million cost was $114 million over budget. The majority of this cost was funded by Royalties for Regions.

**PILBARA ACCOMMODATION**

Four key projects were examined as part of this element:

- Hedland 125 Service Workers Accommodation
- Former Port Hedland Hospital Site
- The Quarter
- Pelago

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1 Department of Primary Industries and Regional Development response to Special Inquiry request for information, received 9 November 2017
An examination of the Osprey Key Workers Village in South Hedland was also undertaken. Due to the Special Inquirer having a declared conflict of interest in relation to this project, another Special Inquirer was appointed to complete this examination. This is reported separately.

**HEDLAND 125 SERVICE WORKERS ACCOMMODATION**

In June 2012, the Minister for Regional Development and Lands announced a housing package that included the delivery of 125 properties for service workers across Port Hedland and South Hedland which would occur within three to six months. This commitment aimed to address a housing shortage for workers in the Hedland community who were not directly employed in the resource industry but were providing key services to support the sector.

The 125 accommodation units were sourced by the Department of Housing identifying 42 of its own established properties, six transportable units that were planned for sale and 77 vacant serviced lots that were suitable for transportable homes. The business case was developed two months after the Government announced the project. Prior to the approval of the Royalties for Regions funding the Department of Housing redirected land, housing stock and funding that was planned for other housing programs to ensure the commitment was met. The first dwellings were ready to be occupied by late 2012 with the last nine dwellings delivered on 20 March 2014.

Following the downturn in the property market, it became evident that the initial plans for the dwellings to be sold at the end of the two year period and for the proceeds to be reinvested in affordable housing in regional Western Australia were not going to be achieved. The project cost almost $90 million, the majority of which was funded from Royalties for Regions.

**FORMER PORT HEDLAND HOSPITAL SITE**

Following the transfer of services to the South Hedland Health Campus, the Port Hedland Regional Hospital was to be demolished and the site released to the market as a component of the Port Hedland Marina Precinct Development. After the withdrawal of the preferred development proponent LandCorp selected Finbar as the alternative. As the property market weakened lengthy negotiations were undertaken and Finbar made significant alterations to its proposal to achieve a commercially viable project. Finbar was unable to achieve any pre-sales within the 12 month timeframe. LandCorp rejected its application for an extension of time and allowed the contract of sale to expire. A fire occurred on the old hospital site in October 2016 which required additional emergency funding to further remediate the site.

A total of $10.835 million Royalties for Regions funds was allocated to the demolition and remediation project with a scheduled completion date of September 2018. The site remains undeveloped.

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2 Department of Housing, Briefing Note to Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, (7 August 2012), 4.
3 Housing Authority, Briefing Note to the Minister for Housing - Future Use of the Hedland 125 Service Worker Intervention Properties, (17 June 2016), 1.
4 LandCorp, Business case – Former Port Hedland Hospital demolition and Site Remediation, (27 July 2016), 4.
THE QUARTER

In October 2010 LandCorp called for expressions of interest for a development partner to deliver the Karratha City of the North project, which included The Quarter. Mirvac was recommended by the LandCorp Board as the development partner. Cabinet approved the appointment and agreed to provide $66.773 million of Royalties for Regions funding to LandCorp for the project. In April 2014 Mirvac was unable to meet its minimum requirements to commence construction due to the decline of the Karratha property market. The LandCorp Board gave approval for LandCorp to step in as the developer and approved up to $10.3 million of LandCorp equity to be combined with the Royalties for Regions funding. Construction of The Quarter precinct commenced in October 2014. Practical completion of the commercial space was achieved in April 2016 and The Quarter precinct was officially opened on 2 June 2016.

LandCorp sold one of the buildings in The Quarter – Building 2 – to the City of Karratha for $20 million in June 2017. Approximately 50 per cent of the building is leased by the State Government for government offices. While The Quarter was a well managed project overall, it was not undertaken at the right time. This is evident in the difficulties faced by LandCorp in getting the project off the ground. LandCorp is currently seeking a developer for the hotel and an additional building to be located at The Quarter.

PELAGO

The Pelago project involved two residential towers in Karratha – Pelago West and Pelago East.

The Housing Authority (now part of the Department of Communities) purchased 12 units at Pelago West for approximately $7 million under the Government Regional Officer Housing 400 Program. Under this program the units would be made available for rent by government employees. The Pelago West purchase was funded by the Royalties for Regions Infrastructure and Headworks fund. No project-specific business case was provided for the purchase which was settled in August 2012.

The Housing Authority pre-purchased 50 Pelago East units off-the-plan. The aim was to provide rental accommodation for key government workers and to sell some of the units. The business case for the Pelago East purchase was developed on the basis of market conditions at the time it was written. The Government paid an 80 per cent deposit upfront to obtain a 15 per cent discount off the list pricing for the 50 units. The contract negotiations with the developer were finalised in October 2012 for a fixed price contract of $29.7 million which was funded by Royalties for Regions.

In 2015, 24 of the units at Pelago East were transferred to the WA Country Health Service. The remaining 26 Pelago East units and the 12 units at Pelago West are owned by the Department of Communities for their client agencies and government employees under the Government Regional Officer’s Housing program.

5 Department of Regional Development and Lands, Letter from Director General to Mr Ross Holt, Chief Executive Officer, LandCorp (25 June 2012)
6 LandCorp responses to Special Inquiry request for information, received 30 August 2017
**PILBARA UNDERGROUND POWER PROJECT**

“You know, trying to compress a project like that into two years and putting it smack bang in the middle of a boom...the day we started, it was only a question of how it would explode.

“...The benefits will be reaped over 50, 60, 70 years.”

- Mr Frank Tudor, Chief Executive Officer Horizon Power

Horizon Power prepared a strategy in August 2008 aimed at delivering a more reliable electricity supply across regional Western Australia, including in the Pilbara. In June 2009 Cabinet approved an initial $35 million, of an intended $100 million from the Pilbara Revitalisation program, to fund the Pilbara Underground Power Project.

The process surrounding the allocation of funding was inadequate. There was no specific business case for the initial funds. Horizon Power lacked experience in delivering programs of this scale.

The project struck a number of problems, which caused delays and added to costs. For example, Horizon Power started the procurement processes and allowed contractors to start work without formal contracts. The utility lacked appropriate knowledge of local conditions and the likely impact on delivery and cost.

Horizon Power’s contracting strategy and contract management were deficient, and failed to adequately manage the risks linked with the project.

It is now expected to cost $239 million, $109 million more than the original budget. The completion date is now mid-2018, more than five years later than originally scheduled.

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1 Horizon Power Special Inquiry hearing, 12 October 2017, 16-17.
**SUMMARY**

The Pilbara Underground Power Project will replace above ground power poles and wires with an underground system to residential and industrial lots in parts of Karratha, South Hedland, Wedgefield, Roebourne and Onslow. The project was conceived to provide a safer and more reliable power supply to these areas due to the frequency of extreme weather conditions, including cyclones.

The process to seek government funding for the Pilbara Underground Power Project was inadequate. There was no specific business case for the initial $100 million contribution from the newly minted Royalties for Regions program. Horizon Power, the nominated project delivery agent, was not experienced in delivering projects of such a scale and complexity at that time. Estimated construction costs did not accurately reflect local conditions, particularly in Karratha. Governance was poor, with the Pilbara Underground Power Project Steering Committee not requiring Horizon Power to refine the budget when seeking additional funding for the project.

The Auditor General’s 2015 report stated:

“...the explanation of why PUPP [Pilbara Underground Power Project] did not go as planned is a familiar one. Unrealistic estimates and inadequate early planning, coupled with governance and project management inadequately matched to risk, led to overruns and delays. It is disappointing to have to report this story again.”

Following the release of the Auditor General’s report Horizon Power stated “the lesson from this is that you

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don’t take projects and try to compress them on top of an economic boom of the likes that the state has never seen.\(^3\)

Following the Auditor General’s report, it was identified that improvements have been made to strengthen governance, project management and reporting on costs and benefits. This has resulted in the project being delivered ahead of the revised schedule and below the amended budgeted costs.\(^4\) Horizon Power indicated that the completion of underground works was achieved on 17 November 2017.\(^5\)

The project is now expected to cost $239 million when completed by mid-2018, which despite the forecast capital savings of $14.2 million, is $109 million more than initially budgeted, and completion will take around five and a half years longer than originally planned.

Horizon Power reports some benefits of the project are being realised. In the wake of Tropical Cyclone Christine in December 2013, there were shortened timeframes in power outages being restored and reduced time on ‘red alert’, due to a quicker assessment of electricity-related safety issues. Horizon Power also indicated there have been cost savings on asset maintenance. A full benefits realisation assessment will be delivered at the completion of the Pilbara Underground Power Project.

**PROJECT SYNOPSIS**

In August 2008, Deloitte prepared a report based on Horizon Power’s strategy to ‘harden’ regional power supply across several parts of their State network, including the Pilbara. This prescribed a 10-year plan to place power distribution lines underground in 13 regional towns at an indicative cost of $184 million.\(^6\)

In December 2008, the Office of Energy (now the Public Utilities Office) released a review of the State Underground Power Program, which had been delivered by Western Power since 1996. It recommended that the newly established Royalties for Regions program fund a project to ‘harden’ power networks in Pilbara towns that were routinely affected by cyclones. Western Power was initially intended to be the delivery agency, due to its technical and project management experience in delivering the State Underground Power Program. Horizon Power was subsequently chosen as the delivery agency.

The Office of Energy developed the original cost estimates for the Pilbara Underground Power Project in 2009. There are conflicting reports as to how the cost estimate was developed, with the Auditor General indicating they were based on a 2007 project in Fremantle about 1,500 kilometres south of Karratha,\(^7\) and a Stantons International report asserting the estimates were based on projected costs to undertake underground works in Port Hedland in 2004.\(^8\)

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\(^4\) Horizon Power Special Inquiry hearing, 12 October 2017.

\(^5\) Horizon Power, Response to Special Inquiry draft findings, 22 November 2017 2.


\(^7\) Office of the Auditor General, Western Australian Auditor General’s Report – Pilbara Underground Power Project, (August 2015), 17

In June 2009, Cabinet approved an initial $35 million of an intended $100 million State contribution for the Pilbara Underground Power Project without a supporting business case. Funding for the project was allocated from the broader $300 million Pilbara Revitalisation program that had received a financial allocation from the Royalties for Regions fund. This approval was based on the expectation that local government would provide the balance of the required funds - approximately 25 per cent of the project budget. Local government authorities initially contributed approximately $31.6 million. These authorities included the City of Karratha (formerly the Shire of Roebourne, $18.7 million), Town of Port Hedland ($11.7 million) and the Shire of Ashburton (Onslow, $1.2 million). This local government funding was intended to be recouped through new levies on ratepayers whose properties were connected to the system.

Horizon Power undertook the project design, contracting construction works and overall project delivery. Governance rested with a steering committee which was chaired by the Pilbara Cities Office, initially within the Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) and later the Pilbara Development Commission. Horizon Power, the Office of Energy, the Shire of Roebourne, the Town of Port Hedland and the Shire of Ashburton were also part of the steering committee. Due to their roles on the steering committee, the Pilbara Development Commission and the Office of Energy were allocated $2.3 million in Royalties for Regions funding for administration services and the provision of technical guidance respectively.

In September and October 2009, an increase in scope was endorsed by the steering committee to upgrade voltages in Karratha from 11 kV to 22 kV. This required the construction of a distribution substation costing about $30 million, which was outside the project budget.

In January 2010, Cabinet approved the balance of the $100 million Royalties for Regions allocation, with the $65 million disbursement to be transferred from the Department of Regional Development and Lands to Horizon Power shortly after the execution of a second Financial Assistance Agreement on 19 November 2010.

In February 2012, in response to the identified project delivery issues, Horizon Power reorganised the project management structure and instituted several improvements to the way the project was managed.

In April 2012, the Public Utilities Office (formerly the Office of Energy) submitted a briefing to the Minister for Energy which noted “…the project is no more than 30 per cent complete and $30 million over budget.”

In April 2012, the lead contractor demobilised from the Karratha site as a result of unsettled disputes with Horizon Power.

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10 Horizon Power, Briefing Note to the Minister for Energy – Royalties for Regions Funding-Pilbara Undergridding Project, (November 2009).
In August 2012, following an internal review, “...Horizon proposed a new budget of $230 million and a completion date of 30 June 2018 for PUPP [Pilbara Underground Power Project].”14 The project was put on hold at this stage to enable a decision on future funding to be made.

It took until February 2014 for Horizon Power to finalise a Pilbara Underground Power Project Phase 2 business case in collaboration with the Department of Regional Development and the Pilbara Development Commission. This sought a further $75 million through the Royalties for Region program towards a total increase of $105.6 million required to complete the project. This included $5.3 million paid by Horizon Power to complete open works in Karratha following demobilisation of the initial contractor.15 This request was endorsed by Cabinet in June 2014, with the expectation that the remaining balance of $30.6 million would be funded from the relevant local government authorities and Horizon Power.16

The City of Karratha’s contribution accounted for the majority of the local government authorities increase, rising to $34.6 million17 - approximately 28 per cent of the total Karratha works budget, and 72 per cent of the total local government authorities contribution.

Horizon Power initially contributed $7.1 million towards the project, with the majority of this funding used to complete open works in Karratha following the demobilisation of the original contractor. Horizon Power’s contribution increased by a further $22.6 million for project related write-offs, corporate costs and dismantling costs. Horizon Power considers these costs to be outside the project budget, but that is not accepted by the Special Inquirer.

Horizon Power now expects the remaining Onslow and Karratha works to be delivered under budget and ahead of schedule. Completion of underground works was achieved on 17 November 2017, with the remaining overhead power lines to be removed over the coming months and project finalisation by mid-2018.18 The total cost of the Pilbara Underground Power Project is expected to be $239.3 million. This includes Horizon Power’s costs and the $1.1 million paid to the Office of Energy and the Pilbara Development Commission to support the project.

EVALUATION OF THE PROJECT

The Special Inquirer acknowledges the comprehensive review into the Pilbara Underground Power Project undertaken by the Auditor General in 2015. The Special Inquirer has not examined areas that the Auditor General previously examined in depth, including failures in procurement and contract management.19

Governance

The Auditor General’s report noted that the Pilbara Underground Power Project Steering Committee,
established as a condition of initial funding approval by Government, was ineffective and did not perform its intended functions. The report further stated that Horizon Power rarely sought approval from the steering committee before making major decisions.\textsuperscript{20}

There was a decision to split the initial $100 million of Royalties for Region funding into two large disbursements to be transferred to Horizon Power early in the project. This was done as opposed to splitting the $100 million into smaller amounts disbursed subject to the attainment of specific milestones. This resulted in the steering committee essentially relinquishing control of project funding once the disbursements were completed. In its response to questions taken on notice during its hearing with the Special Inquirer, the Department of Primary Industries and Regional Development acknowledged that “...in retrospect the funds should have been disbursed in smaller tranches; with a whole of project cost benefit assessment being completed as an initial requirement for disbursement”.\textsuperscript{21}

Horizon Power also utilised an internal steering committee to consider project performance and strategy. Figure 1 below outlines the governance structure. It indicates risk and cost management were retained by Horizon Power.

\textbf{Figure 1: 2009 Governance Framework}\textsuperscript{22}

\begin{itemize}
  \item Department of Regional Development
  \item Pilbara Development Commission
  \item Local Shire
  \item Horizon Power
  \item Office of Energy
\end{itemize}

\begin{itemize}
  \item Program scope and prioritisation of stages
  \item Financial approval
  \item Policy
  \item Financial contribution policy
  \item Monitoring of performance and cost
\end{itemize}

\begin{itemize}
  \item Cost management
  \item Risk management
  \item Overall group management
\end{itemize}

\begin{itemize}
  \item Program planning
  \item Logistics
  \item Performance and cost reporting
  \item Local government agreements
\end{itemize}

\begin{itemize}
  \item Network system design integrity
  \item Project execution plans
  \item Partner agreements
  \item Contract documents
\end{itemize}

\begin{itemize}
  \item Contractor management
  \item Safe execution of project implementation
  \item Community liaison
\end{itemize}

\begin{itemize}
  \item Land
  \item Government and community engagement
  \item Communications
  \item Legal
\end{itemize}

\textsuperscript{20} Ibid., 7.
\textsuperscript{21} Department of Primary Industries and Regional Development response to Special Inquiry hearing questions taken on notice, received 17 October 2017.
\textsuperscript{22} Department of Local Government and Regional Development and Horizon Power, \textit{Financial Assistance Agreement for a Royalties for Regions Project: Project CARE – Pilbara Undergrounding Program}, (June 2009), 30.
Evidence provided to the Special Inquirer shows that in 2010 there was an internal view in the Office of Energy that “the Steering Committee was reluctant to impose greater financial discipline on Horizon.”\(^{23}\) It is noted, however, that no specific action was listed in the Steering Committee minutes provided by Horizon Power at that time in respect to financial management. The Department of Primary Industries and Regional Development advised the Special Inquirer that “…the collective responsibility of the Steering Committee was to ensure transparency, accountability, effectiveness and efficiency in the delivery of the Pilbara Underground Power Project.”\(^{24}\)

Horizon Power indicated that in its view the governance structure was unnecessarily complex in that the Pilbara Underground Power Project Steering Committee “...shouldn’t have had some confused broader brief to actually look after the delivery of the project. That should have been with a single organisation.” Horizon Power further stated “…if they were redesigning the committee it would have been more about stakeholder management.”\(^{25}\)

However, given the evidence provided and the failings of the early phases of the project, the Special Inquirer is of the view that in this instance the establishment of the Steering Committee was important. In addition, the establishment of the Steering Committee was a condition of Cabinet approving the Royalties for Regions funding. It appears to the Special Inquirer that Horizon Power was unaccustomed to the practice in wider government of establishing governance structures with multi-agency steering committees for projects of a similar scale and risk profile.

In early 2012, Horizon Power implemented improvements in its management and delivery strategy for the Pilbara Underground Power Project and other parts of their business.\(^{26}\)

In 2013, the Department of Regional Development commissioned an independent audit on Horizon Power’s management of the project. The audit indicated that the newly instituted project management arrangements for the Pilbara Underground Power Project were reasonable and appropriate for the risks and complexities of the project.\(^{27}\)

**Project management**

Prior to the initial project funding approval in June 2009, concerns were raised by the Office of Energy and the Department of Local Government and Regional Development regarding Horizon Power’s capability to deliver the project. This was due to its lack of experience in delivering large infrastructure projects, particularly underground projects. As previously stated, Western Power was initially contemplated as the delivery entity for the project due to its technical and project management experience in underground power projects.

The Special Inquirer has noted that concerns were raised by the Office of Energy about Horizon Power’s

\(^{23}\) Department of Treasury Public Utilities Officer response to Special Inquiry questions on notice, received 22 September 2017, 1.
\(^{24}\) Department of Primary Industries and Regional Development Special Inquiry hearing, 6 October 2017.
\(^{25}\) Horizon Power Special Inquiry hearing, 12 October 2017.
relative lack of experience in delivering underground power in intra-agency meetings and communications.\textsuperscript{28} It is also noted that prior to June 2009, it had supported Western Power as the entity responsible for delivering the Pilbara Underground Power Project.\textsuperscript{29} The Department of Primary Industries and Regional Development stated that the decision to designate Horizon Power as lead delivery agency came from a Ministerial level,\textsuperscript{30} with the Public Utilities Office clarifying that the decision “resided with the Minister for Regional Development”.\textsuperscript{31}

The Department of Primary Industries and Regional Development also stated that:

“Based on the documents located regarding the selection of a Project Manager for PUPP [Pilbara Underground Power Project], it would appear that government would have been aware of Horizon Power’s lack of experience in delivering large undergrounding (sic) projects.”\textsuperscript{32}

In April 2009, the Office of Energy prepared draft advice to the Minister for Energy comparing Western Power and Horizon Power as the potential project delivery entity. However, this draft advice was not finalised. The Public Utilities Office was unable to locate any records of advice provided by the Office of Energy to the Minister for Energy that raised concerns about Horizon Power’s capability prior to the decision to fund the project.\textsuperscript{33}

The Pilbara Underground Power Project was specifically designed to upgrade Horizon Power’s Pilbara assets. It therefore seems reasonable that Horizon Power was intended to deliver this project. It is concerning, however, that in 2015 the Auditor General did not sight evidence of any documented rationale for the decision to allocate Horizon Power as the project lead, and neither did the Special Inquirer. The Auditor General’s report noted that Horizon Power would need to ‘close their experience gap’ once it was appointed as project lead. It further noted that on commencement of the Pilbara Underground Power Project, Horizon Power did not have the adequate in-house capability required to deliver the project.\textsuperscript{34}

At its hearing with the Special Inquirer, Horizon Power stated that “…it did not have any concerns about its ability to deliver the PUPP [Pilbara Underground Power Project].”\textsuperscript{35}

Several issues were identified early into the delivery of the project. When construction of the first component of the Pilbara Underground Power Project commenced in October 2010, Horizon Power had not finalised the contract with the lead contractor, or a funding agreement with the Shire of Roebourne (City of Karratha).\textsuperscript{36} Despite this, construction continued for 10 months before the full works contract was signed, at a value of

\textsuperscript{28} Department of Treasury Public Utilities Office response to Special Inquiry questions on notice, received 22 September 2017, 5.
\textsuperscript{29} Ibid.
\textsuperscript{30} Department of Primary Industries and Regional Development response to Special Inquiry hearing questions taken on notice, received 17 October 2017.
\textsuperscript{31} Department of Treasury Public Utilities Office response to Special Inquiry questions on notice, received 22 September 2017, 5.
\textsuperscript{32} Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017, 6.
\textsuperscript{33} Department of Treasury Public Utilities Office response to Special Inquiry questions on notice, received 22 September 2017, 6.
\textsuperscript{34} Office of the Auditor General, Western Australian Auditor General’s Report – Pilbara Underground Power Project, (August 2015), 6.
\textsuperscript{35} Horizon Power Special Inquiry Hearing, 12 October 2017.
\textsuperscript{36} Office of the Auditor General, Western Australian Auditor General’s Report – Pilbara Underground Power Project, (August 2015), 24
$51.2 million - a significant increase over the initial estimate of $35 million.\textsuperscript{37}

The first indication of potential schedule delays occurred in August 2010, following assessment of the Karratha works tenders. Overall budget constraints were reported to the Steering Committee by Horizon Power from July 2010, which endorsed Horizon Power’s proposed cost recovery plan to seek additional funding from NBNCo Limited to co-fund trenching works and, remove dismantling works from the project scope which would be covered solely by Horizon Power.\textsuperscript{38} However, Horizon Power’s attempts to secure an agreement with the National Broadband Network ultimately fell through.

In February 2012, in response to the identified project delivery issues, Horizon Power reorganised the project management structure, moving responsibility for project delivery from the Engineering and Projects Division to the Operations Division.\textsuperscript{39}

An April 2012 briefing to the Minister for Energy from the Public Utilities Office, which noted that the project was only 30 per cent complete and over budget, also advised that:

“Senior Horizon Power staff with responsibility for underground power have recently resigned. Horizon Power has subsequently moved management for the project from Bentley to Karratha and appointed a larger and more experienced team... The new team appears to have taken a stricter and more disciplined approach to the contract with O’Donnell Griffin.”\textsuperscript{40}

**Project costs**

The 2015 Auditor General’s report found that there was little evidence to support the basis for the initial costings developed by the Office of Energy. The Public Utilities Office advised that their initial costs ($17 000 per lot)\textsuperscript{41} were based on Western Power’s experience in delivering the State Underground Power Program in the South West Interconnected System and included an ‘uplift’ contingency of 30 per cent.\textsuperscript{42} The Auditor General’s report notes that the experience referred to was in Fremantle in 2007.\textsuperscript{43} This conflicts with Stantons International report, however, which states that the estimate was based on the Port Hedland State Underground Power Project originally assessed in 2004.\textsuperscript{44}

The Public Utilities Office and Department of Primary Industries and Regional Development both advised the Special Inquirer that the initial cost figures were intended as an estimate only. The 2014 Stantons International report noted that the initial Royalties for Regions estimation was derived from a $13 000 per lot cost for a proposed 2004 Port Hedland underground power project, with an additional sum of $7 000 per lot.

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\textsuperscript{37} Ibid., 20.
\textsuperscript{38} Horizon Power response to Special Inquiry questions on notice, received 20 September 2017, 4.
\textsuperscript{40} Public Utilities Office, Briefing note to the Minister for Energy – Pilbara Underground Power Project – Karratha contract, 23 April 2012.
\textsuperscript{42} Department of Treasury Public Utilities response to Special Inquiry questions on notice, received 22 September 2017, 2.
\textsuperscript{43} Office of the Auditor General, *Western Australian Auditor General’s Report – Pilbara Underground Power Project*, [August 2015], 17.
added for perceived cost increases. There was an expectation that the delivery agency, ultimately Horizon Power, would undertake a further budget refinement taking into account local conditions. Horizon Power has no record, however, of undertaking further cost refinements or an assessment of the validity of the Office of Energy estimates and assumptions. When queried further by the Special Inquirer, Horizon Power stated “...if you’re given this money to actually put into your network, why would you say no to $100 million?”

There are two figures used to derive a per unit cost for the underground works — a per lot cost (based on 5,409 lots) and a per customer connection cost (based on 7,496 connections). Horizon Power advised the Special Inquirer that in order to calculate an accurate underground cost, the Karratha Voltage Upgrade cost ($29.9 million) should be deducted from the total project cost ($239.3 million). Horizon Power has suggested that the per customer cost is a better representation of the final per unit cost, when compared to the original estimate of $17,000. This conflicts with the majority of evidence provided to the Special Inquirer, however, including the report by the Auditor General, which states that $17,000 was a per lot cost estimate. The Special Inquirer has, therefore, utilised the per lot figure for comparative purposes. The Special Inquirer is also of the view that the Karratha Voltage Upgrade should be included in the final project costs for comparison, which results in a total project cost of $44,241 per lot.

A July 2009 briefing note from the Department of Regional Development and Lands indicated that the Minister for Regional Development noted at the time that “…further Cabinet approval will be required for [the] next stage after assessment of the initial $35 million roll-out and cost/benefit... In-principle support for roll-out of PUPP [Pilbara Underground Power Project], but a staged approach.” However, the initial funding approval was structured around two lump sum payments, with upfront funding of $35 million released to Horizon Power for planning and procurement without a robust and documented understanding of the project’s costs and benefits. This was also the case for the subsequent release of $65 million in Royalties for Regions funding to Horizon Power.

The Department of Primary Industries and Regional Development noted that “…in retrospect the funds should have been disbursed in smaller tranches; with a whole of project cost benefit assessment being completed as an initial requirement for disbursement.” Given the evidence sighted by the Special Inquirer, it appears that the inexperience of several key project stakeholders and the lack of discipline exerted by the steering committee may have resulted in an insufficient level of scrutiny and rigour being applied to initial cost estimates.

As previously stated, the Pilbara Development Commission and the Office of Energy were also provided with Royalties for Regions funding. The Pilbara Development Commission did not draw down $600,000 of its allocated funds of $1.8 million, and a further $130,000 was returned to the Department of Treasury in 2015.

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45 Ibid.
46 Horizon Power Special Inquiry hearing, 12 October 2017
47 Horizon Power response to Special Inquiry report findings, received 22 November 2017, 1.
48 Ibid., 2.
50 Department of Regional Development and Lands, Briefing note to the Minister for Regional Development – Briefing note regarding Pilbara Underground Power Project (27 July 2009).
51 Department of Primary Industries and Regional Development Special Inquiry hearing, 6 October 2017.
Similarly, the Office of Energy only received $185,000 of its $500,000 allocated funding, and returned $157,000 of this to the Department of Treasury. Therefore, the total cost to both entities over four years was just under $1.1 million.

Procurement

The 2015 Auditor General’s report noted “The way Horizon tendered and contracted for the project introduced risks that were not then effectively managed.” The report further stated “Horizon Power’s contracting strategy and contract management were deficient in that they did not adequately manage the risks for undertaking the project.”

Horizon Power advised the Special Inquirer that it “...has no record of an assessment or sensitivity analysis of the Office of Energy’s cost estimates prior to commencing the PUPP [Pilbara Underground Power Project] procurement process.” Despite this, Horizon Power commenced procurement processes, allowed contractors to commence construction without formal contracts and entered into contracts without adequate knowledge of the local conditions and the corresponding impact on the required delivery strategy and cost. Furthermore, Horizon Power engaged contractors without certainty of funding shortfall sources. This was evident with Horizon Power’s approach to the National Broadband Network.

2015 Auditor General’s report

The 2015 Auditor General’s report assessed how the Pilbara Underground Power Project was planned, funded and managed. The report found that “...unrealistic estimates and inadequate early planning, coupled with governance and project management inadequately matched to risk...led to overruns and delays.”

The Auditor General made three recommendations to the main delivery agencies.

1. Horizon Power should ensure it more fully disclose the full cost of Pilbara Underground Power Project.
2. The Department of Regional Development should stringently maintain its 2013 requirement for all Royalties for Regions funding submissions to be supported by comprehensive business cases and sufficient evidence of project feasibility in regard to cost and timelines.
3. Pilbara Development Commission should, as part of its role on the Pilbara Underground Power Project Steering Committee, ensure that the Ministers for Regional Development and Energy receive all relevant updates on progress and project risk.

The Special Inquirer has formed the view that these recommendations have been implemented from the advice received from the main delivery agencies to which this report has referred. Importantly, during its hearing on 12 October 2017, Horizon Power advised the Special Inquirer that the current steering committee receives project updates from an independent auditor. This assists with transparency of the project’s progress.

53 Ibid., 20.
54 Horizon Power response to Special Inquiry questions on notice, received 20 September 2017, 4.
56 Ibid.
57 Ibid., 8.
Costs and benefits realisation

The August 2008 Deloitte Report for Horizon Power considered a broader upgrade strategy for Horizon Power’s state-wide assets over a 28-year period.58 The report forecast a $1.84 million saving (in 2008 dollars, it was $1.118 billion versus $1.302 billion) over the traditional asset management strategy incorporating age replacement.59 However, no similar analysis specific to the Pilbara Underground Power Project, undertaken prior to its submission for initial funding or implementation could be provided to the Special Inquirer.

In February 2014, the Pilbara Underground Power Project Phase 2 business case stated that despite the increased cost, the project had a positive net present value of $29.7 million with the net present value of the capital cost, $89.3 million, offset by the quantified net present value benefits, totalling $119.0 million.60

Table 1: The major quantified benefits61

<table>
<thead>
<tr>
<th>BENEFIT</th>
<th>ESTIMATED NET PRESENT VALUE ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduced time on cyclone Red Alert</td>
<td>47.5</td>
</tr>
<tr>
<td>Increased property values</td>
<td>38.2</td>
</tr>
<tr>
<td>Improved network reliability</td>
<td>12.1</td>
</tr>
<tr>
<td>Avoided capital and maintenance costs</td>
<td>19.1</td>
</tr>
<tr>
<td>Other benefits</td>
<td>2.1</td>
</tr>
<tr>
<td>Total</td>
<td>119</td>
</tr>
</tbody>
</table>

The Special Inquirer considered the analysis outlined in the business case to be adequate at a summary level, but noted that a current formal assessment of project benefit realisation was not available. This was consistent with the Department of Primary Industries and Regional Development’s practice to review the achievement of project benefits following project completion. In their response to questions posed by the Special Inquirer, the Department of Primary Industries and Regional Development stated that

“For infrastructure projects the Department tracks delivery of the project, with the benefits cost tracking data being the responsibility of the recipient (in this case Horizon). The Recipient demonstrates achievement of benefits via a Final Project report (if possible within the timeframe of delivery) and subsequent (if nominated) evaluations.”62

Horizon Power has advised that ratepayers in Karratha were not subject to additional costs from either the works to place the Karratha power distribution network underground or voltage upgrade works. Due

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59 Ibid.
61 Ibid., 7.
62 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017, 4.
to the underground works budget increase for Karratha, however, ratepayers were required to commit $15.85 million\textsuperscript{63} more project funding than the initial anticipated amount of $18.7 million - an increase of approximately 85 per cent.

As mentioned previously, Horizon Power’s current forecasts indicate the project will be delivered under the amended budget and ahead of the revised schedule. Underground works will be completed in late 2017 and project finalisation is expected in mid-2018 for a total cost of approximately $215.6 million (Table 2).\textsuperscript{64} This excludes Horizon Power’s $22.6 million of related costs and the $1.1 million expended by the Pilbara Development Commission and the Office of Energy.

**Table 2: Pilbara Underground Power Project Total Cost Comparison, 2009 and 2017**

<table>
<thead>
<tr>
<th>COST CATEGORY</th>
<th>2009 ($ million)</th>
<th>2017 FORECAST ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CAPITAL BUDGET CONTRIBUTIONS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horizon Power</td>
<td>-</td>
<td>7.1</td>
</tr>
<tr>
<td>Royalties for Regions</td>
<td>100</td>
<td>174.7</td>
</tr>
<tr>
<td><strong>Sub total</strong></td>
<td>100</td>
<td>181.8</td>
</tr>
<tr>
<td><strong>PILBARA LOCAL GOVERNMENT AUTHORITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Karratha</td>
<td>18.7</td>
<td>34.6</td>
</tr>
<tr>
<td>Town of Port Hedland</td>
<td>11.7</td>
<td>11.3</td>
</tr>
<tr>
<td>Shire of Ashburton</td>
<td>1.2</td>
<td>2.1</td>
</tr>
<tr>
<td><strong>Sub total</strong></td>
<td>31.6</td>
<td>48</td>
</tr>
<tr>
<td><strong>OTHER COSTS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horizon Power</td>
<td>-</td>
<td>22.6</td>
</tr>
<tr>
<td>Pilbara Development Commission</td>
<td>1.8</td>
<td>1.07</td>
</tr>
<tr>
<td>Office of Energy (Public Utilities Office)</td>
<td>0.5</td>
<td>0.03</td>
</tr>
<tr>
<td><strong>Sub total</strong></td>
<td>2.3</td>
<td>23.7</td>
</tr>
<tr>
<td><strong>Grand total</strong></td>
<td>133.9</td>
<td>253.5</td>
</tr>
<tr>
<td><strong>EXPECTED SAVINGS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Karratha</td>
<td></td>
<td>4.8</td>
</tr>
<tr>
<td>Royalties for Regions</td>
<td></td>
<td>9.4</td>
</tr>
<tr>
<td><strong>Sub total</strong></td>
<td></td>
<td>14.2</td>
</tr>
<tr>
<td>Total projected capital cost to complete the Pilbara Underground Power Project Phase 1 and 2</td>
<td></td>
<td>215.6</td>
</tr>
<tr>
<td>Current projected total project cost to June 2018</td>
<td></td>
<td>239.3</td>
</tr>
</tbody>
</table>

\textsuperscript{63} Horizon Power response to Special Inquiry questions on notice, received 20 September 2017, 7.

\textsuperscript{64} Ibid.
Horizon Power advised the Special Inquirer of the following benefits of the project.

- Following Tropical Cyclone Christine in December 2013, commercial business and industry were able to “…resume operations a couple of hours sooner than would have been the case if there was no underground power”.65 Customers in Port and South Hedland had power restored within 12 hours, while some Karratha customers on the overhead network remained without power for three days.
- Since the power distribution networks have been placed underground in South Hedland and Wedgefield in 2013, maintenance costs have been halved from approximately $1.4 million per annum to $0.7 million per annum.66
- The Pilbara Underground Power Project has also resulted in an upgrade in Karratha’s network from 11kV to 22kV, providing necessary capacity for economic growth and service delivery.67

Horizon Power stated at its hearing with the Special Inquirer that the benefits of the Pilbara Underground Power Project would be realised over the next 50 to 70 years.

RECORD KEEPING

The Special Inquirer has been provided with all documents requested from Horizon Power, the Department of Primary Industries and Regional Development, the Pilbara Development Commission and the Public Utilities Office.

However, there appeared to be issues associated with keeping records of discussions with key stakeholders, including Ministers, when raising concerns on aspects of the project. This included the decision to appoint Horizon Power as the project lead.

FINDINGS

1. The Auditor General got it right in 2015 when he said “…the explanation of why PUPP [Pilbara Underground Power Project] did not go as planned is a familiar one. Unrealistic estimates and inadequate early planning, coupled with governance and project management inadequately matched to risk, led to overruns and delays. It is disappointing to have to report this story again.”
2. The project is currently forecast to cost State and local governments approximately $239 million, nearly double the initial estimate of $130 million. When completed in mid-2018, it will have taken about five and a half years longer than initially planned due to various delays.
3. The average cost per lot for delivering the Pilbara Underground Power Project will be $44,241 once all 5,409 lots have been connected in the Pilbara towns of Karratha, South Hedland, Wedgefield, Onslow and Roebourne. This is a significant increase in the initial cost estimate of $17,000 per lot.68

65 Horizon Power response to Special Inquiry questions on notice, received 20 September 2017, 10.
66 Ibid.
67 Ibid.
68 Horizon Power have suggested to the Special Inquirer that this $17,000 estimate figure is for a per customer connection cost, however all other evidence cited indicates it is a per lot figure – including OAG report.
4. The Minister for Regional Development’s decision to appoint Horizon Power as the responsible agency for the project, despite Western Power having stronger experience, was a mistake. It appears, however, that the responsible agencies failed to advise the Minister of their concerns. The Government’s decision to compress the project into a short time frame of two years, in the middle of an economic expansion, was also a mistake.

5. Horizon Power’s inexperience in project management of this scale at the time was evident in not establishing solid cost estimates for the project, not ensuring good governance for a project of this scale, cost and risk profile and not having an adequate contracting strategy and contract management disciplines. The Special Inquirer however noted the Auditor General’s statement in 2015 on improvements made.69

6. A full benefits realisation assessment will not be generated until the completion of the project in 2018. That assessment will need to be compared with the costs per customer to determine value for money outcomes.

**HORIZON POWER’S VIEW — PER LOT COSTING**

In correspondence dated 22 November 2017, in response to the Special Inquirer’s draft findings, Horizon Power stated that an incorrect figure had been utilised to develop the per lot cost of the Pilbara Underground Power Project. Horizon Power are of the view that the Karratha Voltage Upgrade cost should be excluded from the total project cost when determining an “accurate per unit undergrounding cost”.70

The Special Inquirer acknowledges Horizon Power’s assertion of why the Karratha Voltage Upgrade cost should be excluded in the per unit connection costs. In taking a holistic view of the project the Special Inquirer is of the view that this additional scope and associated costs were endorsed by the Pilbara Underground Power Project Steering Committee and should be included to provide an average cost per lot connected for the project.

69 *Since early 2012, Horizon has improved its contracting, planning, management and oversight of the project. These changes address the problems experienced in delivering PUPP [Pilbara Underground Power Project], and improve the likelihood of meeting the revised completion date and budget.* Office of the Auditor General, Report – Pilbara Underground Power Project, (August 2015), 6.

70 Horizon Power, Response to Special Inquiry draft findings, received 22 November 2017.
APPENDIX A - PROGRESS MAP KARRATHA

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APPENDIX B - PROGRESS MAP ONSLOW\textsuperscript{22}

\textsuperscript{22}Ibid., 10.
THE NINGALOO CENTRE

“The forecast rental income was unrealistic and the centrepiece exhibition centre ... remains empty...”

John Langoulant, Special Inquirer

The Ningaloo Centre in Exmouth was opened in September 2017 as a multi-purpose facility for the local community and visitors to support exhibitions, research and education. The cost of the project was initially set at $32.2 million but is now estimated at about $34 million plus design costs, creating a challenge for the Shire of Exmouth as to how this gap will be funded.

The Special Inquirer has been unable to find evidence of a strong business case to justify the project. The business model on which the project was based has been described as flawed and it is clear that paying for the running costs of the centre will provide a challenge.

One model for anticipated tourist numbers was based on the Museum of Old and New Art in Hobart, which is Australia’s largest privately funded museum. Last year almost 340 000 visitors paid to visit the Museum of Old and New Art. The Special Inquirer believes that visitor comparisons with the Ningaloo Centre are clearly unrealistic.

Doubts about the Shire of Exmouth’s capacity to manage and meet the running costs were raised in 2015. Yet construction went ahead. Those doubts remain and the showpiece 55 000 litre aquarium has remained unused.
SUMMARY

Funding of $2.295 million from various sources was used by the Shire of Exmouth in 2013 to undertake planning, design and documentation to progress the Ningaloo Centre project. Yet the Special Inquirer has not seen evidence of an adequate business case, including a risk identification and mitigation strategy, nor a robust financial plan to substantiate the justification for the Ningaloo Centre to be built from either a local or whole of State perspective.

The Special Inquirer has seen evidence of a number of concerns raised by various stakeholders over the viability of the Ningaloo Centre, with a particular focus on the Shire of Exmouth’s ability to fund the ongoing operation and maintenance of the facility. The forecast rental income in the planning stages was unrealistic and the centrepiece exhibition, a 55 000 litre aquarium to display fish and coral from the nearby reef, remains empty even though the centre opened in September 2017.

Despite the concerns about the Ningaloo Centre’s viability, over $30 million was secured for the construction phase from a number of funding sources including more than $19 million from the Royalties for Regions program, $3.5 million from Lotterywest and $7 million from the Commonwealth Government.

The key decision makers are no longer employed at or involved with the Shire of Exmouth following a Corruption and Crime Commission investigation in 2016. Where the Special Inquirer’s examination and the Corruption and Crime Commission’s investigation had common matters relating to the Ningaloo Centre project, those issues were excluded from the scope of the Special Inquiry to avoid duplication.
PROJECT SYNOPSIS

A proposition for a research centre in the vicinity of the iconic Ningaloo Reef dates back to 2003. The proposal for the Ningaloo Centre project originated from two separate projects, the Ningaloo Ocean and Earth Research Centre and the Exmouth multi-purpose community centre.

There were a range of announcements, as well as plans and studies commissioned for what would eventually culminate in the Ningaloo Centre.

In December 2003, a briefing was submitted to the Cabinet Standing Committee on Regional Policy proposing a research program in support of an action plan for Ningaloo. The program would “focus on marine research programs for conservation and management of the Ningaloo Coast and World Heritage Listing of the Ningaloo Marine Park and Cape Range National Park”.

A feasibility study and business plan for the Ningaloo Ocean and Earth Research Centre project was formally launched by the State Government in June 2006. The Ningaloo Ocean and Earth Research Centre steering committee comprised representatives from the Shire of Exmouth, various State Government agencies, the Exmouth community and Curtin University. The Minister stated at the time that the:

“NOERC [Ningaloo Ocean and Earth Research Centre] is intending to provide a world-class multidisciplinary research facility which will serve as a focal point for research, education and training projects in the Ningaloo, Cape Range and Exmouth Gulf region.”

In 2009, the Ningaloo Ocean and Earth Research Centre steering committee commissioned architects Cox Howlett and Bailey Woodland to prepare architectural sketch plans and a revised business plan for the proposed research centre. This work commenced in February 2010 and focused on providing the plans for a site at the Exmouth Marina.

In the same year the Shire of Exmouth was considering options separately for local infrastructure in Exmouth, culminating in the preparation of a business plan for the Exmouth multipurpose community centre. A former President of the Shire of Exmouth provided a submission to the Special Inquirer stating:

“the Shire of Exmouth was also taking note of its ...ageing assets... The Shire were working up a case for a new Community Centre which would allow these community uses to be housed within one new asset...”

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1 Briefing for the Cabinet Standing Committee on Regional Policy (18 December 2003), 1.
2 Government of Western Australia Media statement, Minister launches feasibility study for Ningaloo Ocean and Earth Research Centre Project, (2 June 2006).
3 Gascoyne Development Commission, Board minutes, (14 September 2010).
4 V.M. Fleay written submission (as former President of the Shire of Exmouth, former Chair of the Gascoyne Development Commission and former Chair of the Ningaloo Ocean and Earth Research Centre), received 21 June 2017.
A Shire of Exmouth Ningaloo Centre economic analysis dated December 2010 stated that in June 2010 “…following consideration of design and business options for the NOERC [Ningaloo Ocean and Earth Research Centre] at a Marina location, the Shire of Exmouth proposed the collocation of the NOERC with the multi-purpose community centre at a site closer to the Exmouth Townsite.”

The work being undertaken by Cox Howlett and Bailey Woodland was halted to investigate the combination of the two projects. A further consultancy was commissioned to assure viability of the collocation. This work resulted in the preparation of the Ningaloo Centre Precinct Master Plan and the Ningaloo Centre Economic Analysis by consultancy firm Pracsys in December 2010.

The 2010 Economic Analysis was based on a project cost of $55 million and concluded that “additional economic benefits would likely arise…” It further stated that “the existence of the centre would give rise to 13.9 new positions…” and the economic return on investment would be in the vicinity of 7.42 per cent to 13.57 per cent depending upon the increase in visitors and spend. It was also noted that the “…returns, while not spectacular, do provide some degree of confidence that this venue may have a positive impact on the economy of Exmouth.”

The January 2013 business case for the Ningaloo Centre Stage 1, which sought $2.18 million of Royalties for Regions funding, was to undertake detailed planning, design and documentation to progress the project. The business case stated that a cost benefit analysis was not required but would be a key deliverable of the detailed planning phase and would accompany the Stage 2 business case. As an outcome of the January 2013 business case, the Shire of Exmouth would provide a feasibility paper that would collate previous research to demonstrate how the Ningaloo Centre would be operationally viable.

The June 2014 business case was for Stage 2 — the construction and fit out of the Ningaloo Centre. At that time, the estimated total project cost was $28.72 million, for which the Shire of Exmouth was requesting $19.82 million from the Royalties for Regions fund. The balance was to come from the Commonwealth Government through its Community Development Grant program ($7 million) and the Shire of Exmouth ($1.90 million).

Several State Government agencies and other entities raised concerns over the Shire of Exmouth’s financial ability to operate and maintain the Ningaloo Centre. On 6 November 2014 the Shire of Exmouth provided the Department of Regional Development (now the Department of Primary Industries and Regional Development) with its current financial position and future projections for the Ningaloo Centre.

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5 Pracsys, Shire of Exmouth Ningaloo Centre Economic Analysis, (December 2010), 4.
6 Ibid., 28.
7 Ibid., 1, 28.
8 Ibid., 1, 28.
Development) with formal advice that:

“it can and will meet all future financial and operational obligations in relation to the Project and it has the financial capacity to cover any and all anticipated future operating losses of the Centre.”

The Royalties for Regions Financial Assistance Agreement for Stage 2 was executed on 22 June 2015 between the Department of Regional Development and the Shire of Exmouth. The total project budget had increased by an additional $3.5 million, with the extra funding to be provided by Lotterywest.

The Ningaloo Centre officially opened in September 2017.

**Corruption and Crime Commission investigation**


Following the Corruption and Crime Commission’s investigation:

- an interim Commissioner was appointed to administer the Shire of Exmouth Council, with elections undertaken in October 2017 to form a new Council;
- the Shire of Exmouth’s former Chief Executive Officer has been replaced;
- the Shire of Exmouth appointed NS Projects to oversee the remainder of the construction of the Ningaloo Centre;
- a Ningaloo Centre Project Reference Group was established; and
- Moore Stephens undertook an analysis of the financial position of the project, expenditure and procurement, and 10 year operating budgets for the Ningaloo Centre.

The Special Inquiry’s terms of reference differed from the Corruption and Crime Commission’s focus on misconduct. As previously stated, where the Special Inquirer identified common issues covered by the Corruption and Crime Commission’s investigation, those issues were omitted from further examination.

**EVALUATION OF THE PROJECT**

**Business case for Stage 1 - Planning**

The January 2013 business case for Stage 1 of the Ningaloo Centre project stated that the requested $2.18 million of Royalties for Regions funding was sought to undertake detailed planning, design and documentation to progress the project. It stated that a cost benefit analysis was not required for the business case but would be a key deliverable of the detailed planning phase and would therefore accompany the

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9 Shire of Exmouth, Letter to Department of Regional Development - Ningaloo Centre Project, (6 November 2014).
Stage 2 business case. As an outcome of the Stage 1 business case the Shire of Exmouth would provide a feasibility paper which would collate previous research to demonstrate how the Ningaloo Centre would be operationally viable. It would also provide a suggested management model and:

- identify and secure additional funding sources;
- demonstrate community support for the combined project;
- deliver a business plan and cost benefit analysis;
- complete detailed architectural design plans and cost of the building to a construction ready level; and
- prepare a business case for the next stage.

Funding of $150,000 to support the project was provided by the Gascoyne Development Commission and the Shire of Exmouth contributed $100,000. The Financial Assistance Agreement was signed by representatives of the Department of Regional Development and the Shire of Exmouth. In its response to Special Inquiry questions on notice, the Shire of Exmouth indicated that in May 2005 it “would not wish to be involved in the ongoing management or administration of the centre nor contribute any funding”. During its hearing with the Special Inquirer, however, when questioned over the formal winding up of the Ningaloo Ocean and Earth Research Centre steering committee, which originally had carriage of the project, it was stated that:

“… [this was] an attempt by the Shire, as I understand it, to take over the project and run it their way, and to do the things to enhance it to be much more than what it was originally going to be…”

In response to Special Inquiry questions on notice the Department of Primary Industries and Regional Development advised that the Shire of Exmouth provided the following outputs through the Ningaloo Centre Stage 1 planning project.

- Economic Consulting Services (March 2013) provided the Ningaloo Centre Economic Valuation. This included detail on an operating model for the Ningaloo Centre, considered the operational sustainability of the centre and provided a cost benefit analysis.
- Blue Sea Australia prepared a commercial commentary report for the Ningaloo Centre, dated March 2013. This report modelled staffing and management options and financial performance projections based on simulated pricing.
- A risk management plan (April 2013) and a project management plan (April 2013).

The Department of Primary Industries and Regional Development further advised that “…the Risk Management Plan and Project Management Plan were developed and considered with the Ningaloo Centre Stage 2 Business Case.” The Financial Assistance Agreement between the Department of Regional Development

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10 Department of Regional Development and Lands, Business Case Proposal for Ningaloo Centre Stage 1 – Planning, Gascoyne Development Plan $2.18 million (January 2013), 3.
11 Shire of Exmouth response to questions on Notice received 12 September 2017.
12 Shire of Exmouth Special Inquiry hearing, 13 October 2017, 13.
13 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
14 Ibid.
and the Shire of Exmouth, dated 24 September 2013, required the:

“Completion and provision of a Feasibility Paper, which addresses the Centre’s future financial sustainability and provides appropriate business and management models for the viability (short, medium and long term) of the Centre”. 15

The information provided to the Special Inquirer indicates that the documentation referred to above does not adequately meet those requirements.

The Department of Primary Industries and Regional Development advised the Special Inquirer that in January 2014, the Department of Regional Development requested that the Department of Local Government and Communities assess the capacity of the Shire of Exmouth to undertake the Ningaloo Centre project. The Department of Local Government and Communities found that:

“...whilst the Shire was in a good financial position there were no provision for costs/revenues associated with the project in the long term, there were strong reservations about the visitation and income projections and assumptions for future operation of the Centre...”.16

It recommended “that the Shire revisit its estimations regarding visitations, income and operating expenditures. The project was not recommended to proceed.”17

The Department of Local Government, Sport and Cultural Industries provided the Special Inquirer with a briefing note to the Minister for Sport and Recreation dated 10 February 2015. The briefing note expressed concerns that the Department of Sport and Recreation’s recommendations relating to risk management and mitigation and the ongoing financial obligations for the Shire of Exmouth from its consideration of the Stage 1 business case had not been sufficiently addressed.18

Given the number of concerns raised, the Special Inquirer is perplexed as to why the Ningaloo Centre was given the green light to proceed to the next stage.

15 Government of Western Australia and Royalties for Regions, Financial Assistance Agreement Royalties for Regions Project, executed between the then Department of Regional Development and Shire of Exmouth, [24 September 2013], 22.
16 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
17 Ibid.
18 Department of Sport and Recreation, Briefing Note Royalties for Regions - Gascoyne Revitalisation Plan - Ningaloo Centre, 10 February 2015.
Business case for stage 2 — Construction and fit out

The June 2014 Stage 2 business case was for the construction and fit out of the Ningaloo Centre. At that time, the estimated total project cost was $28.72 million, for which the Shire of Exmouth was requesting $19.82 million from Royalties for Regions, specifically through the Gascoyne Revitalisation Plan fund. The balance would come from the Commonwealth Government through its Community Development Grant program ($7 million) and the Shire of Exmouth ($1.90 million).

In July 2014, the Stage 2 business case was circulated to the Royalties for Regions Directors’ General Reference Group. While the reference group supported the overall concept of a multi-purpose facility in principle, it noted that “the Project is not supported as it does not demonstrate ongoing sustainability for the Centre…”

The Department of Sport and Recreation (now the Department of Local Government, Sport and Cultural Industries) raised several issues when asked to comment on the Stage 2 business case, including:

- the need for a detailed risk management plan;
- concerns around the Shire of Exmouth entering into a contract for the design and construction of the facility prior to securing full project funding;
- that only one tender was received for the construction and it was unclear as to how a value for money assessment was undertaken;
- the need for the Shire of Exmouth to prepare an asset investment plan to determine the ongoing financial obligations related to routine and restorative maintenance of the facility.

The Royalties for Regions Directors’ General Reference Group resolved that the Department of Regional Development should consult further with the Gascoyne Development Commission, the Department of Finance’s Building Management and Works business unit and the Shire of Exmouth on aspects of the project, specifically the anchor tenant.

To meet operational and maintenance costs the Shire of Exmouth had originally proposed that various users or tenants would operate independently within the Ningaloo Centre. Part of the original business proposal was for the Shire of Exmouth to subsidise the lease to be paid by the proposed key anchor tenants, the University of Western Australia and Durack Institute of Technology.

The Department of Primary Industries and Regional Development advised the Special Inquirer that:

“Throughout August and September 2014, following DSR [the Department of Sport and Recreation] and other agency comments regarding the Stage 2 Business Case, [Department of Regional Development] worked with the Shire, GDC [Gascoyne Development Commission] and Department of Finance …to investigate further options...”

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20 Department of Sport and Recreation; Briefing Note for the Minister for Department of Sport and Recreation - Royalties for Regions - Gascoyne Revitalisation Plan - Ningaloo Centre Stage 2 Construction and Fitout, (10 February 2015), Attachment 2.
and conduct additional due diligence into the tenancy for the education and research space at the Centre and associated impact on the operational financial viability and sustainability for the Centre.\textsuperscript{21}

Following a review of the business case in September 2014, the Department of Finance concluded that:

“the annual lease rates of $100,000 for the Centre’s educational and research space appeared commercially viable; DTWD [the Department of Training and Workforce Development] did not support relocation of the Durack Institute to the Centre; and engaging in lease agreements was outside the autonomy of the Durack Institute.”\textsuperscript{22}

The Department of Finance noted that the financial analysis undertaken by the Shire of Exmouth and its consultants for the tenancy aspect was simplistic given the size of the project and that it only focused on the first five years of the Ningaloo Centre’s operations. The Department of Finance advised that:

“an analysis for a term of at least 10-15 years would have been more appropriate for this project ...[to] provide decision makers with a better indication of the financial viability and sustainability of the project”.\textsuperscript{23}

In September 2014, the Department of Regional Development advised the Shire of Exmouth of the outcomes of the Department of Finance’s review. On 3 November 2014, the Department of Training and Workforce Development formally advised the Department of Regional Development that it did not support the Ningaloo Centre proposal or the relocation of Durack Institute’s Exmouth campus to the Centre.\textsuperscript{24}

As previously stated, in November 2014 the Shire of Exmouth assured the Department of Regional Development that it could meet all future financial and operational obligations for the Centre. It also stated “Furthermore, Council will not seek any funding support from the State Government to cover any operational losses generated by the Ningaloo Centre”.\textsuperscript{25}

In December 2014 the Department of Treasury:

- noted that Durack Institute would not be the key anchor tenant;
- noted the concerns regarding the impact an alternative key anchor tenant may have on the Ningaloo Centre’s operating model, business plan, ongoing viability and sustainability; and
- recommended that a reassessment of the project be undertaken to ensure value for money was obtained for the State Government’s investment in the project.\textsuperscript{26}

\textsuperscript{21} Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.

\textsuperscript{22} Ibid.

\textsuperscript{23} Department of Primary Industries and Regional Development, Attachment 2 of Shire of Exmouth Ningaloo Centre Business Case Stage 2 Construction & Fitout, Gascoyne Revitalisation Plan – Ningaloo Centre Stage 2: Construction and Fitout Business Case - Due Diligence Process – Feedback provided by External Agencies, [June 2014], 1.

\textsuperscript{24} Department of Primary Industries and Regional Development response to Special Inquiry hearing questions taken on notice, 17 October 2017.

\textsuperscript{25} Shire of Exmouth, Letter to the Department of Regional Development - Ningaloo Centre Project, (6 November 2014).

\textsuperscript{26} Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
In January 2015 the Department of Regional Development met with representatives from the office of the Minister for Regional Development and the Shire of Exmouth. The Shire of Exmouth expressed concerns about the ‘red tape’ the Department of Regional Development was seemingly applying to access the Royalties for Regions funding. On the following day the Department of Regional Development was advised by a staff member from the Minister’s office to progress the release of the funds.27

In February 2015 conditional approval for the release of up to $19.82 million of Royalties for Regions funding for the Stage 2 construction and fit out was provided. The conditions included the following.

1. Prior to the release of any funding, the Shire of Exmouth was to secure an anchor tenant for the education and research accommodation.
2. Prior to the release of any funding, the Shire of Exmouth was to demonstrate its ability to fund the operating deficit.
3. Should the Durack Institute not be secured as the anchor tenant, the Shire of Exmouth was required to provide a revised operating model, business plan, and an ongoing viability and sustainability assessment for the Ningaloo Centre and demonstrate its capacity to fund the operating deficit to the Department of Regional Development for the consideration of the Minister for Regional Development.
4. If required, the Minister for Regional Development would consider the Shire of Exmouth’s revised proposal and determine the future project scope and funding for the Project.
5. The Minister for Regional Development was to report back to Cabinet.

The Shire of Exmouth was advised of this decision by the Department of Regional Development in March 2015.

The Department of Primary Industries and Regional Development advised the Special Inquirer that the above conditions were met. In the lead up to releasing the Royalties for Regions funds in September 2015, however, the Department of Regional Development advised the Minister for Regional Development that

“...The ongoing financial viability and sustainability of the Centre and the capacity of the Shire to manage and meet the future operating loss scenarios for the Centre continue to present as critical and high level risks...”28

**Governance**

Minutes of the Shire of Exmouth meeting on 13 June 2013 indicate that a project steering committee was established which had “the objective of information sharing between members regarding the project status (progress, financial, activity), and obtaining member feedback that may be shared with the Council”. The meeting minutes indicated that the steering committee would have the following membership.

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27 Ibid.
28 Department of Primary Industries and Regional Development, response to Special Inquiry hearing questions taken on notice, 17 October 2017, Attachment C.
• Exmouth Shire President and Councillors
• Gascoyne Development Commission
• Durack Institute of Technology
• Ningaloo Alliance
• The Department
• Regional Development Australia (Gascoyne Mid-West RDA)
• Exmouth Shire Chief Executive Officer
• Shire Project Manager

It is assumed “The Department” referred to the Department of Regional Development. In responses to Special Inquiry questions on notice, the Department of Primary Industries and Regional Development advised that it was not a member of a steering committee for the project. It is unclear how often this group met as no meeting minutes were provided to the Special Inquirer.

The Gascoyne Development Commission advised the Special Inquirer that it “has been intermittently involved in the planning and delivery of the current Ningaloo Centre”, however his involvement generally coincided with difficulties being experienced by the Centre”. It further advised that “records of meetings attended by the GDC [Gascoyne Development Commission] are limited to the more recent Ningaloo Centre’s Project Reference Group from December 2016”. In addition, the Gascoyne Development Commission “has no records of being a member of the Project Steering Committee and was not involved in the Project Management or Project Working Group”.

The minutes of the Shire of Exmouth’s meeting referred to above also indicate that a project management committee would be established with the following membership.

• Exmouth Shire President and Councillors
• Exmouth Shire Chief Executive Officer
• Shire Project Manager
• Executive Manager Community Engagement

The Special Inquirer was provided with one set of meeting minutes from December 2013 which was the first meeting of this group. It was noted that observers from the Gascoyne Development Commission and Durack Institute were present at the meeting. It is unclear how often this group met as no further meeting minutes were provided to the Special Inquirer.

Following the 2016 Corruption and Crime Commission investigation, a project reference group was established with membership from the key stakeholders as referred to in the response from the Gascoyne Development Commission.

29 Shire of Exmouth - Minutes (19 December 2013) 10.
30 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
31 Gascoyne Development Commission response to Special Inquiry request for information, received 23 November 2017.
Project management

Planning is a key aspect of strong project management. There was not a clear examination of the options and costs associated with the Ningaloo Research Centre and Exmouth multi-purpose community centre facilities at separate locations or combining the projects for a collocated Ningaloo Centre. A recommendation on the most appropriate option to meet the business needs of the two projects should have been presented.

The Shire of Exmouth noted that the risk assessment and options analysis to inform the investment decision was undertaken in March 2006, some seven years before the Stage 1 Royalties for Regions funding was approved. The Department of Primary Industries and Regional Development’s response to Special Inquiry questions on notice stated that a risk assessment was undertaken in April 2013 to inform the Stage 2 business case. This risk assessment prepared by the Shire of Exmouth is focused, however, on the appointment of a builder and the management of a contractor. It does not address the ongoing risks for the operation and management of the Ningaloo Centre.

The timing of the risk assessment was important and it can be assumed that should it have been completed in a timely manner the project may have been managed differently. The Shire of Exmouth entered into the contract for the design and construction of the facility prior to securing full project funding. This exposed the Shire of Exmouth to a cost risk should the State and Commonwealth funding not have been provided.

The Stage 2 business case states that

“The option of developing separate buildings in Exmouth, comprising a Multi-purpose Community Centre and a Ningaloo Research Centre versus a co-located Ningaloo Centre building, was addressed by the reports accompanying the Business Case for ‘Ningaloo Centre Stage 1 — Planning’.”32

This included a list of reports dated from March 2006, to the Shire of Exmouth’s draft 10+ Year Strategic Community Plan from September 2011 and expression of interest concept submissions for the design and construction of the Ningaloo Centre dated August 2012.

It was not evident to the Special Inquirer that the various studies and plans fully addressed the viability of 32 Department of Primary Industries and Regional Development, Shire of Exmouth Ningaloo Centre Business Case Stage 2 Construction & Fitout, (June 2014), 21.
the project. When issues were raised by key stakeholders the solution appeared to be for a third party provider to undertake another feasibility study, plan or business model. It appears that a number of these have produced inadequate or incomplete information required for the Shire of Exmouth to make an informed business decision and for the State Government to make a funding contribution. It is unclear to the Special Inquirer if this was due to poor scoping for these consultancies or poor management of the final output by the Shire of Exmouth.

It appears that the Shire of Exmouth was intent on proceeding with the Ningaloo Centre despite numerous parties expressing concerns. Issues have been raised regarding the suitability of the 55,000 litre aquarium, the ability to stock it and cost escalations. Concerns were also raised about the high costs with the landscaping at the Ningaloo Centre. At its hearing with the Special Inquirer, the Shire of Exmouth stated

"[The Commissioner] was appointed on 4 January. This building was 85 per cent complete. It was a shambolic mess. You know, costs were overrunning….the outdoor landscaping… it was originally going to be $500,000…. it might have been a little bit more. You know how much it got up to? $2.1 million. You know the reasons for that? Because the former CEO wanted to have turf like they have at Burswood. ....the site architect.... he said he was tearing his hair out. So not only was that going to cost a huge amount to put in... in terms of the ongoing recurrent costs, you have to use portable water to keep that grass alive, because the subterranean water is saline.” 33

The Corruption and Crime Commission investigation also identified issues associated with the Ningaloo Centre project manager, particularly around the procurement of the aquarium.

Following the Corruption and Crime Commission investigation, the Shire of Exmouth appointed NS Projects to manage the Ningaloo Centre construction until completion.

The final construction cost is expected to be around $34 million. The Shire of Exmouth is currently working through how any cost overruns will be financed.

The Shire of Exmouth advised the Special Inquirer that it is working with the Department of Primary Industries and Regional Development, other key agencies and a third party to develop a solution to the aquarium operations. The Shire of Exmouth advised that independent consultants “have identified the required rectification works and costs to enable the aquarium to be operational if an operational aquarium is determined the best solution”.34 They further advised that as the aquarium is not operational at present it will save approximately $150,000 to $250,000 per annum in ongoing running costs. It acknowledged, however, that there is potential for reputational damage if the remainder of the exhibits is not considered value for money by visitors. The time frame to have a solution for the aquarium is 1 July 2018 and the Department of Primary Industries and Regional Development is withholding funds from the project to support this solution. 35

33 Shire of Exmouth, Special Inquiry hearing, 13 October 2017, 12.
34 Shire of Exmouth, response to Special Inquiry questions on notice, received 12 September 2017.
35 Ibid.
Procurement and contract management

The Special Inquirer did not closely examine the multitude of procurement processes associated with the Ningaloo Centre as these were investigated by the Corruption and Crime Commission and other reviews initiated by the Shire of Exmouth.

The Special Inquirer did, however, examine the procurement process for the appointment of the main contractor for the Ningaloo Centre. The minutes of the Shire of Exmouth’s Ningaloo Centre Project Management Committee meeting dated 19 December 2013 indicate that the Shire of Exmouth engaged Matera Constructions in September 2013 for the brief finalisation, schematic design, design development and construction documentation for the Centre.36 This occurred through a tender process in February 2013 where Matera Constructions was the only response received. The meeting minutes further indicate that Site Architecture Studio was the “project lead managers for the Design Services phase …and together with Matera have spent 3 months conducting workshops and project meetings to obtain a thorough understanding …of the stakeholder and user groups’ needs”.37

In March 2015, before construction commenced, Matera Constructions entered into voluntary administration, resulting in the Shire of Exmouth terminating the construction company’s contract. In April 2015 the Shire of Exmouth directly engaged Site Architecture Studio to continue architectural work on the Ningaloo Centre.

In September 2015 following a procurement process Firm Construction Pty Ltd was engaged as the builder to construct and fit out the Ningaloo Centre. The aquarium, which formed part of the original contract with Matera Constructions, did not form part of the contract with Site Architecture Studio. In May 2016 the Shire of Exmouth engaged Ocean Reefs Productions Pty Ltd to design, build and stock the aquarium.

Of concern to the Special Inquirer was the due diligence undertaken by the Shire of Exmouth for the procurement given that:

- Matera Constructions was appointed for the build and design of the Ningaloo Centre but went into voluntary administration prior to construction commencing; and
- the contract for the aquarium was awarded to a company that had paid up capital of only $100, was incorporated just three months before the contract award and had never built an aquarium of a similar scale.

37 Ibid.
Financial analysis

The Special Inquirer has seen evidence from several sources that raised concerns about the ability of the Shire of Exmouth to meet the ongoing costs for the Ningaloo Centre. Correspondence from July 2015 indicates that the Shire of Exmouth made commitments to seek funding from alternative sources, including the oil and gas industry, that never eventuated.\(^38\) It is not clear to the Special Inquirer if these approaches were made and denied or if they never occurred.

In July 2015 the Shire of Exmouth delivered a presentation to the Exmouth Chamber of Commerce and Industry on the financial viability of the Ningaloo Centre. Correspondence provided to the Special Inquirer requests “a copy of the business plan [for the Ningaloo Centre to be provided]... to the members and request their feedback as it is imperative the members have a true understanding of the concept”.\(^39\) It further states “There is some uncertainty within the business community in relation to the running costs and the project becoming a financial burden on ratepayers”\(^40\) and that “It was made clear during the presentation that the main source of revenue obtained to support the Ningaloo Centre would be from Shire funds secured from running the Learmonth Airport.”\(^41\) At its hearing with the Special Inquirer the Shire of Exmouth advised that this was never reflected in any financial plans and the business plan was not provided to the Exmouth Chamber of Commerce and Industry members.

In August 2015 the Shire of Exmouth made commitments to the Department of Regional Development to harvest costs from other areas of the Shire’s operations to offset the costs of the Ningaloo Centre. At its hearing with the Special Inquirer the Shire of Exmouth further advised that these potential harvested costs were overestimated and were never realised to the extent indicated.

The Shire of Exmouth made decisions that were based on flawed foundations. For example, Durack Institute of Technology did not have authority to commit to the building lease. Despite being made aware of this the Shire of Exmouth built the assumption of Durack Institute’s commitment into their business cases and financial analysis. In April 2016, Durack Institute became part of Central Regional TAFE. As the Shire of Exmouth was not in a financial position to meet the subsidised lease proposal and Durack Institute / Central Regional TAFE withdrew from the original lease agreement, the Shire of Exmouth made changes to the tenancy arrangements. These included:

- altering the purposes of some of the tenancy spaces to accommodate the needs of Central Regional TAFE; and
- the Shire occupying space originally set aside for Central Regional TAFE for its own administrative purposes in an attempt to sustain the recurrent and maintenance costs of the Ningaloo Centre.

\(^{38}\) Chamber of Commerce and Industry, joint letter to Mr Bill Price CEO Shire of Exmouth and Mr Turk Shales Exmouth Shire President, (28 July 2015)
\(^{39}\) Ibid.
\(^{40}\) Ibid.
\(^{41}\) Ibid.
During its hearing with the Special Inquirer the Shire of Exmouth stated that the Ningaloo Centre

“morphed from what was originally going to be a joint marine research facility into bigger than Ben Hur on a
new site. The marine research facility has been added to with education through TAFE, through the community
centre, through the library moving over there, and also the Ningaloo Visitor Centre moving into the centre”.42

The Shire of Exmouth also advised at its hearing that the anticipated Ningaloo Centre visitor numbers would
be like MOANA (Museum of Old and New Art) in Tasmania.43 The Museum of Old and New Art is the
largest privately funded museum in Australia which presents antiques and modern and contemporary art.
The entry fee starts at $25 per adult. Of the 1 236 400 visitors to Tasmania in 2016, 27 per cent visited the
Museum of Old and New Art, which equates to 338 358 people excluding Tasmanian residents.44 It is highly
unlikely that the Ningaloo Centre would experience that number of visitors and to draw comparisons with
Museum of Old and New Art was unrealistic.

An independent audit of the Ningaloo Centre completed by Moore Stephens in September 2017 suggested
that the project was currently on budget, however, any scope exclusions were unclear. The audit did not
appear to include any of the required rectification works and costs to enable the aquarium to be operational
and it was uncertain if it included any costs relating to landscaping as referred to by the Shire of Exmouth.
Further, in its hearing with the Special Inquirer, the Shire of Exmouth advised that “…the auditor has told us
we were having to draw on our municipal fund to meet the financial payments. That’s in breach of the Local
Government Act.”45

A separate Moore Stephens review of the Shire of Exmouth’s forward budgets completed in July 2017 stated:

“Based on our initial investigations and enquiries, we were not able to uncover any document which could be
considered a credible management/business plan for the Ningaloo Centre post commissioning.”46

As a result of this review, the Shire of Exmouth commissioned NS Advisory Services to prepare a business
plan for the Ningaloo Centre. It was stated that the purpose of the business plan was to:

• assess and define the optimum facility user model;
• define a preferred governance structure;
• inform and finalise user agreements; and
• deliver an operational business plan to inform financial sustainability and responsibilities.

According to the Shire of Exmouth’s responses to Special Inquiry questions on notice, the business plan
contained information to enable the Shire of Exmouth to plan for the cost impacts of the Ningaloo Centre for
the 2017/18 budget.47

42 Shire of Exmouth, Special Inquiry hearing, 13 October 2017, 11.
43 Shire of Exmouth, Special Inquiry hearing, 13 October 2017, 16-17.
44 Tourism Tasmania, MONA Visitor Profile, (December 2016).
45 Shire of Exmouth, Special Inquiry hearing, 13 October 2017, 8.
47 Shire of Exmouth response to questions on notice, received 12 December 2017.
The long term financial viability of the Ningaloo Centre is unclear. The Shire of Exmouth’s ability to meet the ongoing operational and maintenance costs has been raised by various parties over a number of years. The Shire of Exmouth advised the Special Inquirer, however, that it “has the capacity to meet the operational loss associated with operating the Centre. The challenge the Shire has is managing the asset renewal cost over the life of the project. The Shire will continue to investigate and address this issue in the context of managing its entire budget and in its long term financial plan required by the Dept. Local Govt, Sport and Recreation and Cultural Industries when submitting its Integrated Strategic Plan by 30 June 2018.”48

RECORD KEEPING

The Shire of Exmouth did not demonstrate that it had kept an appropriate record of information pertaining to decisions relating to the Ningaloo Centre. The Commissioner of the Shire of Exmouth who was appointed in January 2017 and the current senior management demonstrated a strong willingness to provide the information requested by the Special Inquirer. The information provided was incomplete. Further, at its hearing with the Special Inquirer, the Shire of Exmouth stated “We’ve got an appalling records system”.49

FINDINGS

1. The business modelling and original investment decision for the Ningaloo Centre were based on poor assessments and flawed assumptions.
2. The Special Inquirer’s examination of the project sighted evidence from various Government agencies and key stakeholders over several years which questioned the feasibility of the Shire of Exmouth meeting the operational and maintenance costs associated with the Ningaloo Centre. The concerns of these agencies were never adequately addressed.
3. In the lead up to releasing the Royalties for Regions funds in 2015, the Department of Regional Development noted to the Minister for Regional Development that “…the capacity of the Shire [of Exmouth] to manage and meet the future operating loss scenarios for the Centre continue to present as critical and high level risks…”50 It is unclear why the decision was made to proceed with funding the Ningaloo Centre.
4. The implementation of the stated governance arrangements for the project is unclear, with few or no records of the project management committee or project management group available. Based on the documentation provided it is unclear who made key decisions for the project.
5. The Shire of Exmouth has implemented changes to its processes to reflect the outcome of the Corruption and Crime Commission investigation.
6. The Shire of Exmouth has developed a draft transition plan and a forward operational plan for the Ningaloo Centre.
7. The Shire of Exmouth is working with the Department of Local Government, Sport and Cultural Industries, the Department of Primary Industries and Regional Development and the Gascoyne Development Commission in resolving the issues associated with the Ningaloo Centre, including finding a solution to the operation of the aquarium.

48 Shire of Exmouth response to questions on notice received 12 September 2017.
49 Shire of Exmouth Special Inquiry hearing, 13 October 2017.
50 Department of Regional Development - Briefing Note for the Minister for Regional Development, Gascoyne Revitalisation Plan - Ningaloo Centre Stage 2 Construction and Fitout, (September 2015).
**BULGARRA REGIONAL SPORTS COMPLEX**

“The project represents value for money: it met community needs ... and has ongoing costs acceptable to the City of Karratha...”
- John Langoulant, Special Inquirer

The Bulgarra Regional Sports Complex project in Karratha stands out because the original construction cost in 2009 was assessed at $6.8 million, a “design and construct” approach was then adopted and the budget cost reduced to $4.95 million. When the new facility, the Frank Butler Community Centre, was officially opened in July 2012 the cost had been cut again to $4.6 million.

Under Royalties for Regions arrangements, the project did not require a business case but other processes were employed to assess eligibility for funding. The Shire of Roebourne (now the City of Karratha) had overall responsibility for the work.

The Special Inquirer notes that the Shire should have advised the other contributing agencies of the substantial budget savings earlier, and obtained written approval from the Department of Regional Development and Lands before absorbing all the savings into the Shire’s budget.

Initial patronage of the Centre had been strong, but activity has eased. The City of Karratha says that revenue and costs are in line with initial estimates. An operating loss of $217,000 was reported last year. The City is responsible for and accepts all costs.

The project is meeting community needs and expectations.

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**Government agency:**
Shire of Roebourne (now City of Karratha), Department of Regional Development and Lands (now Department of Primary Industries and Regional Development), Department of Sport and Recreation (now Department of Local Government, Sport and Cultural Industries), Pilbara Development Commission

**Project timeline:**
2009 - 2012

**Total cost**
$4.6 million

**Total cost to Government**
$3.15 million

- **2011**
  - Project approved for approximately $6.8 million

- **2011**
  - Contractor selected and cost reduced to $4.95 million. Shire of Roebourne reduces its contribution by $1.8 million

- **2012**
  - Department of Regional Development is advised of cost discrepancy and new Financial Assistance Agreement signed

- **2012**
  - Official opening. Reported to be at full capacity during first six months

- **2017**
  - Use of the facility has declined slightly
SUMMARY

In 2009, the Shire of Roebourne (now the City of Karratha) identified a need to upgrade the Bulgarra Regional Sports Complex in Karratha. The proposed upgrade included replacement of ageing clubrooms next to Bulgarra Oval and improvement of facilities at the ground to enhance recreational options for local residents.

The Special Inquirer has examined the construction of the new $4.6 million community facility — the Frank Butler Community Centre — at the Bulgarra Regional Sports Complex. Construction was funded by the Shire of Roebourne, the State Government through the Royalties for Regions Country Local Government Fund, the Department of Sport and Recreation (now the Department of Local Government, Sport and Cultural Interests) Community Sport and Recreation Facilities Fund and the Pilbara Development Commission.

The additional components of the surrounding grounds upgrade were funded through a separate $2.5 million grant from the Royalties for Regions Regional Infrastructure and Headworks Fund. This component of the funding for the project was straightforward in that all monies were expended and acquitted.

Under Royalties for Regions requirements, a business case was not required for either aspect of the sports upgrade.

Overall, the upgrade to the facilities appears to have been well received by the community of Karratha as the patronage of the facility indicates.
PROJECT SYNOPSIS

In 2009, the Shire of Roebourne carried out community consultation and planning for the upgrade of the Bulgarra sports complex in Karratha. The Shire of Roebourne’s 2009 Annual Community Survey identified service level gaps which it sought to address by developing a new community centre at the Bulgarra site “in accordance with community expectations”.¹

The major external source of funding for the project, the Royalties for Regions Country Local Government Fund, does not require a business case for individual projects. The Department of Primary Industries and Regional Development advised the Special Inquirer that local governments choose where funding is allocated provided that this is in accordance with the Country Local Government Fund guidelines, included in the Shire’s forward capital works program and approved by the Department.²

The Shire of Roebourne Council endorsed the project brief for the design and construction of the community centre at the sports complex site and the advertisement of tenders for an architect on 21 September 2009.

The construction cost was originally estimated at $6.8 million which included an 85 per cent ‘Roebourne loading’ that is applied to Perth construction costs for a project to arrive at the cost estimate.³ Following the procurement process, a design and build approach was adopted and the budgeted cost was reduced to $4.95 million — a saving of $1.85 million.

The Shire of Roebourne Council endorsed the advertisement of tenders for the design and construction on 18 October 2010.

In June 2011, construction of the community centre commenced, with the Shire of Roebourne managing the project.

In July 2012, the Frank Butler Community Centre at the Bulgarra sports complex was officially opened. The construction costs were significantly less than the original budget and lower than the revised budget, with the total expenditure being $4,623,925. The Shire of Roebourne reduced its contribution to the project from $3,759,108 to $1,799,474. Although cost savings were identified prior to construction commencing, the contributions from the other State Government agencies were not adjusted as a result of the lower than expected cost.

The City of Karratha is responsible for the ongoing maintenance and operation of the facilities. In 2016/17 the City of Karratha reported an operating loss of $217,000 on the complex.

² Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
³ Shire of Roebourne, Letter to the Department of Regional Development and Lands, (14 April 2012), 2.
EVALUATION OF THE PROJECT

Governance

The Shire of Roebourne Council oversaw all tenders exceeding $100,000 in value and this threshold remains in place today under the City of Karratha delegations. The Special Inquirer notes that the Shire of Roebourne Council endorsed the two major milestones for the project:

- the project brief for the design and construction of the Community Centre and the advertisement of tenders for an architect in September 2009; and
- the advertisement of tenders for the design and construction in October 2010.

The Special Inquirer did not identify any information that suggests any failures in delivery or increased costs. Decision-making by the Shire of Roebourne to proceed with a design and construct contract at an early stage and the application of the 85 per cent Roebourne loading resulted in delivery at a lower cost than that which was originally estimated.

Royalties for Regions contributed $1.8 million to the project, the Department of Sport and Recreation just over $900,000 and the Pilbara Development Commission $354,000. The Shire of Roebourne’s contribution decreased from $3.7 million to $1.8 million over the life of the project. Although not formally a requirement of agreements by which the State Government funding was provided, the Special Inquirer would have expected the Shire of Roebourne to notify the agencies that the project cost would be significantly under budget following the procurement process. From the Shire of Roebourne’s perspective, however, this may have been seen as a commercially responsible decision for its ratepayers, given its own financial contribution was from borrowed funds.

Project management

Following the initial grant approval from the Department of Sport and Recreation, the Shire of Roebourne developed the Bulgarra Sporting Precinct Project Management Plan in 2009.

The project management plan established a revised project budget of $4.75 million, subject to the review and finalisation of the costed project design briefs for the community centre and another sporting precinct development at the Karratha TAFE site.4 There was a capital expenditure allocation of $220,000 for design.5

An assessment by the Department of Sport and Recreation of the Shire of Roebourne’s application for funding considered the Centre well planned and needed.6

The project management plan proposed a multipurpose clubhouse for sporting clubs, with kitchen facilities

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5 Ibid., 18.
6 Department of Sport and Recreation, Community Sporting and Recreation Facilities Fund Regional Manager’s Project Assessment Sheet, [undated].
and servery areas and a separate committee room. The plan was to integrate improvements with the existing pavilion. The Shire of Roebourne’s funding proposal to the Department of Regional Development and Lands and its forward capital works plan referred to this building as a community centre. The proposed use was expanded to include social functions such as dances and weddings, and indoor sports such as dancing, martial arts and fitness training.7

As well as identifying service gaps through the annual community survey, community consultation was undertaken during the development of the master plan to best plan for identified need. These consultations included a series of workshops with sporting clubs and meetings with other key stakeholders. The City of Karratha advised the Special Inquirer that regular updates were provided to these groups regarding changes to the design and use of the building and included an opportunity for comment from the key stakeholders and end users.8

The project management plan was developed in parallel to the K2020 Bulgarra Sporting Precinct, Project Management Plan which was also approved by the Shire of Roebourne in September 2009. The scope of works set out in the project management plan covered the design and construction of the community facility. The project management plan also established the role and accountabilities of the project manager and established the internal project reference group with oversight of the project and its terms of reference.

As previously stated, no business case was prepared by the Shire of Roebourne for the design and construction of the community centre, as the local government authority determines to which project the funding will be allocated in accordance with its capital works plan. In December 2010, the Shire of Roebourne provided the Department of Regional Development Lands with its funding proposal. Funding was approved as the project:

- met the Department of Regional Development and Lands Country Local Government Fund Guidelines (2010); and
- was included in the Shire of Roebourne’s capital works plan endorsed by its Council.9

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7 Shire of Roebourne, Country Local Government Fund Shire of Roebourne Funding Proposal (December 2010), 3.
8 City of Karratha response to Special Inquiry questions on notice, received 19 September 2017.
9 Ibid.
In response to a growing need to manage a significant portfolio of capital works, State Government decisions to invest substantially in the Pilbara and the need to address the lack of resources for procurement processes, the Shire of Roebourne established a dedicated Strategic Projects Office in July 2010 to manage projects including the community centre.\(^{10}\)

The function of the Strategic Projects Office was identified as being

> “to deliver projects of strategic importance to the Shire as determined by the Strategic Plan of Council and initiated and implemented by the Executive Management Group through Council’s Project Initiation and Implementation Guidelines.”\(^{11}\)

### Financial analysis

The design and construction of the Community Centre was funded from four sources:

1. the Royalties for Regions, Country Local Government Fund;
2. the Department of Sport and Recreation’s Community Sporting and Recreation Facilities Fund;
3. the Pilbara Development Commission; and
4. the Shire of Roebourne through loans.

Documentation provided to the Special Inquirer indicates that the Shire of Roebourne considered the high cost associated with an architectural design, in comparison to a design and construct approach that provided a cost effective, innovative and functional design.

The construction was originally estimated at $6.8 million. Following the procurement process, a design and construct approach was taken and the budgeted cost was reduced to $4.95 million — a saving of $1.85 million. The Shire of Roebourne reduced its contribution to the project from $3,759,108 to $1,799,474, while other contributions remained the same. Upon completion of the project, costs were significantly less than anticipated, coming in at $4,623,925 — $2,176,075 less than the original estimated budget.

There was a divergence in the obligations of recipients to notify budget variations between the agencies’ financial assistance agreements. Neither the Pilbara Development Commission nor the Department of Sport and Recreation had a requirement for the agency’s contribution to be reduced in light of the savings, nor did the agreements prevent the Shire of Roebourne from applying the savings to reduce its own contribution.

The Special Inquirer notes that the Shire of Roebourne did not comply with its obligation under section 18 of the Financial Assistance Agreement with the Department of Regional Development and Lands, which states that “Any modification, amendment or other variation to this Agreement must be made in writing duly

\(^{10}\) Shire of Roebourne, Parks and Leisure Conference presentation: Karratha - City of the North - Excellence in Project Procurement, (June 2013).

\(^{11}\) Shire of Roebourne, Letter to Department of Regional Development and Lands with Country Local Government Fund Proposal for Bulgarra Community Centre, (December 2010).
executed by both parties”.12 The Shire of Roebourne did not notify the Department of Regional Development and Lands until April 2012 that there was a discrepancy with the project budget as outlined in the Financial Assistance Agreement. They acknowledged that “Council recognised the large decrease and that this should have been notified when the project budget was amended in July 2011.”13 The Special Inquirer further notes, however, that as with the State Government funding arrangements mentioned above, there was nothing in the Country Local Government Fund financial assistance agreement to preclude the Shire of Roebourne from applying the savings to reduce its contribution to the project.

**Monitoring and reporting**

The Special Inquirer canvassed all funding providers as to whether the Shire of Roebourne had kept them informed of the reduced costs compared with original cost estimates. The Pilbara Development Commission and Department of Local Government, Sport and Cultural Industries confirmed that the Shire of Roebourne had provided regular project status reports and information regarding project budget amendments.14 15 As outlined earlier, the Shire of Roebourne did not notify the Department of Regional Development and Lands until April 2012 that there was a change to the project budget as outlined in the Financial Assistance Agreement.

The State Government was provided with a summary of the Community Centre project, together with the other projects, by the Department of Regional Development and Lands through a Cabinet submission.

The project was independently audited by UHY Haines Norton Chartered Accountants. The Shire of Roebourne’s final contribution was $1,473,745,16 which is less than the revised Financial Assistance Agreement budget contribution of $1,799,474.

UHY Haines Norton concluded that funds from Country Local Government Fund were received and expended as agreed, that other sources of funding were correctly disclosed and payments for the project were in accordance with applicable Australian Accounting Standards.17 The final project costs are detailed below.

**Table 1: Funding for design and construction — Community Centre**18

<table>
<thead>
<tr>
<th>SOURCE</th>
<th>AMOUNT ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royalties for Regions Country Local Government Fund</td>
<td>1,859,952</td>
</tr>
<tr>
<td>Community Sport and Recreation Facilities Fund</td>
<td>936,056</td>
</tr>
<tr>
<td>Pilbara Development Commission</td>
<td>354,000</td>
</tr>
<tr>
<td>Shire of Roebourne</td>
<td>1,473,745</td>
</tr>
<tr>
<td>Country Local Government Fund Round 3 Interest</td>
<td>172</td>
</tr>
<tr>
<td><strong>Total Funding</strong></td>
<td><strong>4,623,925</strong></td>
</tr>
</tbody>
</table>

13 Shire of Roebourne, letter to Department of Regional Development and Lands, (14 April, 2012).
14 Pilbara Development Commission response to Special Inquiry questions on notice, received 22 September 2017.
15 Department of Local Government, Sport and Cultural Industries response to Special Inquiry questions on notice, received 20 September 2017.
17 Ibid.
Procurement and contract management

The Shire of Roebourne procured various elements of the project through public tender processes and quotations all were in accordance with the requirements of the Local Government Act 1995 and related regulations.\textsuperscript{19}

It is noted that an assessment by the Department of Sport and Recreation in relation to the Shire of Roebourne’s application considered the centre to be well planned and needed. The Department had previously rejected an application for funding for the community centre in 2004 on the basis that further planning was required.

Benefits realised

The UHY Haines Norton audit included a record of use of the facility for the first six months of operation from June 2012 to December 2012. This showed that the facility was operating at full capacity. The City of Karratha advised that although use was below the projections outlined in the Karratha City of the North Plan, this plan reflected population targets that have not yet been realised. The City of Karratha also advised that the Community Centre use is as set out in Table 2 below, and that actual hours fell last year to 1,583, mainly due to reduced use by one group.\textsuperscript{20}

<table>
<thead>
<tr>
<th>YEAR</th>
<th>HOURS PER ANNUM</th>
<th>HOURS PER WEEK</th>
<th>HOURS PER DAY</th>
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<tbody>
<tr>
<td>2013/14</td>
<td>1,459</td>
<td>28.06</td>
<td>4.0</td>
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<tr>
<td>2014/15</td>
<td>2,079</td>
<td>39.98</td>
<td>5.7</td>
</tr>
<tr>
<td>2015/16</td>
<td>2,532</td>
<td>48.69</td>
<td>7.0</td>
</tr>
<tr>
<td>2016/17</td>
<td>1,583</td>
<td>30.44</td>
<td>4.3</td>
</tr>
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</table>

The City of Karratha advised the Special Inquirer that the actual revenue and costs associated with the facility are in line with initial estimates and are detailed below in Table 3.\textsuperscript{21}

Table 3: Frank Butler Community Centre actual income and expenditure

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INCOME ($)</th>
<th>EXPENDITURE ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13</td>
<td>62,065</td>
<td>267,186</td>
</tr>
<tr>
<td>2013/14</td>
<td>51,566</td>
<td>384,939</td>
</tr>
<tr>
<td>2014/15</td>
<td>60,027</td>
<td>361,919</td>
</tr>
<tr>
<td>2015/16</td>
<td>76,808</td>
<td>320,768</td>
</tr>
<tr>
<td>2016/17</td>
<td>57,708</td>
<td>275,624</td>
</tr>
</tbody>
</table>

\textsuperscript{19} City of Karratha written submission, received 19 June 2017.
\textsuperscript{20} City of Karratha response to Special Inquiry questions on notice, received 19 September 2017.
\textsuperscript{21} Ibid.
The City of Karratha advised that the declining future use of the facility would not impose a fiscal burden, stating:

“The net operating costs of this facility are relatively insignificant to the City’s overall financial position. While not desirable, an increase in net loss from this facility would not place a material impact on the City’s financial position. It is not anticipated that demand will fall below current rates and usage may well increase beyond that experienced in 2015-16.”

The City of Karratha reports that the facility is well maintained, well used by the local community and has been a welcome addition to the City of Karratha. They further advised the Special Inquirer that community surveys support that benefits to the community are still being realised.

**Record keeping**

The City of Karratha, the Department of Local Government, Sport and Cultural Interests, the Department of Primary Industries and Regional Development and the Pilbara Development Commission all provided documents and information requested by the Special Inquirer.

**FINDINGS**

1. The planning and procurement processes of the Shire of Roebourne for the Bulgarra Regional Sports Complex were robust with no issues of significance identified.
2. The Shire of Roebourne made the cost-effective decision to change to a design and construct contract which realised a reduction in the cost of the project.
3. The Shire of Roebourne failed to recognise that it had an obligation to notify immediately the Department of Regional Development and Lands of the change in the budget for the project.
4. The drafting and structure of the Department of Regional Development and Lands Country Local Government Fund Financial Assistance Agreements may have contributed to the lack of clarity in the Shire of Roebourne’s understanding of its obligations to seek approval for the budget change.
5. The Frank Butler Community Centre is well used by the local community, despite a decline in use recorded for 2016/17.
6. The City of Karratha has the financial resources to adequately manage the ongoing net operating costs of the Frank Butler Community Centre.

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22 Ibid.
23 City of Karratha written submission, received 19 June 2017.
WANANGKURA STADIUM

“The Town of Port Hedland failed to undertake adequate management of the project.”
- John Langoulant, Special Inquirer

In early 2009 construction of a multipurpose recreation centre (Wanangkura Stadium) was identified as one of the most urgent priorities for the Town of Port Hedland to satisfy community needs driven by a growing population. But its official opening by the then Premier, Colin Barnett, in July 2012 gained publicity for all the wrong reasons.

Fire control requirements for the complex were considered inadequate and stop gap measures were applied for the first few days. Then the complex was closed — at additional expense — while the problem was fixed.

The project was completed at a cost of $35.8 million which was slightly more than the figure projected in 2009, although the Town’s records are inconsistent on this detail.

The process itself had a number of shortcomings. There was no business case, planning or initial analysis which would be expected for a project of this scale, and work started without formal funding agreements with the contributors.

It was apparent that the Town failed to undertake adequate management of the project. That the site is prone to annual flooding should have been obvious at the design phase.

The Town has advised that the average annual operating deficit for the stadium is $380,000.
SUMMARY

Plans for the Wanangkura Stadium (multipurpose recreation centre) in South Hedland began in early 2006 as part of the Town of Port Hedland’s Community Development Project.

The Town considered the concept of a new recreation centre and the proposal was developed further after a recreation facilities audit and a feasibility study were completed.¹

The Town of Port Hedland secured funding for the Community Development Project specifically for the stadium. The Royalties for Regions Pilbara Revitalisation Program was one of the sources of funding.

Construction commenced in 2010 and was plagued with delays including design and engineering flaws.

While the stadium seems to have been delivered close to budget at just over $35 million, there have been additional costs due to delays and remediation. Ongoing costs were not well thought through and the annual deficit for the Town of Port Hedland is $380,000. Use of the facility is at the low end of expectations, and there are issues with flooding.

The opening of the stadium was fraught with problems. It was closed three days after opening as it did not meet the requirements of the Building Code of Australia.

The project was poorly planned. Governance was inadequate and financial estimates, costs and benefits were undeveloped. Procurement processes were deficient and contracts were not well managed.

The Town of Port Hedland has informed the Special Inquirer that some improvements have been made to processes as a result of learnings from this project.

¹ Town of Port Hedland, Minutes: Ordinary Council Meeting, (22 February 2006), 51.
PROJECT SYNOPSIS

In February 2006, as part of the Community Development Project, the Town of Port Hedland established a Recreation Facilities Working Group. The working group was to commission an audit of recreation facilities and consult with key stakeholders. The audit report resulted in a five year Sports Facility Capital Development Plan and recommended development of a multi-purpose recreational sporting centre in South Hedland, potentially on or nearby to the site occupied by the Finucane Island Club.2

The report was open for community feedback in July 2006. Eight submissions were received, with the majority being supportive of the recommendations.3

The Town of Port Hedland Council engaged Paterson Group Architects in March 2007 to prepare a feasibility study and concept plan for the multipurpose recreation centre.4 The study was considered by the Council in September 2007 and released for community feedback.5 At the November 2007 council meeting it was noted that of the six submissions received regarding the feasibility study, one expressly opposed the continuation of the project and the remainder were supportive.6 It was resolved at the meeting to note the study and to undertake a tender process to develop architectural designs as well as more detailed and accurate cost estimates for the centre.7

Ashton Raggat and McDougall architects were appointed in May 2008 to design the multipurpose recreation centre at a cost of $1.5 million.8 At this time the Council resolved to change the location of the centre from the area occupied by the Finucane Island Club to another site.9

In January 2009, the multipurpose recreation centre was identified as one of the most urgent priorities in the Town of Port Hedland to meet existing community needs and accommodate the growing population.

At this time, the Town of Port Hedland made an application to the Department of Local Government and Regional Development (now the Department of Primary Industries and Regional Development) for $20.2 million for the Community Development Project. Of this, $10.5 million was to be used for the multipurpose recreation centre. The funding was approved by Cabinet in June 2009.10

On 29 June 2009, the Town of Port Hedland and the Department of Local Government and Regional Development entered into a financial assistance agreement11 whereby the funding would be sourced

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3 Town of Port Hedland, Minutes: Ordinary Council Meeting, (27 September 2006), 117-120.
5 Town of Port Hedland, Minutes: Ordinary Council Meeting, (26 September 2007), 169.
6 Town of Port Hedland, Minutes: Ordinary Council Meeting, (28 November 2007), 142-143.
7 Ibid.
8 Town of Port Hedland, Minutes: Ordinary Council Meeting, (28 May 2008), 142-143.
9 Town of Port Hedland, Community Infrastructure Implementation Plan (Hedland’s Future Today 2009 – 2014), (January 2009), 11.
10 Department of Primary Industries and Regional Development response to Special Inquiry Questions on Notice, received 26 September 2017.
through the Royalties for Regions fund pursuant to the Pilbara Revitalisation Plan.12

The financial assistance agreement was varied in December 2009 when the multipurpose recreation centre funding was increased from $10.5 million to $11.1 million.13 The increase of $600 000 was made possible by the deferral of another local project. At this point, the Town estimated that there was a $3.25 million shortfall in the funding for the recreation centre.14

Doric Constructions Pty Ltd (Doric) was appointed in July 2010 to build the centre15 and construction was expected to commence on 1 September 2010. The construction contract value was $26.1 million.16

Engineering consultants were engaged to provide engineering drawings. The drawings had errors and there were omissions in multiple drawings including the structural drawings. The Special Inquirer understands the Town received legal advice that the consultant’s behaviour did not amount to negligence and therefore damages should not be sought. In October 2010, an increase of $402 441 in the contract price was approved by the Council to accommodate engineering deficiencies that had occurred due to the errors and omissions in the engineering drawings.17

A further Deed of Variation for the financial assistance agreement between the Town of Port Hedland and the Department of Regional Development and Lands was entered into in April 2011 to reflect a change in the project completion date to June 2012.18

In November 2010 the Town of Port Hedland appointed Complete Community Solutions Strategic Management to prepare a plan for the operational management of the recreation centre. An investigation by Complete Community Solutions Strategic Management revealed that the existing floor design lacked functionality and was likely to result in a higher operating deficit. Having considered available redesign options, the Town of Port Hedland Council resolved to authorise spending of $17 000 to provide 24-hour gym access at Wanangkura Stadium in an attempt to improve its future operating deficit.19 The interim management plan for the centre was endorsed in June 2011 with the operator, the Young Men’s Christian Association, which was appointed in March 2012.

Just prior to the planned opening, the Council became aware that water flow and pressure at the centre was “insufficient … to comply with fire control requirements”. According to minutes of the council meeting, the Town of Port Hedland was advised that the issues had been addressed, although the Town of Port Hedland was unable to explain who provided this advice. Later inspection of the facility on 26 July 2012 indicated the

12 Department of Primary Industries and Regional Development responses to Special Inquiry questions on notice, received 26 September 2017.
14 Department of Primary Industries and Regional Development, 2009-10 Q1 CPD spreadsheet, (undated).
15 Town of Port Hedland, Minutes: Ordinary Council Meeting, (28 July 2010), 198.
16 Core Business Australia Pty Ltd, Town of Port Hedland Wanangkura Stadium Review, (14 May 2013), 40.
17 Town of Port Hedland, Confidential Item: Special Council Meeting, (15 October 2010), 5.
18 Department of Regional Development and Lands, Deed of Variation, (April 2011), 10-11.
19 Town of Port Hedland, Minutes: Special Council Meeting, (14 September 2011), 65.
issues “perhaps were not resolved”. Consequently a number of temporary measures were put in place to enable the official opening celebrations to proceed while potential solutions were investigated.20

Opening celebrations took place over three days in late July 2012 and culminated with the official opening by the Premier. Wanangkura Stadium was made available for public use on 30 July 2012 but was closed on 3 August as the facility was not compliant with the Building Code of Australia.

An independent review of the project was undertaken21 and senior management was authorised to negotiate a variation to the construction contract with Doric. Remediation works were undertaken in two stages at a total cost of $768 912.22

The Town of Port Hedland was given a temporary permit for the reopening after the first stage of remediation was completed in September 2012. The second stage of remediation works were completed in March 2013.

EVALUATION OF THE PROJECT

The Special Inquirer notes advice from the Town of Port Hedland dated 26 September 2017 that records associated with the Wanangkura Stadium could not be located and senior staff who had been involved with the project were no longer employed at the Town of Port Hedland.23 Representatives were unable to answer most of the questions at the hearing held with the Town of Port Hedland and therefore took questions on notice.

While the audit and feasibility study provide evidence to justify the decision to build a multipurpose recreation facility, governance, planning, risk management, procurement and contract management were all weak.

Governance

It is not evident that there was a steering committee for this project. The Town of Port Hedland Council apparently oversaw the project and made material decisions. The Recreation Facilities Working Group was initially formed in February 2006 to advise the Council on community requirements for facilities.

20 Town of Port Hedland, Minutes: Ordinary Council Minutes, (8 August 2012), 179.
21 Ibid., 189.
22 Town of Port Hedland, Minutes: Special Council Meeting, (1 November 2012), 15, 19.
23 Town of Port Hedland responses to Questions on Notice, received 27 September 2017 and 1 October 2017.
The role of the working group appears to have changed over time without any formal decision-making by the Council. Initially the group seems to have been formed to organise and advise on the outcomes of the audit and feasibility study.\textsuperscript{24} At the 28 November 2007 Council meeting, the working group was requested to prepare the specifications for the facility’s architectural design process.\textsuperscript{25} Following completion of the design tender process, however, involvement of the working group in the project seems to have ceased.

There was no evidence provided to the Special Inquirer that indicates the group’s terms of reference were updated following the November 2007 change and incorporated into a governance framework for the project.

A review of the Town of Port Hedland Council meeting minutes specifies that it was provided with periodic project updates and did consider issues that arose during the project. The Town of Port Hedland provided quarterly reports to the Department of Regional Development and Lands, and annual reports for 2010/11, 2011/12 and 2012/13.

In a 2013 Wanangkura Stadium Review, Core Business Australia Pty Ltd recommended that the Town of Port Hedland Council avoid the use of working groups due to transparency and accountability implications, and noted that the \textit{Local Government Act 1995} does not allow Councils to delegate authority to a working group.\textsuperscript{26}

The Council’s response\textsuperscript{27} to the review requested the Chief Executive Officer

> “establish a Town of Port Hedland internal project team ... to review recommendations and establish a process improvement program to ensure that the deficiencies identified during this project are mitigated for any future projects that the Town undertakes,”

and to report back to the Council on this program. The Town of Port Hedland advised\textsuperscript{28} that a report discussing the Town’s formal decision-making process was presented to the Town of Port Hedland’s Council on 11 December 2013 and resulted in abolition of the majority of working groups.

The decision-making framework and oversight functions for this project were flawed. Rationales for material decisions were not documented, key project milestones were missed, and there were significant engineering issues.

\textbf{Oversight role}

The Town of Port Hedland effectively abdicated its oversight role as project superintendent to a project management contractor.

\textsuperscript{24} Town of Port Hedland, Minutes: Ordinary Council Meeting, (22 February 2006), 54.
\textsuperscript{25} Town of Port Hedland, Minutes: Ordinary Council Meeting, (28 November 2007).
\textsuperscript{26} Core Business Australia Pty Ltd, Town of Port Hedland Wanangkura Stadium Review, (14 May 2013), 22-24.
\textsuperscript{27} Town of Port Hedland, Minutes: Ordinary Council Meeting, (22 May 2013), 290.
\textsuperscript{28} Town of Port Hedland response to hearing questions taken on notice, received 20 October 2017.
The Core Business Australia review\textsuperscript{29} states that:

- “in handing over the superintendence to a third party, a local government must ensure that firstly there is sufficient delegated authority to the CEO and secondly, sufficient delegated authority from the CEO to the Superintendent. This does not appear to be the case in relation to the project;” and
- “it is not lawful to delegate authority to someone other than a natural person.”

This situation led to the project manager having the ability to grant practical completion on Wanangkura Stadium which apparently occurred prior to defects including the insufficient water flow and pressure issues being addressed.

**Consultation with the Department of Sport and Recreation**

When discussions about recreation facilities began in February 2006, the Department of Sport and Recreation (now the Department of Local Government, Sport and Cultural Industries) was engaged as a ‘potential funding body’. Content of the Town of Port Hedland Council minutes suggests the discussions were focused on funding rather than community need for facilities, but this is not expressly stated. There is reference to an expectation that the Department would provide $1.5 million\textsuperscript{30} from the Department of Sport and Recreation’s Community Sport and Recreation Facilities Fund. This funding did not eventuate.\textsuperscript{31}

Consultations that occurred following the facilities audit of July 2006 included sporting clubs and associations within the Town of Port Hedland. Feedback was not sought from the Department of Sport and Recreation,\textsuperscript{32} that had been identified as a key project stakeholder.\textsuperscript{33} The Department of Local Government, Sport and Cultural Industries confirmed with the Special Inquirer that there are no records of formal consultation by the Town of Port Hedland in relation to Wanangkura Stadium.

**Project management**

It is apparent that lack of planning resulted in the Town of Port Hedland failing to meet key project milestones and to identify design and engineering errors before commencement of construction. Further, poor planning led to the failure to identify fire service requirements which led to additional costs.

The audit and feasibility study provided a rationale for the construction of a multipurpose recreation stadium in Port Hedland. As noted above, the governance was deficient and this would have been a contributory factor in the poor management of the project.

A project management service was appointed by the Council. There is no evidence through Council minutes that this contract was properly managed.

\textsuperscript{29} Core Business Australia Pty Ltd, Town of Port Hedland Wanangkura Stadium Review, (14 May 2013), 35-36, 42-45.
\textsuperscript{30} Town of Port Hedland, Community Infrastructure Implementation Plan (Hedland’s Future Today (2009-2014), (January 2009), 15.
\textsuperscript{31} Department of Primary Industries and Regional Development response to Special Inquiry Questions on Notice, received 26 September 2017.
\textsuperscript{32} Town of Port Hedland, Minutes: Ordinary Council Meeting, (27 September 2006), 112.
\textsuperscript{33} Town of Port Hedland and Department of Local Government and Regional Development, financial Assistance Agreement, (29 June 2009), 60.
Business case

There was no business case. This means that the scope was not properly defined, options analysis was not evident and financial requirements for the capital works and ongoing costs were inadequate. A robust business case would have provided milestones to allow for proper project management that would have assisted in avoiding the delays that plagued the project. Detailed plans about the configuration and functionality of the centre would have mitigated the risks of design, engineering and other defects that later occurred.

Financial analysis — costs and benefits

The development of a business case would have allowed for a detailed financial analysis of the undertaking — capital works and ongoing costs.

The costs for the feasibility study and the Core Business Australia review are not known and it is unclear whether they (together with the costs of the audit) are included. Costs for temporary alternative accommodation arrangements during the closure, remediation and ongoing repair are also vague.

In January 2009, the Town of Port Hedland submitted an application to the Department of Local Government and Regional Development (which became the Department of Regional Development and Lands on 1 July 2009) for $20.2 million, of which $10.5 million was to be used for the multipurpose recreation centre. The funding was sought from the Royalties for Regions fund pursuant to the Pilbara Revitalisation Plan. The funding was approved by Cabinet in June 2009 and resulted in the Town of Port Hedland and the Department of Local Government and Regional Development entering into a financial assistance agreement on 29 June 2009 — two days prior to the change of agency name.

In December 2009, the two parties entered into a variation to the original financial assistance agreement, increasing funding from $10.5 million to $11.1 million. This $600,000 increase was made possible by the deferral of another local project from the Community Development Project.

The level of detail in the request for funding is not known. As stated, there was no business case and the Town of Port Hedland has been unable to provide the Special Inquirer with a detailed cost benefit analysis for the construction of the facility.

The Department of Primary Industries and Regional Development confirms that there is no record of options, cost or benefits analysis for the project.

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34 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received 26 September 2017.
35 Ibid.
36 Department of Local Government and Regional Development and Town of Port Hedland, Financial Assistance Agreement for a Royalties for Regions Project, [29 June 2009].
37 Department of Regional Development and Lands, Acting Director General’s letter to the Town of Port Hedland’s Chief Executive Officer regarding a request for variation of the financial assistance agreement, [received 23 December 2009].
Ongoing operational costs

At its meeting on 13 December 2006, the Council requested an assessment of ongoing financial costs to be reported by the working group. Early financial modelling was provided in the September 2007 feasibility report and forecast an operating deficit for the centre between $250 000 and almost $1 million per annum. The Council reviewed these figures again in December 2009 noting that the business plan for the facility that had been requested in May 2009 with more accurate estimates was yet to be prepared.

Project cost and funding

The Special Inquirer agrees with the Core Business Australia report to the Council which noted that “it is very difficult (if not impossible) for an outsider to work out what the project budget was both in terms of income/expenditure and cash flow”. This is due to interchangeable reference to project income and expenditure and apparent confusion of the Town of Port Hedland’s officers between the Council’s adopted budget and the project budget.

From what can be ascertained, the following funding was budgeted by the Town of Port Hedland for the stadium.

Table 1: Stadium funding

<table>
<thead>
<tr>
<th>CONTRIBUTOR</th>
<th>$ MILLION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auzcorp (Area B)</td>
<td>2.5</td>
</tr>
<tr>
<td>Auzcorp (Mia Mia)</td>
<td>1.75</td>
</tr>
<tr>
<td>Compass Group (Port Haven)</td>
<td>8.7</td>
</tr>
<tr>
<td>BHPBIO Sustainability Partnership</td>
<td>11</td>
</tr>
<tr>
<td>Royalties for Regions</td>
<td>11</td>
</tr>
<tr>
<td>Council contribution</td>
<td>0.25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>35.3</strong></td>
</tr>
</tbody>
</table>

The contributions from Auzcorp and Compass Group were calculated not on the basis of a lump sum but the income the Town of Port Hedland was expecting to receive over the term of their leases for the Airport Camp site and other airport land. This relied on the Town borrowing funds to finance construction of Wanangkura Stadium.

On 3 February 2012, the Town of Port Hedland obtained a loan from the Western Australian Treasury Corporation for $7.8 million. The income received from Auzcorp and Compass Group each year was contributed towards principal and interest repayments for this loan.

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39 Town of Port Hedland, Minutes: Ordinary Council Meeting, (9 December 2009), 157-159.
40 Core Business Australia Pty Ltd, Town of Port Hedland Wanangkura Stadium Review, (14 May 2013), 38.
41 Town of Port Hedland, Minutes: Ordinary Council Meeting, 28 July 2010.
Auzcorp’s (Area B) contribution was based on a commitment made by Auzcorp to the Department of Regional Development and Lands in the tender arrangements for the land. There was no formal arrangement and in April 2013 it became apparent that the “arrangement between Auzcorp and RDL (sic) [was] not likely to proceed.”

The money had been spent by April 2013 and the shortfall was affecting other funding commitments. The Town of Port Hedland was obliged to borrow a further $2.5 million from the Western Australian Treasury Corporation.

There are many inconsistencies in the documentation provided by the Town of Port Hedland including in project cost, funding sources and individual contributions.

The reported total cost is $35,808,553. The Special Inquirer is not certain whether this includes all actual costs. The total cost does not refer to the feasibility study or the recreation facilities audit. There is no reference to the cost to provide temporary accommodation for Wanangkura Stadium gym members and other clientele (approximately $80,000).

The Town of Port Hedland has advised that the average operating deficit for Wanangkura Stadium is $380,000 which is towards the lower end of the estimations identified in the feasibility study. It is assumed that this includes the costs associated with the annual flooding.

**Benefits realisation**

Construction of the multipurpose recreation centre was expected to deliver “countless” benefits in the areas of “social capital, health and wellbeing and community engagement”, and to “…facilitate social interaction, contribute to community health and wellbeing, provide programs within and across age groups, and provide a venue for elite indoor sport”. These objectives were included in the financial assistance agreement with the Department of Local Government and Regional Development.

Communications between the Town of Port Hedland and the Department of Regional Development indicate that there has been increased sporting participation, although many key performance indicators for the stadium have not been met “due to space limitations”. Further detail in relation to the key performance indicators was not provided. During its hearing with the Special Inquirer, however, the Town of Port Hedland advised that the stadium “looks great from the outside, not hugely functional inside”.

Evaluation of Pilbara Community Development Projects commissioned by the Department of Regional Development and Lands in 2012 found that the developments had positive impacts and “provided space for

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42 Town of Port Hedland, Confidential Late Item: Ordinary Council Meeting, (24 April 2013), 2.
43 Ibid.
44 Town of Port Hedland response to Special Inquiry hearing questions taken on notice, received 20 October 2017.
45 Ibid.
46 Town of Port Hedland response to the Department of Regional Development questions in relation to the project acquittal documentation [undated]
community services, enabled a diverse range of activities for a wide range of users and in general provided more things to do for local residents. Flow-on benefits are already emerging within the community. The review also noted however, one interview respondents comments that the recreation centre isn't providing anything new to do. "It's just provided them somewhere else to do it."47

**Risk management**

The risk assessment undertaken for the project was not adequate. It was very brief and did not consider risks such as:

- engineering and building design deficiencies;
- non-compliance with the *Building Code of Australia and Building Act 2011*; and
- lack of demand for the facility.

As noted, there was a number of design and engineering defects during and after construction and the final construction failed to comply with building code requirements.

The September 2007 feasibility study projected stadium attendance in the first year of operation to be 145,600 with the worst case scenario being 100,000 people. There was a projected increase in subsequent years. The Town of Port Hedland informed the Special Inquirer that the average visitor numbers since opening the facility in 2013 have been 110,000 per year. It is noted that the Port Hedland Turf Club expressed concerns as to whether the projections from the feasibility study were realistic.

**Project delays**

The funding assistance agreement entered into by the Town of Port Hedland Council in 2009 stipulated the following milestone dates.

**Table 2: Milestone dates**

<table>
<thead>
<tr>
<th>MILESTONE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval of budget</td>
<td>July 2009</td>
</tr>
<tr>
<td>Completion of architectural designs and drawings</td>
<td>October 2009</td>
</tr>
<tr>
<td>Procurement (project, construction)</td>
<td>November 2009</td>
</tr>
<tr>
<td>Projects awarded</td>
<td>December 2009</td>
</tr>
<tr>
<td>Project commences</td>
<td>January 2010</td>
</tr>
<tr>
<td>Sign off and finalisation</td>
<td>November 2011</td>
</tr>
</tbody>
</table>

There were early indications that deadlines were unrealistic.

- Completion of the architectural designs and construction drawings were delayed by over a year as the designs needed to be modified ‘due to cost overruns’.
- Construction commencement dates were then revised as potential tenderers requested an extension for submission of responses given the scope of the project.

The Town of Port Hedland underestimated the extent of works involved and the complexity of the project. Deadlines for completion were revised to January 2012 and then later to June 2012.

While the stadium was officially opened on 29 July 2012, the complex had to be closed four days later due to non-compliance with the Building Code of Australia.

**Construction project management**

As previously noted, the project was managed by a contracted entity and not directly supervised by a representative of the Town of Port Hedland.

A number of issues occurred after the commencement of the construction of the Wanangkura Stadium including:

- deficiencies in the civil and engineering drawings resulting in additional costs;
- inefficient internal design with a potential to increase the operating deficit of the facility; and
- insufficient water flow and pressure resulting in non-compliance with the Building Code of Australia.

It is not apparent as to who was responsible for oversight of the civil and engineering drawings. As previously stated, governance was not robust and there was no formal framework in place. The Council sought legal advice about the ability to recoup additional construction costs from the consultant and in October 2010 requested the project managers (Turner & Townsend Thinc) to have a peer review undertaken of the civil and engineering drawings and specifications. Although the project managers obtained quotes for the work, the Special Inquirer saw no evidence of the review having been undertaken.

In April 2011 the Town of Port Hedland Council was advised that Complete Community Solutions Strategic Management, engaged to prepare the management plan for the multipurpose recreation centre, identified a lack of functionality of the existing floor design. This was likely to result in a higher operating deficit. While the stadium design had been subject to community consultation, it is apparent that the Town of Port Hedland did not consider the internal design of the complex in terms of expected operational cost. This is a further example of a poor outcome from inadequate planning. The Town of Port Hedland was not advised of internal design deficiencies until April 2011, when available redesign options were limited.

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48 Town of Port Hedland, Minutes: Ordinary Council Meeting, (14 September 2011), 65.
49 Town of Port Hedland, Confidential item: Special Council Meeting, (15 October 2010), 5.
50 Town of Port Hedland, Minutes: Ordinary Council Meeting, (14 September 2011), 65.
Remediation
On 28 July 2012 the Council became aware that the water flow and pressure at Wanangkura Stadium was “insufficient ... to comply with fire control requirements”. Although the Town was advised that the issues had been addressed, inspection of the facility on 26 July 2012 indicated this was not the case. Consequently, a number of temporary measures was put in place to enable opening celebrations to proceed between 27 and 29 July 2012.\(^{51}\)

By 2 August 2012 no feasible option to address the issues could be found and water tests confirmed on 2 August that the facility was non-compliant with the Building Code of Australia. Wanangkura Stadium was closed on 3 August 2012.\(^{52}\)

Remediation works were undertaken in two stages. Two water tanks were installed at a cost of $432,927. This was completed on 21 September 2012. A further $335,985 from the contingency fund was used to install boost pumps. This was undertaken through another contract variation with Doric.\(^{53}\)

Current situation
At its hearing with the Special Inquirer, the Town of Port Hedland advised that:

> “... there are definitely issues with the stadium. It’s constructed too low, the concrete pad. So it’s prone to flooding. It’s definitely visible when you approach it ... If you stand close to the site you’ll see it’s well below the road level ... it floods every time there is a heavy rain, annually.”\(^{54}\)

In May 2008 when architects were appointed to design the multipurpose recreation centre, the Council resolved to change the proposed location of the facility from the area where the Finucane Island Club was located to another site. The Town of Port Hedland Council did not provide the Special Inquirer with any information explaining the decision to change the site and no reasons are noted in the May 2008 meeting minutes.

The Special Inquirer has reviewed additional Council minutes and was unable to identify any rationale or justification for the decision.

Procurement and contract management
Services to complete the audit, feasibility study, architectural design, construction and project management were procured by the Town of Port Hedland. In its 2013 review, Core Business Australia considered the procurement processes and observed that the process used to appoint consultants for professional services was inappropriate.\(^{55}\)

\(^{51}\) Town of Port Hedland, Minutes: Ordinary Council Minutes, (8 August 2012), 179.

\(^{52}\) The Building Code of Australia (BCA) is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. (Australian Building and Construction Commission, www.abcc.gov.au)

\(^{53}\) Town of Port Hedland, Minutes: Special Council Meeting, (1 November 2012), 15, 19.

\(^{54}\) Town of Port Hedland Special Inquiry hearing, 13 October 2017.

\(^{55}\) Core Business Australia Pty Ltd, Town of Port Hedland Wanangkura Stadium Review, (14 May 2013), 35 – 36, 42 – 45.
The Town used the consultants’ average hourly rates to select a preferred provider. The evaluation of the submissions was insufficient. Submissions that did not include input from a senior partner (who charged higher rates than senior and junior consultants) were considered better value for money. A fairer process would have been to formulate a ‘mock project’, apply the respective rates, and then assess the results of each submission. This flawed logic also meant that the assessment of value for money did not include enough consideration of criteria based on quality.

The Core Business Australia review also found that the appointment of the design consultants was made on the basis that extra points would be scored for the intention to use local subcontractors. If local governments wish to take into account the higher cost of regional products to enable a fair cost comparison across different providers, under the legislation local governments outside the metropolitan area must adopt a regional price preference policy. No such policy was adopted by the Town of Port Hedland. There was also no evidence that the local sub-contractor was used, and it is unknown as to how the local supplier information came to the attention of the tender panel as there was no allowance for that in the tender form.

The review also noted that Doric was advised that it was the successful contractor prior to the completion of contract negotiations. Further, construction of the complex commenced and a bulk earthworks contract was signed with Doric prior to the construction contract being finalised.

During the project, a need for remediation works was identified to address a number of issues including the water pressure and flow and pressure. The Town of Port Hedland Council opted to vary the construction contract with Doric rather than go to market again. This decision was made because of the urgency of the situation. This urgency was dictated by the possible health and safety implications. The Special Inquirer is of the view that this was appropriate. Although not applicable to the Town of Port Hedland, the State Supply Commission procurement policies allow for an exemption from an open process in circumstances such as these at the stadium.

The Town of Port Hedland did not attempt to recover any of the additional costs of remediation works from either the construction consultant or the project management consultant. The Town admitted that the initial project budget did not identify the fire service requirements. These would therefore always come at an additional cost.

Based on the Core Business Australia review, the Town of Port Hedland stated it has implemented recommendations including the review of the tender evaluation policy and process, adoption of a regional price preference policy, and development of a tender award letter template that references a specific
Council decision approving the Chief Executive Officer to have delegated power of authority.61

In addition, following identification of deficiencies in the engineering and civil drawings, the Council requested updates to the Town’s procurement policy and

“for the Acting Chief Executive Officer to investigate alternative contract arrangements with the Town’s Project Managers and Architects for the multipurpose recreation centre and other major projects to ensure greater accountability”.62

Evidence was provided by the Town of Port Hedland that the policy has been amended63 and delegated authorities for evaluation panel members have been improved.64 The Town advised the Special Inquirer that since 2013 there have been regular reviews of tender and procurement policies and related delegations. The policy was substantially changed in 2016 and minimum requirements for tender activities were removed and replaced by the Tender Evaluation policy with a focus on tender assessments, selection criteria and criteria assessment weightings. Based on the documentation provided, the Special Inquirer is of the opinion that the revised 2016 policy is a step backwards rather than one which leads to improvements in openness and transparency.

RECORD KEEPING

The Special Inquirer observes that actions undertaken by the Town of Port Hedland were not sufficient to address record management issues noted by Core Business Australia in 2013. Despite the Town reviewing its record keeping plan, associated policies and internal operating procedures in December 2013, the Town indicated that it had difficulty in locating relevant documentation to provide to the Special Inquirer.

FINDINGS

1. The project proceeded without a business case and sufficient financial or risk analysis. This resulted in a poorly run project where the sources and uses of funding were not properly controlled, and risks impacting the success of the project not understood.

2. The Town of Port Hedland authorised the commencement of the project before formal funding arrangements were in place. During the project the Council approved expenditure based on funding that had not been confirmed.

3. Even by Royalties for Regions standards, justification for the use of government funds on this project is difficult to comprehend. This is another example of funding being provided from an overarching ‘bucket’ of money and no formal assessment of the individual projects, and in this case without seeking input from the Department of Sport and Recreation.

4. Governance of the project was poor. Roles and responsibilities of decision-making groups and individuals were not assigned, and there was no formal arrangement for robust monitoring and reporting within the Town of Port Hedland. Decisions were made without reasons being given and the Town of Port Hedland Council spent money it did not have.

61 Town of Port Hedland response to Special Inquiry hearing questions taken on notice, received 20 October 2017.
62 Town of Port Hedland, Confidential Item: Special Council Meeting, (15 October 2010), 5.
63 Town of Port Hedland, 2/007 Procurement Policy - 2011/12, (19 June 2011).
64 Town of Port Hedland, 2/011 Tender Policy – 2011/12, (8 June 2011).
5. The project encountered numerous deficiencies and delays, and many key project milestones were not met.
6. The building outcome is poor. The building did not meet Building Code requirements upon opening, is said to be poorly configured which reduces functionality, has high operating costs and floods regularly.
7. While the official total cost indicates the project was only slightly over budget, the Special Inquirer cannot ascertain whether this includes all costs.
8. Although sporting participation in Port Hedland has increased, the stadium is not achieving all of its key performance indicators.
9. It is unclear to the Special Inquirer as to how ongoing remedial works are being funded.
10. The Town of Port Hedland’s record keeping practices are inadequate.

**RECOMMENDATIONS**

1. The Town of Port Hedland must review the stadium’s configuration and design and examine the causes for flooding to determine whether these can be rectified.
2. The Town of Port Hedland must ensure that future projects have appropriate governance and are managed well. This includes a robust business case, financial and risk analysis, cost/benefits analysis, project management and a framework for decision-making and reporting.
3. The Town of Port Hedland must implement processes to improve its record keeping practices and ensure that it complies with the State Records Act 2000.
“...it is difficult to ascertain whether the Ord River Irrigation Expansion Project achieved its intended socioeconomic benefits and if the needs of the region have been addressed.”

- John Langoulant, Special Inquirer

The Ord River Irrigation Expansion Project was designed to expand the original 1970s program, to open up farmland and to increase irrigation in the Kimberley region. The goal was to then sell the land to enhance agricultural and pastoral interests, and deliver benefits for the Aboriginal community.

The project was launched in 2008. Progress was slow and work was not completed until 2014, three years behind schedule. The $334 million cost was $114 million over budget. The Special Inquirer found that the decision to invest in the project was based on outdated planning and information which underestimated environmental issues. This led to delays and increased cost.

The management structure for the project was unnecessarily complex. This was the result of it being part of a Commonwealth Government funded program. Reporting of progress lacked consistency.

One goal of the project was to deliver employment opportunities for the local Aboriginal community. The Special Inquirer was unable to conclude whether this has been achieved in the longer term.

The Special Inquirer also noted the serious challenges linked with the proposed development lease on the 8,000 hectares at Goomig. The development lease was signed in November 2017 after protracted negotiations.

**Government agency:**
Department of Regional Development and Lands (now Department of Primary Industries and Regional Development) and LandCorp

**Project timeline:**
2010 - current

**Total cost to Government:**
$334 million

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>Royalties for Regions funds $220 million expansion</td>
</tr>
<tr>
<td>2009</td>
<td>State and Commonwealth Government co-fund the East Kimberley Development Plan</td>
</tr>
<tr>
<td>2011</td>
<td>LandCorp unsuccessful in selling Goomig land. New tender process is approved for a single developer. Cabinet endorses extra funding - project cost increases to $334 million</td>
</tr>
<tr>
<td>2012</td>
<td>Kimberley Agriculture Investment Pty Ltd appointed as developer</td>
</tr>
<tr>
<td>2013</td>
<td>Kimberley Agriculture Investment given early access to farm. Complex negotiations - no formal development lease</td>
</tr>
<tr>
<td>2014</td>
<td>Extension irrigation channels and roads complete (three years late)</td>
</tr>
<tr>
<td>2016</td>
<td>Auditor General recommends Department of Regional Development implement development lease</td>
</tr>
<tr>
<td>2017</td>
<td>Development lease signed</td>
</tr>
</tbody>
</table>
SUMMARY

The Ord River Irrigation Expansion Project was undertaken to increase irrigation that would enable parcels of viable farming land to be sold in the Kimberley region. The desired outcome was that agricultural and pastoral interests would develop over 22,000 hectares of irrigated farming land and provide additional socio-economic benefits to the region, including the delivery of positive Aboriginal outcomes and strong local industry engagement.

In 2009, the State and Commonwealth governments agreed to co-fund a stimulus package for the Ord region, which became the Ord-East Kimberley Development Plan. The aim was to develop a sustainable and stronger economy and improve the socio-economic outcomes for Aboriginal people in the East Kimberley.1

The plan included the following two key programs.2

1. The Ord River Irrigation Expansion Project, using $220 million of Royalties for Regions funding and to be completed by the end of 2011, which involved:
   - delivering water and road infrastructure to service 8,000 hectares of land at Goomig;
   - subdivision of the Goomig land into around 25 lots and sale of the lots;
   - scoping works and environmental studies for future agricultural land at Mantinea (4,000 hectares), Ord West Bank (1,300 hectares) and Packsaddle (1,380 hectares); and
   - initial planning to consider land at Knox (8,000 hectares), Victoria Highway, Carlton Hill, Bonaparte Plain and the Keep River Plain in the Northern Territory.

2 Ibid.
2. Total funding of $195 million for 27 social infrastructure projects, including new educational and health facilities, to be completed by June 2010 as part of the Commonwealth Government’s Nation Building Economic Stimulus Package.

The Special Inquirer’s examination focused on the Ord River Irrigation Expansion Project as outlined above. The Commonwealth Government funded initiative was outside of the scope of the Special Inquiry. There was, however, some cross-over with respect to the areas examined.

The Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) was the lead agency for the project. LandCorp was the key project and contract manager for the expansion, which involved the extension of irrigation channels and adjoining roads and the subsequent sale of the land.

While the construction work started on time, the irrigation expansion was not fully operational until December 2014, three years later than expected, and at a cost of $114 million more than budgeted. The late completion of the irrigation expansion had flow on effects for the rest of the development of the land, including on the ability of the developer to plant crops. There has been criticism of the project given the amount of expenditure, because it has failed to deliver a significant number of long term jobs for local people. In addition, protracted negotiations between the State Government and the single developer appointed in 2012 for the Goomig land have meant that the development agreement was only signed in early November 2017.3

PROJECT SYNOPSIS

Announced in 2008, the Ord River Irrigation Expansion Project allocated funding of $30 million for planning, design and preliminaries and $1 million to the Department of Regional Development and Lands to lead and coordinate the project.4 In February 2009 the announcement was made that the total Royalties for Regions funding would be $220 million.5 The aim of the project was to expand on the 1970s program to open up farmland and increase irrigation in the Kimberley region of Western Australia.

Since the mid-1990s, there had been several investigations into the potential for expanding the irrigation area. None of these progressed due to several factors, including water availability, native title claims and environmental approvals.

In 2004, the State Department of Industry and Resources engaged Marsden Jacob Associates to develop a business case for the expansion of the irrigation area.6 Marsden Jacob Associates was engaged again in 2008 to prepare the Ord Expansion Project: Business Case Evaluation.7 There were differences between the two documents, in terms of changes in the areas for expansion — truncation of one area and expansion of another. There was, however, no update of the 2004 business case.

3 Department of Primary Industries and Regional Development response to Special Inquiry request for information, received 9 November 2017.
4 Ibid.
5 Government of Western Australia Media Statement, Earthworks signal start of new deal for Ord East Kimberley, (18 February 2009).
6 Department of Industry and Resources, Ord Stage II Business Case, (October 2004).
The development area included several lots: Goomig, Knox, Mantinea, Packsaddle, Ord West Bank and Ord East Bank. The Ord River Irrigation Expansion Project was to increase the value of regional product outputs in 2018 by between $86 million and $97 million and to increase local employment by a stable and ongoing 700 to 800 full-time equivalent employees.\(^8\)

**Figure 1: Ord River Irrigation Area**\(^9\)

In November 2011, Cabinet approved an additional $91 million to extend the construction project for the irrigation channel and associated road infrastructure.\(^10\) With other components such as approval and other legal costs, and a payment under the native title agreement, the total cost of the project increased to $334 million.\(^11\) The construction phase of the project was completed in 2014.\(^12\)

A single developer for Goomig was appointed in November 2012. Due to protracted negotiations between the State Government and the developer, the Goomig development lease was not finalised until November 2017.\(^13\)\(^14\)

\(^11\) Ibid.
Governance

The Ord River Irrigation Expansion Project governance arrangement was enmeshed in the Ord-East Kimberley Development Plan governance structure. This made it very complex and it was not possible for the governance arrangement to deliver the level of appropriate oversight expected for a large-scale project of this nature.

The Ord River Irrigation Expansion Project was one of five sub-groups reporting to the Ord-East Kimberley Development Plan Steering Committee, which in turn reported to a Ministerial Council.

Figure 2: Ord River Irrigation Expansion Project reporting structure

Multiple issues arose from this arrangement, as identified in the Auditor General’s Report on the Ord-East Kimberley Development, including

“…cross-membership between committees, unclear terms of reference and the regularity of meetings. Ministerial officers were members of the Steering Committee, as were the managers for the irrigation and Commonwealth projects, which blurred the responsibility and authority for each level.”

15 Department of Regional Development and Lands, Ord-East Kimberley Development Plan, (undated), 13.
The Auditor General also noted that the Directors General Steering Committee did not:

- receive regular financial reporting;
- approve key decisions or changes in design; or
- meet between October 2015 and July 2016, when important aspects of the project progressed.\(^{17}\)

The Report went on to state that the aspects of the project that progressed without input from the Directors General Steering Committee included amendments to the Knox development lease, and the appointment of LandCorp to negotiate subsidiary agreements of the Goomig development lease.

Given the original $220 million budget, and the eventual $334 million spend, the Special Inquirer believes that the Ord River Irrigation Expansion Project should have had its own separate steering committee. As a large-scale infrastructure and economic development, the project should have based its project management on the disciplines of the Strategic Asset Management Framework. In addition, it should have been subject to Department of Finance co-ordinated Gateway Reviews. These reviews would have provided an independent assessment of the project governance and delivery at key milestones. At the time, it was a State Government recommendation that Gateway Reviews were to be undertaken for all projects valued at more than $100 million.\(^{18,19}\)

### Project management

At its hearing with the Special Inquirer, the Department of Primary Industries and Regional Development advised the following.

- The project timeline was severely affected by a lack of detailed analysis on project planning and unforeseen seasonal conditions. The Ord River Irrigation Expansion Project was originally due to be completed over two dry seasons (in 2010 and 2011). It became evident during the first dry season, however, that construction was going to take considerably longer. The project was also re-scoped at this point to extend the construction by 12 kilometres. The construction timeline was changed to four years to enable completion of both the original scope and additional work, which resulted in significant cost implications.
- The increase in scope and the additional $91 million in construction expenditure was designed to future proof the project and utilise the existing contractors to develop the site. This was to avoid having to expand infrastructure at a later date which could cause potential operational issues and delays.
- The additional expenditure and scope expansion was required to allow for irrigation of 6 000 hectares on Knox Plain and an additional 1 700 hectares on the Ord West Bank. It was noted that there would be over 20 000 hectares of land available on Knox Plain if land was made available on the Northern Territory side of the border.

\(^{19}\) It is noted that Gateway Reviews for infrastructure projects over $100 million was not mandated until September 2016. Gateway was introduced in 2008 however, and it was considered best practice for Western Australian public sector agencies to consider a Gateway review for large projects to give an independent perspective, challenge the robustness of plans and processes, and identify issues and risks.
• The Department is developing a project review process similar to the Department of Finance’s Gateway Reviews for Royalties for Regions projects. It has not implemented the process at this stage due to the change in State Government, but understand that the Department of Treasury is supportive of this approach.

• A 250 person workers’ camp was established for the construction project but it has been empty for an extended period of time. A tender was released for the camp in 2015 and Seafarms Group Ltd (Seafarms) was awarded the lease. As part of their “Project Seadragon”, Seafarms has proposed to develop a major prawn farm of global significance. Should this proceed, the farm could employ up to 500 people in Kununurra, with employment commencing in 2018. From the Department’s perspective, the tender and consideration to lease the facility to Seafarms is a value for money consideration.20

In subsequent advice to the Special Inquirer, the Department of Primary Industries and Regional Development advised that the lease agreement with Seafarms is for the period February 2018 to February 2022. A final investment decision on Project Sea Dragon is not expected, however, until the end of the first quarter in 2018. The fee that has been negotiated for Seafarms to lease the workers’ camp is $60,000 per annum. The Department further advised the Special Inquirer that the camp is currently occupied by a film production company which is making a mini-series in the area.21

Previous reports

Public Accounts Committee
Between 2010 and 2012, the Public Accounts Committee included the Ord River Irrigation Expansion Project as part of its annual review of selected infrastructure projects. The review completed in 2010 noted that:

“...when social benefits are the primary justification for major project investment, comprehensive analysis must be undertaken to ensure the claimed social benefits are deliverable and the project will provide value for money.”22

The 2012 review focused on the justification of changing the project scope, which resulted in an increase to the project’s total budget. The review report stated that the amount of land under the original proposal was too small for the economies of scale required to establish a viable agricultural business in the East Kimberly.23 It further determined that information on the size of the parcels of land should have been apparent when the original business decision to approve the project was considered by Government. The review questioned whether investing the money in alternative projects would have provided better outcomes for Indigenous communities.24

The Public Accounts Committee also noted that such an oversight indicated that the Strategic Asset

20 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received September 2017.
21 Department of Primary Industries and Regional Development response to Special Inquiry request for information, received 8 November 2017.
22 Public Accounts Committee, Inquiry into Project Planning and Funding Applications for Major Western Australian Infrastructure Projects, (November 2010), 45.
24 Ibid.
Management Framework was not applied. This resulted in the Government making decisions on the initial $220 million expenditure without the full information.\textsuperscript{25}

For example, the project allocated $200,000 for environmental costs, which was clearly unrealistic. By June 2016 the environmental costs had reached $8.1 million,\textsuperscript{26} which included the development of an environment management system. Strong project management would have ensured that a business case — or at that stage under the Strategic Asset Management Framework, a project definition plan — was updated throughout the life of the project.

Independent Gateway Reviews at key milestones would also have helped to ensure that the project was being effectively managed.

\textbf{Western Australian Auditor General}

The Auditor General released a comprehensive review report on the Ord River Irrigation Expansion Project in September 2016. The report noted that the Department Regional Development and Lands did not prepare a comprehensive costing for the 2011 funding request of $91 million to change the scope of the construction works, or a revised budget.\textsuperscript{27} The original project budget was $220 million, which increased by 52 per cent to a total of $334 million.\textsuperscript{28} The report stated that:

“...project costs have increased across the board. Construction went up by $59.2 million, project management and administration rose by $22.5 million and the cost to build and operate a workers’ camp for the project increased by $14.1 million.”\textsuperscript{29}

\textbf{Table 1: Budget to actual expenditure at June 2016} \textsuperscript{30}

<table>
<thead>
<tr>
<th>ORD RIVER IRRIGATION EXPANSION PROJECT EXPENDITURE</th>
<th>2010 BUDGET ($ million)</th>
<th>EXPENDITURE AT JUNE 2016 ($ million)</th>
<th>VARIATION ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project management and administration</td>
<td>7.4</td>
<td>29.9</td>
<td>22.5</td>
</tr>
<tr>
<td>Legal</td>
<td>-</td>
<td>3.7</td>
<td>3.7</td>
</tr>
<tr>
<td>Environmental</td>
<td>0.2</td>
<td>8.1</td>
<td>7.9</td>
</tr>
<tr>
<td>Engineering and planning</td>
<td>16.7</td>
<td>20.6</td>
<td>3.9</td>
</tr>
<tr>
<td>Construction</td>
<td>175.7</td>
<td>234.9</td>
<td>59.2</td>
</tr>
<tr>
<td>Aboriginal Development Package</td>
<td>10</td>
<td>12.5</td>
<td>2.5</td>
</tr>
<tr>
<td>Workers camp</td>
<td>10</td>
<td>24.1</td>
<td>14.1</td>
</tr>
<tr>
<td>Total</td>
<td>220</td>
<td>333.8</td>
<td>113.8</td>
</tr>
</tbody>
</table>

\textsuperscript{25} Public Accounts Committee, Review of Selected Infrastructure Projects - Report No. 21, (November 2012), 16.

\textsuperscript{26} Office of the Auditor General, Ord-East Kimberley Development Report, (September 2016), 7.

\textsuperscript{27} Ibid., 8.

\textsuperscript{28} Ibid., 7.

\textsuperscript{29} Ibid.

\textsuperscript{30} Ibid., 16.
The report also stated that legal costs are currently $3.7 million higher than budgeted and environmental costs have increased by $7.9 million.31

To cover these increased costs, Cabinet approved $91 million in extra funding through Royalties for Regions, the Department of State Development transferred $11.5 million to the Department of Regional Development and Lands, and $6 million was met through revenue generated from the workers camp.32

Under the Ord Native Title Agreement, a $12.5 million payment to the Miriuwung Gajerrong people was negotiated in 2009. Royalties for Regions funds covered $10 million of the payment and the other $2.5 million was sourced from the Office of Native Title.33

The Auditor General further noted that:

“We [Office of the Auditor General] expected that DRD [Department of Regional Development] as the project coordinator of the $334 million irrigation expansion project would have clear and robust financial management, with routine and detailed reporting. This was not the case. DRD [Department of Regional Development] did not require detailed or regular reporting from LandCorp, either on progress or costs. Nor did it have clear internal reporting on the $47 million it managed over the project”.34

Procurement and contract management

At their hearing with the Special Inquirer, the Department of Primary Industries and Regional Development advised that they had elected to procure a tier one contractor rather than multiple subcontractors to develop the project infrastructure as it believed that engaging multiple subcontractors would result in unnecessary additional risk. In addition, the Department undertook benchmark testing with a silent tier one contractor to ensure that value for money was being achieved.35 The extensive tender processes, including the provision of detailed evaluation reports were adhered to throughout this process.

Once the irrigation channel and associated infrastructure expansion was complete, the initial strategy was to subdivide and sell the 8,000 hectares in up to 25 lots for agricultural purposes. As well as managing the construction of the extension of irrigation channels and adjoining roads, LandCorp was also responsible for the subdivision and release of the land at Goomig for agricultural development.

The 2011 attempt to sell the land as 25 freehold titles did not succeed as not enough proponents were assessed as suitably meeting the requirements of the Request for Proposal. LandCorp sought legal advice and obtained approval to commence a new restricted tender process for a single developer for the 8,000 hectares of land at Goomig. The Auditor General assessed both the change of approach and the process to identify the single preferred developer to be clear, transparent and well managed.36

31 Ibid.
32 Ibid.
33 Office of the Auditor General, Ord-East Kimberley Development Report, (September 2016), 7
34 Ibid., 23.
35 Department of Primary Industries and Regional Development Special Inquiry hearing, 6 October 2017
Kimberley Agricultural Investment Pty Ltd (Kimberley Agricultural Investment), a subsidiary of a large Chinese company, was appointed in November 2012 as the single developer for Goomig. It is noted that the Goomig development lease between the Department of Regional Development and Lands, LandCorp and Kimberley Agricultural Investment underwent a complicated and lengthy negotiation process.

LandCorp advised the Special Inquirer that Kimberley Agricultural Investment agreed to work towards signing all documentation associated with the Goomig lease by late 2017. LandCorp further advised that until October 2016 the State Government had not had access to Kimberley Agricultural Investment's legal team, which significantly delayed negotiations. On 22 November 2017 the State Government announced that the finalised Goomig lease agreement had been signed by Kimberley Agricultural Investment.

In lieu of the finalised development lease, from June 2013 a series of early access agreements has enabled Kimberley Agricultural Investment to commence farming at Goomig. Of the planned 8000 hectares of land, 7000 hectares is available for farming. As at October 2017, however, only 3000 hectares was under crop.

Between 2011 and 2015, expressions of interest were also issued for Knox, Packsaddle, Ord West Bank and Mantinea lots. Kimberley Agricultural Investment has been appointed as the preferred developer for Knox and Mantinea, with other preferred developers selected for Packsaddle and Ord West Bank. These arrangements provide the developers with the right to negotiate leases which can be converted to a freehold agreement once development is complete.

A further question is whether the 250 person workers’ camp represented value for money. The two stages of the camp cost $12 million each — a total of $24 million. After construction was completed in 2013, however, the camp was unoccupied. The Department of Primary Industries and Regional Development advised that it considered that the camp was necessary because the construction period for the irrigation channels and associated work each year (April to November) overlapped with the peak tourism season for the East Kimberley. The Department further advised that it enabled local Aboriginal employees working on the project.

37 Government of Western Australia Media Statement, Ord-East Kimberley proponent announced, (20 November 2012).
38 LandCorp response to Special Inquiry questions on notice, received September 2017, 2.
39 Ibid., 1.
40 Department of Primary Industries and Regional Development response to Special Inquiry questions on notice, received September 2017, 4.
to stay at the camp, which provided a supportive environment to help them succeed at work. In 2013 the camp was used as emergency accommodation for the flooded and evacuated Warmun Community.41

**Socioeconomic benefits realisation**

At its hearing with the Special Inquirer, the Department of Primary Industries and Regional Development advised that an advantage of completing the project over four years, rather than two, was building capabilities in the region and social engagement over time. It further advised that projects that are strongly linked to Native Title Agreements need to ensure there is sound engagement and interface with Indigenous people in the region. This can be a significant challenge.42 The time factor provided the opportunity to do this well and to ensure that organisations make incremental improvements to the processes over time.

The Auditor General’s Report noted that:

> “Government has a legitimate role in economic development. The nature and extent of that will vary from project to project and place to place. What does not change is the responsibility for agencies to get the planning right, achieve time and cost targets, and to be able to track and demonstrate the benefits that have been delivered.”43

The Department of Primary Industries and Regional Development concur that from a regional development level, determining better ways to measure change over time and tracking such improvement is a work in progress. It further stated that ensuring value for money based on socioeconomic benefits is challenging in remote Australia.44

Due to the lack of project assessment it is difficult to ascertain whether the Ord River Irrigation Expansion Project achieved its intended socioeconomic benefits and if the needs of the region have been addressed. The Auditor General’s report noted that during the construction phase, the project achieved good employment outcomes. Two hundred Aboriginal people were employed on the project, which equated to 21% of the workforce and exceeded expectations.45 However once the construction phase reached practical completion the employment and training outcomes were not sustained.46

While the Special Inquiry Terms of Reference include the Ord River Irrigation Expansion Project, it has been noted that this was one of the key projects of the Ord-East Kimberley Development Plan. The Auditor General’s report noted that the $195 million Commonwealth funded program for 27 social infrastructure projects, including new educational and health facilities, provided socio-economic benefits.47 The aim of the Ord-East Kimberley Development Plan was to develop a sustainable and stronger economy and improve the socio-economic outcomes for Aboriginal people in the East Kimberley. The Argyle Diamond mine which has been a major driver of the economy in the East Kimberly is expected to close in 2021. The Special Inquirer acknowledges the State and Commonwealth governments commitment to funding the

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41 Department of Primary Industries and Regional Development response to Special Inquiry request for information, received 8 November 2017.
42 Department of Primary Industries and Regional Development Special Inquiry hearing, 6 October 2017.
44 Department of Primary Industries and Regional Development Special Inquiry hearing, 6 October 2017.
46 Ibid., 6.
47 Ibid., 5.
two key projects which, without a unified delivery program, may not have progressed beyond the initial
evaluation stage. Potentially the Ord River Irrigation Expansion Project was an effective driver to leverage
Commonwealth funding and private investment in the region, with the two key projects likely to deliver further
socioeconomic benefits over a longer period of time.

**Auditor General’s report recommendations**

The Auditor General recommended that the Department of Regional Development implement the following by
December 2016:

- finalise and execute the development lease for Goomig;
- develop formal steering committee progress reporting requirements;
- review the State’s objectives and role for the future development of the Ord;
- make recommendations to Government regarding governance arrangements; and
- establish key indicators and measures of success for the project.48

In their response to the Auditor General’s report, the Department of Regional Development advised it had
developed a Monitoring and Evaluation Plan for the Project. This plan would incorporate and measure the
following against the Regional Development Strategy 2016-2025:

- Number of construction jobs;
- Ongoing jobs created;
- Aboriginal participation — labour force and training;
- Local infrastructure initiatives aimed at economic development;
- Access to key infrastructure and services;
- Private sector investment; and
- Reduction of barriers to development.49

The Department further advised that the Monitoring and Evaluation Plan incorporated the achievement of the
Ord-East Kimberley Development Plan to date, and provided a framework for the ongoing reporting and
review of the Project. It also assigns responsibility for the measurement.50

The Special Inquirer understands the further recommendations including future land development, infrastructure
requirements, cost estimates, delivery strategies, and future project governance frameworks for any further
expansion of the Ord River Irrigation area are pending consideration by Government.

48 Ibid., 10.
50 Ibid.
RECORD KEEPING

In general, the Department of Primary Industries and Regional Development has adequate records management processes. The Department submitted a substantial number of documents relating to the Ord River Irrigation Expansion Project to the Special Inquirer.

The Auditor General’s report noted that there were poor records of decisions made in the project. It stated that although there were comprehensive minutes of meetings, “…it is not clear when or who approved some significant matters, such as changing the farm lot layout and key infrastructure design changes.”51

Following the Auditor General’s report, the Department of Primary Industries and Regional Development advised that a project dashboard had been established. This identifies the current status of State Government dealings with Kimberley Agricultural Investment and other key agriculture land development activities, to which the Government is party in the region. The dashboard is regularly reviewed, updated and actioned by relevant agencies including the Department of Primary Industries and Regional Development and the Department of Planning, Lands and Heritage, and reported to Ministers as part of the project update briefing process.

FINDINGS

1. The project planning for the Ord River Irrigation Expansion Project materially underestimated environmental factors in the remote north of Western Australia. This resulted in project scope changes, significant delays in project delivery and a 52% increase in total project expenditure from $220 million to $334 million.

2. The multi-layered approach to the governance structure for the Ord River Irrigation Expansion Project was unnecessarily complex and poorly managed, resulting in a cross-over of membership on the various committees and a lack of reporting consistency across management levels.

3. The lack of project status report updates between October 2015 and July 2016 illustrates that governance oversight was limited and hindered the ability to monitor project deliverables.

4. It was unclear, due to poor record keeping, as to who made key decisions on changes to the scope of the project.

5. The Strategic Asset Management Framework was not applied jeopardising the application of robust planning and management to the project.

6. The Ord River Irrigation Expansion project should have been subject to Department of Finance co-ordinated Gateway Reviews to provide an independent assessment of the project governance and delivery at key milestones consistent with established practice for all public sector infrastructure projects over $100 million in value.

7. The Department of Primary Industries and Regional Development is developing a project review process similar to the Department of Finance’s Gateway Reviews. It is unclear, however, as to why they would not utilise the existing Gateway Review process as an independent review process.

8. Developing realistic and measurable socio-economic indicators is essential if value for money benefits from projects such as the Ord River Irrigation Expansion Project are to be assessed.

9. The Ord River Irrigation Expansion Project successfully leveraged Commonwealth funding to seek to achieve present — and future — socio-economic benefits.

10. Since September 2016, the Department of Primary Industries and Regional Development has implemented changes to improve the governance framework to better reflect the needs for the future operation of the Ord River Irrigation Expansion Project.

**DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT’S VIEW**

In response to the Special Inquiry’s draft findings, the Department of Primary Industries and Regional Development provided further information on 23 November 2017 in relation to the project’s governance and project cost. As a result a minor change was made to a finding on governance. The Special Inquirer has reflected the total cost of the project to the State Government in line with its terms of reference.
Pilbara Accommodation was included in the Special Inquiry Terms of Reference as part of the examination of various projects funded from Royalties for Regions. Following preliminary research the Special Inquirer determined that the examination of this item would include the following four key projects:

- Hedland 125 Service Workers Accommodation
- Former Port Hedland Hospital Site
- The Quarter
- Pelago

An examination of the Osprey Key Workers Village in South Hedland was also undertaken. Due to the Special Inquirer having a declared conflict of interest in relation to this project, another Special Inquirer was appointed to complete this examination. This is reported separately.

Royalties for Regions funding has been allocated in large “funding buckets” for specific overarching programs. The accommodation projects examined by the Special Inquirer were part of three of these programs as follows.

- Hedland 125 Service Workers Accommodation ($85 million), Pelago East ($29.7 million) and Osprey Key Workers Village ($20.5 million) were funded as part of the Delivering Affordable Housing for Key Workers in Regional Western Australia program. In total, $355.5 million was allocated to this program.
- The former Port Hedland Hospital site ($10 million) and The Quarter ($66.773 million) were funded from the $1.7 billion allocated to the Pilbara Cities initiative.
- Pelago West ($7 million) was part of the $200 million Government Regional Officers Housing 400 program, where 400 purchases were made for housing for government workers. This was funded state-wide by the Royalties for Regions Infrastructure and Headworks fund.

The Special Inquirer’s examination identified concerns relating to the Pilbara accommodation projects.

The first was that a number of the projects appear to have been funded as a “knee jerk” reaction to the accommodation situation which reached a crisis point in the Pilbara in 2012, particularly in Karratha and Port Hedland. At that time, accommodation was simply unaffordable for many local community members who were not employed in the resources sector. As a result, communities risked losing key workers who were engaged in the government and small business sectors. The government had to act but rather than acting on a clear assessment of options, it did so with a reactive approach.

It is concerning that there were credible forecasts made well before 2012 that Western Australia would...
experience a period of sustained economic expansion and the demand for workers across the State would be exceptionally high yet no discernible planning occurred in anticipation of these events.

This lack of long term planning and consideration of a range of options resulted in a crisis of too little housing and exorbitant rents. Accordingly, the Government had to respond when costs were at their peak. The Government now has a surplus of properties which in some cases cannot be leased or sold to realise a return on its investment as was initially proposed.

The second concern is that the projects examined demonstrated that the business case preparations and the justification for the programs either did not exist or were flawed in their analysis for the Pilbara accommodation projects. The absence of credible business cases for the specific projects compounded the fact that the creation of the “funding buckets” was also based on poor business cases. This double failure in sound project development is a poor reflection on the use of this funding.

OVERVIEW OF THE OVERARCHING PROGRAMS

Delivering Affordable Housing for Key Workers in Regional Western Australia

In May 2011, the State Government launched the Affordable Housing Strategy 2010-2020: Opening Doors to Affordable Housing to increase the availability of affordably priced housing for all Western Australians, particularly those on low-to-moderate incomes. In March 2012, $355.5 million of Royalties for Regions funding was allocated over five years for the Housing Authority (now part of the Department of Communities) to increase its delivery of affordable housing opportunities for key workers in regional Western Australia.

The Special Inquirer has found that the business case supporting the submission requesting the $355.5 million for the Affordable Housing for Key Workers in Regional Western Australia program was inadequate, particularly given the magnitude of funding. The Special Inquirer would expect the business case to incorporate a detailed risk assessment and benefits realisation plan to provide appropriate analysis and inform decision-making. According to the 2016 Umwelt Report, the program was to contribute an additional 712 residences to the existing dwelling stock. The business case identified four example projects. All were in the Pilbara region and included:

- Pelago East with indicated funding of $35 to $70 million;
- Osprey Key Worker Village (uncosted); and
- Two projects that did not proceed but were costed at $74.5 million and $38.5 million respectively.¹

Although the Hedland 125 Service Workers Accommodation project was provided $95 million in funding as part of this program it was not identified in the overarching business case.

Pilbara Cities

In November 2009 the State Government announced that $1.7 billion of Royalties for Regions funding would

¹ Umwelt Australia Pty Ltd, Delivering Affordable Housing to Key Workers in Regional Western Australia: Program Evaluation (October 2016), 10
be invested into the Pilbara Cities initiative. The Pilbara Cities vision was to build the population of Karratha and Port Hedland into liveable cities of 50,000 people and Newman to 15,000 people by 2035 and to grow other Pilbara towns into more attractive and sustainable local communities.²

In April 2010 the Pilbara Cities Office was established within the Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) to oversee the Pilbara Cities initiative. Its key roles and functions were to manage and administer the Pilbara Revitalisation Plan and other approved projects. In October 2012 the Pilbara Cities Office was transferred to the Pilbara Development Commission.

The population targets for this initiative were ambitious. In 2016 the Premier conceded that the population figures at the heart of the Government’s Pilbara Cities vision looked “a little elusive”. At the time Karratha had a population of 19,235 people, which was a reduction over the previous 12 years, and Newman had a population of 5,615 people, which was the same population as in 2010.³ The former Port Hedland Hospital site ($10 million) and The Quarter ($66.773 million) were funded from Pilbara Cities. In total, more than 100 projects have been funded under the Pilbara Cities initiative.

**Government Regional Officers Housing 400 Program**

A total of $200 million was allocated to the Government Regional Officers Housing 400 Program, where 400 purchases were to be made for government employee housing state-wide. Of this funding, $69 million was spent in the Pilbara region.

The Special Inquirer was not provided with a business case for this program. Further, the purchase under this program of 12 units at Pelago West did not have a project-specific business case. The final project acquittal report to the Department of Regional Development stated:

> “On 2 February 2009, the State Government announced a major stimulus package of $316M to boost the housing construction industry. The package included the provision of $200 million in Royalties for Regions funding for the Department of Housing to deliver 400 properties to provide housing for government officers through the Government Regional Officers’ Housing (GROH) Program.”⁴

The funding for this program was provided from the Royalties for Regions Regional Infrastructure and Headworks fund. When the Special Inquirer sought clarification as to whether a business case was prepared the Department of Communities advised that:

> “…all relevant information was contained within the EERC [Economic Expenditure Reform Committee] paper, including the financial justification and impacts. As the EERC [Economic Expenditure Reform Committee] paper is considered cabinet-in-confidence, the Department of Communities is not able to provide the paper.”⁵

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⁴ Department of Housing Final Project Acquittal Report to the Department of Regional Development (October 2013), 4.
⁵ Department for Communities response to Special Inquiry Questions on Notice received 6 December 2017
HEDLAND 125 SERVICE WORKERS ACCOMMODATION

“Planning for the project was inadequate with the risk management undertaken insufficient...”
John Langoulant, Special Inquirer

The Hedland 125 Service Worker Accommodation Package was unveiled in June 2012 with the initial goal of delivering 125 residential properties within three to six months, and to reduce rents which had increased markedly because of the boom in the resources sector. The projected cost was $99.8 million.

The project was fast tracked. The Department of Housing chose to proceed before a business case was prepared and before Royalties for Region funding was approved. But by the time the first units were ready the market was already in decline. When the business case was prepared it was flawed because it failed to consider the full range of options, including whether the project should proceed in the first place and if so whether it could achieve its objectives.

The project delivery dates were also unrealistic, with nine houses not delivered until March 2014. Sales revenue not only fell short of expectations as the market softened, but occupancy rates also reduced. In August 2016 only 10 of the properties were occupied.

The Special Inquirer has found that no planning existed for the project and the risk assessment undertaken was insufficient. The project provided housing for workers but the volume of houses created had no impact at the time on market rents.

Government agency:
Department of Regional Development and Lands and Department of Regional Development (now Department of Primary Industries and Regional Development), Housing Authority and Department of Housing (now part of Department of Communities)

Project timeline:
2012 - 2014

Total cost to Government:
$89.7 million
Hedland 125 Service Worker Accommodation Package was one of a number of projects in the Pilbara delivered under the Delivering Affordable Housing for Workers in Regional WA program initiated in 2012 to address the housing shortage and reduce unaffordably high rents. The Hedland 125 project was announced in June 2012, with the expected delivery of the 125 properties within three to six months. To meet the expedited timeframes for the project, the Department of Housing chose to proceed prior to Royalties for Regions funding being approved. The Department of Housing redirected land, properties and funding from other projects and proceeded with implementation prior to adequate planning and risk assessments being undertaken.

The business case was only prepared in August 2012, after the project had commenced. While the business case was approved in accordance with the established governance arrangements, approval by the Joint Steering Committee of the overarching Delivering Affordable Housing for Workers in Regional WA program preceded endorsement of its associated policy framework and the Joint Steering Committee’s terms of reference.

By the time the first dwellings were completed in late 2012 the Port Hedland housing market was already in decline. This project was meant to provide a short term accommodation solution until the Osprey Key Workers Village was completed. The state of the Port Hedland housing market meant that the Department of Housing was required to reconsider its plans for the town, with its revised future use policy receiving Ministerial approval in June 2016.
PROJECT SYNOPSIS

On 22 June 2012, the then Minister for Regional Development and Lands announced a housing package which included delivery of 125 properties for service workers across Port and South Hedland within three to six months.¹

To meet the commitment prior to the approval of the Royalties for Regions funding, the Department of Housing redirected land, housing stock and funding that was earmarked for other housing programs.² Initial estimates put the total cost of the project at approximately $92.121 million inclusive of forgone revenue which would have been generated from the full sale of the refurbished dwellings and the market cost of Department of Housing’s vacant serviced lots.³

A Registration of Interest process held between 22 June 2012 and 20 July 2012 received 351 applications for the dwellings with 200 applications considered eligible.⁴

National Lifestyle Villages was engaged by the Department of Regional Development and Lands (now Department of Primary Industries and Regional Development) to manage the dwelling allocation process. Recommendations regarding allocation of dwellings were made by a committee formed for that purpose in July 2012 by the Department of Regional Development and Lands in conjunction with National Lifestyle Villages.⁵ ⁶ The allocation committee’s membership consisted of the Pilbara Development Commission, Town of Port Hedland, Port Hedland Districts Chamber of Commerce and Industry and South Hedland Business Association.⁷ The Directors General of the Department of Housing and the Department of Regional Development and Lands were advised of allocations by this committee.⁸

In August 2012 the Department of Housing’s Corporate Executive:

• approved the proposal for the dwellings to be offered for a maximum term of two years;
• resolved for housing allocations to be undertaken through the Department of Regional Development and Lands; and
• agreed that the Housing Authority’s CEO would resolve the matter of funding with the Department of Regional Development and Lands.⁹

¹ Government of Western Australia Media Statement, Initiatives to ease service worker housing shortage in Port Hedland, [22 June 2012].
² Department of Housing, Briefing Note to Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, [7 August 2012], 4
³ Ibid.
⁴ Ibid., 5.
⁵ Hedland 125 Service Worker Intervention Cover Note, [undated].
⁶ Department of Housing, Briefing Note to the Minister for Housing - Port Hedland 125 Service Worker Intervention Package, Eligibility Criteria, [18 September 2012].
⁷ Department of Housing, Briefing Note to Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, [7 August 2012], 6.
⁸ Department of Housing, Briefing Note to the Minister for Housing - Port Hedland 125 Service Worker Intervention Package Eligibility Criteria, [18 September 2012].
⁹ Department of Housing, Management Options for the Hedland 125 House Service Worker Intervention Package, [undated], 4.
The business case for the project was prepared in August 2012. In September 2012, the Department of Housing requested Ministerial approval for the Hedland 125 Service Worker Intervention Package and the associated rental and eligibility policy. Weekly rents of $400, $600 and $800 for two, three and four bedroom dwellings initially confirmed with the Ministers for Housing and Regional Development in June 2012 were revised. The policy proposed rents of $600, $800 and $950 for two, three and four bedroom dwellings, with an increase of 5 per cent after 12 months. Eligibility criteria set a gross household income limit of $120,000 per annum, in that families earning more than this amount would not be eligible for this housing. These rents were approved on 2 October 2012.

The business case was approved by Cabinet in December 2012. The business case noted that without the Royalties for Regions funding the Department of Housing might not be able to deliver much-needed public housing and accommodation for government regional officers in Port Hedland.

It was envisaged that the management of the dwellings would be undertaken by the Department of Housing’s only registered Pilbara operating growth provider, Foundation Housing Limited. At the request of its Corporate Executive in August 2012, the Department of Housing prepared a comparison of the in-house management option against the option of out-sourcing this function to Foundation Housing. Foundation Housing was officially appointed to provide management services in September 2012.

Figure 1: ‘Out-Sourced’ Management Model

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10 Department of Housing, Briefing Note to the Minister for Housing - Port Hedland 125 Service Worker Intervention Package Eligibility Criteria, (18 September 2012).
11 Department of Housing, Briefing note from Acting General Manager Commercial and Business Operations to the Department of Housing’s Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, (7 August 2012), 6.
13 Department of Housing, Briefing Note to Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, (7 August 2012), 8.
14 Department of Housing, Management Options for the Hedland 125 House Service Worker Intervention Package, (undated), 4, 7.
15 Hedland 125 Service Worker Intervention Cover Note, (undated).
16 Department of Housing, Management Options for the Hedland 125 House Service Worker Intervention Package, (undated), 7.
The first dwellings were ready for occupation by late 2012 with the last nine dwellings delivered on 20 March 2014.

Following the downturn in the property market and expiry of two-year rental period, the Department of Housing submitted alternative plans to the Government regarding future use of the 125 dwellings. In August 2016 only 10 of 125 properties were occupied.

The final plan for the future use of these dwellings was completed in February 2016 following an analysis of options, internal and external consultations and input from the relevant Ministers.

Financial analysis

The estimated cost of the project was calculated at $99,506,000. It was reduced, however, by the Department of Housing’s contribution in the form of a 20 per cent discount on 42 established dwellings redirected to the program.

Table 1: Reduced estimated cost

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land (cost for 83 transportable units)</td>
<td>$23,489,000</td>
</tr>
<tr>
<td>Construction (cost for 83 transportable units)</td>
<td>$43,903,000</td>
</tr>
<tr>
<td>Market value (42 established dwellings) @ 20% discount</td>
<td>$23,701,000</td>
</tr>
<tr>
<td>Total Capital</td>
<td>$91,093,000</td>
</tr>
<tr>
<td>Total Admin (2.5%)</td>
<td>$2,277,000</td>
</tr>
<tr>
<td>TOTAL COST</td>
<td>$93,370,000</td>
</tr>
</tbody>
</table>

The final reported cost of the project was $89,736,600 after accounting for $165,000 and $72,600 paid to National Lifestyle Villages by the Department of Regional Development and Lands and the Department of Housing respectively.

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17 Housing Authority, Briefing Note to the Minister for Housing - Future Use of the Hedland 125 Service Worker Intervention Properties, 17 June 2016, 1.
18 Umwelt (Australia) Pty Ltd, Delivering Affordable Housing to Key Workers in Regional Western Australia: Program Evaluation, (October 2016), 25.
19 Department of Communities response to the Questions on Notice, received 22 September 2017, 5-6.
21 Department of Communities response to Special Inquiry request for information, received 14 November 2017.
22 Department of Primary Industries and Regional Development response to Special Inquiry request for information, received 13 November 2017.
23 Department of Communities response to Special Inquiry request for information, received 22 November 2017.
EVALUATION OF THE PROJECT

Governance

A separate joint steering committee was formed to consider funding allocations and ensure appropriate prioritisation of all projects under the Royalties for Regions Delivering Affordable Housing for Workers in Regional WA program. The committee representatives of the Departments of Housing, Regional Development and Lands and Treasury. The Department of Communities (the Department which now includes the former Department of Housing and the Housing Authority) advised the Special Inquirer that the committee prioritised and approved the Hedland 125 project in accordance with the governance framework in September 2012. The terms of reference, however, for the Joint Steering Committee received Ministerial endorsement only on 24 April 2013, as did the Affordable Housing policy framework.

Subsequently, the Hedland 125 Service Worker Accommodation Package:

• was endorsed by the Department of Housing Director General;
• was submitted for consideration to its Development Committee as the relevant oversight and decision making body in October 2012; and
• received a joint sign-off from the former Ministers for Housing and Regional Development and Lands in November 2012, followed by Cabinet approval in December 2012.

The draft evaluation framework for the overarching program Delivering Affordable Housing for Workers in Regional WA program states:

“the growth in rents and house prices... outstripped income increases for most workers, particularly for ‘key workers’ employed outside the resources sector. Key workers are essential for performing a range of jobs and services that make regional areas liveable, vibrant and socially sustainable. Key workers may operate and work in child care centres, cafes and restaurants, and recreational facilities such as the cinema and local gym. However, typical incomes for households performing these kinds of functions are in the $50-100,000 pa range.”

The governance structure was complex and layered. The overarching Joint Steering Committee was responsible for oversight of the entire Delivering Affordable Housing for Workers in Regional WA program. The program oversaw a number of projects in different regional areas. Hedland 125 Service Worker Accommodation was one of those projects.

The Department of Communities advised that in 2012 the Department of Housing created the internal Hedland Matters Meeting Group, comprising senior officers of the agency, as an operational oversight
body in relation to the Delivering Affordable Housing for Workers in Regional WA program for all projects. Subsequently, in December 2013 the Housing Authority established an additional governance body, the Hedland Program Coordination Group, “to provide executive and program oversight” in relation to the Hedland Matters Meeting Group. Documentation provided in relation to the Hedland 125 Service Worker Accommodation Intervention Package did not, however, contain any reference to either group so it was not clear to the Special Inquirer what decision-making role these groups actually had. It is therefore also uncertain as to how Hedland 125 Service Worker Accommodation was governed at a project level.

Project management

Business case
The Department of Housing did not undertake any planning before the project commenced. If it did, it was undertaken “on the run”. The business case was developed two months after the Ministerial announcement on 22 June 2012 and continued to evolve during the approval process, with different versions submitted to the Department of Housing’s Development Committee and Cabinet. The document provided to the Development Committee envisaged delivery of 80 newly constructed and 45 refurbished dwellings with estimated total project cost of $99.836 million, regardless of whether the project was funded by Royalties for Regions or from the Department of Housing’s own funding. The final document sought approval for a $93.37 million allocation from the Royalties for Regions Delivering affordable housing to key workers in regional WA program for the provision of 83 newly constructed and 42 refurbished dwellings. The Department of Communities’ cover note for the Hedland 125 Service Worker Accommodation Intervention Package stated that the lower than expected funding request was “due to cost savings by the Housing Authority”.

Further, the business case did not contain any consideration of alternative housing solutions. The ‘do nothing’ option was not considered presumably as the Department of Housing had assessed that would not find favour from the government. The business case also considered only two alternative funding options for the program, either Royalties for Regions fund or Department of Housing’s internal funds. The Department of Housing should have undertaken the necessary analysis, however, to satisfy itself that the project’s objectives were attainable given the pressures in the market at the time and considering the number of other housing projects in progress or under consideration in the Pilbara region. It was not evident that any such exercise was undertaken before or after the June 2012 Ministerial announcement. The Department of Communities advised the Special Inquirer that the investment was a response to an immediate need for which there were not considered to be other viable alternatives.

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28 Department of Communities, Pilbara Market governance overview, (undated), 5.
29 Department of Housing, Business case - Hedland 125 Service Worker Intervention Package, (21 August 2012), 8.
31 Hedland 125 Service Worker Intervention Cover Note, (undated).
32 Department of Communities response to Special Inquiry questions on notice, received 22 September 2017, 2.
The business case also did not adequately address the future project risk. It identified the possibility of ‘no demand for product’ as the lowest project risk. Housing prices in Port Hedland had begun to decline around October 2012 when the business case was submitted to the Development Committee for approval. The business case was not updated to consider conditions in the market before seeking Cabinet approval for the project. Further assessment should have been undertaken to develop an appropriate mitigation strategy and set realistic financial objectives for the project. In response to the Special Inquirer’s questions on notice, the Department of Communities stated that

“...a major market downturn was not evident at the time and was not part of the general thinking in the market. The ongoing demand for housing for resident workers was over estimated by virtually all market commentators and analysts throughout the early years of the project.”

The Department of Communities acknowledged, however, that “in hindsight, it can be seen that market conditions” in Port Hedland between July and November 2012 were “overheated”.

Finally, the project delivery dates stipulated in the business case were unrealistic. The business case anticipated completion of the building works by the end of December 2012. The business case was not submitted to the Department of Housing’s Development Committee for approval until October 2012, and Cabinet approval was only obtained in December 2012. Although the completion date was revised to 30 June 2013 in the memorandum of understanding dated 30 January 2013 and signed by the Housing Authority with the Department of Regional Development and Lands, nine of 125 houses were not delivered until 20 March 2014. The Special Inquirer acknowledges the finding of the program evaluation report by Umwelt (Australia) Pty Ltd that “…the time over-run on nine dwellings is...considered acceptable, given the prevailing circumstances in the housing construction sector at that time.”

Project management principles

The Special Inquirer shares the Department of Treasury’s concern that implementation of the project commenced with the Department of Housing’s internal funds before the Royalties for Regions funding was approved by Cabinet. The Department of Housing expressly stipulated in its business case that without the Royalties for Regions funding, it might not have been able to deliver the public housing. As at September 2012, the Department of Housing noted that in addition to 38 unmet requests for accommodation for government regional officers, it had 383 people on its social housing waitlist.

The Special Inquirer reviewed the terms of the head lease arrangement dated 19 November 2012 between the Housing Authority and Foundation Housing and associated documentation. Under this arrangement,

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33 Department of Housing, Business case - Hedland 125 Service Worker Intervention Package, (21 August 2012, reviewed October 2012), 27.
34 Department of Communities response to Special Inquiry questions on notice, received 22 September 2017, 7.
35 Department of Communities response to Special Inquiry questions on notice, received 23 October 2017, 2.
36 Department of Communities response to Special Inquiry questions on notice, received 22 September 2017, 2.
38 Umwelt (Australia) Pty Ltd, Delivering Affordable Housing to Key Workers in Regional Western Australia: Program Evaluation, (October 2016), 23.
39 Ibid., 24.
the Housing Authority retained ownership of the dwellings and Foundation Housing leased the premises in order to manage the tenancies and reinvest the rental revenue into additional affordable housing in the Port Hedland area. All costs for the properties were to be borne by Foundation Housing with the exception of costs for mitigation of building defects. It was expected that up to 36 extra houses could be provided through the reinvestment of the collected revenues. Foundation Housing’s engagement received Ministerial endorsement on 10 December 2012. The agreement did not indicate that the Housing Authority was obliged to cover any shortfall if rent collected was not sufficient to cover Foundation Housing’s operational expenditure.

The Special Inquirer observes that the Housing Authority did not comply with all of its obligations under its memorandum of understanding with the Department of Regional Development and Lands. In accordance with the agreement, the Housing Authority committed to provide the Department of Regional Development and Lands with a final acquittal report at the completion of the project or the conclusion of the agreement. It is clear that the intention was for the acquittal report to be completed within three months after completion of the building works, which was to be 30 September 2013. With the project building works completed on 20 March 2014, the acquittal report was clearly overdue. The Department of Communities advised that the acquittal report was being finalised, as it had just finalised the “reallocations repurposing sequence” and the report was expected to be completed at the end of November 2017.

The Housing Authority has undertaken some consultation in order to determine future use of the dwellings, including internal feedback, as well as consultations with local sales agents and valuers and Foundation Housing.

**Procurement and contract management**

Best procurement practices were not followed at all times for the duration of the project. In June 2012, the Minister announced that the allocation process would be based on the model used for Karratha’s Warabie Estate Service Workers Village. Following this, the Department of Regional Development and Lands contracted 40 Foundation Housing Limited, Executive Summary of Business Case proposal for Management of 125 Service Worker Homes in the Hedland Region, (21 September 2012), 6.

41 Department of Communities response to Special Inquiry questions on notice, received 23 October 2017.
National Lifestyle Villages to manage the allocations process for six months until 31 December 2012, based on the allocation and eligibility criteria used for the Warambie Service Workers Village.\textsuperscript{42} In response to the Special Inquirers questions on the procurement process the Department of Primary Industries and Regional Development explained that engagement of National Lifestyle Villages was approved “on a sole source basis” because:

- the market for the work was tested in 2009 with National Lifestyle Villages being the successful proponent;
- National Lifestyle Villages had necessary experience and independence to ensure a fair process;
- the organisation offered a Chair with independence, experience and credibility in the market; and
- the provider had to be appointed urgently to address housing shortages and to avoid vandalism of the newly renovated properties.\textsuperscript{43}

The engagement of National Lifestyle Villages was expected to cost $198,000.\textsuperscript{44} As the estimated contract value was above $150,000, the State Supply Commission’s Open and Effective Competition policy at the time required the Department of Regional Development and Lands to conduct an open public tender.\textsuperscript{45} The Department of Regional Development and Lands sought advice from the Department of Finance on 3 August 2012 to directly engage National Lifestyle Villages to manage dwelling allocation process for the first 50 houses\textsuperscript{46}. The exemption was not supported by the Department of Finance as it did not represent best procurement practice on the basis that a competitive market existed for these services and the best value for money outcome could be achieved through a competitive procurement process.\textsuperscript{47} In their email from 17 August 2012 the Department of Finance comments that “[l]there have been a number of complaints to the Minister lodged by suppliers of these services following other procurement processes.”\textsuperscript{48} Before the advice from the Department of Finance was provided, however, the Department of Regional Development and Lands directly engaged National Lifestyle Villages.

The Special Inquirer also observes that:

- National Lifestyle Villages was engaged by the Department of Regional Development and Lands prior to Cabinet approval for the Royalties for Regions funding;
- National Lifestyle Villages managed the allocation process for all 125 dwellings; and
- Although the Department of Primary Industries and Regional Development advised that the contract with National Lifestyle Villages was entered into on 15 August 2012, the period of their engagement was from 1 July 2012. Further, the organisation provided a Chair for the allocation committee for the 125 properties formed by the Department of Regional Development and Lands in July 2012.

The Department of Primary Industries and Regional Development further advised that while the engagement

\textsuperscript{42} Department of Housing, Briefing note from Acting General Manager Commercial and Business Operations to the Department of Housing’s Corporate Executive - Port Hedland Service Worker Accommodation – 125 Dwellings for Service Workers, (7 August 2012), 5.
\textsuperscript{43} Department of Primary Industries and Regional Development response to the Special Inquiry request for information, received 13 November 2017.
\textsuperscript{44} Department of Primary Industries and Regional Development response to the Special Inquiry request for information, received 22 November 2017.
\textsuperscript{45} State Supply Commission, Summary of amendments to the State Supply Commission policies, (1 July 2014), 1.
\textsuperscript{46} Department of Regional Development and Lands, Request for exemption from the competitive requirements of the State Supply Commission’s Open and Effective Competition policy, Consultancy: Hedland housing allocation services, (3 August 2012), 1.
\textsuperscript{47} Department of Finance, Exemption – Hedland housing allocation services, (17 August 2017).
\textsuperscript{48} Department of Finance response to Special Inquiry request for information, received 22 November 2017.
was supported by both departments, it was unable to locate any records to explain why for the period from 1 July 2012 to 30 December 2012 National Lifestyle Villages was engaged by the Department of Regional Development and Lands rather than the Department of Housing.49

The appointment of Foundation Housing Ltd was undertaken through the Department of Housing. While the initial engagement proposal was sent to Foundation Housing in July 2012, the appointment was only confirmed following recommendation of the August 2012 management options paper, despite $137 000 in potential extra office set up and administration costs.50 Although Foundation Housing was the only external organisation considered (because it was the only registered growth provider in Pilbara), the organisation was believed to be better placed to manage these properties in the Pilbara, in view of their existing connections with organisations in the region and challenges experienced by the Department of Housing’s Port Hedland office in managing existing portfolios.51

To deliver 83 transportable dwellings, the Department of Communities redirected six properties from its existing stock “earmarked for other housing programs”.52 The Department further approached four builders who “had been awarded a contract for a similar property under a competitive process in the last 12 months”53 pursuant to the Housing Authority’s Procurement Operational Framework. Each builder was engaged to deliver five houses.

The Department of Communities advised that:

“Procurement policies allow for direct purchase to be undertaken in certain circumstances, such as time critical acquisitions and engagements, as was the case in this instance. Correct protocols and processes were followed in this instance including a tender waiver for the first 20 dwelling[s].”54

Procurement of the remaining 57 dwellings was undertaken through a public tender process.55

The October 2016 Umwelt report made the following comments.

“To achieve tight project timeframes, ... time saving steps included issuing tenders before site selection, however this process created significant contract variations of $3.597m, representing a 13% addition to tender prices.

“This 13% variation could be considered to be high, but given the delivery of 82 dwellings in five months to a remote location, it appears acceptable.”56

49 Department of Primary Industries and Regional Development response to the Special Inquiry request for information, received 13 November 2017.
50 Department of Housing, Management Options for the Hedland 125 House Service Worker Intervention Package, (undated), 3.
51 Ibid.
52 Department of Communities response to Special Inquiry request for information, received 22 November 2017.
53 Ibid.
54 Department of Communities response to Special Inquiry request for information, received 14 November 2017.
55 Ibid.
56 Umwelt (Australia) Pty Ltd, Delivering Affordable Housing to Key Workers in Regional Western Australia, (October 2016), 24.
The Hedland 125 Service Worker Intervention Package did not deliver its sales revenue projections. Original plans for the dwellings to be sold did not materialise. By the time Umwelt issued its report in October 2016, none of the properties had been sold.

The interviewed tenants are also reported to have mentioned that “…the housing had provided them with an increased sense of safety.”

The downturn in the property market necessitated a revised strategy for the dwellings. In June 2016 the then Minister for Housing:

1. approved the sale of up to eight properties to Foundation Housing;
2. noted an investigation into repurposing 13 dwellings for public housing;
3. approved the transfer of 15 properties to the flexible Shared Start scheme for full sale, with the proceeds to be returned to churn funding;
4. approved the lease of 44 dwellings to Foundation Housing, to be used for key worker or low income housing;
5. noted the investigation to support the use of the dwellings for Indigenous transitional housing; and
6. noted the investigation to support the use of the dwellings for over-income public housing tenants’ initiatives.

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57 Ibid., 25.
58 Ibid., 26.
59 Ibid., 25, 27.
60 Housing Authority, Briefing Note to the Minister for Housing - Future use of the Hedland 125 Service Worker Intervention Properties, [17 June 2016].
61 Ibid., 3.
The Department of Communities provided the Special Inquirer with the following status update on the June 2016 recommendations.

- Foundation Housing is currently managing 44 properties which are leased to key workers, as well as eight properties it acquired as community housing.
- With the changes in the market and the nature of demand in Port Hedland, only four out of 13 recommended properties were sold to Service Delivery division within the Department of Communities to be used as public housing.
- The Department of Communities is preparing a business case for consideration by the North West Aboriginal Housing Fund Board, with the nature and quantum of housing for this program still being investigated. In the short term, these properties are being managed by Foundation Housing on shorter leases of up to 12 months.
- Following sale of some of the properties on the open market, these are being replaced with shared equity sales, as any sales add to the already surplus of rental properties in South Hedland.

The Department of Communities advised that total revenue collected from the project from 1 December 2012 to 31 October 2017 was $15,788,973.54.62 This is significantly less than the forecasted $93.37 million.

The Special Inquirer was advised that the Hedland 125 Service Worker Intervention Package was under budget, with $89.499 million spent of the project and with $5.07 million (inclusive of interest) being returned to the Department of Treasury on 6 February 2017.63 The $89.499 million figure includes $165,000 paid to National Lifestyle Villages between 1 July 2012 and 30 December 2012 under its contract with the Department of Regional Development and Lands. Following expiry of the first agreement, National Lifestyle Villages was re-engaged by the Housing Authority on 4 February 2013.

**RECORD KEEPING**

The Department of Communities and the Department of Primary Industries and Regional Development provided all information and documentation requested by the Special Inquirer.

**FINDINGS**

1. This project was undertaken on the run in response to circumstances in Port Hedland where housing prices escalated and where housing was in short supply due to a lack of Government planning.64
2. The Department of Housing could not demonstrate that this project fitted any preconceived planning for dealing with the housing issues in Port Hedland or how it aligned with its social housing program in Port Hedland.
3. There was insufficient risk assessment undertaken together with no appropriate mitigation strategies established.
4. The original completion dates for the project stipulated in the business case were unrealistic. While a business case was developed it happened after the project had started and the funding for the project was from a pre-approved pool of Royalties for Regions funds.

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62 Department of Communities response to Special Inquiry request for information, received 14 November 2017.
63 Hedland 125 Service Worker Intervention Cover Note, (undated).
64 "Port Hedland" in this context refers to the local government area covered by the Town of Port Hedland.
5. The project commenced before the Royalties for Regions funding was approved utilising the Department of Housing’s internal funds, and potentially jeopardising its social housing program in Port Hedland.

6. The Hedland 125 Service Worker Intervention Package was approved in accordance with the Royalties for Regions Delivering affordable housing policy framework. The framework and the Terms of Reference for the Joint Steering Committee, however, received Ministerial endorsement after the decision to proceed with the Hedland 125 Service Worker Intervention Package was made.

7. Procurement policies not adhered to broken due to the haste for action. National Lifestyle Villages was officially engaged by the Department of Regional Development and Lands on 15 August 2012 with effect from 1 July 2012. This predates Cabinet approval for the Royalties for Regions funding. The Department of Finance did not support the direct engagement of National Lifestyle Villages.

8. National Lifestyle Villages managed the allocation process of all 125 dwellings through the exemption that was sought for the first 50 properties.

9. The governance structure was complex and layered. The overarching Joint Steering Committee was responsible for oversight of the entire Delivering Affordable Housing for Workers in Regional WA program. The program oversaw a number of projects in different regional areas.

10. There were oversight bodies specifically for projects occurring in Port Hedland. The Special Inquirer could not find reference to Hedland 125 Service Worker Accommodation in the documentation provided from either group. It is therefore uncertain how Hedland 125 Service Worker Accommodation was governed at a project level.

11. The Hedland 125 Service Worker Intervention Package provided much needed housing for a relatively small number of people for a short period of time. It left the State with a hangover of housing.

12. The Housing Authority did not submit its acquittal report in accordance with its obligations under the memorandum of understanding with the Department of Regional Development and Lands.

13. The project was delivered under budget but behind schedule.

**DEPARTMENT OF COMMUNITIES' VIEW**

The Special Inquirer forwarded draft findings to the Department of Communities and received a response on 7 December 2017. As a result of the correspondence, a minor change was made to one finding.

Some of the Department of Communities’ feedback was not incorporated and the findings stand as they were in draft. The Special Inquirer offers the Department of Communities’ view:

- The Department of Communities state that it is not understood how the Hedland 125 Service Worker Accommodation program could have potentially jeopardised the agency’s social housing... and at all times it retained the option to redirect any funds or assets applied to H125 into its social housing programs. The finding is based upon the options analysis in the business case if Royalties for Regions money is not provided. Given the public announcement of the Hedland 125 Service Worker Accommodation Intervention Package it seems unlikely that the project would have been abandoned.
- The Department of Communities maintains that the provision of 125 houses to local businesses made a very significant contribution to the economic, social functioning and viability of the town. Whilst it is acknowledged that the project met a short term need the $89 million program provided a small number of houses for a short period.
- Evidence was not provided to the Special Inquiry that all dwellings have now been committed to meet housing needs in the town as stated in the response from the Department of Communities.
FORMER PORT HEDLAND HOSPITAL SITE

“The procurement process evolved over time, with decisions being made inconsistent with established procurement practices.”

John Langoulant, Special Inquirer

The redevelopment of the former Port Hedland Hospital site was described as “critical to breathing life and activity” into the town, with the land “being well suited to a mixed use development” to meet demand. But there were problems with the process from the start.

For example, BHP Billiton Iron Ore was advised by LandCorp that it was the preferred proponent even before completion of the tender evaluation report. But this was neither formally recognised nor announced.

Other submissions were considered unacceptable, and no reserve preferred developer was selected. Yet when BHP Billiton later withdrew its conditional offer, Finbar Port Hedland Pty Ltd became the preferred proponent and changes to the intended land use were negotiated regarding accommodation and height of the proposed development. The risks and potential costs to the State of proceeding with Finbar’s proposed changes were not explained.

When Finbar failed to meet contractual undertakings, and due to a fire LandCorp submitted a Royalties for Regions business case.

This procurement and negotiation process raises a number of issues, including not only that Finbar’s involvement lacked an appropriate business case but also that its planned changes were contrary to the original expression of interest document.

### Government agency:
LandCorp, Department of Regional Development and Lands (now Department of Primary Industries and Regional Development)

### Project timeline:
2011 - 2018

### Total cost to Government:
$10.835 million

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>LandCorp and Department of Regional and Lands agree on Royalties for Regions project to demolish and remediate former hospital site</td>
</tr>
<tr>
<td>2011</td>
<td>LandCorp invites offers from developers and Preferred Respondent selected</td>
</tr>
<tr>
<td>2012</td>
<td>Preferred Respondent withdraws and is replaced by Finbar</td>
</tr>
<tr>
<td>2015</td>
<td>LandCorp and Finbar execute contract of sale with changes to intended use of site</td>
</tr>
<tr>
<td>2016</td>
<td>Finbar unable to secure pre-sales by deadline and LandCorp declines contract extension. Finbar contract expires.</td>
</tr>
<tr>
<td>2016</td>
<td>LandCorp selects DMC Civil using $10.8 million Royalties for Regions funding to demolish and remediate site buildings</td>
</tr>
</tbody>
</table>
SUMMARY

Following the transfer of services to South Hedland Health Campus, the Port Hedland Regional Hospital site was to be demolished and released to the market as a component of the Port Hedland Marina Precinct Development. LandCorp was acting as an agent and is not the current landowner.¹

Following withdrawal of the preferred property development proponent, LandCorp selected Finbar although it was initially deemed unsuitable in the evaluation process of the structured sale expression of interest.²

As the property market weakened, lengthy negotiations were undertaken and Finbar made alterations to its initial proposal to achieve a commercially viable project.

LandCorp agreed to the amendments, including consideration of developing permanent residential accommodation, which was a specific exclusion to its original expression of interest document. Eventually a Contract of Sale was executed with a condition that Finbar would undertake a 12 month pre-sales process to “test the market”.

Despite concerns raised by the Departments of Health and State Development over high concentrations of iron ore dust from the nearby port,³ the Town of Port Hedland approved Finbar’s proposed development for a high rise residential accommodation.⁴

¹ LandCorp, Business case – Former Port Hedland Hospital demolition and Site Remediation, (27 July 2016), 4.
² LandCorp, Old Port Hedland Hospital Development Opportunity Evaluation Report 22 June 2012 lot 452 Sutherland Street Port Hedland, (22 June 2012), 1
⁴ Town of Port Hedland, Kimberley/Pilbara/Gascoyne JDAP – Town of Port Hedland – DAP Application 2015/079 lot 452 Morgan’s Street, Port Hedland WA 6721 Seven (7) storey Mixed Use Development comprising 109 Multiple dwellings, 5 offices and a café, (17 August 2015).
Finbar was unable to achieve any pre-sales within the 12 month timeframe. LandCorp rejected its application for time extension and allowed the Contract of Sale to expire.

Following the expiry of the contract, LandCorp submitted a Royalties for Regions business case seeking $8.3 million to carry out the demolition works and land remediation.\(^5\)

Unfortunately, a fire occurred in October 2016 which required additional emergency funding to further remediate the site. A total of $10.835 million Royalties for Regions funding was allocated to the demolition and remediation project with a scheduled completion date of September 2018. This is the end date for the maintenance of the hydro-mulch to rejuvenate the site.\(^6\)

The Special Inquirer observed that the decision-making processes LandCorp used in the development of the expressions of interest document, the assessment of the offers, and the negotiation process which caused delays and budget overruns to the demolition of the former Port Hedland Hospital site were not adequate. The Special Inquirer also notes that the softening of the property market in Port Hedland due to the fall in the price of iron ore had a significant impact on the outcome of this project.

**PROJECT SYNOPSIS**

In September 2010, the Mayor of the Town of Port Hedland obtained support from the Minister for Health to decommission and demolish the dilapidated Port Hedland Regional Hospital following the transfer of the services to the new South Hedland Health Campus.\(^7,8\) The Town of Port Hedland had planned to package the Port Hedland Regional Hospital site as a component of the Port Hedland Marina Precinct Development.\(^9\)

LandCorp, as the State Government’s property developer, was requested by the Town of Port Hedland to lead and manage the disposal process on behalf of the Government.\(^10\) Royalties for Regions funding of $3.1 million was approved in 2011 for LandCorp to progress site fencing, site review and investigation, tender development and demolition and remediation.\(^11\)

LandCorp released a structured sale release expression of interest in October 2011 and invited offers from developers to acquire and develop the site.\(^12\) The project required demolition of the existing hospital buildings, site remediation and the construction of a high quality multi-storey development for commercial, retail, short term accommodation or a hotel that would act as a stimulus for future development.\(^13\)

\(^5\) LandCorp, Business case – Former Port Hedland Hospital demolition and Site Remediation, (27 July 2016), 5.

\(^6\) Department of Regional Development, Memorandum of Understanding for a Royalties for Regions Project – Port Hedland Hospital Demolition and Site Remediation, (23 May 2017), 21.

\(^7\) Town of Port Hedland, Letter to Minister for Health – Request that the State decommission and demolish the Port Hedland Regional Hospital, (22 September 2010).

\(^8\) Deputy Premier of Western Australia, Minister for Health; Indigenous Affairs, Letter to Town of Port Hedland, (22 October 2010).

\(^9\) Town of Port Hedland, Letter to Minister for Health – Request that the State decommission and demolish the Port Hedland Regional Hospital, (22 September 2010).

\(^10\) LandCorp, Business case proposal for Port Hedland, (22 December 2010), 2.

\(^11\) Government of Western Australia, Memorandum of Understanding for a Royalties for Regions Project – Service Workers Accommodation Enhancements Karratha And Progress to Demolish the old Port Hedland Hospital and Site Remediation, (June 2011).

\(^12\) LandCorp, The Former Port Hedland Hospital Development Opportunity Structured Sale Release, (October 2011).

\(^13\) Ibid., 5-9.
BHP Billiton was the preferred proponent but withdrew its conditional offer on 24 July 2012. The following day LandCorp prepared an addendum to the initial evaluation report which altered the initial assessment of Finbar from unsuitable to suitable and appointed the company as a reserve preferred proponent.

LandCorp and Finbar executed the Contract of Sale in April 2015. The contract agreement was for Finbar to undertake the demolition and site development with an additional condition precedent whereby settlement of the contract would be subject to achieving pre-sales of 75 per cent (82 of 109 apartments) within 12 months of receiving development approval. The purchase price was $6.5 million with demolition and remediation costs to be undertaken by Finbar.

Finbar was unable to secure the pre-sales condition precedent due to a weak property market and sought a 12 month extension. LandCorp, however, rejected Finbar’s application and allowed the contract with Finbar to expire. Due to public liability and fire risks LandCorp stated that the State would undertake the demolition.

LandCorp then received additional Royalties for Regions funding of $8.3 million to carry out the demolition works and remediation. While the procurement process for this work was being undertaken, a fire caused extensive damage to approximately 15 per cent of the main building of the hospital and funding of $935,000 was diverted from the original budget to fund the emergency fire response. The fire compromised the building’s structural integrity with a risk that it may collapse and cause injury to anyone entering the building. The main building damaged by the fire was also known to comprise asbestos containing materials. This required immediate attention.

LandCorp submitted a further variation request for Royalties for Regions funding in May 2017 bringing the total from that fund for the project to $10,835 million. The scheduled completion date for demolition and site remediation is September 2018. The budget increase included a contingency allowance for the removal of undocumented underground infrastructure. It was noted that the funding allocated for the emergency fire response would be reduced once the amount of the fire insurance settlement by RiskCover was determined.

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14 BHP Billiton Iron Ore, Notification of Withdrawal BHP Billiton Expression of Interest for Port Hedland Lot 452 The Former Port Hedland Hospital, (July 2012).
15 LandCorp, Addendum – Nomination of Finbar Port Hedland Pty Ltd to Preferred Proponent Status, (23 July 2012), 1.
16 LandCorp response to Special Inquiry request for information, received 28 August 2017.
17 Finbar, letter to LandCorp - Port Hedland Pty Ltd Lot 452 Sutherland Street, Former Port Hedland Hospital Site, Contract of Sale, (25 July 2016).
19 LandCorp response to Special Inquiry request for information, received 1 December 2017.
20 Department of Regional Development and LandCorp, Business Case for The Former Port Hedland Hospital Demolition and Site Remediation, (July 2016).  
22 LandCorp response to Special Inquiry questions on notice, received 25 September 2017.
23 Government of Western Australia, Memorandum of Understanding for a Royalties for Regions Project – Service Workers Accommodation Enhancements Karratha and Progress to Demolish the old Port Hedland Hospital and Site Remediation, (23 May 2017), 19.
24 Ibid., 22.
LandCorp confirmed that the demolition was completed in October 2017 and DM Civil has responsibility until September 2018 for maintenance of the hydro-mulch to rejuvenate the site.25 There is currently no land sale contract in place and LandCorp has stated that the land is under the ownership of WA Country Health Service which will decide on the future for the site.26

**EVALUATION OF THE PROJECT**

**Governance**

LandCorp is a government trading enterprise which has a Board of Directors. The Board has responsibility for ensuring that corporate governance requirements are met, as well as providing independent and strategic guidance. The Special Inquirer was provided with a list of dates and decisions taken by the Board of LandCorp for key milestones of the former Port Hedland Hospital site redevelopment.27

LandCorp’s responsibility for this project was to act as a selling agent on behalf of the State. Based on the business case provided, LandCorp has a designated project manager who reported project progress to LandCorp’s Executive and Board.

In addition, this project comes under the Port Hedland Steering Group which is chaired by the Pilbara Cities Office and is now part of the Pilbara Development Commission. The steering committee also includes representatives from the Town of Port Hedland and LandCorp.28

Further, as a condition of the Royalties for Region funding approval LandCorp provides quarterly progress reports to the Department of Regional Development (now the Department of Primary Industries and Regional Development) which include financial reports, project evaluation reports and an audited annual report for the project each financial year ending 30 June.29 Based on the documentation provided to the Special Inquirer, LandCorp has reasonable governance established to manage and monitor the project.

The only question remaining is whether the Board and steering committee had oversight and knowledge of the hasty and inappropriate changes to the procurement evaluation processes which saw the appointment of a proponent initially found to be unsuitable.

25 LandCorp response to Special Inquiry request for information, received 1 December 2017.
26 LandCorp response to Special Inquiry questions on notice, received 25 September 2017.
27 LandCorp, Port Hedland Hospital Board decisions, [18 August 2017].
28 LandCorp, Business case proposal for Port Hedland, 2 (22 December 2010).
29 Government of Western Australia, Memorandum of Understanding for a Royalties for Regions Project – Service Workers Accommodation Enhancements Karratha and Progress to Demolish the old Port Hedland Hospital and Site Remediation, (June 2011), 7.
Project management

Business cases
The two business cases that were prepared for this project were mainly for the purposes of securing Royalties for Region funding from the Department of Regional Development and Lands (until 30 June 2013) and Department of Regional Development (from 1 July 2013).

The first business case for the management of the former Port Hedland Hospital site was developed as part of a broader project, the Port Hedland Marina Precinct. According to this business case, LandCorp planned to demolish the site in July 2011 and prepare the land for sale by November 2011 through the approved Royalties for Region funding of $3.1 million.30 31

When LandCorp released a structured sale release expression of interest in October 2011, however, the basis of the demolition and site remediation was changed from being the responsibility of the State to being the responsibility of the developer.32 Based on the documentation provided, the Special Inquirer was unable to locate approvals to support the change.

During its hearing with the Special Inquirer, LandCorp advised that it determined that the ultimate developer should be responsible for the remediation and demolition of the site as it would be much more cost effective as opposed to the Government clearing it.33

The Special Inquirer observed that the business cases prepared by LandCorp were brief. While alternate options were briefly considered, the options were not analysed from a cost benefit and risk perspective. Additionally, the Special Inquirer was not provided with evidence demonstrating appropriate risk management was undertaken throughout the whole project.

Based on the progress report submitted by LandCorp to the Department of Regional Development and Lands, LandCorp had used only a small portion of the $3.1 million of funding between 2011 to September 2016.34 While the initial site due diligence and tendering process between 2011 and 2012 occurred very quickly, the project progressed very slowly from 2012 to 2016.

Procurement processes
As a government trading enterprise, LandCorp is not subject to general government procurement policies for goods and services and is therefore not subject to State Supply Commission procurement policies. These procurement policies require Western Australian general government agencies to conduct procurement

30 LandCorp, Business case proposal for Port Hedland, (22 December 2010), 6-12.
31 Government of Western Australia, Memorandum of Understanding for a Royalties for Regions Project – Service Workers Accommodation Enhancements Karratha and Progress to Demolish the old Port Hedland Hospital and Site Remediation, (June 2011), 16.
33 LandCorp Special Inquiry hearing, 11 October 2017.
34 Department of Regional Development and Lands, Annual Reports for the period 1 July 2011 to 30 June 2016 LandCorp progress to demolish the old Port Hedland Hospital and site remediation, (26 September 2012, 24 September 2013, 26 September 2014, 12 November 2015, 20 October 2016).
activity with high standards of open and effective competition. They also require probity and accountability in the management of conflicts of interest.

LandCorp has its own procurement policy and standards. For the purposes of examining the procurement process for this project, LandCorp’s Procurement Policy and Procurement Practice Guide were used as a benchmark. LandCorp’s Procurement Practice Guide requires it to conduct all procurement activities ethically, honestly and fairly, including ensuring communication with suppliers is consistent and does not disadvantage or advantage one supplier over others.35

The Special Inquirer observed that a number of the procurement decisions made were inconsistent with LandCorp’s requirement for probity and accountability throughout the whole process. These are discussed in detail below.

Selection of BHP Billiton
LandCorp received six offers when the expressions of interest closed on 24 January 2012.36 An assessment panel comprising representatives from LandCorp, Department of Regional Development and Lands, the Town of Port Hedland and a probity auditor assessed the offers against the evaluation criteria, which included the land purchase price, capacity to complete the intended form of development, project vision, design and environmental leadership.37 LandCorp engaged two companies to review the bid designs and undertake a financial analysis.

In the first evaluation process, BHP Billiton received an evaluation score slightly higher than that of Finbar. The evaluation report stated that “other submissions, although having some merit in particular Finbar, were not considered acceptable and as such a reserve preferred developer will not be appointed”.38

Based on the documentation provided, the Special Inquirer found that during the tender process, LandCorp provided BHP Billiton with the opportunity to discuss the proposed reduction in the area of the hospital site. That opportunity was not given to other tenderers and is inconsistent with LandCorp’s requirement for probity.

The probity report for the project noted that the discussions occurred without the involvement of the probity advisor and were prior to the finalisation of the evaluation report.39 The probity advisor considered this process to be “unusual” but “did not disadvantage the other proponents”.40

While the probity advisor provided an opinion that the decision was supportable, the Special Inquirer is of the view that LandCorp should have released the proposed reduction in land size in the form of an addendum to all six proponents which had submitted an offer. This would have ensured consistent communication to all proponents and provided a fair opportunity for all proponents to revise their offers.

36 LandCorp, Old Port Hedland Hospital Development Opportunity Evaluation Report 22 June 2012 Lot 452 Sutherland Street Port Hedland, [22 June 2012], 1.
37 Ibid.
38 Ibid., 2.
40 Ibid.
BHP Billiton was not formally advised that they were the preferred proponent when the above-mentioned discussions occurred and the unsuccessful proponents had not been advised of the outcome. During its hearing with the Special Inquirer LandCorp stated “In this case it was not our procurement system and processes that were being utilised to secure a purchaser of land. It was our sales processes and sales pitch”. 

LandCorp further stated, however, that a procurement report was prepared to score all the proponents in that process which contradicted its initial statement that it did not consider the structured sale release expression of interest as a procurement process.

The Special Inquirer observed that there are inconsistencies throughout the process. There was lack of clarity in the evaluation process for land sales in comparison to evaluation of procurement. LandCorp appeared to have used the two processes interchangeably.

The Special Inquirer considers that this was a procurement process and therefore LandCorp should have employed appropriate procurement practice based on its policy requirement.

**Finbar’s appointment as the preferred proponent**

When BHP Billiton withdrew its conditional offer on 24 July 2012, LandCorp prepared an addendum to the initial evaluation to appoint Finbar a day later. This decision and the process that led to it do not reflect acceptable probity standards. Further, LandCorp did not provide written justifications for the decision to act against its original assessment of Finbar as unsuitable.

The appointment of Finbar as the preferred developer on 31 July 2012 included an exclusive working period to allow discussions on design parameters, scope for an expanded range of potential land uses and assessment of the associated commercial considerations.

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41 LandCorp, Addendum – Nomination of Finbar Port Hedland Pty Ltd to Preferred Proponent Status, (23 July 2012), 1.
42 LandCorp, Addendum – Nomination of Finbar Port Hedland Pty Ltd to Preferred Proponent Status, (23 July 2012), 1.
43 Ibid., 18.
44 BHP Billiton Iron Ore, Notification of Withdrawal BHP Billiton Expression of Interest for Port Hedland Lot 452 The Former Port Hedland Hospital, (July 2012).
45 LandCorp, Addendum – Nomination of Finbar Port Hedland Pty Ltd to Preferred Proponent Status, (23 July 2012), 1.
Negotiated changes to the use of the site

During negotiations that occurred between August 2012 and October 2013 Finbar proposed the following changes:

- proposed to change part of the intended land use from short stay accommodation to permanent residential accommodation with greater mass, largely through an increase in the height of the buildings (August 2012);
- proposed further changes to replace the short stay accommodation to a 200 room four star hotel and lowered the sale price of the land to $4.498 million (July 2013); and
- requested the complete removal of the short stay accommodation from the development (October 2013). This request was declined.

Probity advice was sought on all occasions and the probity advisor confirmed that there were no valid probity reasons for not continuing with the proposal.

The Special Inquirer found, however, that the negotiated changes made by Finbar did not align with the original expression of interest document. This document specifically stated that LandCorp would not consider any permanent residential elements and “Proponents are to note specifically that any proposed development scheme which includes elements of permanent residential usage will not be valid.”

The Special Inquirer notes that the stated objective was to:

“create a distinctive and landmark development of suitable use and exceptional quality to enhance this area of Port Hedland and act as a stimulus for future development, including the potential future Spoilbank Marina. In addition proponents were “to note that potential land uses that would be considered suitable for the Site include:

- Commercial;
- Retail;
- Transient Workforce Accommodation / Short Stay Accommodation;
- Hotel and Leisure.”

The Special Inquirer is cognisant of the fact that by this stage, Finbar had invested significant resources and was motivated to explore all options to achieve a commercially viable project. Additionally, the downturn in the resources sector in 2012 significantly impacted the property market in Port Hedland and there was a possibility that LandCorp might not receive any proposals if it went back to market again.

Therefore, the root cause of this issue was largely with the initial expressions of interest document, which did not take into account changing economic conditions and was inflexible in terms of the type of proposals LandCorp was prepared to consider.

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47 Stantons International Audit and Consulting Pty Ltd, Probity Opinion – Lot 452 Sutherland Street Port Hedland Old Port Hedland Hospital development opportunity, (12 August 2014), 1.
48 Stantons International Audit and Consulting Pty Ltd, Probity Opinion – Lot 452 Sutherland Street Port Hedland Old Port Hedland Hospital development opportunity, (26 July 2013), 3.
50 Ibid., 5, 9.
51 LandCorp response to Special Inquiry questions on notice, received 25 September 2017.
Despite the concerns raised by the Departments of Health and State Development over high concentrations of iron ore dust from the nearby port, Finbar’s Stage 1 development application was approved by the Town of Port Hedland in August 2015 for 109 permanent residential apartments and 654 square metres of commercial area.\(^{52}\) To address the health concerns, one of the conditions of approval was for Finbar to provide to the Town of Port Hedland proof of alerts to prospective landowner or occupiers that:

“This land is located within an area identified as being impacted on or affected by dust from Port activities. The Department of Health advises, children, the elderly and people with pre-existing respiratory and cardiovascular health conditions or predisposed to the same should not reside on this land other than on a temporary basis as they are at increased risk of worsening or developing respiratory and/or cardiovascular related health conditions.”\(^{53}\)

**Negotiation of the inclusion of a condition precedent**

In August 2014, Finbar requested an additional condition precedent whereby settlement would be subject to achieving pre-sales of 75 per cent of Stage 1 (82 of 109 apartments) within 18 months of receiving development approval. At this time Finbar was concerned that it would not obtain sufficient pre-sales to secure finance for the completion of the proposed development.\(^{54}\) Finbar was not prepared to acquire the site without the certainty of the project viability.\(^{55}\) LandCorp rejected the 18 month time frame and agreed to a pre-sales period of 12 months.\(^{56}\)

Based on the documentation provided it is not clear whether LandCorp adequately assessed the risks associated with the condition precedent and whether the maintenance costs for the project site to the State were factored into its decision-making.

LandCorp consulted the WA Country Health Service, the Town of Port Hedland, the Pilbara Development Commission, the Department of Regional Development and the Department of Lands as key stakeholders during the negotiations with Finbar between 2012 to 2015.\(^{57}\)

**Expiration of the sales contract**

Following the expiry of the initial 12 month period, LandCorp rejected Finbar’s application for a further 12 month extension and allowed the contract with Finbar to expire.\(^{58}\) LandCorp stated that due to public liability and fire risks, the State would undertake the demolition and as a consequence the existing sale contract

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\(^{52}\) Department of Planning, Kimberley/Pilbara/Gascoyne Joint Development Assessment Panel, Determination Letter and Notice, (August 2015).

\(^{53}\) Ibid.

\(^{54}\) Stantons International Audit and Consulting Pty Ltd, Probity Opinion – Lot 452 Sutherland Street Port Hedland Old Port Hedland Hospital development opportunity, (12 August 2014), 1.

\(^{55}\) LandCorp response to Special Inquiry questions on notice, received 25 September 2017.

\(^{56}\) Ibid.

\(^{57}\) LandCorp response to Special Inquiry request for information, received 1 December 2017.

\(^{58}\) Finbar, letter to LandCorp - Port Hedland Pty Ltd Lot 452 Sutherland Street, Former Port Hedland Hospital Site, Contract of Sale, (25 July 2016).
would need to be altered to reflect these adjustments.\textsuperscript{59} It was preferable, therefore, that a new sales contract be negotiated.\textsuperscript{60}

Based on the documentation received, LandCorp considered the following two options.

“Option 1

• Finbar was to undertake the demolition and remediation of the site prior to settlement of the site.
• Under this option Finbar would seek to renegotiate the releases, discharges and indemnities included within the existing sale contract in relation to any contamination or pollution.
• If the settlement of the site did not proceed LandCorp would be required to reimburse Finbar for the demolition and remediation costs incurred.

Option 2

• Landcorp was to undertake the demolition and remediation prior to settlement and Finbar would reimburse the State the costs incurred at settlement.
• This option would see the potential contamination and pollution risk transferred to the State and the releases, discharges and indemnities in favour of LandCorp currently included within the existing sale contract would be removed.
• Finbar would be unlikely to agree to reimburse LandCorp an open ended amount of demolition and remediation costs (no cap) so this would expose LandCorp to cost increases incurred during the works.”\textsuperscript{61}

The Special Inquirer observed that the options analysed by LandCorp were brief and did not consider the benefits and costs of each but focussed on the likelihood of Finbar accepting the changes. Legal advice was not obtained and only LandCorp’s Board and the probity advisor were consulted.\textsuperscript{62} It appeared that the key stakeholders such as the WA Country Health Service, the Town of Port Hedland, the Pilbara Development Commission, the Department of Regional Development and the Department of Lands were not consulted.

**RECORD KEEPING**

LandCorp provided the documents and information requested by the Special Inquirer.

**FINDINGS**

1. There were two business cases developed for this project. The business cases were prepared primarily to secure Royalties for Regions funding. The business cases did not adequately analyse alternative options and the risks of the project to guide decision-making.

\textsuperscript{59} LandCorp response to Special Inquiry request for information, received 1 December 2017
\textsuperscript{60} Ibid.
\textsuperscript{61} LandCorp, Briefing Note to the Board Former Port Hedland Hospital Site, (14 December 2015), 2.
\textsuperscript{62} LandCorp response to Special Inquiry request for information, received 1 December 2017.
2. Although the opinion of a probity auditor was sought throughout the procurement and land sales process, there were instances where LandCorp’s decision-making was deficient:
   a) LandCorp did not consistently communicate proposed changes to all the proponents and only discussed the reduction of the advertised land size with BHP Billiton.
   b) LandCorp engaged and negotiated with BHP Billiton as preferred proponent prior to the finalisation of the tender evaluation report.
   c) LandCorp reversed its original evaluation decision without sufficient reassessment and consideration. The decision that Finbar was unsuitable and not appointed as the reserve preferred proponent was reversed a day after BHP Billiton withdrew its offer.
   d) The negotiated changes that Finbar agreed with LandCorp to the intended use of the project site were not aligned with the original expression of interest document which stated that proponents would not be considered if their submission incorporated permanent residential components.
   e) The negotiation process with Finbar, including the pre-sales conditions precedent, was not accompanied by a business case that adequately considered project risks and potential costs to the State of proceeding with the altered proposal.

3. The expression of interest document did not take into consideration potential changes in economic conditions. It specifically excluded proposals that included permanent residential use. LandCorp approved Finbar’s changes to its proposal, however, to include permanent residential accommodation. As the initial expression of interest document was inflexible it may have limited the market and the potential outcomes.

4. The options considered following the lapse of the arrangement with Finbar were not properly analysed.

RECOMMENDATION

1. LandCorp’s procurement process should articulate a process that ensures consistent communication and provides a fair opportunity for all proponents when new information becomes available. Information should be provided in the form of an addendum to all proponents who express an interest in a proposal to ensure a transparent process and confirm that their offer as submitted still stands.

2. In the development of future expression of interest documents, LandCorp should ensure flexibility to allow potential proponents to propose all options for site use. Exclusions that may limit the market and potential outcomes should only be included after thorough and careful consideration.

3. LandCorp should improve its policies, processes and templates to clarify the difference in the process between a land sales evaluation and a procurement process evaluation.

LANDCORP’S VIEW

The Special Inquirer forwarded draft findings to LandCorp and received a response on 13 December 2017. The Special Inquirer considered the correspondence and acknowledges LandCorp’s statement that ‘this disposal was being undertaken in a highly dynamic market where investment decisions were changing quickly’. The Special Inquirer however, does not believe that any additional evidence was provided that should result in a change to any draft findings.
THE QUARTER

“While overall The Quarter was a well managed project, it was not undertaken until property values had started to decline significantly.”

John Langoulant, Special Inquirer

The Quarter development was undertaken in 2010 to create an “iconic development” as part of the Pilbara Cities Vision to achieve a population of 50,000 people for Karratha by 2035. It was to breathe new life into Karratha’s city centre.

The five part project had a budget of $77.07 million, including $66.7 million from Royalties for Regions funds. An additional $6 million in Royalties for Regions funding was provided for relocation of 10 government agencies to The Quarter. Initially, the project was being driven by LandCorp and private sector partner Mirvac. But due to softening market conditions Mirvac scaled back its involvement and eventually withdrew.

A market sounding process in mid-2011 had revealed industry concern about such a development in what was considered to be a “high risk environment”.

The partially completed project was officially opened in June 2016. One commercial building was sold to the City of Karratha for $20 million, $5 million below the business case figure. It houses 10 government agencies, which has reduced their combined annual rental bill. The serviced worker apartments, still owned by LandCorp, are fully occupied.

The proposed 150 room hotel and another commercial building, however, have yet to materialise.

The project has failed to achieve its original goals. But according to LandCorp, the objective was to revitalise the city centre not to make a profit.
SUMMARY

The Quarter (formerly known as the “City Core” development) is part of the Karratha City of the North project included in the Royalties for Regions Pilbara Cities program. It involves a 1.68-hectare redevelopment of Karratha’s central precinct. Pilbara Cities was allocated $1.7 billion in Royalties for Regions funding.

As shown in Figure 1 below, The Quarter was intended to comprise 10,000 square metres of commercial/retail space across two buildings, a major public square, a decked car park, a 150 room four-star hotel and 46 service worker units.

Figure 1: Buildings within The Quarter
The hotel (Building 1) and one of the commercial spaces (Building 3) are yet to be delivered.

While overall The Quarter was a well managed project, it was not undertaken at the right time. This is evident in the difficulties that LandCorp faced in getting the project off the ground. From November 2011 LandCorp’s original development partner, Mirvac (WA) Pty Ltd, proceeded to limit its role and participation in the project due to market conditions. In April 2014, LandCorp took full responsibility for delivery of The Quarter. Currently LandCorp is still seeking a fourth proponent for development of the hotel site at The Quarter.

The Quarter was officially opened in June 2016, 10 months later than first envisaged in the business case with some aspects of the projects yet to be completed. As at May 2016 the project was under budget.

**PROJECT SYNOPSIS**

In October 2010, LandCorp called for expressions of interest for a development partner from the private sector to deliver the Karratha City of the North project, which included The Quarter. The successful development partner was to:2

- coordinate planning, design and sustainable development across key sites in the Karratha city centre;
- manage and deliver these developments;
- facilitate sales; and
- contribute towards the achievement of the 50 000 population target by 2035 contained in the Karratha City of the North Plan.3

Mirvac was endorsed by the LandCorp Board as the development partner.4 On 3 November 2011 Cabinet approved the appointment of Mirvac as the preferred proponent and agreed to provide $66.76 million to LandCorp for the Karratha City of the North project.5 LandCorp was to be a project manager for the development.6 The Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) and LandCorp entered into a financial assistance agreement for these works on 25 June 2012.7

Despite being awarded preferred proponent status, Mirvac sought to limit their participation in the project. In April 2014 Mirvac was unable to meet its minimum requirement to commence construction due to the decline of the Karratha property market. The LandCorp Board gave approval for LandCorp to step in as the developer, subject to Ministerial support and the preparation of a detailed business case8. Mirvac was retained in a project management capacity.

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1 The reporting timeframe provided to the Special Inquirer.
2 LandCorp, Call for Expression of Interest (undated), 7
3 This was to occur by creating infrastructure of an innovative design and improving the City’s liveability thereby encouraging people to stay there permanently.
4 Terry Redman, Letter to Premier (with Briefing Note to the Minister Ref No 39-26308 attached) (11 July 2014)
5 Department of Regional Development and Lands, Letter from Director General to Mr Ross Holt, Chief Executive Officer, LandCorp (25 June 2012)
6 LandCorp responses to Special Inquiry questions on notice, received 25 September 2017
7 Financial Assistance Agreement – Royalties for Regions Project between the Department of Regional Development and Lands and Western Australian Land Authority (LandCorp), Regional Infrastructure and Headworks Fund, Karratha City of the North Project (25 June 2012)
8 LandCorp, Business Case Karratha City of the North: Delivery of Building 2 at The Quarter (21 July 2014), 6
In July 2014, the LandCorp Board approved a detailed business case for Building 2 for up to $10.3 million of LandCorp equity, to be combined with $66.773 million in Royalties for Regions funding.9

A tender process for the construction of the precinct culminated in the design and construct contract being signed with Doric Contractors Pty Ltd on 21 October 2014.

Construction of The Quarter precinct commenced on 27 October 2014.10

On 21 May 2015, LandCorp entered into a memorandum of understanding with the Department of Regional Development for Royalties for Regions funding through the Pilbara Cities Strategic Infrastructure, Karratha City of the North program. The memorandum of understanding established the project description and key milestones for the development of The Quarter. At this point LandCorp had already received $5.995 million of the $66.773 million Royalties for Regions funding which had been disbursed to LandCorp under a previous financial assistance agreement.

Development of The Quarter proceeded and practical completion of the commercial space (Building 2) was achieved on 29 April 2016. The Quarter precinct was officially opened on 2 June 2016.

Subsequently, LandCorp sold Building 2 to the City of Karratha for $20 million (GST exclusive) with settlement occurring on or about 21 June 2017.

Prior to the sale, approximately 50 per cent of Building 2 was leased, including the second floor, to the Minister for Works for government offices.11 The service worker apartments are fully occupied and together with the hotel site and future commercial/retail development site, these remain under LandCorp ownership. Construction of the 150 room hotel has not proceeded. This part of the project, together with the development of commercial space (Building 3) is on hold. LandCorp is currently seeking a developer for the hotel and Building 3.

**Business case – The Quarter**

The business case for The Quarter development was entitled Karratha City of the North Partnering Opportunity – Business Case dated July 2011, which also covered land development in the Mulataga area of Karratha. The business case covered all the elements of The Quarter project and was an addition to the LandCorp business plan.12 The business plan was not provided to the Special Inquirer. When the Karratha City of the North business case was submitted to the LandCorp Executive meeting for consideration on 22 July 2011, the Board had already endorsed a three stage procurement process. This followed a market

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9 LandCorp response to Special Inquiry request for information, received 30 August 2017
10 Ibid.
11 Ibid.
12 LandCorp Executive Meeting item Karratha City of the North Partnering Opportunity – Business Case (22 July 2011), 3
sounding process which revealed industry apprehension for this type of development in a perceived high risk environment. The Board had also approved the short-listing of three proponents and the release of the request for proposal.\textsuperscript{13} It appears that implementation of the project had been underway since July 2010.

The business case did not consider alternative options or ongoing recurrent costs for the development. Under the 2011 business case LandCorp did not intend to retain any equity in the project.\textsuperscript{14} The Department of Primary Industries and Regional Development advised the Special Inquirer, however, that under the memorandum of understanding dated May 2015, LandCorp undertook to fund these costs after completion of the development.\textsuperscript{15} Whether LandCorp had funding to accommodate these costs is unclear to the Special Inquirer. The 2014 business case did contain a disposal strategy as LandCorp intended to sell Building 2 upon completion of the construction.

Following the change of the project developer from Mirvac to LandCorp, no new business case for the whole of The Quarter development was prepared despite the significant change in the Karratha property market. LandCorp stated during its hearing with the Special Inquirer that the Pilbara Cities plan was a “long-term project” to revitalise the town centre and was not about “responding to short-term property market changes”.\textsuperscript{16} Further, “the Minister determined that the outcomes were the same”\textsuperscript{17} with the only difference being the project delivery mechanism.

In June 2012 following its execution of a management agreement with Ramtron Australia Pty Ltd, the Hilton hotel chain (Hilton Worldwide) announced its plans to build an eight storey hotel in Karratha under its DoubleTree brand.\textsuperscript{18} Initially Hilton’s development was intended to proceed at a different site in Karratha’s commercial area with the works expected to be completed by mid-2014. Following Mirvac’s withdrawal as the developer for the hotel at The Quarter in April 2014, however, LandCorp’s consultants for the hotel development, CBRE, engaged in discussions with Ramtron regarding the site for their development. Ramtron expressed interest in The Quarter’s hotel site as it was in a superior location, serviced and ready for commencement of building construction. Following The Quarter’s hotel site being made available through a public request for proposal, Ramtron lodged its submission\textsuperscript{19} and was chosen as the preferred proponent.

The Special Inquirer would have expected LandCorp to review its 2011 business case for The Quarter in 2012 in light of Hilton’s announcement to ensure that there was still a business need for the hotel development. LandCorp advised the Special Inquirer that:

> “Following a discussion with Ramtron it was evident that there were a number of constraints with their existing site that made it challenging for them to proceed. If, however, they were able to progress their development the need for another 4-star hotel at The Quarter would have been reviewed and an alternate development proposal considered for The Quarter.”\textsuperscript{20}

\textsuperscript{13} Ibid., 3-4.
\textsuperscript{14} Ibid., 12.
\textsuperscript{15} Department of Regional Development and Western Australian Land Authority (trading as LandCorp), Memorandum of Understanding - Royalties for Regions Project; Pilbara Cities Strategic Infrastructure, Karratha City of the North, (21 May 2015), 27.
\textsuperscript{16} LandCorp Special Inquiry hearing, 11 October 2017, 24.
\textsuperscript{17} Ibid.
\textsuperscript{19} LandCorp responses to Special Inquiry hearing questions taken on notice, received 20 October 2017
\textsuperscript{20} Ibid.
Following Ramtron’s failure to raise the finance to proceed with the hotel, LandCorp again opened the site up to market, seeking another developer.

A revised business case for Building 2, now known as The Quarter HQ, was prepared in July 2014 following Mirvac’s withdrawal as the development partner for the remainder of The Quarter development. Under the revised business case LandCorp was to provide $10.3 million in equity into the project previously provided by Mirvac. While the business case from 2014 does not contain an options analysis or cost benefit assessment, in June 2014 it was reviewed by Ernst and Young who did not identify any material issues. On 22 July 2014 the business case was approved by the LandCorp Board.

The LandCorp Board’s approval for the 2014 business case for Building 2 was subject to a lease being in place with the State Government for one commercial floor and a “put option”\(^{21}\) being in place with Mirvac over the commercial building (Building 2) and car park area. The “put option” enabled LandCorp to require Mirvac to purchase the building upon completion, subject to specific conditions. LandCorp’s recommendation was endorsed by the Minister for Lands and Cabinet on 12 August 2014. At its hearing with the Special Inquirer, LandCorp advised

> “...there was a significant risk review undertaken at the time, before LandCorp entered into the contract...to deliver the project with the board. So I recall seeing significant reviews of the risks of undertaking the construction of the building involved, and lots of mitigation efforts that we put in place...including appointing Mirvac as our development manager for the site, even though they were no longer an equity participant. We had significant legal review of those contracts and we employed a specific built form project manager and quantity surveyor to make sure that Mirvac and others were doing the right thing. So I think we had a real belt and braces approach.”\(^{22}\)

**The Karratha Government Office Co-location Project (The Quarter)**

In a separate but related project, on 5 June 2014 the Department of Regional Development approved a business case specific to the relocation of the following 10 government agencies to The Quarter for $6 million.

- Department of Education
- Department of Finance
- Department of Transport
- Department of Water\(^{23}\)
- Pilbara Development Commission
- Department of Agriculture and Food Western Australia\(^{24}\)
- Department of Commerce\(^{25}\)

\(^{21}\) A “put option” is an option to sell assets at an agreed price on or before a particular date. Dictionary.com, accessed 17 December 2017.

\(^{22}\) LandCorp, Special Inquiry hearing, 11 October 2017, 30-31

\(^{23}\) Now part of the Department of Water and Environmental Regulation established on 1 July 2017.

\(^{24}\) Now part of the Department of Primary Industries and Regional Development established on 1 July 2017.

\(^{25}\) Split between the Department of Jobs, Tourism, Science and Innovation and the Department of Mines, Industry Regulation and Safety. Both departments were established on 1 July 2017.
The collocation project was intended to deliver an overall cost saving to government.

A memorandum of understanding was entered into between the Department of Regional Development and the Department of Finance on 14 April 2015 for Royalties for Regions funding. The $6 million for the collocation project would fund the design and construction of the office fit out, agency relocation costs, rent commitments in the existing accommodation and “make good” costs for existing leased accommodation.

**EVALUATION OF THE PROJECT**

As a part of the examination of this project, the Special Inquirer considered the robustness of the decision-making processes in relation to the development of The Quarter, particularly in relation to the delivery of the commercial building (Building 2) and the hotel (Building 1).

**Governance**

LandCorp is a Government Trading Enterprise established under the *Western Australian Land Authority Act 1992* to provide or promote the provision of land, infrastructure, facilities and services for the social, economic and environmental needs of Western Australia. LandCorp identifies potential centres of population and centres in need of urban renewal and uses its powers to provide or improve land, infrastructure, facilities or services for these centres. While LandCorp is generally required to act commercially, it can undertake non-commercial land development projects that are supported by the Government, if for example, there is a specific request by the Minister for Lands. Value for money under this framework does not necessarily equate to commercial profitability.

LandCorp advised that The Quarter was funded as a community service obligation project by way of an operating subsidy. The policy underlying The Quarter development was the Karratha City of the North Plan that aimed to achieve a target population of 50,000 people in Karratha by 2035. LandCorp Executive meeting papers note that “LandCorp’s return may need to be largely in reputation terms”. Despite high project risks as explained later in this report and a lack of commercial viability, from LandCorp’s perspective the project could still be undertaken “to create the type of iconic development that is aspired to in the Pilbara Cities vision”. This could be achieved provided that it complied with the requirements of LandCorp’s legislation. At its hearing with the Special Inquirer LandCorp explained that its objective for the project was

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26 Now part of the Department of Mines, Industry Regulation and Safety established on 1 July 2017.
27 Now part of the Department of Communities established on 1 July 2017.
28 Now part of the Department of Planning, Lands and Heritage established on 1 July 2017.
29 Department of Finance, Business case proposal for Karratha Government Office Co-location Project (The Quarter), [10 September 2014], 4.
30 Western Australian Land Authority Act 1992 s 16.
31 Ibid., s 19(1)
32 Ibid., s25A(3)
33 LandCorp, Special Inquiry hearing (11 October 2017), 23 and 27
34 Land Corp, Executive meeting item: Karratha City of the North partnership opportunity - Business case, [22 July 2011], 7
to revitalise the city centre, not to make a profit.\textsuperscript{35} Nevertheless, LandCorp’s investment of $10 million to the project met commerciality requirements specified under the legislation despite the market conditions.\textsuperscript{36}

The Department of Primary Industries and Regional Development advised the Special Inquirer that a “review of DPIRD’s [the Department of Primary Industries and Regional Development’s] records does not indicate if due diligence was undertaken”\textsuperscript{37} in providing Royalties for Regions funding to The Quarter development. It advises that before approval for the Karratha City of the North project was granted by Cabinet, the 2011 business case was:

- considered and endorsed by the Royalties for Regions Directors General Reference Group;
- provided to the Department of Treasury for comment; and
- considered by the Land Availability Working Group which consisted of the following member agencies:
  - the Department of the Premier and Cabinet;
  - the Department of State Development;
  - the Department of Planning;
  - the Department of Housing;
  - the Department of Regional Development and Lands;
  - the Department of Environment and Conservation;
  - the Department of Indigenous Affairs;
  - the Environmental Protection Authority; and
  - LandCorp.\textsuperscript{38}

The Department of Primary Industries and Regional Development further advised that in order to avoid disclosure of the identities of the preferred proponents from the development partner procurement process, the “10 working day rule”\textsuperscript{39} for Cabinet was waived.\textsuperscript{40} As a result of this waiver other Government agencies would not have been provided with the opportunity to consider the business case.

In terms of the project decision-making, in 2011 LandCorp formed a “Management Committee... to oversee the achievement of the contract [development contract with Mirvac] deliverables and project objectives”\textsuperscript{41}. LandCorp advised the Special Inquirer:

“Following the withdrawal of Mirvac as an equity partner the Management Committee ceased, however it was replaced by a Project Control Group that met monthly. The Project Control Group was expanded to include the construction superintendent, leasing agent and builder (as required). Mirvac was retained as Project

\textsuperscript{35} LandCorp, Special Inquiry hearing [11 October 2017], 27
\textsuperscript{36} Ibid., 29
\textsuperscript{37} Department of Primary Industries and Regional Development responses to the questions on notice, received 25 September 2017
\textsuperscript{38} Ibid.
\textsuperscript{39} The ‘10 working day rule’ refers the requirement for any items for the Cabinet agenda to be received by the Cabinet Secretariat at least 10 days prior to the scheduled Cabinet meeting. Source Department of the Premier and Cabinet – Cabinet Handbook 2013
\textsuperscript{40} Department of Primary Industries and Regional Development responses to the questions on notice, received 25 September 2017
\textsuperscript{41} LandCorp Executive Meeting item Karratha City of the North Partnering Opportunity – Business Case (22 July 2011), 19
Manager and part of their role was to prepare month end progress reports that were presented to the Project Control Group each month. Mirvac took minutes and actions from these minutes that fed into the next month’s reporting.42

The Special Inquiry notes that major project decisions were approved by the LandCorp Board. The Board is appointed by the Minister for Lands as the governing body to perform the functions of the Authority.43 It has discretion as to how and when it performs those functions but it must be in accordance with LandCorp’s Strategic Development Plan and Statement of Corporate Intent. At its hearing with the Special Inquirer, LandCorp noted that:

“We also then as part of the procurement of the project overall provided advice to our Minister. Our Minister then also wrote to the Premier on this element to say there was changes being made and effectively the Minister signed off to the final contract for Doric to construct this so the Minister and the Government were the ones making the decision here.”44

**Project management**

LandCorp, as a project manager, had a dual responsibility with Mirvac, the preferred proponent to develop The Quarter. Following Mirvac’s withdrawal as LandCorp’s development partner, LandCorp assumed the responsibility for development of the precinct with Mirvac being retained as the project manager. Stage 1 of the project proceeded and included demolition works, and construction of Buildings 2, 4 to 5 and public plaza45. The project team for Stage 1 of the development is represented in Figure 2 below. It is unclear to the Special Inquirer as to who was appointed as the independent party for dispute resolution as outlined in the structure.

*Figure 2: Structure of the Project Team involved in Stage 1 of The Quarter*46

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42 LandCorp additional information provided to the Special Inquirer received 13 December 2017
43 Western Australian Land Authority Act 1992 s 6-7
44 LandCorp, Special Inquiry hearing [11 October 2017], 24
45 Department of Regional Development and Western Australian Land Authority (trading as LandCorp), Memorandum of Understanding Royalties for Regions project Pilbara Cities Strategic Infrastructure Karratha City of the North (21 May 2015), 23
46 Ibid., 26
**Project management principles**

While overall the project was well managed, planning for the project lacked rigor. In implementing The Quarter development, LandCorp was essentially following a Government commitment focused on implementing the Karratha City of the North Master Plan as opposed to ensuring strong project management practices. The 2011 business case did not consider alternative options or ongoing recurrent costs for the development. The business case mentions that Appian Group undertook an “assessment of development mix that is likely to result in activation of the City Core”. This document was not provided to the Special Inquirer. LandCorp’s risk assessment failed to account for long-term risks such as a possibility of its development partner leaving the project. Project planning in the 2014 business case for the delivery of Building 2 was improved, and risks were appropriately managed and assessed.

It is also apparent that except for Building 2, LandCorp failed to update its business case for The Quarter in light of the changing market conditions, the announcement of the Hilton development and the change of LandCorp’s role from project manager to the developer. This is particularly significant given that financial analysis in the 2011 business case did not incorporate an assessment of the expected future cash flows or net present values of the project. Originally the majority of the project was to be undertaken at the expense of the development partner. The Karratha City of the North Master Plan identifies the cost to be $0.5 million. Stage 1 of The Quarter development, however, was fully funded by the State.

LandCorp struggled to progress the development as originally envisaged. The 2011 business case presumed that the Karratha City of the North project (namely, all elements of The Quarter development and development in the Mulataga area of Karratha) would be undertaken over a period of four years with the completion scheduled for the end of 2017. The financial assistance agreement with the Department of Regional Development and Lands dated 25 June 2012 envisaged full completion of The Quarter project by the end of December 2015. Delivery dates for Buildings 2, 4 to 5 and public spaces within The Quarter precinct were revised in the 2015 memorandum of understanding. The MOU anticipated completion of the works by 31 May 2016. Building 2 was granted practical completion on 29 April 2016 and The Quarter was officially opened in June 2016.

Since being awarded a status of preferred developer in November 2011, Mirvac sought to reduce its commitment to the project as the developer to Building 2 only. In March 2013 the LandCorp Board approved the revised project delivery strategy for the project requiring Mirvac to fund the delivery of Building 2 and

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47 Karratha City of the North Master Plan Volume 3, 107-108
48 LandCorp, Executive meeting item: Karratha City of the North Partnering opportunity – Business case (22 July 2011), 27
49 Karratha City of the North Master Plan Volume 3, 118
50 LandCorp Executive Meeting item Karratha City of the North Partnering Opportunity – Business Case (22 July 2011), 10
52 Department of Regional Development and WA Land Authority (trading as LandCorp), Memorandum of understanding: Pilbara Cities Strategic Infrastructure, Karratha City of the North, (21 May 2015), 24.
manage its sale while converting Mirvac’s role to that of a project manager. This was approved on the condition that there would be no further extension to the project. In March 2014, however, Mirvac advised LandCorp that it needed a four month extension to “secure a 50% leasing pre-commit and lock in a purchaser prior to construction”.53 Upon reviewing this request, LandCorp decided that this was unlikely to occur by the requested date and the granting of an extension would only delay the project. The exclusive working period lapsed on 1 April 201454 and LandCorp took responsibility for the delivery of the entire The Quarter precinct.

Sale of Building 2 to the City of Karratha for $20 million was reported in June 2017. The sale price was within the range of market valuations obtained by LandCorp and the City of Karratha, but was $5 million less than the sale price assumed in the business case based on market valuations in July 2014.55 It is unclear to the Special Inquirer if this sale was through a public process. The sale contracts between LandCorp and Mirvac for Building 2 and the car park bays were terminated upon the sale to the City of Karratha in accordance with a Deed of Variation of Put Option executed by the parties.

The hotel component of The Quarter has not been delivered despite milestones for completion being set as 29 August 2014 and then 31 December 2015. The proposed Building 3 is also currently on hold.

**Procurement and contract management**

On 21 October 2014 LandCorp and Mirvac entered into a project management agreement in relation to public spaces and Buildings 2, 4 and 5 of The Quarter. Under the agreement Mirvac undertook to project manage the development, including the engagement of a real estate agent to find tenants for Building 2, known as The Quarter HQ.56 The management fee was stipulated as 3.5 per cent of the development costs.57 It is estimated that the value of the contract was expected to be in excess of $2 million.

LandCorp did not provide the Special Inquirer with a copy of its procurement policies from 2011 to 2014, although this information request was submitted to LandCorp at the beginning of the Special Inquiry. The Special Inquirer was provided with a one page document entitled Approved procurement policy dated 18 March 2015 and a procurement guide from November 2016. Due to this lack of documentation, the Special Inquirer is unable to determine whether LandCorp followed its procurement policies that were in place at the time.

It is apparent that LandCorp did not follow procurement best practice in engaging Mirvac as The Quarter project manager. The original engagement of Mirvac as a development partner was subject to a tender process. The roles of a project manager and developer, however, are different and should also have been put to open market. It is evident that engagement of Mirvac as the project manager for the development was not subject to a tender process.

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53 Terry Redman, Letter to Premier (with Briefing Note to the Minister Ref No 39-26308 attached) (11 July 2014)
54 Ibid.
55 LandCorp, Business Case Karratha City of the North: Delivery of Building 2 at The Quarter (21 July 2014), 8
56 Project management agreement (21 October 2014), 9 (schedule 1 and 1A)
57 Project management agreement (21 October 2014), Annexure Part C to the Australian Standard Project management – General Conditions AS 4915-2002
Hotel developer

Procurement of a contractor to develop the hotel site (proposed Building 1) was a problematic process. In April 2013, during the exclusive working period, Mirvac sold its hotel division and withdrew from the hotel development.

In June 2013 LandCorp appointed Commercial Real Estate - CBRE Australia to undertake an international campaign to attract a new proponent for the hotel development. Incentives included land transfer at nominal cost and a financial contribution to the development. Six offers were received in response to the expression of interest process and detailed submissions were sought from two short-listed proponents.\(^\text{58}\)

The second ranked proponent, The Prendiville Group, had considerable experience in the delivery of projects of the relevant size and complexity, while the first ranked proponent Ramtron did not. While the Prendiville Group requested a $20 million financial incentive, Ramtron sought only a $4.5 million contribution to recoup costs spent progressing works at a different site.\(^\text{59}\) In response to the Special Inquirer’s questions on notice, LandCorp submitted that Ramtron’s proposal was superior in terms of the design, commitment from a five-star operator and willingness to work with LandCorp to deliver on the Government objectives.

A report for Ramtron was obtained from credit reporting agency Dun & Bradstreet in August 2013. The report notes that Ramtron was a small proprietary company formed in June 2012 and no financial statements were available for the organisation at the time. Nevertheless, the report gives Ramtron an “average” credit rating.

The LandCorp Board report from November 2013 notes that:

“The Panel decided that, subject to resolving some design issues and providing further financial information, they were satisfied that its main concerns had been addressed and recommended Ramtron be nominated as the preferred proponent.”\(^\text{60}\)

In November 2013 Ramtron was selected as the preferred proponent. Stantons International undertook a probity review of the process and advised that it was “a thorough process that has complied fully with appropriate probity requirements”.\(^\text{61}\)

It should be noted that LandCorp was negotiating with Ramtron regarding the financial contribution. In September 2015 Ramtron advised that it was not able to raise the resources to proceed with the project as no payment had yet been made to the company. When Ramtron withdrew from the project, LandCorp released the site to the open market. A third developer was identified, Murujuga Aboriginal Corporation, and was appointed by the LandCorp Board as preferred proponent between 1 October 2015 and 31 December

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\(^\text{58}\) Stantons International, Letter to Chief Executive Office of LandCorp (22 November 2013)
\(^\text{59}\) LandCorp, Board Report item 3.6 Karratha Hotel – Preferred proponent (25 November 2013)
\(^\text{60}\) Ibid.
\(^\text{61}\) Stantons International, Letter to Chief Executive Office of LandCorp (22 November 2013)
2015. No supporting information about that process was provided to the Special Inquirer. Since 2016 the site has again been on the open market.

**Design and construct contract**

Appointment of the builder for the development of The Quarter was subject to an expression of interest process which received six proposals. Following the process, Doric Contractors Pty Ltd was appointed as the preferred builder for the development. A design and construct contract for the sum of $60,026,964 (excluding GST) was executed with Doric on 21 October 2014. The appointment of Doric appears to follow best procurement practice.

**Benefits realisation**

Not all of the original objectives for the project could be fulfilled. The project was originally meant to be a development partnership that was intended to be “capable of delivering leading edge development outcomes that can be held up as world’s best practice”. This arrangement, however, was unsuccessful. Neither did the intention to “mobilise significant additional private sector investment and greatly lift the capacity of the local building industry” eventuate, with the hotel development struggling to get off the ground.

As the project is still on-going, an in depth benefits realisation assessment has not yet been completed.

**Financial analysis**

The budget for The Quarter was $83.07 million, comprising the following.

**Table 1: The Quarter budget**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST ($ MILLION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Quarter construction</td>
<td>77.07</td>
</tr>
<tr>
<td>Karratha Government Office Co-Location Project</td>
<td>6.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>83.07</strong></td>
</tr>
</tbody>
</table>

The $77.07 million figure includes $66.773 million in Royalties for Regions funding and $10.297 million in equity contributed by LandCorp. The $20 million proceeds from the sale of Building 2 were supposed to be shared by LandCorp and the Department of Regional Development. Under the May 2015 memorandum of understanding, LandCorp was to recoup its financial contribution to construction of the building from the sale proceeds and whatever monies remained were to be forwarded to Royalties for Regions. During its

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52 LandCorp Royalties for Regions Quarterly Report for the period 1 October 2015 to 31 December 2015, 5
53 The Quarter Formal Instrument of Agreement between Western Australian Land Authority (trading as LandCorp) and Doric Contractors Pty Ltd (21 October 2014)
54 LandCorp Executive Meeting item Karratha City of the North Partnering Opportunity – Business Case (22 July 2011), 4
55 Ibid
56 Department of Regional Development and LandCorp, Memorandum of Understanding Pilbara Cities Infrastructure Karratha City of the North
hearing with the Special Inquirer, LandCorp advised that it made “a gain investment of some $9.3 million.”  

LandCorp advised that this was an accounting entry recognised in its financial statements and was indirectly captured in the determination of dividends payable to the State. LandCorp also paid $2.8 million in tax on the $9.3 million gain.

The Department of Primary Industry and Regional Development informed the Special Inquirer that the calculated net proceeds will occur upon acquittal of the project. This is yet to occur as the project is ongoing and is not expected to be completed until the end of 2017/18 financial year, by which time LandCorp anticipates that it will secure a developer for the hotel site.

In May 2016 LandCorp reported that it spent $69,276,630 on construction of The Quarter. As at 30 June 2017, the Department of Finance spent $5,603,350 on the Karratha Government Office Collocation Project. This brings the total cost to the State Government to $74,879,980.

For The Quarter development to proceed, preliminary infrastructure works had to take place as it was “one of the single most important contributors to achievement of the Pilbara Cities Vision for Karratha”. To create a new main street and new development and civic sites for delivery by the private sector, the Department of Regional Development and Lands entered into a memorandum of understanding with LandCorp on 7 November 2011 to provide up to $65 million of Royalties for Regions funding for the Karratha City Centre Infrastructure Project. No attribution of costs from this project was made by the Special Inquirer in costing The Quarter development but clearly part of this funding was necessary for The Quarter development to proceed.

The City of Karratha will receive $860,000 per annum in rent from The Quarter’s commercial space (Building 2).

**Karratha Government Office Co-Location project**

This component of The Quarter project delivered value for money. An options assessment was undertaken for the relocation of the government agencies. It proposed that the relocation to the new building at The Quarter would enable another Minister for Works owned building in Karratha to be sold for approximately $3.25 million. In addition, it avoided the estimated remediation costs of $12.9 million for the Minister for Works owned building and temporary relocation of occupants. The relocation costs of agencies to The Quarter required a capital project cost of $6 million. While four of the 10 relocated government agencies would pay more for their office accommodation, the savings for the remaining six agencies were expected to exceed this by more than $300,000 per financial year from 2016/17 onwards.

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67 LandCorp Special Inquiry hearing, 11 October 2017
68 LandCorp response to Special Inquiry request for information (received 8 December 2017)
69 Department of Primary Industries and Regional Development response to Special Inquiry request for information (received 8 December 2017)
70 LandCorp, The Quarter – Karratha Executive Project Review (undated)
71 Karratha City Centre Infrastructure works project - memorandum of understanding, 7 November 2011
72 Legislative Assembly Committee A and B Supplementary Information, Extract from Hansard (11 June 2015), p/271-b-722a
The Department of Finance advised the Special Inquirer that the excess office accommodation is yet to be leased or sold.

**RECORD KEEPING**

LandCorp, the Department of Finance, and the Department of Primary Industries and Regional Development provided all documents and information requested by the Special Inquirer.

**FINDINGS**

1. The business case for the project was prepared in 2011 as a partnering opportunity with private sector developers. Because LandCorp did not plan to take ownership of the assets, that business case did not consider:
   a) risks to all the components of the project if the developer withdrew from the development; or
   b) alternative options for development if the developer withdrew from the development.

2. The Department of Primary Industries and Regional Development advised that a “review of DPIRD’s records does not indicate if due diligence was undertaken in providing Royalties for Regions funding to The Quarter development in 2011.” The 2011 business case was, however, considered by the Royalties for Regions Directors General Reference Group, the Department of Treasury and the Land Availability Working Group before being submitted to Cabinet.

3. The Quarter development – undertaken by LandCorp – was part of its community service obligations although it was known back in 2011 that the project would not be commercially viable and was a high risk investment. LandCorp advised that its investment of $10 million into the project met commerciality requirements.

4. The sale price of Building 2 was within the range of market valuations obtained by LandCorp and the City of Karratha in December 2015, but $5 million less than the sale price assumed in the business case based on market valuations in July 2014.

5. Except in relation to Building 2, LandCorp did not review its business case in light of deteriorating market conditions, the announcement of the Hilton hotel being constructed at a different site and the change of its role from the project manager to the developer. This is particularly significant given that financial analysis in the 2011 business case did not incorporate assessment of the expected future cash flows or net present values.

6. While the project was reasonably well managed overall, initial planning for the project lacked rigour and risk assessment did not include long-term project risks. Project planning in the 2014 Business Case for the delivery of Building 2 was improved, and risks appropriately assessed and managed.

7. LandCorp struggled to progress the development of The Quarter as originally envisaged under the 2011 Business Case. The time frames for delivery of The Quarter were successively pushed back under the 2012 Financial Assistance Agreement, the 2014 Business Case, and the 2015 Memorandum of Understanding. The hotel (Building 1) and commercial space (Building 3) are yet to be completed.
8. Appointment of Ramtron Australia Pty Ltd as the preferred proponent for the project was subject to a proper process and LandCorp did undertake some financial due diligence. Ramtron did not, however, have financial capacity to take on the development.

9. Appointment of the project builder appears to follow procurement best practice.

10. The Karratha government office co-location component of the project delivered value for money.

11. The project has not fulfilled all of its original objectives. As it is still ongoing, however, an in-depth benefits realisation assessment has not yet been completed.

**AGENCY VIEW**

In relation to Finding 7, LandCorp’s view is that construction of The Quarter HQ and Apartments reached practical completion on time and on budget (April 2016). The agency states there was a delay in the Business Case being considered by Government, which delayed the commencement date. The agency’s view is that the period of construction was consistent with that outlined in the Business Case. The official opening date in June was scheduled after completion to align with stakeholder availability and enable several other projects in the Region to be visited / opened during the same trip.
"The contractual terms that underpinned the Pelago East development required the State to bear some significant and unusual risks."
John Langoulant, Special Inquirer

The development of the twin Pelago accommodation projects in Karratha in the 2012 to 2013 period was a direct response to rapid population growth caused by major expansion in the resources sector. The price of houses and rents had jumped sharply. Building costs had also increased.

The Government aimed to ease the pressure with the two residential towers — Pelago East consisting of 174 units and Pelago West consisting of 114 units. Both involved an injection of Royalties for Regions funding.

In Pelago West 12 units were “spot purchased” for $7 million for government employees to rent. No specific business case was produced to justify the action or formally assess alternatives to satisfy the accommodation issue.

Government approval was given for $30.4 million to buy 50 units in Pelago East. A business case was prepared but when property prices started to sag, there was a failure to review the implications of a changing market with rapidly declining values. None of the units purchased in Pelago East has been sold.

The Pelago East venture in particular has failed to deliver the predicted revenue. In fact the contractual terms that underpinned the development required the State to bear some significant and unusual risks.

Government agency:
Housing Authority (now Department of Communities) and the Department of Regional Development and Lands (now Department of Primary Industries and Regional Development)

Project timeline:
2012 - 2013 (however the financial implications are still current)

Total cost to Government:
$37.4 million

2012
Pelago West completed and Government buys 12 dwellings for approximately $7 million with Royalties for Regions funding

2012
Government investment needed to commence construction of Pelago East

2012
Minister for Housing and Cabinet approves purchase of 50 dwellings in Pelago East for $29.7 million with Royalties for Regions funding

2013
Pelago East completed after Government provided 80% of capital for its 50 dwellings

2015
Between 2012-15 dwelling allocation strategy undergoes changes due to demand and inability to sell
SUMMARY

The Pelago project involved two residential towers in Karratha — Pelago West and Pelago East.

The Pelago West project involved the Housing Authority (now part of the Department of Communities) spot purchasing1 12 units for approximately $7 million under the Government Regional Officer Housing 400 Program. Under this program the units would be made available for rental by government employees. The program was funded by the Royalties for Regions Infrastructure and Headworks fund. No project-specific business case was provided to the Special Inquirer for this purchase, which was settled on 28 August 2012.

While the Housing Authority performed some analysis to justify the purchase at Pelago West the Special Inquirer is concerned that no business case was completed to assess alternative options to meet the business need. Although the Housing Authority has advised the Special Inquirer that this acquisition may have been “business as usual” and did not warrant a business case, one was to be developed for all purchases that utilised Royalties for Regions funding, including those within a program.2

It is apparent to the Special Inquirer that at the time the governance of purchases under Royalties for Regions programs, such as the Government Regional Officer Housing 400 Program, was inadequate.

While there appear to be no formally set objectives for the Pelago West project, it has been successful in

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1 Spot buying (or purchasing) is the practice of buying to meet immediate requirements, rather than for stock or to meet future demand. (“Spot Buying”, Chartered Institute of Procurement and Supply, accessed 7 December 2017, www.cips.org)
2 Department of Communities, response to Special Inquiry findings, received 12 December 2017.
supplying accommodation to key government workers. The Department of Communities has stated that all 12 units at Pelago West have been fully tenanted or close to fully tenanted since occupancy commenced. The Special Inquirer is satisfied that the rent levels set for the units at Pelago West are comparable with current market prices.

The Pelago East Project involved the Housing Authority pre-purchasing 50 units off-the-plan. The aim was to provide rental accommodation for key government workers and to sell some of the units. The business case for the Pelago East project was developed on the basis of market conditions at the time it was written. The business case was not reassessed at the time of development approval which was granted more than six months later. The Department of Communities advised the Special Inquirer that the deterioration of the market was not evident at the time.

The volatility of the real estate market in Karratha along with the direct influence of local mining-related construction and production trends means that the business case should have included further forecasting and analysis to set realistic financial objectives and increase the likelihood of their achievement.

The business case reviewed several potential options to meet the accommodation requirements of the region but did not adequately consider solutions that took into account market risks in the region and the Government achieving maximum value for money from its investment.

The contractual terms that underpinned the development required the State to bear some significant and uncommon financial risks.

The 50 units purchased at Pelago East have not delivered the revenue predicted in the project’s business case. In addition to the poor financial returns received from the Pelago East units, the current asset value is likely to be significantly lower, given that the median sale price of units in Karratha fell by 75 per cent between 2012 and 2016.

In 2015, 24 of the Housing Authority’s units at Pelago East were transferred to the WA Country Health Service. The majority of these units have since experienced higher than 70 per cent occupancy.

The remaining 38 units currently owned by the Department of Communities across Pelago East and Pelago West have been fully tenanted or close to fully tenanted since occupancy commenced. The rent levels set for the units are comparable with current market prices.

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3 Department of Communities, response to Special Inquiry questions on notice, received 22 September 2017.
4 Department of Communities, response to Special Inquiry findings, received 12 December 2017.
5 CoreLogic Housing Market Data, Pilbara Region (undated).
6 Department of Health, response to Special Inquiry request for information, received 10 November 2017.
7 Department of Communities, response to Special Inquiry questions on notice, received 22 September 2017.
PROJECT SYNOPSIS

In 2009, two unused parcels of land within the Karratha town centre were identified as being suitable for permanent commercial activation and development. The land parcels, which were adjacent to one another, were to be used for a high density mixed use development that would help achieve the goals outlined in the Pilbara Cities initiative.

In late December 2009, LandCorp publicly released an expression of interest process to secure a purchaser for the two parcels of land. This process resulted in the Finbar Group being named the preferred developer for their proposed construction of two multi-level residential towers known as Pelago West and Pelago East. Pelago West was completed in June 2012 and Pelago East was completed in November 2013. The Government purchased 12 of the 114 dwellings at Pelago West and 50 of the 174 dwellings at Pelago East.

Pelago West

In January 2012 the Finbar Group approached the Housing Authority to ascertain the Government’s interest in purchasing units in the proposed Pelago West development. At approximately the same time, the Housing Authority determined that there was a shortfall in its supply of accommodation for government agency employees in Karratha. A decision was made to purchase 12 dwellings for approximately $7 million in Pelago West as part of the Government Regional Officer Housing 400 Program, which was funded by the Royalties for Regions Infrastructure and Headworks Fund.

Authorisation for the purchase was provided by the Minister for Housing and settlement of the 12 apartments occurred on 28 August 2012. Since settlement, the units have been utilised under the Government Regional Officer Housing program to provide accommodation to government employees.

Pelago East

As the construction of Pelago West was being completed, the Finbar Group sought investment in the planned Pelago East development to enable its construction to commence.

In April 2012, a business case, jointly drafted by the Department of Regional Development and Lands (now the Department of Primary Industries and Regional Development) and the Housing Authority, requested $30.4 million for the pre-purchase of 50 units at Pelago East. In June 2012, Cabinet approved the purchase, which was funded by the Royalties for Regions $355.5 million Delivering Affordable Housing to Key Workers initiative. It is stated that without this government investment there would be a loss of investor confidence and the development may have stalled.

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8 LandCorp, response to Special Inquiry request for Information, received 28 August 2017.
9 Ibid.
10 Department of Communities, response to Special Inquiry request for information, received 10 August 2017.
11 Ibid.
12 Department of Housing, Purchase Approval Request, (May 2011), 2.
The primary objective of the project was to provide high quality rental accommodation for key service workers, government professionals and non-government organisations with a focus on relieving accommodation pressures and contributing to dwelling diversity in Karratha.14

The Government paid an upfront 80 per cent deposit to obtain a 15 per cent discount off the list pricing for the 50 units. The contract negotiations with the developer were finalised on 12 October 2012 for a fixed price contract of $29.7 million. The Housing Authority sought approval from the Minister for Housing for the purchase on 21 November 2012.15

The business case for the Government’s investment in Pelago East identified the use of the 50 units as follows:

- 30 units for the WA Country Health Service, through the Government Regional Officer’s Housing program;
- 10 units for SharedStart purchase by key workers; and
- 10 units as full market sales.16

This dwelling allocation strategy for the 50 units in Pelago East has undergone numerous changes since 2012, to accommodate the public sector’s fluctuating demand for short term accommodation in the area and the inability to sell any units in the softening real estate market.

In 2015, 24 of the units at Pelago East were transferred to the WA Country Health Service to be used by agency and locum staff, fixed term contract staff, visiting specialists, visiting intra-region and head office staff and those involved in the new Karratha Health Campus which was under construction. The WA Country Health Service did not pay the Housing Authority for the units. It did, however, pay $39,910 in transfer fees.17

The remaining 26 units at Pelago East and the other 12 units at Pelago West are owned by the Department of Communities for their client agencies and government employees under the Government Regional Officer’s Housing program.

**EVALUATION OF THE PROJECT**

**Appointment of developer**

In December 2009, LandCorp requested expressions of interest for the development of the two adjacent parcels of land in central Karratha. The Finbar Group’s response to the process was ranked first in the qualitative assessment.18 Notably, the Finbar Group’s demonstrated experience and design were assessed as superior to all other responses. One other respondent to the process was assessed as qualitatively

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14 Ibid., 3.
15 Department of Housing, Briefing Note, (April 2012), 2.
17 Department of Health, response to Special Inquiry request for information, received 30 November 2017.
suitable. Its cash offer, however, was significantly lower than that of the Finbar Group and included conditions that delayed the land payments until settlement of the finished units.

From the information presented to the Special Inquirer, it would appear that the Finbar Group’s offer represented the best value for money to the State. The Special Inquirer notes that an external probity adviser was appointed to oversee the process. No probity certificate was developed, however the probity adviser signed the evaluation report for the expression of interest process. In addition, a property valuer was engaged to provide advice to the evaluation panel. The property valuer’s assessment of Finbar’s offer was not included in the evaluation report.

Pelago West business case

A project specific business case for purchase of the 12 units at Pelago West was not provided to the Special Inquirer. The Department of Regional Development and Lands was responsible for reviewing all Royalties for Regions business cases. It stated:

“Royalties for Regions (RfR) funding was not directly used to fund or support the Pelago West project. The Government Regional Officer Housing 400 (GROH 400) project, funded by RfR, involved the spot purchase or construction of 400 dwellings in regional Western Australia for the use of Government Regional Officers. Twelve dwellings in the Pelago West tower were spot purchased under the GROH 400 project. Ministerial authorisation for the purchase was provided by the then Minister for Housing on 24 May 2011 and settlement of the twelve apartments occurred on the 28 August 2012.”

When asked whether a business case was developed for the Pelago West project, the Department of Primary Industries and Regional Development stated:

“No. The Pelago West project was not directly funded (by) Royalties for Regions and therefore no business case, project definition plan, funding approval, budget management, risk management, audits or value for money reports for this project were provided to the Department.”

This statement is at odds with others made by the Department of Regional Development that all projects funded from an overarching program, which was allocated with pooled funds from the Royalties for Regions program, were subject to business case assessments.

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19 Department of Primary Industries and Regional Development, response to Special Inquiry request for information received 3 August 2017.
20 Ibid.
The Special Inquirer requested the Department of Communities to provide the business case for the Government Regional Officer Housing 400 Program. In response the Department stated:

“Cabinet’s Economic and Expenditure Review Committee (EERC) endorsed the allocation of $200 million from the Regional Infrastructure and Headworks Fund. All relevant information was contained within the EERC [Economic and Expenditure Review Committee] paper, including the financial justification and impacts. As the EERC [Economic and Expenditure Review Committee] paper is considered cabinet-in-confidence, the Department of Communities is not able to provide the paper.”

The Department of Communities also stated:

“it is not standard practice to develop a business case for the procurement of dwellings within the Government Regional Officers’ Housing program when the acquisition falls within the auspices of business as usual. Rather, agency demand and the quality of existing stock is the key determinant for acquisitions as it was in this instance.”

The Department of Communities provided the Special Inquirer with a description of the process it undertook to acquire the units at Pelago West. It stated that in January 2011 the Housing Authority became aware of a shortfall in its accommodation assets in Karratha to meet Government agency’s future requirements. At around the same time, the Finbar Group, through an agent, approached the Housing Authority to ascertain the Government’s interest in purchasing units in the proposed Pelago West development.

The Department of Communities stated that it regularly receives and considers expressions of interest of this nature from private developers and will “work with them in cases where the housing can help address an unmet need and provides a unique or innovative value for money opportunity to deliver affordable social and worker housing”. The Department of Communities also noted that the only alternatives to pursuing Finbar’s proposal would have been for the Housing Authority to purpose-build accommodation or to participate in other residential developments.

In considering the Finbar Group’s proposal, the Housing Authority performed an analysis which included comparing Finbar’s listing price with the price of comparable units and sought two independent market assessment valuations to assist with this process. While the Special Inquirer appreciates the apparent urgency of the requirement, it is concerned that a business case was not developed which, among other purposes, would have assessed formally the options to meet the business need on a value-for-money basis.

For consistency, the business case should have been reviewed by the Department of Regional Development, as should have been the case for all purchases that used Royalties for Regions funds, whether directly or indirectly.
Pelago East business case

The business case for the Pelago East development was prepared on the basis of market conditions at the time the business case was written and it was not reassessed at the time of development approval.

The following timeline provides the timing of the key decisions leading to the purchase of the 50 units at Pelago East.

- April 2012 — the Housing Authority and the Department of Regional Development and Lands jointly drafted a Cabinet submission to access funding of $30.4 million for the Pelago East project.
- May 2012 — the Minister for Housing and the Minister for Regional Development jointly submitted the proposal to Cabinet.
- June 2012 — Cabinet approved funding under the Affordable Housing for Key Workers program of $30.414 million for the purchase of 50 units at Pelago East.
- October 2012 — the Housing Authority finalised contract negotiations with the Finbar Group to pre-purchase 50 units for a fixed price of $29.676 million.
- November 2012 — the Housing Authority sought consent of the Minister for Housing for the purchase of the dwellings at Pelago East.
- November 2013 — settlement of the Pelago East development occurred.

When the Housing Authority sought consent to purchase the Pelago East units in November 2012, the housing market in Karratha had been softening since the beginning of the year at which time the business case was first developed. The advertised dwelling sale price in Karratha was starting to decline in the first quarter of 2012 and by the fourth quarter 2012 the average price of housing in Karratha had fallen by 12 per cent. The Pelago East business case was not reassessed at the time of purchase to take account of the impact of these changing housing market trends. The graph below which depicts the declining property market through 2012 was included within a 2016 Royalties for Regions Program Evaluation developed for the Housing Authority.

Figure 1 Advertised residential dwellings for sale, Pilbara

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27 The final negotiated cost was $29.676 million.
28 Ibid.
29 Department of Communities, response to Special Inquiry request for information, received 10 August 2017.
30 Housing Authority, Delivering Affordable Housing to Key Workers in Regional Western Australia Program Evaluation, (October 2016), 11.
The Housing Authority considered at the time, however, that there were no discernible changes in the market. In justifying this position to the Special Inquiry, the Department of Communities stated that the Housing Authority did not conclude that there had been a significant change in the Karratha property market from the development of the business case through to the acquisition of the units.\textsuperscript{32} It further stated that information relating to changes in the residential property market can take “significantly more than six months to be revealed.”\textsuperscript{33} It was noted that this delay can be caused by a lag between offer and acceptance and settlement for property transactions.\textsuperscript{34} The Department of Communities also stated:

“Property sales information available at the time for Karratha was extremely limited, particularly for one and two bedroom inner-town dwellings and as such there was not a reasonable indication of a general downward trend in prices.”\textsuperscript{35}

It is noted that the original business case did not refer to data from Landgate on the sale price of houses in the Karratha region at the time. Instead the business case referred to sales price data from a 2011 December quarter REIWA market update.

In addition to the limited use of contemporary data, neither did the business case consider adequately the risk of a subsequent property market downturn in the region, including the impact that a slow-down in the regional construction and mining sectors would have had on the housing market. Specifically, the business case considered a decrease in the region’s housing market values as only a “moderate” risk.\textsuperscript{36} The sole risk mitigation strategy listed in the business case to account for the identified moderate risk of decreasing housing market values was a 15 per cent discount on the list price of the 50 units purchased. This deficiency in the business case was clearly highlighted in the Pelago East Development Final Project Report, which stated:

“...further future demand and population analysis could have been undertaken prior to an agreement being made to commit to a stake in this development. Had such forecasting been undertaken, further consideration could have been given to the short term demand for accommodation in Karratha. This may have provided Housing with more leverage to obtain a larger discount on the listing prices of the units purchased from Finbar. This, in turn, could have insulated Housing against the declining property values that resulted from the downturn of the iron ore industry.”\textsuperscript{37}

This lack of an adequate risk assessment occurred despite historical evidence demonstrating that property prices in the Pilbara region are volatile and cyclical. The business case itself made reference to the “infant and volatile nature of the Karratha housing market” as “negatively impacting investor confidence.”\textsuperscript{38}

\textsuperscript{32} Department of Communities, response to Special Inquiry request for information, received 10 August 2017.
\textsuperscript{33} Ibid.
\textsuperscript{34} Ibid.
\textsuperscript{35} Ibid.
\textsuperscript{36} Department of Regional Development and Lands, Business Case for Housing for Workers Pelago East Development Stage 2 Karratha, (May 2012), 17.
\textsuperscript{37} Department of Regional Development, Pelago East Development Final Project Report, (July 2016), 13.
\textsuperscript{38} Department of Regional Development and Lands, Business Case for Housing for Workers Pelago East Development Stage 2 Karratha, (May 2012), 8.
business case also stated that “Highly volatile house prices [are] creating difficulties in attracting the finance necessary to develop new residential areas”. An analysis of the historic trends in Karratha median house and unit prices produced by CoreLogic demonstrates this, with the annual growth in median house prices peaking at a high of 43 per cent in 2006 and 41 per cent in 2007 but falling in annual terms in seven of the nine years thereafter.

When the volatility of the real estate market in Karratha is considered together with the direct influence of local mining related construction and production, it is clear that the business case should have included further forecasting and analysis to set realistic financial objectives and increase the likelihood of their achievement.

The business case also performed a narrow analysis of potential options to meet the accommodation requirements of the region. Rather than undertaking a detailed options assessment, the business case was focussed on seeking approval for the preferred option at the time, which was the pre-purchase of 50 units at Pelago East. In articulating this preferred option in the business case, it was noted that this option had already been negotiated “in principle”.

The Special Inquirer questioned why the analysis did not assess temporary accommodation solutions to meet the business requirement. The Department of Communities provided the following response.

“There is no documented evidence of analysis being undertaken by the Housing Authority to consider alternative options of temporary accommodation, essentially because this was not part of the business need. Units in Pelago were not envisaged to be short-term or temporary accommodation. They were intended to contribute to longer term housing in the Town, and in particular diversification of inner-town housing options.

It was understood that while there may have been other proposed residential unit developments mooted at the time, there was not a market offering of this scale or stage of project approval and progression to be relevant as an alternative option.

As far as considering potential alternatives such as a private leasing option is concerned, the Housing Authority was not aware of appropriate stock being available in the town at the time.”

The Special Inquirer accepts this justification but notes that this assessment should have been included within the business case for the Pelago East project.

The lack of a detailed options assessment further reinforces the focus in the business case of finding solutions to market conditions at the time the business case was developed, rather than solutions that adequately considered market risks in the region and the Government achieving maximum value for money from its investment.

39 CoreLogic Housing Market Data, Pilbara Region (undated).
40 Department of Communities, response to Special Inquiry request for information, received 10 August 2017.
**Pelago East contractual terms**

The contractual terms for the Pelago East project that underpinned the development required the State to bear some significant and uncommon financial risks. Pre-payment for the units at Pelago East was required to enable construction to commence, with the business case stating:

“Despite an acute undersupply of housing, the infant and volatile nature of the Karratha housing market (within the context of a recent Global Financial Crisis) is negatively impacting investor confidence. The development is struggling to secure the level of finance needed to commence construction.”

In addition, the business case also stated that:

“negotiations have determined that the proposed 50 unit investment is sufficient for the Stage 2 development to progress.”

In return for pre-paying 80 per cent of the total cost of the 50 units at Pelago East, the Government was afforded a 15 per cent discount off the list price for each unit. Concerns associated with the contractual terms of the development were reflected in the Department of Treasury’s comments on the Cabinet Submission:

“If the developer is having difficulties obtaining finance for development in Karratha - does this suggest that the Banks have assessed the project and/or developer as being of high risk?”

The Department of Communities provided the following response to the Department of Treasury’s comments.

“While an 80% deposit is not commonplace, commercial undertakings can vary significantly from one property transaction to the next, depending on a range of factors and circumstances.

“It is the specific purpose of the program Theme ‘Development Investment’ to assist housing projects that otherwise would struggle to get appropriate level of commercial funding in regional areas. It is considered that Pelago Stage 2 is one such development. Karratha is not a mature market for high rise residential

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41 Department of Regional Development and Lands, Business Case for Housing for Workers Pelago East Development Stage 2 Karratha, [May 2012], 8.
42 Ibid.
43 Ibid., 12.
44 Housing Authority, Cabinet Submission Royalties for Regions Housing for Workers 2011/12 Response to Treasury Comments, [May 2012], 4-5.
accommodation (similar to Perth ten years ago). Participation in the project by the [Housing Authority] HA will help ‘prove up’ the viability of such developments for future investors. If the project does not go ahead at this point, it will be difficult to realise the Karratha City of the North Plan which Government is supporting.45

The Special Inquirer understands that by entering into this arrangement, the State took on significant risk associated with the development to ensure it went ahead. The fact that the resource sector was unwilling to join with the Government in effectively underwriting the development is relevant. The Special Inquirer understands that significant pressure was applied by the Minister for the sector to join in supporting the project but the considerable overtures were rejected. That response sent a clear message to the government that it was alone in pursuing this investment.

The Pilbara housing market is a thin market which makes it difficult for projects of this scale to be developed without Government support. The Special Inquirer recognises the role of Governments in leading these developments in the interests of providing community support and encouraging development. Such actions, however, reinforce the need to undertake a robust business case assessment, which includes understanding the future market risks and detailed options assessment to ensure the Government is achieving maximum value for money.

Unit occupancy

All 38 units owned by the Department of Communities across Pelago East and Pelago West have been fully tenanted or close to fully tenanted since occupancy commenced.46 These units have been used under the Government Regional Officer Housing program by various government agencies and as at 14 September 2017 the occupancy was 97 per cent.47 The majority of the 24 units at Pelago East that were transferred to the WA Country Health Service in 2015 have experienced more than 70 per cent occupancy.48 Four of those allocated units have been occupied between 65 per cent and 70 per cent largely due to short term contract or agency appointments that do not run concurrently.49

Financial returns from the investment

As at 14 September 2017, total revenue invoiced for the 12 units purchased at Pelago West in 2012 is $2.3 million.50 This does not take into account the operational costs of these properties, such as maintenance, rates, strata fees and administration costs.

The 50 units purchased at Pelago East have not delivered the revenue predicted in that project’s business case. The 50 units purchased at Pelago East were expected to raise $12.89 million over five years based on rental income and the sale of 10 dwellings.51 This has not transpired, with the Government continuing to own

45 Ibid.
46 Department of Communities, response to Special Inquiry questions on notice, received 22 September 2017.
47 Ibid.
48 Department of Health, response to Special Inquiry request for information, received 23 October 2017.
49 Ibid.
50 Department of Communities, response to Special Inquiry questions on notice, received 22 September 2017.
all 50 units at Pelago East as there have been no sales to date. As at 14 September 2017 the total revenue (rental income) invoiced for the 26 units owned by the Department of Communities at Pelago East is $3.11 million. It is noted that this does not take into account the operational costs of these properties, such as maintenance, rates strata fees and administration costs. As at 23 February 2015 only $159,634 of rental revenue has been received for the 24 units at Pelago East that were transferred to the WA Country Health Service in 2015.

The Special Inquirer is satisfied that the rent levels set for the 38 units across Pelago East and West are comparable with current market prices. The average rent charged for the 38 units under the Government Regional Officer Housing program is $551.32 per week.\textsuperscript{52} This is comparable to the average price of $608.94 per week for the 18 privately rented units in the same complex under the same program.\textsuperscript{53}

For the 24 units owned by the WA Country Health Service at Pelago East, all casual, fixed term or permanent employees pay a similar fee as their rent levels are set in accordance the Government Regional Officer Housing program.\textsuperscript{54} WA Country Health Service staff travelling from other locations and using the units as an alternative to hotel accommodation do not pay rent and temporary nursing staff or medical locums are charged between $0 and $100 per week.\textsuperscript{55}

It should be noted, however, that the current asset value of the units at Pelago East and West is likely to be significantly lower, given that the median sale price of units in Karratha fell by 75 per cent between 2012 and 2016.\textsuperscript{56}

**RECORD KEEPING**

The Department of Communities and the Department of Primary Industries and Regional Development provided the Special Inquirer with all documentation and information requested in relation to the project with the exception of the ‘Commercial-in-Confidence EERC paper.

**FINDINGS**

1. No business case was developed for the purchase of the 12 units at Pelago West. No business case was developed for the $200 million program from which the Pelago West funds were drawn. The Special Inquirer acknowledges the advice from the Department of Communities that there was a submission to the Economic and Expenditure Review Committee and this included appropriate justification, however, a complete business case in an accepted format should have been developed. This would ensure that a funding allocation of this magnitude would be subject to an appropriate level of scrutiny and address all relevant considerations.

2. The business case for the Pelago East project was flawed as it paid inadequate regard to future risks of a significant downturn in property conditions throughout the Pilbara.

\textsuperscript{52} Department of Communities, response to Special Inquiry questions on notice, received 22 September 2017.
\textsuperscript{53} Ibid.
\textsuperscript{54} Department of Health, response to Special Inquiry request for information, received 23 October 2017.
\textsuperscript{55} Ibid.
\textsuperscript{56} CoreLogic Housing Market Data, Pilbara Region (undated).
3. The developer of Pelago East encountered significant difficulty in obtaining finance for the development. This evidences the volatility of the Karratha housing market at the time and the significant risk inherent in such developments.

4. The contractual terms that underpinned the Pelago East project required the State to bear some significant and uncommon financial risks.

5. The 50 units purchased at Pelago East have not delivered the revenue predicted in the project’s business case. In addition to the poor financial returns received from the Pelago East units, the current asset value would also be significantly lower, given that the median sale price of units in Karratha fell by 75 per cent between 2012 and 2016.

AGENCIES’ VIEW

Department of Communities

The Special Inquirer forwarded draft findings to the Department of Communities and received a response on 12 December 2017. In consideration of this correspondence the Special Inquirer made various minor amendments to this report.

Department of Primary Industries and Regional Development

The Special Inquirer forwarded draft findings to the Department of Primary Industries and Regional Development and received a response on 13 December 2017. In consideration of this correspondence the Special Inquirer made various minor amendments to this report.
The Perth Stadium project was conceived to provide the Western Australian public with a world class 60,000 seat multi-purpose stadium. The stadium was to be built on the Burswood Peninsula and be ready for the start of the 2018 Australian Football League season. At announcement, the stadium and supporting transport infrastructure was estimated to cost in the order of $1 billion.

The announcement considered the 2007 report by the Major Stadia Taskforce, commissioned by the Carpenter Labor Government. This report recommended that the Government adopt a two stadium strategy, incorporating a 60,000 seat multi-purpose stadium for oval sports and larger entertainment events and the retention of a separate rectangular stadium for sporting games and events which benefited from that architecture.

Following the 2011 announcement, comprehensive planning was undertaken over the course of 12 months by the Perth Stadium Steering Committee, co-chaired by the Department of Sport and Recreation and Strategic Projects. Other key delivery agencies represented on the steering committee included VenuesWest and the Public Transport Authority, through the Department of Transport’s Director General.

1 The Department of Sport and Recreation became part of the Department of Local Government, Sport and Cultural Industries on 1 July 2017.
Detailed planning culminated in the Perth Stadium Master Plan and a project definition plan delivered in mid-2012. The Stadium Project Definition Plan costed the stadium and sports precinct (excluding the transport infrastructure) at $918.4 million, inclusive of project management costs and “sports precinct works” costs. These documents detailed the requirements of the future stadium, its scope and budget and the delivery strategies to be employed to achieve them.

The Perth Stadium Master Plan envisioned a venue capable of hosting a range of sporting and entertainment events including Australian rules football, cricket, rugby, soccer and concerts, as well as international athletics events such as the Commonwealth Games. The sports precinct surrounding the stadium, now referred to as Stadium Park, will be open to the public all year and incorporates wind and shade protection and landscape design inspired by the Indigenous six seasons.

In April 2014, Westadium (a consortium comprising Brookfield Multiplex, John Laing and Brookfield Johnson) was chosen as the stadium, plaza and sports precinct project contractor. Westadium commenced construction in December 2014 under a design, build, finance and maintain arrangement, which is a form of public private partnership. This partnership arrangement was expected to save the State approximately $324 million over the stadium’s 28 year construction and operation timeframe, when compared with the State undertaking the same construction and maintenance services.

Further detail regarding the transport infrastructure required to support the stadium was articulated in a separate document, entitled the Transport Infrastructure Project Definition Plan, issued in December 2012. This plan costed the stadium transport infrastructure works at $358.6 million, inclusive of project management costs.

The transport infrastructure investment at Burswood to support the stadium has been significant and included:

- a new Perth Stadium train station and upgrades to the East Perth train station;
- a new pedestrian bridge across the Swan River from the plaza level of the stadium to a landing point in East Perth;
- a Perth Stadium bus station; and
- upgrades to Victoria Park Drive and the construction of the Camfield Drive extension.

This infrastructure is intended to support the movement of up to 83 per cent of patrons to and from the stadium.

The decision to split the two broad components of the Perth Stadium Master Plan (the stadium and the transport infrastructure) seems to have occurred in early 2012 with the decision based on a lack of budget to undertake transport planning works. As a result, the Government brought forward funding to support transport planning at the same time as the Stadium Project Definition Plan was approved in August 2012.

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4 Perth Stadium Transport Project Definition Plan, [December 2012], 19.
5 Perth Stadium Steering Committee Meeting Agenda, Strategic Projects – Project Director’s Report, [20 January 2012], 9.
Given the project’s complexity, profile and value, there has been strong public expectation and interest in its delivery. When the December 2016 expected date for the completion of the Swan River Pedestrian Bridge passed, public concerns were raised regarding the then Government’s management of the project.

Consequently, the Special Inquirer was tasked with examining the Perth Stadium project, particularly in terms of financial consequences, decision-making, procurement processes, value for money and the use of “commercial-in-confidence” as a reason to justify non-disclosure of public interest information. This examination looked at several areas highlighted in the Perth Stadium Project Delivery Timeline below, particularly:

- the Project Management stream;
- the Stadium, Plaza and Sports Precinct works stream;
- the Transition to Operations stream; and
- the Transport stream.

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**Figure 1: Perth Stadium Project Delivery Timeline**

<table>
<thead>
<tr>
<th>Program</th>
<th>Project Management</th>
<th>Pre Construction Site Works</th>
<th>Stadium, Plaza and Sports Precinct Works</th>
<th>Transition to Operations</th>
<th>Transport</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td></td>
<td>Early works procurement process</td>
<td>Development procurement documentation</td>
<td>Determination of governance agency</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td></td>
<td>Pitch treatment works for preparation of stadium site</td>
<td></td>
<td>Governance agency transition in</td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>Project governance from Strategic Projects, Department of Sport and Recreation, Steering Committee, Project Control Group and various working groups</td>
<td>Completion of other ground treatment works</td>
<td>Stadium procurement process</td>
<td>Design input</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
<td></td>
<td>User agreements with sports bodies</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
<td>Operator transition in, engagement of service providers, event planning and procurement</td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
<td>Operator commissioning</td>
<td></td>
</tr>
<tr>
<td>2018</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

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*Perth Stadium Project Definition Plan (September 2012), 87.*
In June 2017, the Special Inquirer commenced consultations with key stakeholders to attain the documentation required to conduct an examination of the Perth Stadium project, including the stadium transport infrastructure (in particular the Swan River Pedestrian Bridge). Strategic Projects, the Department of Local Government, Sport and Cultural Industries, VenuesWest, the Public Transport Authority and Main Roads Western Australia were the key stakeholders which provided documentation to the Special Inquirer.

From the initial stages of the Special Inquirer’s review, the examination of the Perth Stadium project fell into two interrelated reports. This approach ensured that the Swan River Pedestrian Bridge received a commensurate level of scrutiny as the Perth Stadium project.

There are some inherent cross-overs between the two reports. The Perth Stadium report focuses on the overarching delivery of the stadium and its supporting transport infrastructure. The Swan River Pedestrian Bridge report examines the delivery of the bridge and the issues which led to significant delays and cost blowouts. Some of these also impacted the construction program for the stadium and led to extension of time claims by Westadium which ultimately cost the State $24 million when settled in mid-2017.

The Special Inquirer highlights the adoption of the “fan first” objective which informed the decision-making for most aspects of the project and also the “one-team” approach whereby both the State and Westadium project teams were co-located on site from an early stage in the project which contributed to effective relationships and decision-making.

In October 2017, the Special Inquiry conducted eight separate hearings with several senior public sector personnel representing key stakeholders, including the agencies mentioned above and also the Department of Transport, the State Solicitor’s Office and the Department of Transport’s former Director General.

As a result of the examination of documents and hearings, the Special Inquirer noted that issues with governance and risk management were highlighted for the stadium. Additionally, an over reliance on individual corporate knowledge was also demonstrated within the Public Transport Authority, which the Special Inquirer notes is not an uncommon occurrence across the public sector.

Similarly, project management, governance, risk analysis and management were identified issues for the transport infrastructure component, largely with respect to the delivery of the Swan River Pedestrian Bridge. This had flow-on financial consequences for the broader project.

The Special Inquirer acknowledges the recent changes to the naming of the Perth Stadium, now referred to as Optus Stadium following the naming rights agreement in November 2017 and the Swan River Pedestrian Bridge, now referred to as Matagarup Bridge. The Special Inquirer’s reports, however, continue to use the initial names for continuity with its terms of reference.
PERTH STADIUM

“...you cannot underestimate [the value of] working in close proximity on a daily basis, the exchange of information, and then you lose that - who’s in what department [mindset]...”

Ron Alexander, Co-Chair, Perth Stadium Steering Committee

When the decision to build the 60,000 seat Perth Stadium on the Burswood Peninsula was announced in June 2011, it was a “$1 billion project” comprising $700 million for the stadium and $300 million for the supporting public transport facilities. As the project nears completion, recent estimates place the total cost at $1.37 billion.

The site’s relative isolation posed challenges for the movement of spectators given that facilities for private transport were limited. This required significant capital works to allow for rapid train and bus services before and after events and a pedestrian bridge to be built over the river to East Perth.

The Special Inquirer noted that despite the work on upgrading the transport network to the stadium, scheduling for weeknight Australian Football League fixtures has been restricted. The relatively early starting times required by television commitments clash with peak hour traffic demands and timetabling challenges.

The Special Inquirer also heard of concerns regarding the risks linked with transport operations. There was no detailed analysis of risk assessment, mitigation plans or controls put in place to manage those risks. It should be noted the attendance at Australian Football League fixtures and the level of the taxpayer funded subsidy for public transport at those events will affect the venue’s financial viability.

Overall, the Special Inquirer considers that given the scale and complexity of the project, the State and Westadium project teams are to be commended on their delivery of the Stadium and precinct.

1 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.
SUMMARY

In June 2011 the Barnett Government committed to build a modern 60,000 seat multi-purpose stadium on the Burswood Peninsula for an estimated $700 million. The decision was based on the need to replace the ageing and outdated facility at Subiaco as identified by the 2007 Major Stadia Taskforce Report.

The project was established under the Government’s Major Project methodology, and following 12 months of detailed planning — undertaken by key delivery agencies including the Department of Treasury’s Strategic Projects (now Department of Finance - Strategic Projects) and the Department of Sport and Recreation — a master plan was produced in August 2012 to guide the development of the stadium and wider precinct. The new Perth Stadium Project Definition Plan was released in September 2012 which detailed how the master plan vision was to be achieved.

Transport infrastructure planning was undertaken separately which culminated in the new Perth Stadium Transport Project Definition Plan released in December 2012. This outlined the key elements of the surrounding transport network which would be used by stadium patrons, including:

- a new pedestrian bridge across the Swan River from the plaza level of the new stadium to a landing point in East Perth;
- new train and bus stations; and
- several other pedestrian, road and public transport network upgrades.

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2 Government of Western Australia Media Statement, Major new stadium to be built on Burswood Peninsula, (28 June 2011). Note, this was for the Stadium structure component only.
3 The Department of Sport and Recreation became part of the Department of Local Government, Sport and Cultural Industries on 1 July 2017.
4 Government of Western Australia Media Statement, Stadium precinct master plan outlined, (24 August 2012).
The Public Transport Authority was nominated as the lead agency for the delivery of the stadium transport infrastructure.

Following project planning, the budget to construct the stadium increased to $918.4 million\(^5\), which along with the transport infrastructure component costs of $358.6 million\(^6\), increased the total projected construction cost to $1.28 billion.\(^7\) This figure was the projected cost in 2012.

The major construction element of the stadium would be delivered through a design, build, finance and maintain model which the Government determined would offer the greatest value for money.\(^8\) This contract was delivered by Westadium consortium.

Notably construction began without funding agreements in place with the proposed key users of the stadium, namely the Western Australian Football Commission, the Australian Football League and Cricket Australia. This was significant because Australian rules football, as a stadium user, is expected to contribute “…between 60 per cent and 70 per cent of the participation and will drive, as a result, a substantial proportion of the revenue that is generated at the Stadium.”\(^9\)

Delivery of the stadium infrastructure and surrounding precinct works has been provided largely without major variations to budget, delivery time or the quality of the construction.

Following completion of construction works, ongoing management of the stadium asset will be controlled by VenuesWest. As the asset owner, VenuesWest will manage the “maintain” deliverable of the main construction contract following the commencement of operations. VenuesWest will also administer the Stadium Operator contract for day-to-day and events operation at the stadium.

In October 2016, major concerns with the delivery of the Swan River Pedestrian Bridge started to be raised. The bridge is a vital component of the transport infrastructure required for the stadium. While the Swan River Pedestrian Bridge is examined separately in the following chapter, the impact on the delayed construction and delivery of the bridge is examined in this chapter. This examination specifically reports on the flow on impacts for the construction and the operations of the stadium.

As at October 2017, the revised cost to complete the stadium and its associated transport and pedestrian infrastructure is $955.4 million\(^10\) and $418.2 million\(^11\) respectively, totalling $1.37 billion. This is an overall increase on the budget of $96.6 million or approximately 10 per cent of the proposed total cost. Compared to the initial costs announced by the Premier in 2010, these final costs represent an increase of 37 per cent. With the stadium’s first official event scheduled for 21 January 2018, the project will be delivered ahead of the originally projected completion date of March 2018.

\(^5\) Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 74.

\(^6\) Public Transport Authority, Perth Stadium Transport Project Definition Plan, (December 2012), 19.

\(^7\) Calculation by Special Inquiry.

\(^8\) Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan (August 2012), 70.

\(^9\) VenuesWest, comments by Mr D. Etherton to Assembly Estimates Committee A, (19 September 2017), 28.

\(^10\) Perth Stadium Steering Committee, Meeting Agenda, Report to Government, (September 2017), 99.

\(^11\) Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017, 3.
The ongoing costs to the State of operating and maintaining the stadium, the stadium precinct and the transport infrastructure are still not clear. The long term success of the stadium will be reflected in the stadium’s impact on future State budgets.

One of the valuable learnings the State can take away from this project is the impact that a “one team” approach can make on the project delivering success.

**PROJECT SYNOPSIS**

In May 2007 the Perth Stadium Feasibility Report produced by the Major Stadia Taskforce recommended three suitable sites for a new multi-purpose sport stadium:

- Kitchener Park in Subiaco;
- East Perth; and
- the Burswood Peninsula.

In its report, the taskforce calculated that the transport requirements for the Burswood Peninsula site would be considerably greater than either of the other two options, with the timeframe for construction also estimated as being the longest of the three options.12

On 8 February 2008 the Carpenter Labor Government announced its intention to develop a new 60 000 seat multi-purpose stadium for $1.1 billion at Kitchener Park. These plans were shelved, however, following the election of the Barnett Government in September 2008.

During 2010 and up until June 2011 the Government — predominantly the Premier — undertook consultations with stakeholders regarding the development of a new stadium and potential locations.13

On 28 June 2011 the Government announced that a 60 000 seat contemporary multi-purpose stadium would be constructed on the Burswood Peninsula site for an estimated cost of $700 million.14 Transport infrastructure to support the stadium would be dealt with separately. No cost estimate was announced to the public.

Due to the project’s complexity, profile and value15 the Government determined that planning and delivery should be executed under its Major Project method. This involved the Under Treasurer representing the Minister for Public Works having responsibility for the delivery of the stadium asset via the *Public Works Act* 1902.

Primary responsibility for project oversight, governance and delivery was delegated to the newly created Perth Stadium Steering Committee. The steering committee was to be co-chaired by the Department of Sport

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13 Statements made by both Department of Local Government, Sport and Cultural Industries and Department of Finance - Strategic Projects in their hearings with the Special Inquiry on 13 October 2017 (p27/28) and 20 October 2017 (p35) respectively.
15 Department of Treasury (Strategic Projects and Asset Sales), *Perth Stadium Project Definition Plan*, (September 2012), 10.
and Recreation’s Director General as the client agency, with Strategic Projects to provide technical delivery services.

Several other State Government agencies were represented, including:

- the Department of the Premier and Cabinet,
- the Department of Finance;
- VenuesWest (from November 2013);
- the State Solicitor’s Office;
- the Department of Transport (representing the Transport portfolio);
- the Department of Planning; and
- the Burswood Park Board.

The governance arrangements established designated responsibility for delivering key aspects of the broader project to the following agencies.

- The Department of Sport and Recreation, and Strategic Projects were responsible for the scope of the stadium and its surrounding sports precinct infrastructure, including construction of the stadium, ensuring that the specifications were appropriate for service delivery requirements over the life of the stadium.
- The Public Transport Authority and Main Roads Western Australia were responsible for delivery of the major transport and access infrastructure works, including a new six-platform Perth Stadium train station, the Swan River Pedestrian Bridge, the Perth Stadium Bus Station and upgrades to Victoria Park Drive.
- VenuesWest was responsible for the day-to-day operations of the stadium and surrounding precinct through procurement of operator services and as the owner of the stadium asset.

Following the Government’s June 2011 announcement, the steering committee undertook 12 months of detailed project planning based on a Strategic Projects’ recommendation to government. This planning culminated in the new *Perth Stadium Project Definition Plan* which was released in September 2012. The Stadium Project Definition Plan estimated the cost of the stadium and sports precinct at $918.4 million inclusive of project management costs and “sports precinct works” costs.

Detailed transport infrastructure planning, including public transport and pedestrian access, was to be undertaken separately. The Stadium Project Definition Plan noted that the indicative estimated cost for transport infrastructure works was $300 million.

Following approval of the Stadium Project Definition Plan, the Public Transport Authority was appointed by the Department of Transport’s Director General to lead the development of the new *Perth Stadium*.
Transport Project Definition Plan in consultation with Main Roads and other stakeholders. The Transport Project Definition Plan was released in December 2012 and estimated the cost of the stadium transport infrastructure works at $358.6 million\(^{20}\), inclusive of project management costs.

In May 2012, the steering committee endorsed an early works package comprising pre-construction site works for ground treatment.\(^{21}\) In June 2013, Ertech Keller Joint Venture was appointed to undertake pre-construction site works at a cost of $30.7 million to prepare the site for the construction of the stadium and supporting infrastructure. The pre-construction site works were completed in March 2014, six weeks ahead of schedule.\(^{22}\)

Key procurement dates for pre-construction site works

- **18 JULY 2012**\(^{23}\) 
  Expression of interest released
  - Nine submissions received and three respondents shortlisted [Erttech Keller Joint Venture, John Holland and Menard Bachy].

- **26 OCTOBER 2012**\(^{24}\) 
  Request for proposals released
  - Following the evaluation of proposal responses Ertech Keller announced as preferred respondent on 12 April 2013.\(^{27}\)

- **16 MAY 2013**\(^{25}\) 
  Ertech Keller JV appointed
  - Contract value of $30.7 million at award.\(^{26}\)

Delivery of the stadium transport infrastructure was split into several different works packages, with the Public Transport Authority and Main Roads undertaking responsibility for different components.

In September 2013, Cabinet approved VenuesWest as the owner of the stadium asset. As the owner of the stadium, VenuesWest is

> “…responsible for implementing the strategic service planning and ensuring a successful transition to operations for the PS [Perth Stadium] Project. Once in operation, VenuesWest will be responsible for the governance and oversight of the PS and Sports Precinct.”\(^{28}\)

In April 2014, the Public Transport Authority and Main Roads made amendments to the stadium governance structure reporting to the Perth Stadium Steering Committee by establishing a Perth Stadium Transport Infrastructure Steering Group — formerly the Transport Project Control Group — chaired by the Public Transport Authority. This was formalised in May 2014 when the Public Transport Authority and Main Roads

\(^{20}\) Public Transport Authority, Perth Stadium Transport Project Definition Plan, (Dec 2012), 19.
\(^{21}\) Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 75.
\(^{22}\) Government of Western Australia Media statement, Stadium transport solutions on track, (2 June 2014).
\(^{23}\) Department of Treasury (Strategic Projects), Pre-construction site works Contract Management Plan, (27 June 2013), 3.
\(^{24}\) Ibid., 4.
\(^{25}\) Ibid.
\(^{26}\) Ibid., 22.
\(^{27}\) Ibid.
entered into a memorandum of understanding which outlined the roles and responsibilities of each agency in
the delivery of the transport elements of the stadium transport infrastructure.

During the stadium project planning phase, the procurement options analysis recommended that the
Government procure the main stadium, plaza and precinct works via a design, build, finance and maintain
procurement model. This is a form of public private partnership.29

**Stadium**

In April 2014, Westadium (a consortium comprising Brookfield Multiplex, John Laing and Brookfield Johnson
Controls30 ) was chosen as the design, build, finance and maintain project contractor and commenced
construction in December 2014. Under the terms of the agreement Westadium had responsibility for:

- construction of the stadium and sports precinct;
- financing 40 per cent of the project capital cost; and
- certain aspects of facilities management for 25 years once the stadium had transitioned to operation.

At the time of contract award the total value of the Westadium contract was $1.212 billion.31

Key procurement dates for the design, build, finance and maintain project were as follows.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 December 2012</td>
<td>Expression of interest released</td>
</tr>
<tr>
<td>12 July 2013</td>
<td>Request for proposals released</td>
</tr>
<tr>
<td>13 August 2014</td>
<td>Westadium appointed</td>
</tr>
</tbody>
</table>

Three respondents shortlisted (Confidem, Evolution Stadium and Westadium) - announced on 12 April 2013.36

Following the evaluation of proposal responses Westadium announced as preferred respondent on 15 April 2014.37

Contract value of $1.212 billion.35

The budget to deliver the Perth Stadium Master Plan was augmented in September 2015 when the Government
announced a partnership with BHP Billiton of a $5 million commitment for developing a boardwalk and
amphitheatre in the Perth Stadium Sports Precinct.38 This was followed in June 2016 when the Government

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29 “A Public Private Partnership is a long-term contract between the public and private sectors where government pays the private sector to
deliver infrastructure and related services on behalf, or in support, of government’s broader service responsibilities.” Commonwealth Department
infrastructure/ngpd/index.aspx#anc_public-private


31 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Summary – Addendum Annual Payments to Westadium,
(undated), 1.

32 Department of Treasury (Strategic Projects), New Perth Stadium Design Build Finance Maintain (DBFM) Project Contract Management Plan,
(May 2015), 7.

33 Ibid.

34 Ibid.

35 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Summary – Addendum Annual Payments to Westadium,
(undated), 1.

36 Ibid.

37 Ibid., 8.

38 Government of Western Australia Media Statement, New partner revealed for Perth Stadium Precinct, (9 September 2015).
announced an investment by Chevron Australia of approximately $5 million\(^{39}\) for the development of “Chevron Parkland”, a 2.6 hectare rehabilitated parkland along the Swan River foreshore featuring Nature play playgrounds, as part of the Perth Stadium Sports Precinct.\(^{40}\)

On 3 December 2015, the stadium achieved 33 per cent construction completion with the installation of the first steel roof truss and reached its full height of 42 metres.

### Rail station and infrastructure

On 19 March 2015 Laing O’Rourke and AECOM\(^{41}\) were awarded the Stadium Station Alliance contract, commencing construction in August 2015. The Perth Rail Infrastructure and Station Management Alliance — known as the PRISM Alliance — comprised the Public Transport Authority, Laing O’Rourke and AECOM and had a total value of $108.697 million\(^{42}\) at the time of award.

Key procurement dates for the Stadium Station Alliance project were as follows.

- **28 July 2014**\(^{43}\) Request for proposals released
- **20 February 2015**\(^{44}\) Shortlisted proponents submit final proposal
- **26 May 2015**\(^{45}\) Execution of Project Alliance Agreement ‘PRISM Alliance’

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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</thead>
<tbody>
<tr>
<td>28 July 2014</td>
<td>Request for proposals released</td>
</tr>
<tr>
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<td>Shortlisted proponents submit final proposal</td>
</tr>
<tr>
<td>26 May 2015</td>
<td>Execution of Project Alliance Agreement ‘PRISM Alliance’</td>
</tr>
</tbody>
</table>

Three respondents shortlisted to proceed to Alliance Development:
- Multiplex/Downer, Laing O’Rourke/AECOM and John Holland, announced on 24 October 2014.\(^{46}\)

Following the evaluation of responses, Laing O’Rourke/AECOM were announced as preferred respondents on 19 March 2015.\(^{47}\)

Contract value of $108.697 million at award.\(^{48}\)

### Stadium operator

In June 2016, VenuesLive Management Services (formerly Stadium Australia Operations) was selected through a two staged procurement process by VenuesWest, as the Stadium Operator. This appointment was for an initial term of five years with an option to extend for a further five years. VenuesLive has responsibility for catering, attracting events, ticketing and event management. This contract is based on a revenue sharing...
model which, while consistent with contemporary industry practice, means that the total cost of the contract is variable and unclear in lump sum terms prior to the commencement of operations at the stadium. It is expected that employment for “70 full-time operational staff and an additional workforce of 1,750 for event days” will be created from the contract with VenuesLive.

Key procurement for the Stadium Operator included the following.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 FEBRUARY 2015</td>
<td>Expression of interest released</td>
</tr>
<tr>
<td>7 MAY 2015</td>
<td>Request for proposals released</td>
</tr>
<tr>
<td>2 JUNE 2016</td>
<td>VenuesLive Management Services appointed</td>
</tr>
</tbody>
</table>

Five submissions received, four respondents shortlisted (AEG Ogden, Nationwide Venue Management, Perth Stadium Management and Stadium Australia Operations) and announced on 12 May 2015.

Following the evaluation of proposal responses, Stadium Australia Operations announced as preferred respondent on 8 February 2016. - Initial term of five years with potential five year extension option.

- Undisclosed Contract Value
- VenuesLive was formerly known as Stadium Australia Operations

In October 2017, the Government announced an agreement with the Australian Football League and the Western Australian Football Commission whereby “$10.3 million per annum of football generated income at the stadium will be provided to the WAFC [Western Australian Football Commission] over an initial 10 year period”. Following the initial term, four 10 year extension options are available for future governments with “...the income generated by football at the stadium [provided to the WAFC], capped at $10.3 million a year adjusted by CPI.”

In March 2017, prior to the state election, the then Opposition outlined an election commitment to reverse a previous decision by the Government not to sell the naming rights to Perth Stadium. This was formalised in November 2017 with the announcement of a 10 year naming-rights agreement with Optus for an undisclosed sum, with VenuesWest indicating that this figure is commercial-in-confidence.

Readiness for operations

As at October 2017, construction of Perth Stadium was more than 97 per cent complete. The Stadium

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49 VenuesWest, Special Inquiry Hearing, 3 October 2017 (Note: Mr D. Etherton, 18.)
50 Government of Western Australia Media Statement, Perth Stadium operator agreement signed, (28 June 2016).
53 Government of Western Australia Media Statement, Perth Stadium operator agreement signed, (28 June 2016).
54 Government of Western Australia Media Statement, Preferred Perth Stadium operator named, (8 February 2016).
57 Ibid.
59 Government of Western Australia Media Statement, Perth Stadium pie contract awarded to WA company, 22 October 2017.
design, build, finance and maintain project is due to be delivered on 31 December 2017 and transferred to VenuesWest on 1 January 2018. This will commence the operational phase of the stadium. The stadium will officially open with a free community open day on 21 January 2018.

The construction of the stadium and sports precinct is expected to have involved approximately 5,800 local workers by the completion of the construction phase.

Some of the tangible benefits to the Western Australian economy of the Perth Stadium project are the $450 million worth of stadium sub-contracts awarded to Western Australian companies as at January 2017.

Delays in the delivery of the Swan River Pedestrian Bridge had the Government initially imposing a seating cap restriction on events at Perth Stadium. This has since been lifted following advice from Transperth (Public Transport Authority) which indicated that the “...risks associated with transporting the additional concert-goers on a weeknight can be safely managed for this one-off occasion.”

**EVALUATION OF THE PROJECT — STADIUM**

For the purposes of this examination, the Special Inquirer considered the stadium and sports precinct works component of the Perth Stadium project.

**Governance**

Following the June 2011 announcement that the stadium would be built on the Burswood Peninsula a project governance structure was established. The structure reflected the project’s complexity of having “multiple accountabilities with regard to the project planning and delivery stages of the (Perth Stadium), the Sports Precinct and associated transport solution[s].” There were “…three streams of accountability to the Premier and then Cabinet (through the Minister for Sport and Recreation, the Treasurer and the Minister for Transport)”. This did not include the additional accountability stream through Parliamentary Secretary John McGrath MLA who was appointed by the Premier “to liaise between the Premier’s office and the steering committee”.

Primary responsibility for project oversight, governance and delivery was delegated to the newly created Perth Stadium Steering Committee (see Figure 1 below). The steering committee was co-chaired by the Department of Sport and Recreation’s Director General as the client agency and with Strategic Projects’ Executive Director to provide technical delivery services. The steering committee members, as previously mentioned, were generally senior officers at Director General level or equivalent.

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60 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Summary – Addendum Annual Payments to Westadium, (undated), 1.
61 Government of Western Australia Media Statement, Perth Stadium to officially open with free Community Open Day, 10 September 2017.
62 Government of Western Australia Media Statement, $456 million of local stadium subcontracts, 18 November 2016.
63 Government of Western Australia Media Statement, Stadium to light up with 15,000 LED lights, 31 January 2017.
64 Government of Western Australia Media Statement, State Government to allow full capacity for Ed Sheeran concerts, 29 August 2017.
66 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (August 2012), 104.
67 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 88.
Strategic Projects led the planning and delivery of the stadium in collaboration with the Department of Sport and Recreation which was responsible for the scope of the stadium and its surrounding sports precinct infrastructure. This included construction of the stadium and ensuring that the specifications were appropriate for service delivery requirements over the life of the stadium.

The dual chair aspect of the governance arrangement is unusual but has worked well, as explained by Perth Stadium Steering Committee Co-Chair at his hearing with the Special Inquirer.

“Well...with governance, as we know it can work... - the perfect structure is great - with the perfect people running it is great. But also, if you get the right people and you’ve got a lousy structure...it can still work. And you know, we’ve had Co-Chairs which certainly when we started with Co-Chairs, I wasn’t particularly enamoured.... But Richard Mann and I work well together. You know...we bring different things to it, and have worked well together. So that’s worked.”

Figure 1: Initial Perth Stadium Governance Structure, August 2012

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68 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.
69 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (August 2012), 105.
Three separate project control groups were established to oversee the three main components of the project and provide reporting to the steering committee. The first for stadium delivery, the second for transport delivery and the third for stadium operations. The third project control group (refer to Figure 2) was established subsequent to a September 2013 Cabinet decision to use VenuesWest as the ongoing State management entity.\textsuperscript{70}

While the transport steering group was an independent body, there was a clear view — confirmed by the Perth Stadium Steering Committee Co-Chairs — that it performed the role of a sub-committee to the stadium steering committee.

The Special Inquirer observed that despite the transport steering group sitting below the steering committee, no communication protocols were established between the two and this led to ambiguity in reporting. The Special Inquirer finds this surprising especially given that the detail, quality and reliability of the briefings provided to the stadium steering committee were major issues of concern to its members. The Perth Stadium Steering Committee Co-Chair said the most concerning aspect was that the briefings were unreliable, stating that

\begin{quote}
"We [received] plenty of one paragraphs and then [in response to our questions] we got plenty of explanations... But you would then find out that it’s not just [a] 10 day delay [and] they [the sub-contractor] have been locked out for two months but they haven’t told us that." \textsuperscript{71}
\end{quote}

The Perth Stadium governance structure was updated in 2016 to reflect the decision to make VenuesWest the governance agency and other changes to transport delivery governance resulting in the structure outlined in Figure 2.

\textsuperscript{70} Perth Stadium Steering Committee, Perth Stadium Project Governance: Project Delivery Phase Version 4, (May 2016), 3.

\textsuperscript{71} Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 3 October 2017.
The governance structure for the stadium and associated transport infrastructure is reasonably complex but generally consistent with other major projects delivered by the State. The governance structure for the stadium is universally well regarded among steering committee members, as evidenced by comments made by VenuesWest, a late addition to the steering committee membership.

“In my 20-odd years in the State Government, it’s the best governance arrangement I’ve seen, the best planned, the best executed project I’ve seen in terms of the governance arrangements and how they all tied together and how the relevant people were involved.”

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22 Perth Stadium Steering Committee, Perth Stadium Project Governance: Project Delivery Phase Version 4, [May 2016], 5.
23 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, [September 2012], 10.
24 Department of Finance: Strategic Projects, Special Inquiry Hearing, 20 October 2017.
25 VenuesWest, Special Inquiry Hearing, 3 October 2017. (Note: Mr D. Etherton, 2).
Although the governance structure seems to have been effective for most aspects of the project, the Special Inquirer considers that there were weaknesses as highlighted by the issues related to the Swan River Pedestrian Bridge.

The Special Inquirer is of the view that the separation of the transport planning and the introduction of an additional governance layer with respect to transport infrastructure introduced risks to the stadium project that were not managed effectively. Issues with transport related components of the stadium -- that is, the bridge -- had flow-on impacts for the delivery of stadium infrastructure and is responsible for the Westadium extension of time claims (up to 30 June 2017) which the State settled for approximately $27.5 million.76

Representatives of Main Roads and the Public Transport Authority were not required to attend key meetings of the steering committee to address the queries and concerns of steering committee members directly.77 78 The Transport portfolio was represented on the Perth Stadium Steering Committee by the Department of Transport’s Director General who was also Chair of the Transport Infrastructure Steering Group. The Special Inquirer heard from several steering committee members that the transport infrastructure reporting, in particular in relation to the bridge, was not sufficiently detailed and did not provide sufficient visibility over issues.79

In late 2016, concerns were raised by members of the steering committee that aspects of the committee’s terms of reference were not clear, particularly concerning oversight of all transport elements.80

In its hearing with the Special Inquirer, the Department of Local Government, Sport and Cultural Industries noted that the original terms of reference were not clear on the remit of the Perth Stadium Steering Committee. The Department stated that it was “made explicitly clear in June of this year that everything to do with Perth Stadium was the remit of the Perth Stadium Steering Committee”.81

In mid-2017, the steering committee’s terms of reference were updated to clarify the committee’s oversight responsibility over the Swan River Pedestrian Bridge. This also reflected the updated membership of the steering committee following machinery of government changes on 1 July 2017.82 The Special Inquirer notes that the steering committee terms of reference were not updated until July 2017,83 notably after major transport infrastructure issues arose.

77 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017.
78 Public Transport Authority, Special Inquiry Hearing, 2 October 2017.
79 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.
80 VenuesWest, Special Inquiry Hearing, 3 October 2017.
81 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.
82 Perth Stadium Steering Committee, Meeting Agenda August 2017: Matters Arising from Minutes of Previous Meeting Action Register, (4 August 2017), 10.
83 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.
Issues identified in the Special Inquirer’s examination include the following.

- Risk identification was too focussed on operational risks and the reporting and reassessment practices were not consistent between project control groups and steering groups. Multiple other agencies represented on the steering committee stated that there was no risk reporting provided to the steering committee from the Transport Infrastructure Steering Group but there was from the other two project control groups.84
- Works package elements with critical interfaces were presented to governance groups as a fait accompli with little input invited.85
- Until mid-2016, briefings on issues were informal86 with respect to transport infrastructure. In the view of the Special Inquirer, this hindered transparency of the decisions undertaken by the project directors and project managers. This included decisions taken on the supporting rationale.87

Site selection and analysis

In choosing not to progress with the Kitchener Park site which had been announced in 2008 by the Carpenter Government, the Barnett Government progressed with the Burswood Peninsula site option. This was the most expensive of three options analysed by the Major Stadia Taskforce and also required the longest construction period.

In a combined response to the Special Inquirer by Strategic Projects, the Department of Local Government, Sport and Cultural Industries and VenuesWest on 14 September 2017, Strategic Projects stated that an options analysis was undertaken in early 2011.88 This analysis was led by the then Department of Sport and Recreation and Strategic Projects. The analysis considered each location option outlined in the 2007 Major Stadia Taskforce Report against a range of qualitative and quantitative criteria.

The Special Inquirer was informed that this analysis supported the Government’s decision to select the Burswood Peninsula location.89 The Special Inquirer has been unable to verify this analysis independently, due to it solely being within a Cabinet submission for the approval of the stadium site and therefore not available for release.

In 2015 the Public Accounts Committee expressed a view that

“...the announcement was made without the benefit of any study providing comprehensive information about this decision. What we do know is that Burswood was the least preferred location for the Taskforce. It was demonstrated to be the most expensive option largely because of the transport solution that would be required, complex engineering issues associated with the fact that the site is a flood plain and a contaminated former dump site.” 90

85 VenuesWest, Special Inquiry Hearing, 3 October 2017.
86 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017.
87 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017.
88 Department of Finance [Strategic Projects], response to Special Inquiry questions on notice, received 14 September 2017.
89 Department of Finance [Strategic Projects], response to Special Inquiry questions on notice, received 14 September 2017.
The decision to use the Burswood Peninsula site for the new multi-purpose stadium committed the Government to a broader precinct development that was reasonably likely to require additional State funding over the longer term. While the land availability of the Burswood site offered the ability to develop a broader sporting precinct, a precise understanding of the additional infrastructure and cost required to underpin such a development was not adequately known at the time of project announcement.

In November 2012 the Public Accounts Committee tabled a review report about the Perth Stadium Project which noted key concerns around the certainty of total cost, time frames and risks to deliver the stadium and its supporting transport infrastructure. The report included the statement that

“the Taskforce attributed the large costs at Burswood to significant upgrade in the transport infrastructure required and the cost of dealing with the local site conditions i.e. building on reclaimed land and on a site previously used as an industrial dump”.

The stadium and transport project definition plans were the primary planning documents for the delivery of the Perth Stadium Master Plan vision, which covered the northern half of the Burswood Park Golf Course and the stadium’s integration into the wider Perth metropolitan area.

The purpose of the Transport Project Definition Plan was articulated as

“deliver[ing] a set of operating plans and infrastructure requirements, and their cost, which provide a high degree of certainty to achieve required objectives, and conversely, the risk of non-performance would be as low as reasonably possible. A high degree of project definition in the final planning phases is critical to successful implementation. A highly defined scope of works not only greatly reduces future uncertainty, but it also provides the soundest basis for the preparation of credible estimates.

Cost estimates, which are based on a highly defined scope of works, provide the best insurance against future cost ‘blow-outs’, as cost blow-outs are most likely to be caused by changes in scope.”

In comparison, the purpose of the Perth Stadium Project Definition Plan was articulated as follows.

“The purpose of the Project Definition Plan is to provide the basis for a decision to commence the delivery phase of the project. This Plan provides the level of definition required for the preparation of detailed documentation to take the project to market for tender. Accordingly, the Project Definition Plan confirms the endorsed parameters of the project, including their impact on cost, time program and scope.”

The different approaches undertaken in the development of the project definition plans highlighted the

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91 Ibid., 3.
92 Public Transport Authority, Perth Stadium Transport Project Definition Plan, (Dec 2012), 6
93 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (August 2012), 6.
approach taken on the governance oversight of the respective projects. One was at a strategic level and the other was at an operationally focussed level which did not adequately appreciate the inter-connectedness of the transport infrastructure delivery to the stadium delivery and operations.

**Procurement**

The 2012 Stadium Project Definition Plan included a detailed procurement options analysis which recommended that the stadium construction works be split into two discrete packages:

- Stadium Pre-Construction Site Works using a design and construct model; and
- Stadium and Sports Precinct Works using a design, build, (partially) finance and maintain model.

This strategy enabled the State to save time by commencing ground improvement works concurrently with the detailed planning and procurement processes for the stadium itself.

The stadium and sports precinct works procurement was the largest component of the stadium project and was the main focus of the Special Inquirer’s examination on this matter.

The former head of the Department of Transport, Public Transport Authority and Main Roads advised the Special Inquirer that he recalled a request that the cost of the project should be capped at $1 billion. This request was made during a meeting at the Office of the Premier during the project planning phase.94

Following a two stage procurement process (expression of interest to short list respondents followed by a request for proposals95), Westadium was chosen in April 2014 as the preferred design, build, finance and maintain project contractor. The contract value was for $1.212 billion over 28 years.

The contract requires Westadium to

> “...maintain and refurbish the Stadium and Sports Precinct during the 25 year Operating Phase as necessary to ensure it continues to meet the fit for purpose warranty, including at hand-back to the State after 25 years, in such a condition that no major maintenance or refurbishment work will be required for a further period of five years after hand-back.” 96

Prior to the release of the request for proposals, a public sector comparator report was prepared by PricewaterhouseCoopers in June 2013. This report estimated the cost for the State to deliver and maintain the stadium to be $1.540 billion97 (risk adjusted net present cost). This was later adjusted to $1.536 billion98 —

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94 Reece Waldock, Special Inquiry Hearing, 18 October 2017.
95 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 75.
96 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Summary – Addendum Annual Payments to Westadium, [undated], 1.
98 Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Summary – Addendum Annual Payments to Westadium, [undated], 3.
a 21 per cent ($324 million)\textsuperscript{99} increase compared to the design, build, finance and maintain model.

Under the terms of the DBFM -- design, build, finance and maintain -- Project Agreement, 60 per cent ($489 million\textsuperscript{100}) of the capital cost of the design, build, finance and maintain works would be borne by the State, with 40 per cent to be borne by Westadium. The State would be required to pay annual “availability payments”, incorporating capital and interest, for the 40 per cent ($423 million\textsuperscript{101}) privately financed capital cost facilitated by Westadium.

Other non-design, build, finance and maintain costs, including planning and project management costs of $151 million\textsuperscript{102} are also included in the stadium capital budget, bringing the total cost for the design, build, finance and maintain project to $912 million\textsuperscript{103}.

VenuesWest is a party to the suite of agreements in relation to the design, build, finance and maintain project as they are responsible “…for the ongoing contract management of Project Co [Westadium] during the 25 year term of those agreements.”\textsuperscript{104}

The stadium project has undergone a Gateway Review on four separate occasions, in March 2013, June 2013, June 2014 and October 2017. These reviews identified some issues with the project strategy which have been reported to the Perth Stadium Steering Committee and rectified. This excludes the recently completed October 2017 review which has highlighted some issues for the Perth Stadium Steering Committee and its member agencies to address.

Given the weight of evidence provided by Strategic Projects and the Department of Local Government, Sport and Cultural Industries, the Special Inquirer views the procurement processes undertaken to plan for and deliver the Perth Stadium and sporting precinct as robust and appropriate for, the requirements of the project.

**Project management**

The recently completed Gateway Review outlined a number of “exemplars of good practice” that the Special Inquirer would like to highlight, including the following.

1. The “one team” approach, whereby the Project Teams from both the State and Head Contractor were co-located from an early stage in the Project.
2. The adoption of a Project Charter which created a collaborative, problem solving culture between the parties and has significantly contributed to the high quality outcomes achieved.
3. The universal adoption of a “fans first” objective which informed the development of the design brief, the design, build, operation and facilities management phases of the stadium and precinct which has resulted in a world class facility with a high degree of user acceptance.\textsuperscript{105}

\textsuperscript{99} Department of Finance (Strategic Projects), response to Special Inquiry questions on notice, received 14 September 2017 (Note: p6)
\textsuperscript{100} Government of Western Australia, 2016-17 State Budget Fact Sheet Perth Stadium Financial Impact, (March 2016), 3.
\textsuperscript{101} Ibid.
\textsuperscript{102} Ibid.
\textsuperscript{103} Ibid.
\textsuperscript{104} VenuesWest, Stadium Operator Procurement Plan, 16 February 2015, 12.
\textsuperscript{105} Department of Finance, Perth Stadium Gateway Review 5: Readiness for Service F\textsuperscript{FINAL}, 19 October 2017, 4.
The Special Inquirer notes that project directors of the Transport portfolio working on the stadium project did not collocate with the rest of the State project team onsite. During their hearing with the Special Inquirer, the Department of Local Government, Sport and Cultural Industries advised that:

“...Transport never took up the offer to be part of one project team, one homogenous group... where a conversation across a desk solves a whole lot of issues, as we found...”\(^{106}\)

VenuesWest also commented on the absence of the Transport portfolio within the State project team site office, stating “[we] should have had a gang of four\(^{107}\) but we were “a gang of three”, as did the Strategic Projects’ Executive Director who stated that:

“We pushed very hard to try and get PTA [the Public Transport Authority] and Main Roads, in particular, in there. I remain absolutely confident that had Main Roads been part of that team operating in that ‘one team’ environment, that we would almost certainly have sorted these issues early on in the piece...”\(^{108}\)

The importance of adopting a “one team” approach in the delivery of a complex project is recognised by several key stakeholders in the Perth Stadium project as evidenced by the following quote from the Perth Stadium Steering Committee Co-Chair who said...

“...you cannot underestimate working in close proximity on a daily basis, the exchange of information, and then you lose that - who’s in what department [mindset]...”\(^{109}\)

**Cost benefit analysis**

The cost estimates provided for the stadium have varied throughout the project and materially exceeded the $700 million indicative cost announced by the Government in June 2011.

The original approved budget for the stadium and precinct works was $918.4 million.\(^{110}\) This included a works budget of $902.4 million and a project management budget of $16 million.

Adjustments to the fit out strategy relating to the information and communications technology network, wireless local area networking and other related infrastructure expenses at the request for proposal stage resulted in an increase of $10.8 million. Of this $10.8 million, the State’s cost under the design, build, finance and maintain contract is $6 million or approximately 60 per cent. This increased the total approved stadium and precinct budget to $924.4 million.\(^{111}\)

\(^{106}\) Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.

\(^{107}\) VenuesWest, Special Inquiry Hearing, 3 October 2017.

\(^{108}\) Department of Finance, Special Inquiry Hearing, 13 October 2017.

\(^{109}\) Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017.

\(^{110}\) Department of Treasury [Strategic Projects and Asset Sales], Perth Stadium Project Definition Plan, [September 2012], 74.

As at August 2017, settled extension of time claims have resulted in a further budget increase of $31 million.\textsuperscript{112} The Special Inquirer notes that while this prevents further claims related to the Swan River Pedestrian Bridge it does not prevent all further extension of time claims past 30 June 2017.\textsuperscript{113}

Variations with the stadium construction contracts are considered to be minor, with a total design, build, finance and maintain project cost increase of under five per cent.\textsuperscript{114} The current total capital expected to complete the design, build, finance and maintain works component is now $955.4 million.\textsuperscript{115}

In 2015 the Department of Treasury released a breakdown of the design, build, finance and maintain contract costs of $1.212 billion, as opposed to the previously announced budget. This outlined a total capital cost of $894.5 million and operating cost of $317.9 million over the 28 years of the contract term.\textsuperscript{116} This approach offered a $324 million saving against an estimated public sector delivery cost of $1.536 billion.\textsuperscript{117}

The Special Inquirer commends the State and Westadium project teams on their delivery of the stadium and precinct, particularly given the project’s scale, complexity and public profile. The Special Inquirer also notes and reiterates the following comments made by the Gateway Review team in October 2017 which stated that:

“The vision of the original business case has been realised to the extent that the facility is world class, of a high quality and has attracted national and international events.”\textsuperscript{118}

**EVALUATION OF THE PROJECT — TRANSPORT INFRASTRUCTURE**

For the purposes of this examination the Special Inquirer considered the stadium transport infrastructure works as a separate component to the overall Perth Stadium project.

This chapter acknowledges issues regarding the Swan River Pedestrian Bridge in how it relates to the broader transport infrastructure and stadium project. The Swan River Pedestrian Bridge, however, is subject to a separate examination by the Special Inquirer and is covered in more detail in that chapter of the report.

**Governance**

Appointed by the Director General Department of Transport,\textsuperscript{119} the Public Transport Authority maintained overall responsibility for all transport infrastructure delivery and specific responsibility for the rail track works and related infrastructure. Main Roads was given responsibility for the delivery of road infrastructure and the Swan River Pedestrian Bridge.
The reporting structure established for the Perth Stadium Transport Infrastructure Steering Group (also referred to interchangeably as the Perth Stadium Transport Infrastructure Project Control Group) was complicated by the lack of role clarity and accountability within the Transport portfolio. This complication was despite a documented memorandum of understanding between the Public Transport Authority and Main Roads.\textsuperscript{120} When Main Roads briefed the Department of Transport’s Director General, the Public Transport Authority would only see the title of the briefing and not the content\textsuperscript{121} despite the Public Transport Authority being noted as the accountable authority for the delivery of Perth Stadium transport infrastructure, which included the Swan River Pedestrian Bridge.

The communication channels between the Department of Transport’s Director General, the Public Transport Authority and Main Roads were, in the view of the Special Inquirer, ineffective in providing timely information to key decision makers. The Public Transport Authority’s oversight of the transport infrastructure works was not adequate despite having overall responsibility for the delivery of the transport infrastructure. The Special Inquirer notes there was a hesitation by the Public Transport Authority to manage actively Main Roads.\textsuperscript{122} During its hearing with the Special Inquirer, the Public Transport Authority stated that it did not believe its role was to enquire into Main Roads’ delivery of Main Roads’ works package components, stating “... I don’t think we saw it as our role to go and say ‘What are you doing there?’”.\textsuperscript{123}

Due to the reporting practices of Main Roads, the steering committee did not have suitable oversight of the Swan River Pedestrian Bridge contract. The steering committee therefore could not manage adequately the risk to linked elements of the stadium project.

Meeting records received by the Special Inquirer also indicate that the steering committee had concerns regarding project governance in relation to the transport delivery component.\textsuperscript{124}

In April 2014 the Public Transport Authority and Main Roads made amendments to the stadium governance structure below the Perth Stadium Steering Committee by establishing a Perth Stadium Transport Infrastructure Steering Group. This group had formerly been known as the Transport Project Control Group, and had been chaired by the Public Transport Authority.

It appears to the Special Inquirer that from the outset there was a lack of clarity within the Transport portfolio of each party’s role. The establishment of the memorandum of understanding in April 2014 highlighted “… we now have a clear understanding of the roles and responsibilities of each agency in the delivery of the transport elements of this project.”\textsuperscript{125}

\textsuperscript{120} Public Transport Authority and Main Roads Western Australia, new Perth Stadium Transport Infrastructure – PTA/Main Roads Agreement, [1 May 2014].
\textsuperscript{121} Public Transport Authority, Special Inquiry Hearing, 2 October 2017.
\textsuperscript{122} Ibid.
\textsuperscript{123} Ibid.
\textsuperscript{124} Perth Stadium Steering Committee, Meeting Agenda July 2017: Matters Arising from Minutes of Previous Meeting Action Register, [July 2015], 10
\textsuperscript{125} Public Transport Authority and Main Roads Western Australia, new Perth Stadium Transport Infrastructure – PTA/Main Roads Agreement, [1 May 2014].
Main Roads attended only three steering committee meetings. The Department of Transport’s Director General was required to brief the steering committee on progress made towards the delivery of the Swan River Pedestrian Bridge during the meetings that Main Roads representatives were not in attendance.

Of particular note to the Special Inquirer, the memorandum of understanding between the Public Transport Authority and Main Roads states that:

“The key objective for PTA [the Public Transport Authority] and MRWA [Main Roads Western Australia] is to finalise construction of works being delivered by Main Roads before completion of the Stadium building and associated sports precinct and other works due for ultimate completion at the end of 2017 to enable commencement of events at the Stadium at the start of the AFL [Australian Football League] season in early 2018.”

The Special Inquirer was provided with conflicting views from Main Roads and members of the steering committee as to the steering committee’s desire to have Main Roads report directly to and attend the steering committee meetings. The Special Inquirer is inclined to take the view that Main Roads felt that the attendance of the Department of Transport’s Director General was adequate representation to address any queries steering committee members may have had in relation to the delivery of their allocated transport works components.

The Special Inquirer also understands that the steering committee was not satisfied with the quality of reporting it received regarding Main Roads transport works components, particularly in relation to the Swan River Pedestrian Bridge. This view is echoed in part by the agency which had overall accountability for the transport infrastructure: “there were probably some times when we sought ... more information than we were getting.”

In the steering committee meeting minutes from 4 November 2016, the steering committee noted deficiencies in reporting, particularly:

“...the lack of information in the update on delayed design, changes to the program or lodged claims that are in dispute, that amount to risks associated with non-performance. The PSSC [Perth Stadium Steering Committee] requested that the financial impact of current and future claims be recorded in future reports.”

Statements made by the co-chairs of the Perth Stadium Steering Committee during hearings with the Special Inquirer indicate that there are still deficiencies with this reporting. When the Special Inquirer queried this position with the Department of Transport during its hearing, the Department stated:

“...it surprises me in a sense that we’ve just had a chat about it and I can assure you we’ve gone into much more detail ... if people aren’t happy with that, then they have plenty of opportunity to ask me...”
The transport infrastructure delivery governance structure, as a subset of the overall Perth Stadium governance structure, is complex when compared to other reporting relationships within the project. There are generally singular reporting lines for the project control groups and agencies to the Perth Stadium Steering Committee and individual ministers. By comparison, due to the disaggregated structure of the Transport portfolio, there are multiple reporting lines to the Department of Transport’s Director General. These are often with little visibility, as noted by the Public Transport Authority which stated during its hearing with the Special Inquirer that “…you don’t see all the briefing notes that clearly go between Main Roads directly and the Minister, although I have a sense of what they are…”

The transport infrastructure delivery governance structure also does not reflect the practical reporting and oversight relationships experienced on the project. The initial governance structure diagram — refer to Figure 2 above — outlined a reporting relationship which reported through the Department of Transport to the Director General, and in which both the Public Transport Authority and Main Roads were represented as having equal responsibilities. This may be a possible explanation for the Public Transport Authority’s unease in holding overall project oversight and responsibility over its “other portfolio agency”, Main Roads.

Site selection and analysis

Transport to and from the Burswood Peninsula was identified by the Major Stadia Taskforce as being critical to the success of any stadium infrastructure built at that location. It was stated in the taskforce’s report that:

“The site’s isolation between the river and freeway/railway corridor means that opportunities for access to a stadium from adjacent suburbs is constrained and only achievable through the construction of new linkages.”

The Transport Project Definition Plan determined that public transport for the stadium would be required to transfer approximately 83 per cent of the 60 000 patrons (49 800 people) in the first hour immediately following a major event, a 250 per cent increase from that required at Domain Stadium in Subiaco.

This substantial increase in public transport requirements necessitated a significant increase in public transport services. It also made the transport management of prime time stadium events, such as Friday night Australian Football League games or mid-week concerts, a considerable challenge.

The Special Inquirer notes discrepancies between Transport portfolio agencies (the Public Transport Authority and Main Roads) and other members of the steering committee as to the level of input transport agencies had into the analysis considered by the Government prior to its announcement in June 2011.

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131 Public Transport Authority, Special Inquiry Hearing, 2 October 2017.
133 Public Transport Authority, Perth Stadium Transport Project Definition Plan, (Dec 2012), 7.
134 Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.
The Public Transport Authority stated during its hearing with the Special Inquirer that it had no documentation on alternative sites (other than Burswood) which were produced for the Minister for Transport or the Government. Following its hearing the Public Transport Authority further advised the Special Inquirer that:

“The Public Transport Authority did not provide any briefing notes or any other advice to Government prior to June 2011 with respect to the Government’s decision to locate the new Stadium at the Burswood Site. The first advice provided by the Public Transport Authority to Government of the expected cost of the Transport Infrastructure to support a new Major Stadium at Burswood was the briefing note sent to the Minister for Transport’s office on the 29 June 2011…”

This position was inconsistent with statements made by other steering committee members, including the State Solicitor’s Office, the Department of Local Government, Sport and Cultural Industries and Strategic Projects, who at their respective hearings with the Special Inquirer stated that the Public Transport Authority was involved in the options analysis submitted to the Government in June 2011. The Special Inquirer is of the view that these conflicting positions are reflective of deficiencies in records management and knowledge transfer in the public sector as the Special Inquirer was provided a copy of a briefing note, prepared by Public Transport Authority in May 2011 to the Department of Transport’s Director General, on the evaluation of public transport for Burswood and Kitchener Park sites. The Special Inquirer has been unable to determine what specific actions occurred as a result of this briefing note.

**Procurement**

The stadium transport infrastructure delivery was split into several different works packages, with the Public Transport Authority and Main Roads undertaking responsibility for different components.

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135 Public Transport Authority, response to Special Inquiry questions on notice, received 9 October 2017.
136 State Solicitors Office, Special Inquiry Hearing, 19 October 2017; Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 20 October 2017.
137 Public Transport Authority, Briefing Note to the Director General Transport Major Stadium – Transport Evaluation of Proposed Burswood and Kitchener Park Sites, (hand dated 10 May 2011). Note, this documents was received on 1 November 2017 from Strategic Projects as a result of Special Inquiry Hearing questions taken on notice.
Table 1: Contractual arrangements for transport infrastructure

<table>
<thead>
<tr>
<th>PRIMARY CONTRACTOR</th>
<th>TYPE OF CONTRACT</th>
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<tbody>
<tr>
<td><strong>Public Transport Authority</strong></td>
<td></td>
</tr>
<tr>
<td>New six-platform Perth Stadium Station and associated railway works.</td>
<td>PRISM Alliance (PTA, Laing O’Rourke and AECOM)</td>
</tr>
<tr>
<td>Dedicated new Perth Stadium bus facility. *</td>
<td>Westadium Consortium</td>
</tr>
<tr>
<td><strong>Main Roads</strong></td>
<td></td>
</tr>
<tr>
<td>Various modifications to Victoria Park Drive, including an extension of existing pedestrian footbridge from Belmont Racecourse to the Stadium, and a pedestrian underpass under Victoria Park Drive.</td>
<td>Lend Lease*, with some sections completed by other contractors.</td>
</tr>
<tr>
<td>Camfield Drive extension works.</td>
<td>PRISM Alliance (PTA, Laing O’Rourke and AECOM)</td>
</tr>
<tr>
<td>Modifications to the Great Eastern Highway intersection with Victoria Park Drive.</td>
<td>Unknown</td>
</tr>
<tr>
<td>Swan River Pedestrian Bridge, including a special event bus station on Nelson Avenue in East Perth.</td>
<td>York Rizzani de Eccher JV</td>
</tr>
</tbody>
</table>

* Note, ultimately this work was undertaken by Westadium due to its proximity to the Stadium works, with the Public Transport Authority transferring capital budget for the works to Strategic Projects.

^ Government of Western Australia Media Statement, Stadium transport solutions on track, 2 June 2014.

For the purposes of this examination, the Special Inquirer focused on the budget cap applied to the transport infrastructure projects. Detailed procurement information regarding the Swan River Pedestrian Bridge is included in the following chapter.

The Special Inquirer examined briefing notes provided to the Minister for Transport regarding the Perth Stadium and found that the Public Transport Authority’s first formal advice to the Government regarding the estimated $300 million transport infrastructure cost was submitted two days after the Government made the announcement to locate the stadium at Burswood on 29 June 2011.

The initial budget identified for the stadium transport infrastructure costs during the development of the 2012 Transport Project Definition Plan was approximately $339 million. The Special Inquirer notes that this budget allocation is directly comparable with the 2007 Major Stadia Taskforce transport infrastructure estimate ($83 million and $256 million for car parking and plaza [including escalation]138) despite different scopes.

When presented with this view, the Public Transport Authority stated that during the finalisation of the Transport Project Definition Plan in December 2012 the Government imposed a funding cap for the design and construction of the transport infrastructure for the stadium to $300 million.139

139 Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.
“During finalisation of the Transport PDP [Project Definition Plan], the Government decided to constrain the overall transport costs to be in line with the publicly known figure of $300 million.”

“This required amendments to be made to the final estimates, resulting in a cap of $50 million for the construction cost of the Swan River [Pedestrian] Bridge.”

This advice was corroborated by the Department of Transport’s former Director General during his hearing with the Special Inquirer.

In its hearing with the Special Inquirer the Public Transport Authority stated that it could not recall budget caps being implemented on other projects as this created additional challenges.

The Special Inquirer has formed the view that the transport budget cap introduced additional risks to the project. The overall transport infrastructure cap was a significant driver in the $50 million cap being placed on the design and construction of the Swan River Pedestrian Bridge. The impact of this cap is discussed in more detail in the Swan River Pedestrian Bridge report.

**Risk management**

Statements made in hearings with the Special Inquirer indicate that members of the steering committee had concerns regarding the level of risk assessment undertaken at the Transport Infrastructure Steering Group in comparison to the project control group — stadium delivery and project control group — operations.

The overarching Perth Stadium Risk Management Plan sets out how risks are reported up to the steering committee and how risks are assessed over the term of the project at six-monthly intervals. In its hearing with the Special Inquirer VenuesWest indicated that when its representatives attended the Transport Infrastructure Steering Group they had not witnessed the quantitative six-monthly risk assessment.

“…I’ve been a member of the Transport Infrastructure Steering Group probably since late last year, early this year... and I’ve never seen that level of risk assessment or reporting go through.”

In a submission to the Special Inquirer, the Public Transport Authority advised that

“...it prepared monthly progress reports to both the Perth Stadium Transport Infrastructure Steering Group and Perth Stadium Steering Committee which contained advice on safety, cost performance and project delivery against milestones including risk reporting.”

140 Ibid., 2.
141 Ibid.
142 VenuesWest, Special Inquiry Hearing, 3 October 2017.
143 Ibid., 5.
144 Ibid.
145 Public Transport Authority, response to Special Inquiry questions on notice, received 9 October 2017.
The Public Transport Authority’s view is inconsistent with the findings of the October 2017 Gateway Review, which was the first Gateway Review to include an examination of the stadium precinct transport planning. The Special Inquirer notes the Gateway Review finding that

“...despite seven of the ten highest-rated Project risks reported to the PSSC [Perth Stadium Steering Committee] being transport-related, and two of which being rated the highest of all risks, the Review Team is unable to determine the degree to which the transport service planning and implementation is fit for purpose and on schedule to support events.”

The findings of the Gateway Review are consistent with the Special Inquirer’s view of risk reporting provided in the transport agencies’ submissions.

**Project management**

The October 2017 Gateway Review outlined a number of “exemplars of good practice”, including the Project Teams from both the State and Head Contractor being collocated from an early stage in the Project.

That Gateway Review found, however, that “...the PTA [Public Transport Authority] is not co-located with the operations project teams despite being a key party in the transition to operations and for the successful delivery of events”. The review recommended to collocate a Public Transport Authority service planning and implementation resource within the Project Team’s offices at the Burswood site.

Considering advice from the Department of Local Government, Sport and Cultural Industries, Strategic Projects and VenuesWest, the Special Inquirer is of the opinion that had Transport portfolio agencies collocated staff within the State project team office, several transport component interface issues experienced on the project could have been avoided.

**Cost benefit analysis**

The original approved budget for the stadium transport infrastructure works was $358.6 million. This included a works budget of $339.2 million, and a project management budget of $19.4 million.

There have been some adjustments in scope, the inclusion of an extension to Camfield Drive for instance, which have necessitated additional expenditure. The project capital expenditure was recently increased and is currently $384.6 million.
The Public Transport Authority advised the Special Inquirer, however, that the current total capital expenditure expected to complete the transport infrastructure works will be $418.2 million,\textsuperscript{155} approximately a 17 per cent increase ($59.6 million) on the original budget.

The Public Transport Authority further advised that a significant portion of this increase has come from cost overruns relating to the Swan River Pedestrian Bridge ($26.226 million).\textsuperscript{156}

The Public Transport Authority reconciled the budget changes with the following details provided to the Special Inquirer:

- a reduction of $22.4 million transferred to VenuesWest and to the Public Transport Authority operating budget for term payments for the Burswood Bus Hub;
- an increase of $37.495 million for transfers relating to funding to or from other sources;
- an increase of $18.223 million anticipated from the Public Transport Authority’s submission for funds from the Mid-Year Review process; and
- an increase of $26.226 million from cost overruns in respect to the Swan River Pedestrian Bridge.\textsuperscript{157}

**Ongoing management of contract and maintenance of transport infrastructure assets**

As mentioned previously, the decision to build the Perth Stadium on the Burswood Peninsula and minimise the availability of onsite parking for events has required a significant investment in public transport. The number of attendees for capacity events requiring public transport services has also increased by 250 per cent,\textsuperscript{158} as compared to attendees at Domain Stadium. This increase in services has a reflected increase in direct operational costs for the Public Transport Authority of approximately $14.615 million (averaged over the full operating year forecasts between 2018/19 to 2020/21).\textsuperscript{159}

The previous Government approved a 50 per cent public transport service cost recovery model for special events at Perth Stadium, compared to the previous practice of 100 per cent for events at Domain Stadium. This means that there will be a funding shortfall which will require an increase to the Public Transport Authority’s operating subsidy.

The Public Transport Authority has stated to the Special Inquirer that its operating subsidy is currently forecast to increase by approximately $26.15 million, an average of $6.54 million over four years (refer table below).\textsuperscript{160}

\textsuperscript{155} Public Transport Authority, response to Special Inquiry questions on notice, received 30 October 2017.
\textsuperscript{156} Ibid.
\textsuperscript{157} Ibid.
\textsuperscript{158} Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.
\textsuperscript{159} Ibid.
\textsuperscript{160} Ibid.
Table 2: Public Transport Authority Projected Perth Stadium Events Operational Subsidy Funding Requirement 2017/18 to 2020/21

<table>
<thead>
<tr>
<th>FINANCIAL YEAR</th>
<th>FORECAST DIRECT OPERATIONAL COST INCREASE ($ million)</th>
<th>FORECAST OPERATING SUBSIDY ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017/18</td>
<td>9.641</td>
<td>4.374</td>
</tr>
<tr>
<td>2018/19</td>
<td>14.427</td>
<td>7.185</td>
</tr>
<tr>
<td>2019/20</td>
<td>14.617</td>
<td>7.308</td>
</tr>
<tr>
<td>2020/21</td>
<td>14.756</td>
<td>7.318</td>
</tr>
<tr>
<td>Total</td>
<td>53.441</td>
<td>26.15</td>
</tr>
</tbody>
</table>

The 2016/17 State Budget provided additional operating subsidies of $18.9 million to the Public Transport Authority between 2017/18 and 2019/20 to operate special events at Perth Stadium.

The Government recently approved a revised user charging policy for the Perth Stadium whereby a 50 per cent Government contribution is applicable to football and cricket events only. Based on 28 football and cricket events per annum, the State will pay $221 000 per event, equating to $6 188 000 per calendar year. All other users will now be required to pay 100 per cent of the costs for public transport and traffic management - $442 000 per capacity event, inclusive of $33 000 traffic management costs.

The Special Inquirer notes that only football and cricket events at Perth Stadium will include the 50 per cent public transport cost recovery. Greater clarity of the actual cost of services is unlikely to be known until after the first full year of operations.

EVALUATION OF THE PROJECT — STADIUM OPERATIONS

For the purposes of this examination the Special Inquirer considered stadium operations as a separate component to the overall Perth Stadium Master Plan.

Governance

In September 2013 VenuesWest was appointed to the Perth Stadium Steering Committee as the owner of the stadium asset (once it was constructed) and to procure and manage a stadium operator that would facilitate the day-to-day operations of the stadium and surrounding precinct.
A Project Control Group — Stadium Operations chaired by VenuesWest was established in 2013 to oversee the procurement of the Stadium Operator and manage the transition from stadium construction to operations.

**Procurement**

In January 2014, the Government approved that an open tender process be adopted to appoint an experienced operator noting that:

- VenuesWest was to prepare a public sector comparator to support the State’s evaluation of the operator tender bids; and
- if the operator tender bids did not represent value for money then the State may consider VenuesWest as the operator.\(^{167}\)

In its February 2015 Operator Procurement Plan, VenuesWest indicated that the estimated annual turnover for Perth Stadium was expected to be “…approximately $5 million to $20 million per annum, or $50 million to $200 million over a period of the anticipated Term (including the anticipated extension option).”\(^{168}\)

In October 2015 VenuesWest released a request for proposal for the provision of operator services at the new stadium. As a result of the request for proposal process, VenuesLive (formerly Stadium Australia Operations) was designated as preferred respondent.

A public sector comparator report, named an Internal Delivery Model, was prepared by VenuesWest prior to the finalisation of the detailed proposal evaluation. This estimated the financial result over 10 years of operations to be $32.5 million.\(^{169}\) The Special Inquirer notes, however, that the Internal Delivery Model was developed under a different government policy setting and did not include, for instance, the sale of stadium naming rights.

In February 2016, a Gateway Review examined the procurement of the Stadium Operator and noted that the “…tender development and evaluation has been sound and is likely to provide value for money for the State.”\(^{170}\)

In June 2016, VenuesWest entered into an Operator Agreement with VenuesLive which detailed responsibility for catering, securing event content, event management and ticketing. VenuesLive is contracted for an initial term of five years with an option to extend for a further five years.

The Special Inquirer examined the Operator Agreement between VenuesLive and VenuesWest and notes that due to the structure of the agreement, including variable elements (consistent with current practice\(^{171}\)), the total value of the agreement will become clearer following the commencement of operations.

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\(^{167}\) VenuesWest, Stadium Operator Procurement Plan, 16 February 2015, 6.
\(^{168}\) Ibid., 19.
\(^{169}\) VenuesWest, Internal Delivery Model – Perth Stadium Operator Services Executive Summary, (undated), 4.
\(^{171}\) VenuesWest, Special Inquiry Hearing, 2 October 2017.
Due to the profit sharing provisions in the agreement, however, the Special Inquirer notes the incentive for the operator to generate additional revenue from innovative sources. These provisions are adequate and appropriate to the requirements of the ongoing operational management of the stadium and precinct. Following its hearing with the Special Inquirer, VenuesWest stated that:

“Once the venue is opened and all key hirer agreements are resolved for the longer term we [VenuesWest] will go back and update the Public Sector Comparator bid with the new budget to enable comparison”.

Risk management

The commercial viability of the stadium is significantly influenced by the user agreements for the main users of the stadium. These user agreements were recently finalised and now provide a greater level of certainty. The robustness of the assumptions relating to crowd attendance will be critical.

Project management

There have been no notable issues with the project management of the stadium operator arrangements identified in the examination of this project.

Cost benefit analysis

The Special Inquirer analysed documents provided by VenuesWest related to the Operator Agreement with VenuesLive, including the January 2016 Request for Proposal - Evaluation Report and the June 2016 Operator Agreement.

As noted in the 2016 Request for Proposal - Evaluation Report, the calculated average profit share to the State per annum by the preferred respondent was forecast to be approximately three times more than the next highest respondent.

Due to the nature of the Operator Agreement, the Special Inquirer is unable to form an opinion on whether the State has achieved value for money prior to the operating phase of the agreement.

VenuesWest and the Department of Local Government, Sport and Cultural Industries have advised that they are comfortable with the assumptions used for the significantly higher revenue projections proposed by VenuesLive. Based on current modelling and the recently announced naming rights deal for the stadium, the stadium operations will be nearly cash flow neutral for the State when the State’s finance lease liability and finance costs are excluded.

Approximately 41 events per year, including 22 home Australian Football League games, are within the assumptions for the stadium operating model. There are assumptions that attendance at Australian Football

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172 VenuesWest, response to Special Inquiry hearing questions taken on notice, received 12 October 2017.
173 VenuesWest, Special Inquiry Hearing, 3 October 2017. Department of Local Government, Sport and Cultural Industries, response to Special Inquiry hearing questions taken on notice, received 19 October 2017.
League events will be 54,065 attendees (90 per cent of a 60,000 seat capacity event) and 36,568 attendees for domestic 20/20 cricket events (66 per cent of a 55,000 seat capacity event). This compares to an average Australian Football League attendance at Domain Stadium in 2016 of 34,001 attendees — 78 per cent of a 43,500 seat capacity event — and the January 2017 attendance record and the WACA Ground for domestic 20/20 cricket at 21,832 attendees — 89 per cent of a 24,500 capacity event.

The contract is structured to pay pre-operational payments and post-operational payments. The components require the State to compensate for operating losses and share in the profits. Other than one or two small payments that are specified — for example pre-operational milestone payments that are approximately $270,000 and some of the pre-operational base management fee which is $50,000 per month — the majority of payments are linked to the Stadium Operator’s bid model and also linked to actual performance.

Other key assumptions relating to the stadium operations are:

- payments to West Australian Football Commission are $10,297 million per annum for 10 years (in 2013 dollars);
- a fixed payment to the State from the operator of $16.4 million per annum; and
- VenuesWest receiving major event funding of $13.97 million in 2017/18.

The Special Inquirer notes and reiterates the following comments made by the Gateway Review team in October 2017 that

“The vision of the original business case has been realised to the extent that the facility is world class, of a high quality and has attracted national and international events.”

Financial sustainability of the facility has been forecast based on a predicted event schedule comprising a mix of national and international events. Public transport costs have the potential, however, to place the stadium at a competitive disadvantage to other venues which have significantly lower public transport charges.

**Transition to operations**

The primary purpose of the recent Gateway Review of readiness for service was to confirm “that contractual arrangements are up to date, that necessary testing has been done to the client’s satisfaction and that the client is ready to approve implementation.” The review noted that for transitioning to operational phase:

“The Project Team is heavily focussed on Technical Completion and Commercial Acceptance. Planning for the operational phase is under-developed, particularly in relation to contract management and administration of both the facilities management and venues management components of the Project.”

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175 Western Australian Cricket Association, WACA Statistics 2016-17, (undated), 2.
177 Ibid.
178 Ibid., 2.
179 Ibid., 4.
As the date for practical completion draws nearer, the litmus test for the ongoing success of the Perth Stadium project will be how comprehensive the knowledge transfer is between the State Project Team which has managed this project for the past six and a half years to the Operational Team which will be responsible for the ongoing management of contractual arrangements.

**Ongoing management of contract and maintenance of the stadium and surrounds**

As the construction phase of the stadium project draws to a close, the transition to the operational phase becomes a critical milestone. For continued success to be achieved, the documentation and knowledge transfer of the contractual obligations and the operationalisation of the State’s rights and obligations is a priority. A lesson learned that continues to appear post those projects which have been managed by the public sector is that the ongoing contract administration is just as critical as the planning and construction phases. This was noted in the recent readiness for service Gateway Review report, which stated that

“The Review Team did not evidence a Contract Administration Manual which operationalises the DBFM (Facilities Management) contract and the Operator Agreement. It is unclear to the Review Team whether national best practice guidelines in establishing the Contract Management Plan has been applied nor whether national best practice will be applied to the development Contract Administration Manual.”

“The Project Team has been together for a number of years and significant goodwill has been established between the State team and the Westadium team. The Review Team evidenced a well-established problem solving approach based on both formal and informal communication channels. However, a number of key personnel from both sides will be leaving the Project over the coming months. These established approaches, and relationships between the contracted parties, are likely to be impacted, potentially resulting in behaviours which are inconsistent with relationship contracting envisaged under both facilities management and venue operations contracts.”

**RISK MANAGEMENT PRACTICES**

The stadium project has the established high level risk management framework that is expected of a project this large and complex. What has become evident through the Special Inquirer’s hearings with various agencies involved in the project is that the risk identification process was too narrow and did not adequately highlight the whole of project risks to the Stadium Master Plan.

The most recent project Gateway Review of readiness for service, completed in October 2017, noted that “Interviewees stated that an update of the Plan is not currently scheduled” and that

“...a large number of risks do not have Treatment Action Plans and a number of risks with Treatment Action Plans do not include action owners or due dates. It is unclear to the Review Team that major risks are being...”

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180 Ibid., 6.
181 Ibid. 7.
182 Ibid., 5.
actively managed to resolution nor whether high risk treatments are actively reviewed and progressed within key governance forums.”

Heightened risks (i.e. rated level 10 and above) are being reported to the PSSC [Perth Stadium Steering Committee] in accordance with the Risk Management Plan. However, the requirement under the Plan that the effectiveness of treatment actions be agreed by the PSSC is not occurring.”

Specific recommendations from the Gateway Review related to risk management included the following.

- The Perth Stadium Steering Committee reviews high-rated risks and validates the effectiveness and progress of the proposed treatment actions. (Red).
- Actively manage the risks and develop:
  - risk treatment actions;
  - risk treatment action owners;
  - due dates for treatment close-out;
  - progress on treatment actions; and
  - feedback on risks and treatment actions from governance forums. (Amber).

VenuesWest’s Procurement Plan states that “... the DBFM procurement model does not include the venue operations, and hence the revenue risk for the operating Stadium remains within Government.”

**COSTS AND BENEFITS REALISATION — TOTAL PROJECT**

**Key revenue assumptions underpinning the project**

The Stadium Project Definition Plan noted to Cabinet that according to the developed business model, overall returns expected to be generated by the stadium would be sufficient to meet its whole-of-life costs. Details regarding potential hiring charges of shares of revenue arrangements with sporting codes were, however, identified as requiring further analysis and review.

“Up to this stage there is no indication that either the AFL [Australian Football League] or the Federal Government will make any significant contribution towards the cost of the construction of the stadium. The neighbouring Burswood Casino is not expected to contribute financially or otherwise, to the project either.”

The key revenue assumptions underpinning the recommendation appear to be based on an estimated net return from Australian Football League matches of approximately $50 million, with annualised whole of life costs and management fees of approximately $16 million.

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183 Ibid.
184 Ibid.
185 Ibid.
186 VenuesWest, Stadium Operator Procurement Plan, 16 February 2015, 6.
The Special Inquirer notes the recent 29 October 2017 User Agreements between the State and the Australian Football League and West Australian Football Commission. In 2012 Cabinet was asked to approve capital funding for the stadium prior to an agreement with the Australian Football League and West Australian Football Commission. This approach meant the revenue assumptions were not robust at the time and could not be relied upon with a high level of certainty.

**Budget forecasts versus actuals**

As highlighted previously, cost issues have arisen on the stadium design, build, finance, and maintain project, as noted in the June 2017 report to the Government. The stadium project is $31 million over budget.\(^\text{188}\) It is recognised, however, that this settlement presented value for money to the State and increased the likelihood of achieving an earlier commercial acceptance date of 31 December 2017.\(^\text{189}\)

This is in addition to the $10.8 million\(^\text{190}\) scope change for information and communications technology network, wireless local area network and other related infrastructure not initially included within the capital budget. The scope change was included as a result of finalising the project brief for the stadium and sports precinct design, build, finance and maintain project request for proposal. This scope change formed part of a budget adjustment which was approved in December 2014.\(^\text{191}\) Due to the structure of the contract with Westadium the amount attributable to the State Budget was $6 million (or approximately 60 per cent).

In addition, there have been increases in anticipated expenditure for transport infrastructure components and redistribution of funding within the budget. This has resulted in a $59.6 million increase to the 2012 Stadium Transport Infrastructure Project Definition Plan budget, resulting in a new forecast total of $418.2 million to complete the project.\(^\text{192}\)

The broad changes to the project budget are outlined in the table below, which includes the initial 2011 estimates, the 2012 confirmed budget following detailed planning and the current 2017 forecast to complete the project.

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189 Ibid., 19.
190 Perth Stadium Steering Committee, Meeting Agenda August 2013: Strategic Projects – Project Director’s Report, (August 2013), 47.
191 Department of Finance, response to Special Inquiry questions on notice, received 14 September 2017.
192 Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.
### Table 3: Perth Stadium Project Capital Budget Progression 2011 – 2017

<table>
<thead>
<tr>
<th>STADIUM WORKS&lt;sup&gt;193&lt;/sup&gt;</th>
<th>2011 ($ million) unescalated</th>
<th>2012 ($ million)</th>
<th>2017 FORECAST ($ million)</th>
<th>PERCENT CHANGE FROM 2012 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stadium (2012 figure includes escalation)</td>
<td>694&lt;sup&gt;194&lt;/sup&gt;</td>
<td>700&lt;sup&gt;195&lt;/sup&gt;</td>
<td>820.7</td>
<td>4</td>
</tr>
<tr>
<td>Precinct (includes escalation)</td>
<td>81.7</td>
<td>81.7</td>
<td>81.7</td>
<td>0</td>
</tr>
<tr>
<td>Project Management</td>
<td>16</td>
<td>16</td>
<td>16</td>
<td>0</td>
</tr>
<tr>
<td>TRANSPORT INFRASTRUCTURE WORKS</td>
<td>300&lt;sup&gt;196&lt;/sup&gt;</td>
<td>371.3&lt;sup&gt;197&lt;/sup&gt;</td>
<td>418.2&lt;sup&gt;198&lt;/sup&gt;</td>
<td>12.6</td>
</tr>
<tr>
<td>Stadium Rail and Roads Project</td>
<td>229.7</td>
<td>229.7</td>
<td>229.7</td>
<td>0</td>
</tr>
<tr>
<td>Swan River Pedestrian Bridge</td>
<td>54.1</td>
<td>54.1</td>
<td>54.1</td>
<td>0</td>
</tr>
<tr>
<td>Contingency</td>
<td>14.2</td>
<td>14.2</td>
<td>14.2</td>
<td>0</td>
</tr>
<tr>
<td>Escalation</td>
<td>41.2</td>
<td>41.2</td>
<td>41.2</td>
<td>0</td>
</tr>
<tr>
<td>Project Management</td>
<td>19.4</td>
<td>19.4</td>
<td>19.4</td>
<td>0</td>
</tr>
<tr>
<td>Associated traffic works&lt;sup&gt;199&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PROJECT DEFINITION PLAN VARIATIONS**

- Stadium scope changes (ICT, WiFi, etc.) | 6<sup>200</sup>
- Stadium: commercial settlement on extension of time claims and contingency | 31<sup>201</sup>
- Transport<sup>202</sup> | 46.9<sup>203</sup> |
- Sub total | 83.9 |

**Total** | 1 000 | 1 289.7 | 1 373.6 | 7.1 |

**DBFM OPERATING COSTS OVER 25 YEARS**

- Stadium (DBFM) Facilities Management and Lifecycle Costs | 447.2<sup>204</sup> |
- Stadium Design and Build (DBFM) Private Finance Interest costs | 463.8<sup>205</sup> |

**Total Stadium Construction and Maintenance Costs (excluding DBFM finance costs<sup>206</sup>), and Transport Construction Costs** | 1 820.8 |

**ESTIMATED ONGOING OPERATIONAL COSTS**

<table>
<thead>
<tr>
<th>Public Transport and Traffic Management Operational Costs&lt;sup&gt;207&lt;/sup&gt;</th>
<th>AVERAGE PER ANNUM ($ MILLION 2017)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.2</td>
</tr>
</tbody>
</table>

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<sup>193</sup> External funding from BHP Billiton and Chevron Australia have been excluded for development of a boardwalk and amphitheatre, and for developing a rehabilitated parkland along the Swan River foreshore respectively.

<sup>194</sup> Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 74.

<sup>195</sup> Perth Stadium Steering Committee, Meeting Agenda August 2017: Strategic Projects – Project Director’s Report, (August 2017), 64.

<sup>196</sup> Government of Western Australia Media Statement, Major new stadium to be built on Burswood Peninsula, 28 June 2011. Note, this was an unescalated estimate based on the cost planning work of the 2007 Stadium Taskforce.

<sup>197</sup> Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, (September 2012), 18. Note, this was also an unescalated estimate cost.

<sup>198</sup> Public Transport Authority, Perth Stadium Transport Project Definition Plan, (December 2012), 92.

<sup>199</sup> Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.

<sup>200</sup> External funding for works by Burswood Park Board and Golden River Developments.

<sup>201</sup> Department of Finance, response to Special Inquiry questions on notice, received 14 September 2017.

<sup>202</sup> Government of Western Australia, 2017-18 State Budget Paper Number 3, (September 2017), 195.

<sup>203</sup> Transport variation is inclusive of a $2.6 million incentive payment included as part of the renegotiated Swan River Pedestrian Bridge head contract to encourage the contractor to achieve the previous completion date of March 2018 (per Government Media Statement released 23 June 2017). Given the bridge is now understood to be delivered in May 2018 (Government Media Statement released 23 November 2017), this incentive payment is now understood to be not applicable.

<sup>204</sup> Public Transport Authority, informal response to Special Inquiry questions on notice, received 11 December 2017.

<sup>205</sup> VenuesWest, response to Special Inquiry questions on notice, received 17 October 2017.

<sup>206</sup> VenuesWest, response to Special Inquiry questions on notice, received 17 October 2017.

<sup>207</sup> DBFM Interest costs have been included as part of the $955.4 million Stadium budget figure. Finance interest costs related to the State capital contribution has been excluded.

The Special Inquirer notes that the stadium and transport infrastructure budgets included in the above table are cumulatively accurate. Due to the redistribution of funding between project delivery budgets consistent with other major projects, however, the tracking of individual project components against their original budget has proved challenging. One such example is the redistribution of approximately $22 million in funding for the Stadium Bus Hub from the Public Transport Authority capital account to VenuesWest and the Public Transport Authority Operational budget.209

On 11 December 2017, the Public Transport Authority stated to the Special Inquirer that it considered it appropriate to exclude the disability upgrade works ($13.7 million) and rail resilience works ($4.56 million) at the East Perth train station from the 2017 forecast to complete the stadium project as “...this work was undertaken concurrently with the East Perth rail infrastructure works that were required for the Stadium Project in order to achieve program opportunities and to reduce the impacts of disruption on passengers.”210 The Special Inquirer has formed the view however, that these works were instigated as a result of the stadium works and are a reasonable inclusion towards the full cost of the stadium.

As previously mentioned in the Transport Infrastructure evaluation section of this chapter, the Government recently approved a revised user charging policy for the Perth Stadium resulting in only cricket and football events receiving the 50 per cent Government contribution for public transport and traffic management. The State will therefore only pay $6 188 000 per calendar year for these 28 events with all other users being required to pay $442 000 per event for these services.211

Ongoing cost implications — Public transport subsidy

As previously stated and outlined in the table below, the Public Transport Authority has advised the Special Inquirer that as a result of stadium events it is anticipated that its operating subsidy will increase by an average of $6.54 million over four years212

Table 4: Public Transport Authority Projected Perth Stadium Events Operational Subsidy Funding Requirement 2017-18 to 2020-21213

<table>
<thead>
<tr>
<th>FINANCIAL YEAR</th>
<th>FORECAST DIRECT OPERATIONAL COST INCREASE ($ million)</th>
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<td>14.617</td>
<td>7.308</td>
</tr>
<tr>
<td>2020/21</td>
<td>14.756</td>
<td>7.318</td>
</tr>
<tr>
<td>Total</td>
<td>53.441</td>
<td>26.15</td>
</tr>
</tbody>
</table>

209 Public Transport Authority, response to Special Inquiry questions on notice, received 30 October 2017.
210 Public Transport Authority, informal response to Special Inquiry questions on notice, received 11 December 2017.
211 Department of Transport, Informal response to Special Inquiry questions on notice, received 15 December 2017.
212 Note: calculation by Special Inquiry based on figures provided in Table 2.
213 Public Transport Authority, response to Special Inquiry questions on notice, received 27 September 2017.
In addition, traffic management services will also be required to support stadium capacity events. As at August 2017, this was estimated to be in excess of $1 million per annum.\textsuperscript{214} These services would broadly include signage, traffic control, lighting and video surveillance, crowd control, security and towing services.\textsuperscript{215} The Special Inquirer notes that an additional funding submission will be required for this funding once Main Roads has undertaken further analysis.\textsuperscript{216}

**Operating component**

Based on the information provided by VenuesWest to the Special Inquirer, the net operating position for the stadium is expected to be close to break even, a more favourable result, when compared to other venues operated by VenuesWest.

Specifically, an average annual net operating shortfall of $0.084 million is expected. Over 25 years this results in a total shortfall of $2.08 million.\textsuperscript{217} Importantly, the funding of facilities upgrade and maintenance costs over 25 years is included within this figure.\textsuperscript{218} The financial model provided to the Special Inquirer includes the undisclosed naming rights revenues.

The abovementioned operating position, as at October 2017, does not include the DBFM lease liability ($423 million\textsuperscript{219}) and associated interest repayment costs over 25 years for which VenuesWest is also liable as the asset owner.\textsuperscript{220} The inclusion of these costs significantly impacts the whole of government cost of the stadium.

In determining a consolidated ongoing cost to the State (as at October 2017), the following has been taken into account.

\textsuperscript{215} Ibid.
\textsuperscript{216} Ibid., 19.
\textsuperscript{217} VenuesWest, response to Special Inquiry questions on notice, received 17 October 2017.
\textsuperscript{218} Ibid.
\textsuperscript{219} Ibid.
\textsuperscript{220} VenuesWest, Special Inquiry Hearing, 3 October 2017.
Table 5: Consolidated ongoing costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Average Per Annum ($ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The net operating position shortfall (services only)221</td>
<td>0.1</td>
</tr>
<tr>
<td>The DBFM lease liability and associated interest repayment costs over 25 years222</td>
<td>35.5</td>
</tr>
<tr>
<td>Public transportation subsidy increase and traffic management costs223</td>
<td>6.2</td>
</tr>
<tr>
<td>Total</td>
<td>41.8</td>
</tr>
</tbody>
</table>

The ongoing average liability to the State (at least for the first 25 years of operation) is estimated to be approximately $42 million per annum (as of October 2017), noting that the Stadium operating position and transport costs are likely to be refined following the first full year of operations.

TRANSPARENCY

Ministerial involvement and advice

Throughout this project, the level of communication with the Minister with respect to the project’s progress has been disjointed. The former Minister for Sport and Recreation advised the Special Inquirer that there were regular briefings on the project. In contrast, the former Minister for Transport appeared not to have been briefed adequately by his departments, both with respect to the timeliness of information and the lack of specificity.

Commercial-in-confidence claims

During 2014 and 2015, the former Minister for Sport and Recreation declined three requests to provide information to Parliament regarding the design, build, finance and maintain contract with Westadium, citing commercial-in-confidence as the justification.

In August 2015, the Auditor General completed an examination of the decision by the then Minister for Sport and Recreation not to provide the requested information to Parliament. In undertaking this examination the Auditor General used the following commercial-in-confidence criteria.

1. If the information is commercial-in-confidence to a commercial counterparty, it must be specifically identified.

221 VenuesWest, response to Special Inquiry questions on notice, received 17 October 2017. Note, these figures are rounded and are based on 2015 dollars.
222 Ibid. These figures are based on 2015 dollars. Finance interest costs related to the State capital contribution has been excluded.
223 Department of Transport, Informal response to Special Inquiry questions on notice, received 15 December 2017. Note this is based on 28 football and cricket capacity events per annum.
2. The information must be "commercially sensitive". This means that the information should not generally be known or ascertainable.
3. Disclosure would cause unreasonable detriment to the owner of the information or another party.
4. The information was provided under an understanding that it would remain confidential.

While the Auditor General was unable to form an overall opinion on whether the Minister’s decisions were reasonable and appropriate, he stated that three of the four commercial-in-confidence criteria were met but he was unable to conclude on one criterion — whether disclosure would cause unreasonable detriment to the owner of the information or another party.

This commercial-in-confidence criterion was specifically attributed to the request to provide information on the annual payments to be made to Westadium over the 25 year term of the contract. The Auditor General noted that “it was unclear to us why this information should remain confidential for the full term of the contract.”

The Special Inquirer notes, however, that this information was publicly released and is currently available from the Department of Treasury’s website.

Between late 2014 to early 2015, following the execution of the DBFM Project Agreement with Westadium, questions were submitted three times to the Minister for Sport and Recreation in Parliament seeking information on various aspects of the design, build, finance and maintain contract, including:

- Westadium’s anticipated internal rate of return;
- Westadium’s total cost of capital;
- expected income from revenue-generating opportunities to be managed by Westadium; and
- annual payments by the State to Westadium.

The Auditor General advised that “In all three cases the Minister decided that the information sought was commercial-in-confidence and would not be provided.” The decision not to release information to Parliament was examined by the Auditor General in August 2015. The Auditor General was unable to form an opinion due to an inability to review legal advice provided to the Department of Sport and Recreation by the State Solicitor’s Office.

**RECORD KEEPING**

The Special Inquirer has been provided with all documents requested from Strategic Projects, the Department of Local Government, Sport and Cultural Industries, the Public Transport Authority, Main Roads and VenuesWest.

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224 Office of the Auditor General, Report 19 Opinions on Ministerial Notifications, [August 2015], 10.
With respect to the Public Transport Authority, however, there appeared to be an issue of an overreliance on individual corporate knowledge when seeking records of formal advice provided to the Government in consideration of the transport implications for different location options for the Perth Stadium. As mentioned previously, the Special Inquirer is of the view that this is reflective of deficiencies in records management and knowledge transfer within the Authority.

FINDINGS

1. The 2011 decision to build the Perth Stadium at Burswood for a cost of $700 million was announced prior to comprehensive planning being undertaken.
2. Ultimately, the project planning for the Perth Stadium was comprehensive and included a well considered “fans first” principle which guided decision making and the delivery of all aspects of the project. The 2012 revised budget of $918.4 million has proven reliable.
3. The “one team” approach to locate State agency project management teams together and in close proximity to the major construction contractor worked well in the delivery phase of the project.
4. The Perth Stadium is scheduled for commercial acceptance on 31 December 2017, several months ahead of its initial date and close to its projected budget.
5. Excluding the planning and delivery of the Swan River Pedestrian Bridge, the project as a whole has been delivered in line with expected timelines and is a high quality development.
6. The governance structure and associated arrangements for the Perth Stadium have been effective.
7. No communication protocols were agreed between the Perth Stadium Steering Committee and the Perth Stadium Transport Infrastructure Steering Group and this led to ambiguity in reporting. This was a major flaw. Subsequent frustration with the adequacy of progress reports from the Perth Stadium Transport Infrastructure Steering Group have proven impossible to correct.
8. Risk assessment was part of the Perth Stadium Transport Infrastructure Steering Group’s (Steering Group) oversight of the rail, bus and bridge components of the project. The visibility of risk assessment outputs, however, were not clearly evident in any reporting to the Steering Group and Perth Stadium Steering Committee. The Steering Committee underestimated the risks with the Swan River Pedestrian Bridge’s construction, in part, due to the lack of comprehensive risk reporting by the Transport Portfolio. Failures with the delivery of the Swan River Pedestrian Bridge has had project wide implications and were part of significant financial claims by the contractors.
9. Failure to manage effectively the delivery of the Swan River Pedestrian Bridge has exposed the State to compensation claims, additional operating costs and reduced revenues for the Perth Stadium (at least in the short term).
“Once the contract was awarded to Bianco Engineering Services - Toyota Tsusho to construct the bridge in Malaysia, the fate of the project was sealed. At that point, the State lost control of the project and lost sight of the progress made on the project.”

John Langoulant, Special Inquirer

The contract was awarded in March 2015, in plenty of time for the planned opening of the Stadium in early 2018. The Government announced in June 2015 that the project would cost $54.12 million.

From the start timelines began to slip. Due to the failure of Main Roads working effectively with other stakeholders in the early stages, the planned location of the bridge had to be changed resulting in added costs.

Poor project management resulted in significant cost overruns and delays. The fact that the steel spans for the bridge were to be made in Malaysia added to the problems, as the State lost sight of the progress made on the project.

Despite the contractual arrangements changing to provide improved collaboration, Main Roads’ level of collaboration with other government agencies still needs significant improvement.

The original completion date was December 2016. The most recent target date — after the decision to replace the Malaysian supplier with a local firm — is May 2018.

The most recent cost estimate is $91.5 million as at July 2017.
SUMMARY

The new Perth Stadium based on the Burswood Peninsula was designed with key elements of transport infrastructure incorporated into the master plan. One of the vital components of infrastructure that was required to assist the movement of people out of the immediate stadium precinct was the Swan River Pedestrian Bridge.

Public expectations led from government announcements were that the bridge would be completed and open for public use by the end of 2016, well before the commencement of stadium operations.

Oversight of the bridge’s construction was allocated to Main Roads Western Australia. While proficient in building roads, Main Roads had limited recent experience in constructing a steel pedestrian bridge. The main contractor selected for the task, a joint venture entity, had a limited track record with Main Roads and even less so in the case of the sub-contractor chosen to build the steel framework for the bridge at a Malaysian steel yard.

The first part of the steel framework was due in Perth in July 2016. In October 2016, news emerged that the bridge would be delayed. By early 2017 work had ceased due to legal issues between the sub-contractor and the owner of the Malaysian steel yard.

In June 2017 the Government announced that the bridge would be manufactured in Perth and in November announced it would be open in May 2018.
PROJECT SYNOPSIS

On 28 June 2011, the previous Government announced that Perth’s new major stadium would be built on the Burswood Peninsula. The media statement referred to the creation of “a master plan for the stadium precinct, including a decision on the exact location and a detailed costing of the project.”

The cost of the transport projects was set at $300 million.

Following a planning period of more than 12 months, the Perth Stadium Project Definition Plan was publically released in September 2012. This was followed in December 2012 by the Perth Stadium Transport Project Definition Plan, which included a pedestrian bridge across the Swan River from the plaza level of the new stadium to a landing point in East Perth.

The Perth Stadium Project Definition Plan developed in 2012 set out the governance arrangements for the stadium development. It included a steering committee to oversee the stadium building and a separate steering committee to undertake the public transport components, including the pedestrian bridge. This separate committee, called the Project Control Group — Transport Delivery, was chaired by the Department of Transport’s Director General and included representation from:

- Main Roads;
- Strategic Projects;
- the Department of Transport;
- the Department of Sport and Recreation;2 and
- the Department of Planning³.

A state project team was formed, initially including the Department of Treasury - Strategic Projects (now Department of Finance - Strategic Projects) and the Department of Sport and Recreation and later VenuesWest. This group formed a “One Team” approach which oversaw the development of the stadium building. Neither the Public Transport Authority nor Main Roads accepted invitations to join this group.

In April 2014, the Public Transport Authority and Main Roads made amendments to the stadium governance structure below the Perth Stadium Steering Committee. The two transport entities established a Perth Stadium Transport Infrastructure Steering Group, formerly known as the Project Control Group - Transport Delivery, to be chaired by the Public Transport Authority. This was formalised in May 2014 when the Public Transport Authority and Main Roads entered into a memorandum of understanding (MoU). This MoU outlined the roles and responsibilities of each agency in the delivery of the transport elements of the stadium transport infrastructure.

1 Government of Western Australia Media Statement, Major new stadium to be built on Burswood Peninsula, (28 June 2011)
2 The Department of Sport and Recreation became part of the Department of Local Government, Sport and Cultural Industries on 1 July 2017.
3 The Department of Planning became part of the Department of Planning, Lands and Heritage on 1 July 2017
Main Roads undertook procurement activities for a design and construct contract. It was their view at the time that the complexity of the project did not warrant the use of an alliance contract arrangement. Main Roads advised that this arrangement was preferred for more complex projects. The procurement was undertaken in three stages:

1. an initial expression of interest stage;
2. a request for proposal stage from shortlisted proponents; and
3. a contract development stage.

The request for proposal was issued on 6 June 2014. It specified the maximum contract value for the bridge at $50 million. Subsequently, the Minister for Transport approved an overall budget cap of $55 million subject to the additional funding required being identified within the transport project budget.

On 12 March 2015 the Minister for Transport approved the selection of York Rizzani de Eccher Joint Venture as the preferred proponent. The evaluation panel included:

- the former Governor of Western Australia and former Commissioner of Main Roads Dr Ken Michael AC;
- University of Western Australia Professor of Architecture Professor Geoffrey London;
- senior representatives from Main Roads; and

No representatives from the stadium project group were included on the panel. Formal contracts were signed on 25 May 2015.

In his announcement on 7 June 2015, the Premier stated that the Swan River Pedestrian Bridge would cost $54.12 million and be completed by the end of 2016.

In September 2015, just a few months after signing contracts, the State made a major variation to York Rizzani de Eccher’s contract. This variation was for moving the landing point of the bridge on the Burswood side of the river. The landing point was moved 19 metres south to better complement pedestrian access plans for the stadium. This variation resulted in a protracted extension of time claim by York Rizzani de Eccher and an extension of time claim by Brookfield Multiplex under the design, build, finance and maintain contract for Perth Stadium.

In mid-2016, York Rizzani de Eccher appointed sub-contractors Bianco Engineering Services — Toyota Tsusho Joint Venture, a steel manufacturing company, to construct the bridge decking and design features.

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4 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 64.
5 Main Roads Western Australia, new Perth Stadium Swan River Pedestrian Bridge Project Request for Proposals, (6 June 2014), 3.
6 Main Roads Western Australia, Briefing Note to the Minister for Transport – Selection of Preferred Respondent, (18 December 2014).
7 Main Roads Western Australia and York Rizzani De Eccher Joint Venture, Swan River Pedestrian Bridge Design and Construct Project Deed, (25 May 2015).
8 Government of Western Australia Media Statement, Premier reveals design for stadium footbridge, (7 June 2015).
This appointment was approved by Main Roads. Bianco Engineering Services — Toyota Tsusho’s bid included that the bridge would be constructed in Malaysia and resulted in construction of the bridge’s steel structure being undertaken offshore. At the time of appointing Bianco Engineering Services -Toyota Tsusho, the first component of the bridge structure was expected to be in Perth in July 2016 and the second in August 2016, consistent with a December 2016 completion date for the bridge.

Despite the considerable delays which had occurred between the request for proposals in June 2014 and the appointment of Bianco Engineering Services -Toyota Tsusho almost two years later, no change was made to the proposed completion date for the bridge for the end of 2016. Parties appeared to have a false sense of comfort that the “float” between the scheduled completion of the bridge and the Perth Stadium opening was more than sufficient.

As the bridge was being constructed in Malaysia, Main Roads decided to appoint specialist welding experts from the Welding Technology Institute of Australia to oversee the quality of the work. They were appointed in April 2016.9

During the period between contracts being finalised with York Rizzani de Eccher in May 2015 and October 2016, the transport steering group received written briefings from Main Roads at every meeting on the progress made with the development of the bridge. From the material provided to the Special Inquirer these briefings were in a pro-forma format, provided high level details and were brief in content. The briefings were provided to the transport steering group through the Public Transport Authority. The Department of Transport’s Director General would also brief the Perth Stadium Steering Committee, principally from these same documents.

Virtually all of the briefings provided by Main Roads until October 2016 were positive about the progress made with the steel construction. The only exception noted by the Special Inquirer was a progress report provided to the Transport Steering Group in April 2016, eight months prior to the proposed completion date for the bridge which said that:

“The structural steel contract has been awarded to BES TT [Bianco Engineering Services - Toyota Tsusho] with the first delivery arriving on 24 July 2016 and the second on 20 August 2016 from Malaysia. The drawings are still being produced with no manufacturing happening in Malaysia as yet, which is a major program risk.”10

9 Main Roads Western Australia, Internal memo - Request for Approval to issue a Variation to Contract, (16 January 2017).
10 Emphasis added
Independent advice has been sought on the program for the fabrication of the steel and it is ambitious but achievable.”¹¹

The October 2016 briefing by Main Roads advised that staff at the agency

“are updated regularly and currently the first shipment is looking to be delivered on 2 January [2017], with the second shipment [wishbone section] due on the 7 February 2017. Assembly will take approx. two weeks, reality is six weeks.”¹²

This amounted to a delay in the delivery of the project by up to six months. Despite these delays the budget of $54 million remained unchanged.

Despite this news there was no Government announcement that the bridge would miss its opening date at the end of 2016.

Main Roads advised the Special Inquirer that staff decided to visit the Malaysian site in November 2016. It was assessed that the delays were attributable to the set up time in Malaysia being underestimated and the length of time required for the complex welds also being underestimated.

In December 2016 Main Roads reported for the first time that the project was in difficulty. In January 2017, news emerged that the Malaysian steel fabrication site had been sold to Korean interests and that Bianco Engineering Services - Toyota Tsusho had been locked out of the site for a month. While access improved in February 2017, progress on the bridge was slow.

The Special Inquirer noted that no Perth Stadium Transport Infrastructure Steering Group meetings occurred between 18 October 2016 and 21 February 2017.

Despite the reported problems, Main Roads briefing notes provided to the transport steering group continued to report that the project would be completed later in 2017.

On 25 June 2017 the McGowan Government announced that the Swan River Pedestrian Bridge would be built locally and that the renegotiated contract with York Rizzani de Eccher would include financial penalties for late completion. It was also stated that the revised budget for the entire project was $80.4 million, with an extra $2.6 million payable once the target completion date was met.

On 23 November 2017 the Government announced the completion timeframe had been moved out to May 2018 and that the design of the bridge had been changed to remove the fabric covering the arches.¹³

The Swan River Pedestrian Bridge has been officially named the Matagarup Bridge.¹⁴

¹¹ Perth Stadium Transport Infrastructure Steering Group, Minutes of Meeting No. 19, (19 April 2016), 4.
¹² Perth Stadium Transport Infrastructure Steering Group Meeting, Minutes of Meeting, No. 22, (18 October 2016), 3.
¹³ Government of Western Australia Media Statement, Revised bridge design to showcase locally built arches, (23 November 2017)
¹⁴ Government of Western Australia Media Statement, Matagarup Bridge a permanent tribute to traditional owners, (26 November 2017)
EVALUATION OF THE PROJECT

Governance arrangements

The governance arrangements for the stadium project and the transport projects are shown in Figure 1. Three Ministers were directly accountable for the project. Further, a Parliamentary Secretary was a member of the Perth Stadium Steering Committee and reported to the Premier.

As explained previously, the governance arrangements involved a steering committee for the stadium and a transport steering group which was responsible for managing the development of the new transport infrastructure associated with the stadium’s operations. The Perth Stadium Steering Committee is discussed in greater detail in the Special Inquirer’s report on Perth Stadium. Membership comprised representatives from:

- Strategic Projects;
- the Department of Sport and Recreation;
- the Department of the Premier and Cabinet;
- the Department of Transport;
- the State Solicitor’s Office;
- the Department of Finance;
- the Department of Planning;
- VenuesWest; and
- the Burswood Park Board.

The transport steering group’s members were from:

- the Public Transport Authority;
- the Department of Transport;
- VenuesWest;
- the Department of Sport and Recreation;
- the Town of Victoria Park;
- the Metropolitan Redevelopment Authority;
- Strategic Projects;
- Main Roads; and
- the Department of Planning.

The agencies represented on these committees were largely the same, although the members of the stadium steering committee were at Director General level. With the exception of the Department of Transport’s Director General, the members of the transport steering group were of lower seniority.
The entire stadium project was an integrated plan and its success relied on all parts of the project being developed in lock-step. During his hearing with the Special Inquirer, the Strategic Projects' Executive Director said that the transport steering group was established because the Department of Transport’s Director General at the time had concerns. The concern of Department of Transport’s Director General was that given the project’s size, scale and complexity, the transport infrastructure would get lost in translation. The Department of Transport’s Director General’s view was that his chairing a steering group below the Perth Stadium Steering Committee focussing solely on the transport infrastructure and then reporting issues by exception to the steering committee, would be better and less risky governance structure. The steering group was actually

\[15\] Department of Treasury (Strategic Projects and Asset Sales), Perth Stadium Project Definition Plan, [August 2012], 105.
established to manage the sort of risk that has arisen.\textsuperscript{16}

This explains why, despite the bridge being identified in all planning documentation as an “integral” or “key” part of the stadium, the decision was made to allow the Transport portfolio to manage its delivery.

As it transpired, the Department of Transport’s Director General, along with a representative from the Public Transport Authority, briefed the stadium steering committee on progress of all of the transport projects, including the bridge. Main Roads and York Rizzani de Eccher separately briefed the stadium steering committee directly only once during the life of the project and Main Roads’ officers were only in attendance at three steering committee meetings between 2012 and August 2017.

While the transport steering group was an independent body, there was a clear view — confirmed by the Department of Sport and Recreation’s former Director General and the Strategic Projects Executive Director — that it performed the role of a sub-committee to the stadium steering committee.

While these arrangements seem reasonable in theory, the committees did not work well together and approached their tasks differently. The transport steering group primarily received updates from the Public Transport Authority and Main Roads on the progress of their respective projects, whereas the stadium steering committee was more interactive and decision oriented. Further, the Special Inquirer was not provided any documentation which established that the transport steering group developed a register of risks associated with the delivery of the transport projects, including the bridge. The Perth Stadium Project’s Director said there was no resemblance between the two committees. It was noted that the transport steering group did not make decisions but it was more an opportunity for information exchange. At the hearing with the Special Inquirer, the Department of Local Government, Sport and Cultural Industries noted that: “it would have been very handy to have a reporting [arrangement] like [in] other jurisdictions to the one Steering Committee.”

The Special Inquirer observed that despite the transport steering group sitting below the steering committee, no reporting protocols were established between the two. The Special Inquirer finds this surprising especially given that the detail, quality and reliability of the briefings provided to the stadium steering committee were major issues of concern to its members. The Department of Sport and Recreation’s Director General said the most concerning aspect was that the briefings were unreliable, stating that:

“We [received] plenty of one paragraphs and then [in response to our questions] we got plenty of explanations... But you would then find out that the reports of a delay in the project completion date was actually due to the fact that they have been locked out for two months but they [the sub-contractor] haven’t told us that.”\textsuperscript{17}

Within the Transport portfolio there was clear segregation in roles between agencies. The Public Transport Authority was given “control” of the budget for all of the transport infrastructure works. The memorandum of understanding between Main Roads and the Public Transport Authority specified the work Main Roads was

\textsuperscript{16} Department of Finance (Strategic Projects), Special Inquiry Hearing, 20 October 2017.
\textsuperscript{17} Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 3 October 2017, 37.
to undertake and the reporting arrangements that would apply. This work included:

- the development of Victoria Park Drive;
- the traffic bridge across the railway lines;
- the Swan River Pedestrian Bridge; and
- the bus stands at Nelson Avenue in East Perth.

While the Public Transport Authority was placed in the governance role, it did not have authority over Main Roads. Further, it also seems apparent that the Public Transport Authority asked few questions regarding the progress Main Roads was making on its projects.

When asked by the Special Inquirer as to why a memorandum of understanding was required, the Public Transport Authority said that:

“...the purpose of this agreement was to put in place a formal arrangement between government agencies, but so that they reported up to us [Public Transport Authority] so we had a mechanism to manage Main Roads...”

“...[It] was the mechanism by which we had Main Roads who were dealing with all of the people on both sides of the river and we needed to assure ourselves so we could report up to the managing director and our Steering Committee that the project was going well, but that was nothing - we had no role inside the contract.”

**PROCUREMENT**

The panel which was formed to assess the bids for the contract to develop the bridge consisted of eminently qualified people. That it did not include a representative from the stadium project team would, however, prove to be a weakness.

The Special Inquirer has no issue with the process applied by the panel to select York Rizzani de Eccher. York Rizzani de Eccher had the highest score among the proponents in the non-price assessment and also provided the lowest cost bid. The cost difference between York Rizzani de Eccher’s successful bid and the next proponent was $35 000. The “Imported Content” included in York Rizzani de Eccher’s bid was disclosed as $1 473 027. The other proponents had “Imported Content” of between $3.4 million and $10 million.

The sub-contractors within York Rizzani de Eccher’s bid were not finalised at the time the bid was evaluated. Main Roads alone had contractual responsibility to approve the sub-contractor recommended by York Rizzani de Eccher.

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18 Public Transport Authority, Sport and Cultural Industries, Special Inquiry Hearing, 3 October 2017, 10.
19 Ibid., 11.
20 Main Roads Western Australia, Swan River Pedestrian Bridge Selection of the Preferred Proponent Report and Recommendations, (November 2014), 5.
The principal issue of concern in the procurement process arose with the selection of Bianco Engineering Services - Toyota Tsusho as the sub-contractor. York Rizzani de Eccher oversaw this decision from a wide field of bids. Main Roads approved the appointment but no other State government agency was consulted. The Special Inquirer was advised by Main Roads that there was a substantial cost differential between the selected sub-contractor. No documentation specifying the difference was provided to the Special Inquirer. A submission to the Special Inquirer from the Chamber of Commerce and Industry of Western Australia suggested that the price difference was “in the order of $1.5 million”.21

The Special Inquirer has no issue with Bianco Engineering Services - Toyota Tsusho. Its appointment, however, was a major departure from York Rizzani de Eccher’s original intention in terms of the proportion of the project that was to be fabricated offshore. From a position of having the smallest imported component in the contract bid, the appointment of Bianco Engineering Services - Toyota Tsusho meant that the whole project would be manufactured offshore. Neither Main Roads nor the Public Transport Authority expressed any concern with this decision.

The appointment of Bianco Engineering Services - Toyota Tsusho also meant that the risk profile of the project increased considerably, yet no one seemed to recognise this development. Main Roads had not worked previously with York Rizzani de Eccher as a joint venture and Bianco Engineering Services - Toyota Tsusho was not known to Main Roads. Bianco Engineering Services - Toyota Tsusho had bid on the basis of using a steel fabrication workshop in Malaysia. While Main Roads had concerns with the quality of welding in Malaysia and appointed quality overseers, it did no more to oversee the project. The Special Inquirer understands that Main Roads relied totally on the contractor to keep Main Roads informed of progress on the bridge. As stated by the Main Roads’ Acting Managing Director to the Special Inquirer: “...his training was you didn’t come between the contractor and the sub-contractor.”22 This issue would prove to be a fatal flaw in the management of this contract.

Once the contract was awarded to Bianco Engineering Services - Toyota Tsusho to construct the bridge in Malaysia, the fate of the project was sealed. At that point, the State lost control of the project and lost sight of the progress made on the project.

**Capped price contract**

The initial budget identified for the bridge during the development of the Perth Stadium Transport Project Definition Plan was approximately $85 million.23

The contract cap price of $50 million to design and construct the bridge was not substantiated by any financial modelling to support the view that $50 million was a reasonable cap price. At its hearing with the Special Inquirer, the Public Transport Authority advised that the initial estimate for the bridge

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21 Chamber of Commerce and Industry, written submission to the Special Inquirer, (8 June 2017).
22 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 41.
23 Main Roads Western Australia, response to Special Inquiry questions taken on notice, received 18 September 2017.
was approximately $70 million to $75 million but the
Government set the cap at $50 million.24 Ironically, this is
closer to where the final cost for the bridge will land.

At $91.5 million, the current estimated budget for the bridge
is nearly double that of the original budget approved by the
Minister for Transport on 12 March 201525.

Local content impost and industry
participation plans

When the bids were assessed, the local content impost was
minimal for York Rizzani de Eccher’s bid. This was not a true
reflection of the arrangement which York Rizzani de Eccher
entered into with Bianco Engineering Services - Toyota
Tsusho for the fabrication of the bridge arches and deck.

The flaw with the current local content impost provisions is that it is a point in time
disclosure by the bidder. In the scenario where the sub-contractors have not been finalised, the
figure disclosed in the bid may vary widely from the ultimate value of imported content. If the local
content impost policy objective is to be achieved, the application of the current regime must be reviewed.
This view is shared by the Auditor General whose report on local content in procurement states:

“Although agencies seek to, and largely do comply with the Policy, a lack of clarity in the Policy itself, and a lack
of guidance in how to apply it in some circumstances, leads to mistakes and inconsistencies...There is little
monitoring of, and no effective consequences for, companies failing to meet their local content tender
commitments.”26

Aspects of the Government’s Buy Local Policy did not apply to this procurement process because one of the
bidders was from interstate.

PROJECT MANAGEMENT

Following the announcement that the stadium would be built on the Burswood Peninsula, a planning period
of more than 12 months was set aside to ensure that all the details of the stadium were well planned. As
explained in the Special Inquirer’s report on Perth Stadium, this was a highly valuable process and time well
spent. As the Department of Sport and Recreation’s Director General informed the Special Inquirer:

24 Public Transport Authority, Special Inquiry Hearing, 2 October 2017, 34.
25 Public Transport Authority, response to Special Inquiry request for information, received 31 October 2017
26 Office of the Auditor General, Western Australian Auditor General’s Report – Local Content Government Procurement, (December 2017), 6-7.
“...[the] 12 months to do that Project Definition Plan...allowed us to go deep into schematic design, and then you’re not having discussions with the builder based on Shakespeare. You’re having a discussion like it was your own house.”

There were several aspects of project management that were less satisfactory.

The first was the need to make a contract variation to move the landing point of the bridge on the Stadium side of the river. As noted previously, this occurred just a few months after the contracts were signed with York Rizzani de Eccher.

On 12 March 2015 the Minister for Transport announced York Rizzani de Eccher as the preferred Respondent to construct the bridge. Negotiations then ensued and the contract was signed in May 2015. It is also relevant that the planning documents for the stadium project included one designated zone between the river and the stadium within which the landing point of the bridge had to be located. This zone guided the bidders in developing their plans for the design, location and cost of the bridge.

It is noted from the Transport Planning Working Group’s 8 April 2015 meeting minutes that a request was made to Main Roads for the height and landing coordinates of the bridge to be provided to Strategic Projects. This request was made prior to the contract between Main Roads and York Rizzani de Eccher being finalised and signed on 25 May 2015. At the Transport Planning Working Group’s 13 May 2015 meeting it was identified that the bridge landing coordinates provided to Strategic Projects by Main Roads had a considerable height variance to the stadium plaza level within the stadium design. During its hearing with the Special Inquirer, Main Roads advised that its view of the interface issue was that a specific landing zone was provided to York Rizzani de Eccher during the procurement process and the location York Rizzani de Eccher chose was within the area specified. Main Roads went on to say that it was not in a position to discuss details of York Rizzani de Eccher’s bid with other State project team members at the time due to proponent confidentiality reasons.

In July 2015 Main Roads advised in a project status report that the landing location for the bridge may need to change. By September 2015 Main Roads noted in the “Scope Changes” section of its project status report that “Change bridge landing location as a result of negotiations with Treasury [Strategic Projects].”

The Special Inquirer understands that York Rizzani de Eccher had designed the bridge to abut the stadium site within the designated zone but towards the northern end of the zone. When advised of these plans, the stadium project group assessed that it would conflict with the safe operation of the stadium. The safety concern was the ability to empty the stadium quickly in the event of an emergency. As a consequence, the bridge design needed to be changed. This incurred costs estimated by Main Roads to be between $8 million and $10 million.

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27 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017, 28-29.
28 New Perth Stadium Transport Planning Working Group Meeting, Minutes of Meeting, No. 27, (13 May 2015)
29 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 53, 57.
30 Perth Stadium Steering Committee, Meeting Agenda September 2015: Transport Project Director’s Progress Report, (July 2015), 134.
The Special Inquirer is perplexed as to why the precise location of York Rizzani de Eccher’s proposed landing point for the bridge was not resolved prior to the signing of the contracts.

Main Roads’ concern with confidentiality is worrying in this environment as all State representatives would have been bound by similar confidentiality provisions. Perth Stadium project officers were, however, strongly of the view that: “…if Transport staff were sitting in the project office we would have been very clear where the landing point should be.” The Special Inquirer concluded that Main Roads’ position on this matter was unfortunate.

The second aspect of project management which demonstrated a breakdown in process was the decision to appoint Bianco Engineering Services - Toyota Tsusho to manufacture the bridge offshore. In the context of the appointment of York Rizzani de Eccher, this was a major change in direction for the project yet it did not raise concerns from any quarter. From the perspectives of policy, risk management and due process the Special Inquirer considers this to be a major failing.

Main Roads has argued that the management of Bianco Engineering Services - Toyota Tsusho was a matter for York Rizzani de Eccher. That is understandable to a degree but given the lack of previous experience with most of these parties, this was a major act of faith and a high risk strategy by Main Roads. At best, the Special Inquirer can assess Main Roads approval process for Bianco Engineering Services - Toyota Tsusho as subcontractor to be focussed on a narrow list of issues which included environment and safety. What Main Roads failed to assess to any degree, however, was the risk of dealing with Bianco Engineering Services - Toyota Tsusho and the number of other parties involved. There was no reference in the approval of Bianco Engineering Services - Toyota Tsusho nor the formal appraisal of its quality systems to the risks associated with having the integral sections of the bridge being built overseas. The Special Inquirer is of the view there was a fundamental lack of understanding of the risks by Main Roads and the Public Transport Authority, other than technical risks, associated with the construction of the bridge.

The third area of project management failure was in terms of how Main Roads communicated progress of the development of the bridge. It is recognised that Main Roads relied on its contractor to keep the agency advised of progress. There were, however, early and strong warning signs that this advice may need to be reviewed yet no follow up occurred. The first of these warnings occurred in April 2016 when it was noted that Bianco Engineering Services - Toyota Tsusho was taking longer than estimated to commence manufacturing at the Malaysian steel works and to complete drawings. The fact that no other warnings about the progress with the project were reported until October 2016 is difficult to understand, especially when it is recalled that this was just two months from when the bridge was due to open.

31 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017, 46.
It is an obvious conclusion that Main Roads did not satisfactorily monitor progress with the project nor did the agency have adequate systems in place to detect changes in contractual relationships which might have placed the project at risk.

**INTRA-GOVERNMENT COOPERATION AND CONSULTATION**

The October 2017 Gateway Report on the Perth Stadium project highlighted the importance of a “one team” approach to the delivery of the stadium and its associated transport infrastructure.\(^{32}\) The transport infrastructure delivery in relation to the bridge has been an unfortunate example of what could go wrong when various government stakeholders do not work well together.

At the State Solicitor’s Office’s hearing with the Special Inquirer, the Acting State Solicitor stated that:

“...from SSO’s [the State Solicitor’s Office’s] perspective, it is a significant risk when there are multiple contracts that need to talk to each other and different infrastructure needs to be delivered at or around about the same time. So it’s something that we get particularly nervous about [and] we are very anxious to ensure that the various project documentation as in relation to the two projects speak to each other to the extent necessary, or allows for access or other issues to be resolved.”\(^{33}\)

What is evident in the agencies’ responses at hearings with the Special Inquirer and in the responses to pre-hearing questions on notice, is that the documents may have spoken to each other but the Government agencies did not. Alternatively, if they did, they were not hearing the same message and consistently the message was lost in translation, as noted by Strategic Projects.

“Well, we were very frustrated with a lack of response and in particular lack of advice we were getting from very early stages of the project, including during the tender process.”\(^{34}\)

“I remain absolutely confident that had Main Roads been part of that team operating in that ‘one team’ environment, that we would almost certainly have sorted these issues early on in the piece. Certainly stuff around the interface issues that arose during the tender process.”\(^{35}\)

“And I think that, in fairness to Richard [Sellers] particularly lately, he’s gone to considerable lengths to try and resolve those issues including getting his portfolio of people together and pointing out those issues.”\(^{36}\)

“We were getting some lovely pictures of the arches getting sent down but really that’s not quality reporting in terms of how the project is managed and progressing and whether or not it’s on time.”\(^{37}\)

\(^{32}\) Department of Finance, Perth Stadium Gateway Review S: Readiness for Service Final, (19 October 2017), 4.

\(^{33}\) State Solicitor’s Office, Special Inquiry Hearing, 9 October 2017, 24.

\(^{34}\) Department of Finance (Strategic Projects), Special Inquiry Hearing, 20 October 2017, 56.

\(^{35}\) Ibid., 57.

\(^{36}\) Ibid.

\(^{37}\) Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017, 37.
Minutes of the June 2017 transport steering group meeting included the following reference to the information being provided by Main Roads about the bridge.

“There was a general discussion about the lack of information being provided by [Main Roads] to the Group and to other meeting forums about the status of the SRPB [Swan River Pedestrian Bridge]. It was noted that there needed to be greater transparency with reporting particularly relating to commercial impacts across the projects. It was also noted that there were ongoing discussions with the Minister regarding how best to move forward and recover the position of the SRPB [Swan River Pedestrian Bridge] not being completed by December 2017.”

Despite these concerns with the quality of reporting from Main Roads, the Special Inquirer found it curious that Main Roads had received no adverse feedback through the life of the project. Main Roads’ view was that if there had been concerns someone would “give them a call” but no one did.

Main Roads was asked during its hearing with the Special Inquirer if Main Roads found it odd that it was not part of the steering committee. Main Roads’ responded:

“...we were there in an expert role to - given that we had the expertise in building the bridges, and given our closeness with the - you know, sharing the same DG [Director General] as, you know — [the] DG [Director General] being Commissioner of Main Roads.”

The bridge was clearly not on the steering committee’s radar until late in 2016, as demonstrated by a comment by Strategic Projects’ Executive Director: “…when we were getting it a year ahead of opening [the stadium] it wasn’t exactly on the radar...[but] it jumped up the rankings fairly quickly.”

When the Special Inquirer asked the Department of Local Government, Sport and Cultural Industries as to why the bridge was not higher on the steering committee’s “risk radar”, its response was:

“it would be fair to say there was an anxiety by - an increasing anxiety by the Steering Committee and then asking for increasing reports. And some of those reports are, you know, a matter of record came in a paragraph. And then there’s plenty of discussion about where it’s at and you’d get an assurance that there’s going to be a 10 day delay. And then you then find out that they’d been locked out of the yard for two months. So you were getting information which would assuage your concern and then you would find out that they’d [the sub-contractor] been locked out for two months yet you hadn’t been informed of that.”

Further, it is noted that when York Rizzani de Eccher’s representative attended a transport steering group meeting in August 2016, company staff were asked if there were any quality issues with the overseas

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38 Perth Stadium Transport Infrastructure Steering Group, Minutes of Meeting No. 28, (20 June 2017), 2.
39 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 9.
40 Department of Finance (Strategic Projects), Special Inquiry Hearing, 20 October 2017, 49.
41 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017, 35.
fabricator. They responded that there were no issues, that communication with the fabricator was good and that their main focus was delivering a quality product.42

The poor standard of project reporting and general communication between the Department of Transport’s Director General and the stadium steering committee, together with the fact that nothing was done about it despite increasing concern among steering committee members, is perplexing. The Special Inquirer can only conclude that it was either a case of the officers personally being too close and not being prepared to question each other in a professional manner or a reflection of the wide separation in accountabilities between the Transport portfolio agencies and the steering committee which was evident from the early stages of the project. It is understood that these difficulties may still be happening despite the changes in personnel and reporting arrangements, which is disappointing.

Reporting within the Transport portfolio

The main form of regular updating between the transport agencies was undocumented conversations between the:

- Department of Transport’s Director General and the Public Transport Authority’s Executive Director;
- Department of Transport’s Director General and Main Roads’ Managing Director; and
- Department of Transport’s Director General and Main Roads’ Project Director.

Main Roads contends it had no line of sight as to what was provided to the steering committee, or action items or feedback from the steering committee given back to Main Roads.43 This information flow was through the Department of Transport’s Director General. The Special Inquirer is not aware of any formal action items being raised by the steering committee about additional briefings required to fill information gaps.

In its hearing with the Special Inquirer, Main Roads described the nature of the reporting as follows.

“About the middle of last year I formalised those in regular reports to PTA [the Public Transport Authority] to the - who would then go and brief the Director General. I would also brief the Director General, if asked, if it was necessary. I would brief the Director General verbally. But in terms of formal reports, they would go to PTA [the Public Transport Authority] through this governance.”44

“…from the middle of last year I supplemented that with additional reporting from myself through to PTA [the Public Transport Authority]. Again I’m not sure how that information necessarily translated at the Steering Committee, which we weren’t present at.”45

42 Perth Stadium Transport Infrastructure Steering Group Meeting, Minutes of Meeting No. 2 1, 16 August 2016
43 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 5-6.
44 Ibid., 5.
45 Ibid.
As noted previously, the Public Transport Authority’s view of its memorandum of understanding with Main Roads was:

“...the purpose of this agreement was to put in place a formal arrangement between government agencies, but so that they reported up to us [the Public Transport Authority] so we had a mechanism to manage Main Roads...[It] was the mechanism by which we had Main Roads who were dealing with all of the people on both sides of the river and we needed to assure ourselves so we could report up to the managing director and our Steering Committee that the project was going well, but that was nothing - we had no role inside the contract.”\(^46\)

“...the key things for Main Roads in conjunction with Public Transport Authority was to report back through the Transport Steering Group and through PTA [the Public Transport Authority] with respect to all matters relating to both Vic Park Drive [Victoria Park Drive], this covered way, and the Swan River Pedestrian Bridge.”\(^47\)

Even within the Transport portfolio there was the view that Main Roads’ reporting did not provide sufficient detail, with the Public Transport Authority advising the Special Inquirer that:

“It’s a little bit complicated in the sense that, you know, we can ask for what we want. At the end of the day there is a DG [Director General] who owns all three agencies and if he’s happy, he’s happy.”\(^48\)

**Ministerial and government briefings**

Briefing notes relating to the bridge, provided to the Minister for Transport, simply provided the details as to why the bridge was delayed. The notes did not highlight the potential implications that this had for the delivery of the Perth Stadium precinct.\(^49\) The briefing notes did not convey any sense of urgency or need to escalate risk mitigation activities. Timing of the briefing notes tended to be retrospective reporting and not proactive in relation to proposed next steps to address issues raised. Everyone appeared to be taken by surprise with the termination of Bianco Engineering Services - Toyota Tsusho, the sub-contractor for York Rizzani de Eccher.

No records were provided to the Special Inquirer to show that the Minister for Transport or the other Government representatives asked to know what was happening when there were strong indications that the project was not going according to plan. The project just kept moving along with the delivery date moving further and further into late 2017.

**RISK MANAGEMENT**

In the Special Inquirer’s hearings with various representatives of the Perth Stadium Project Management Group, it was said that there was an absence of risk analysis undertaken at transport steering group meetings.

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\(^{46}\) Public Transport Authority, Special Inquiry Hearing, 2 October 2017, 10-11.

\(^{47}\) Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 4.

\(^{48}\) Public Transport Authority, Special Inquiry Hearing, 2 October 2017, 31.

\(^{49}\) Main Roads Western Australia, Contentious Issues Briefing Note, current as at September 2016 (hand dated 3 October 2016). Main Roads Western Australia, Contentious Issues Briefing Note, current as at October 2016 (hand dated 11 October 2016). Main Roads Western Australia, Contentious Issues Briefing Note current as at October 2016 (hand dated 24 October 2016).
“I haven’t seen any risk analysis ever at a Transport Steering Committee meeting.” The absence of this risk assessment carried through to the stadium steering committee, which did not have a high risk rating for the bridge.

From the outset of the bridge project, the view held across relevant government stakeholders was that it was a low risk project with ample “float” in the timeframe.

“The timeframes, we had [was for the Bridge delivery in] February ’17, so we were having six months of people riding their bikes across the bridge is what we were expecting. So [it] would have come up really low on the risk register early, and probably, in hindsight, wouldn’t have been reported to the steering committee, because it would have been well under [a rating of] 13.”

“People were caught by surprise on the bridge at every level, I think.”

During the Department of Transport’s Director General’s hearing with the Special Inquirer, the Director General was asked about his perception as to whether the project was high risk given the offshore manufacturing and quality concerns. The Director General responded that: “…there wasn’t in my reading a real conviction that they were going to take it offshore.” Yet the construction management plan which formed part of the design and construct contract clearly states that the bridge would be built overseas in 12 metre segments that would be shipped to Perth for assembly.

Main Roads’ view is that the developments with the bridge were a case of “bad luck” and no one could have seen this scenario playing out the way it did between York Rizzani de Eccher and Bianco Engineering Services - Toyota Tsusho. It is the Special Inquirer’s view, however, that effective risk management analysis would have identified that fabricating the bridge overseas introduced risks that required active management. Further, the flow on effects of a delay in the timing for the manufacture of the bridge were such that the initial indicators of slippage in delivery time should have triggered escalation of this issue under the risk management framework.

The controls applied to the management of risks related to the bridge were heavily reliant on York Rizzani de Eccher being a pre-qualified contractor and Bianco Engineering Services - Toyota Tsusho.

50 Department of Local Government, Sport and Cultural Industries, Special Inquiry Hearing, 13 October 2017, 42.
51 VenuesWest, Special Inquiry Hearing, 3 October 2017, 15.
52 Department of Finance (Strategic Projects), Special Inquiry Hearing, 20 October 2017, 53.
53 Department of Transport, Special Inquiry Hearing, 19 October 2017, 17.
being a sizeable company with engineering experience. These controls are generic and did not adequately reflect the unique risks associated with the bridge project where there was offshore manufacturing. As reported by the Department of Finance during the hearings:

“...other considerations aside, [there was] no issue with fabrication taking place where it did. But if there were risks around that, then they should have been properly identified and managed.”54

**VALUE FOR MONEY**

**Selection of contractor**

The request for proposal was issued on the basis of a fixed base lump sum contract price of $50 million.

The order of the base price bids had York Rizzani de Eccher as the most expensive. It is important to note that given there was a $50 million contract cap applied, the difference between the three base prices was nominal (approximately 0.095 per cent of the maximum contract cap). Once the respondents’ recommended alternatives to their proposals were added to the base price, York Rizzani de Eccher became the lowest bid.

Other bids included a larger portion of “Imported Content” (1.3 per cent and 3.6 per cent) whereas York Rizzani de Eccher estimated a smaller proportion (less than 0.58 per cent).55

The Special Inquirer was advised that no payments for the steel fabrication of the arches and deck in Malaysia have been paid to York Rizzani de Eccher.56

On 15 June 2017, York Rizzani de Eccher terminated its supply agreement with Bianco Engineering Services - Toyota Tsusho. Main Roads and York Rizzani de Eccher held a two day workshop on 21 and 22 June 2017 “to agree a delivery and commercial framework which will enable bridge completion by 16 March 2018.”57

The design and construct contract was renegotiated into a modified alliance contract with a risk/reward model that shared the cost overruns and other risks, and the gain from any savings between the State and York Rizzani de Eccher.58 A portion of the contract price (as renegotiated) is performance based. If the bridge is not delivered by 16 March 2018, the performance sum reduces by $500,000 for each week delay up to the value of $2.6 million (performance based sum).59 In addition, all work to date and existing claims under the design and construct contract were settled by way of a lump sum payment to York Rizzani de Eccher of $38 million.

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54 Department of Finance (Strategic Projects), Special Inquiry Hearing, 20 October 2017, 54.
56 Main Roads Western Australia, Special Inquiry Hearing, 2 October 2017, 50.
57 Main Roads Western Australia, Briefing Note to the Minister for Transport Swan River Pedestrian Bridge Seeking Approval to Vary the Contract, (22 June 2017), 1.
58 Ibid.
59 Ibid.
**Ongoing costs**

Once the bridge is delivered, the ongoing costs of maintenance will be accounted for by Main Roads in their operational budget.

**TRANSPARENCY**

There was a lack of transparency and open communication at various levels of this project. Information was siloed within the various arms of the Transport portfolio with the sole conduit between the transport infrastructure delivery agencies and the Perth Stadium Steering Committee being the Department of Transport’s Director General.

Main Roads did not manage this project in a collaborative and open manner when interacting with the Minister, other government departments or even its own portfolio partner agency, the Public Transport Authority. Given the complexity of the interfaces between the elements of the stadium projects, the communication from Main Roads did not provide timely and thorough information. The State project team which was located onsite at the Perth Stadium worked well together and the “one team” approach has been identified as an exemplar of good practice. Unfortunately despite offers for a Main Roads representative to collocate with the other members of the State project team, Main Roads chose not to take this opportunity. What “should have been [a] gang of four...” was a gang of three. The Special Inquirer is of the view that greater transparency over all stages of the project would have enabled better informed decision-making and escalation of time critical issues.

**RECORD KEEPING**

The Special Inquirer notes that the majority of the progress updates between the Transport portfolio parties was through informal verbal updates. There was a predominance of informal updating of executive management within Transport which has made it difficult for the Special Inquirer to verify the reporting and decision-making undertaken on this project.

Key decision points were not evidenced in documentation provided to the Special Inquirer. The recording of action items arising from the Perth Stadium Transport Infrastructure Steering Group was almost non-existent over the period of reporting provided to the Special Inquirer.

**FINDINGS**

1. The decision to establish a Perth Stadium Transport Infrastructure Steering Group with oversight responsibility for the transport components of the stadium infrastructure development independently of the Perth Stadium Steering Committee was a mistake. It meant that clear reporting processes were necessary between the two governance bodies.

2. No reporting protocols were established to formalise the link between the two bodies and the Transport portfolio failed in its reporting responsibilities. This failure proved unrecoverable when difficulties in the construction of the bridge emerged.

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60 Department of Finance, Perth Stadium Gateway Review 5: Readiness for Service FINAL, (19 October 2017), 4.
3. Main Roads was granted effective autonomy over the bridge project. Its line of accountability was to the Public Transport Authority but it acted independently of the Authority.

4. Main Roads procurement practices need to be subject to greater external review. Agency staff appear to have no insight into the pitfalls suffered in this project, despite it being within their responsibility.

5. The Public Transport Authority and Main Roads did not demonstrate high levels of professional interaction and project ownership was kept within agency silos. An integrated portfolio approach to the structure and operation of these agencies would be worthy of examination.

6. The experience with the offshore component of the construction of the bridge demonstrates the need for higher risk assessments being instituted where the State has limited legal rights over assets being created on foreign territory.

7. The situation where Main Roads was the sole State decision maker on the procurement arrangements for selecting the sub-contractor was inappropriate.

8. Inadequate risk assessment practices by the Perth Stadium Transport Infrastructure Steering Group in particular, but also by the Perth Stadium Steering Committee, were major failings in this project.

**TRANSPORT PORTFOLIO’S VIEW**

The combined Transport portfolio response to findings highlights the discrepancy between the Transport portfolio’s and the Special Inquirer’s view on effective governance practices, reporting protocols, project management and risk management. The evidence provided by the Transport portfolio and other government stakeholders in response to questions on notice as well as in hearings; support the Special Inquirer’s view.

**RECOMMENDATIONS**

1. Where steering committees establish project control groups to provide oversight of a particular aspect of an overall project, clear delineation of roles, obligations, expectations and reporting arrangements should be documented in a project control group charter approved by the steering committee.

2. Main Roads’ infrastructure procurement practices should be exposed to greater third party oversight.

3. The Transport portfolio agencies must look at a new corporate structure which breaks down the barriers that currently exist and provides for integrated operation.
The remaining six programs and projects examined by the Special Inquiry as outlined in the Terms of Reference are varied, fall under the responsibility of a variety of agencies and are outlined below:

**ELIZABETH QUAY**

The Elizabeth Quay project, which was renamed from Perth Waterfront in May 2012, took many years to come to fruition. Initial proposals were sought by the Western Australian Planning Commission in February 2007. The concept plan for the development was released in February 2008. It was widely supported. The change of government in 2008 resulted in a new master plan being developed in 2009.

A 2010 business case anticipated that construction based on that master plan would commence in late 2012. Cabinet requested the acceleration of project construction to commence early in 2012. Detailed site investigations, the preliminary design and feasibility study, together with updated cost estimates, were completed by February 2011 when capital funding of $438.5 million was approved by Cabinet.

Construction on the Perth Waterfront commenced on 26 April 2012. The Metropolitan Redevelopment Authority assumed responsibility for the project in July 2012. The official opening of Elizabeth Quay occurred on 29 January 2016 with total expenditure of $456 million. The sale of the private development lots has achieved value for money outcomes with the sales yielding potentially $319 million, compared with the $130 - $140 million initially estimated. Private development of the lots is expected to be completed within the next 10 years and therefore total benefits to the State of the project will not be known for some time.

There was significant publicity around the issues associated with the water park, with some health concerns emerging immediately after its opening which did not materialise into a major issue.

The City of Perth will assume the responsibility for ongoing place management from the Metropolitan Redevelopment Authority in 2019/20, with the expectation that this will be cost neutral.

**LAND ASSETS SALES PROGRAM**

In September 2014, the Premier and Minister for Lands announced the Land Asset Sales Program which
identified 20 government-owned surplus properties for sale, with initial sales expected to raise $250 million.\(^1\)

In 2015, identified sales proceeds over forward estimates to 2018/19 were stated to be $461 million.

The Department of Lands (now the Department of Planning, Lands and Heritage) was given responsibility for designing the program, developing land assessment criteria, and administering the program. In June 2015, the State Government decided to bring additional government-owned properties to the market. The Minister for Lands estimated the total sales of the combined properties would generate a further $268 million which would help to drive down debt.

At that stage, 75 assets with a combined value of $140.5 million had been sold. A further 538 assets were at various stages of asset identification, a significant expansion of the original scope.

An advisory group of Directors General – the Land Asset Management Advisory Group – was established to provide the Minister with advice on the preferred divestment strategy for key surplus or underutilised real property assets.

The Land Asset Sales Program includes an unsolicited bids process which allows consideration of proposals by the private sector that have not been formally requested by Government. The sale of land through unsolicited bids is a separate element of the Land Asset Sales Program, and is not a central focus of the Special Inquirer report.

**NET FEED-IN TARIFF SCHEME (PREVIOUSLY RENEWABLE ENERGY BUYBACK SCHEME UNDER THE TERMS OF REFERENCE)**

The Public Sector Commission issued an addendum on 6 November 2017 to change the Terms of Reference of the Special Inquiry to examine the Net Feed-in Tariff Scheme as opposed to the Renewable Energy Buyback Scheme.

In September 2008 the incoming State Government announced its intention to introduce a residential Net Feed-in Tariff Scheme.\(^2\) The commitment was "$13.5 million towards a feed-in tariff for homeowners, and an investigation of the feasibility of extending the scheme to small businesses and commercial premises".\(^3\) The initial renewable energy scheme was based on a gross feed-in tariff and was designed to introduce electricity consumers to solar panels to help promote the fledgling renewable energy industry.

The unprecedented uptake rate meant that it was not affordable. The scheme was modified and integrated into the Net Feed-in Tariff Scheme. Around 21,000 existing system owners were automatically rolled onto the

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\(^1\) Government of Western Australia Media Statement, Government land sales to raise revenue, [25 September 2014].

\(^2\) Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017; Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 3. This was part of the Liberal Plan for Environmental Sustainability and Water Management.

\(^3\) Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017.
Net Feed-in Tariff Scheme.\textsuperscript{4} Residential customers who applied to the Net Feed-in Tariff Scheme received a 10 year subsidy for electricity use generated by solar photovoltaic panels connected to the electricity grid. The original budget was $23.3 million over four years but due to the high uptake of the scheme this resulted in total additional expenditure of $65.8 million over four years.\textsuperscript{5} The cost over the life of the scheme is estimated to be $533.13 million.

**COMMON USE ARRANGEMENT FOR TEMPORARY PERSONNEL SERVICES**

The Temporary Personnel Services Common Use Arrangement is in place to support government agencies in covering short-term workload needs. The common use arrangement allows agencies to engage suitably skilled people through an aggregated purchasing arrangement.

In 2016, Western Australian public sector agencies spent a total of $115 million on contracted temporary personnel services using the common use arrangement, with the top 10 public sector agencies accounting for 73 per cent of all expenditure.\textsuperscript{6}

The Special Inquirer examined the use of the Temporary Personnel Services Common Use Arrangement by six agencies which had consistently high expenditure between calendar years 2012 and 2016. The Special Inquirer’s examination comprised analysis of data provided by the Department of Finance, as the manager of the common use arrangement, and by these six agencies.

Most of the agencies examined by the Special Inquirer did not have effective oversight of the use of temporary personnel services engaged under the Temporary Personnel Services Common Use Arrangement, although some agencies had better controls in place than others.

**GOVNEXT-ICT PROJECT**

Government’s current information and communications technology environment is outdated. Agencies own and operate their own data centres and server rooms and run on isolated networks.

In November 2015, the Western Australian Government announced the GovNext-ICT program, promising a new digital era which could potentially save taxpayers $650 million over 10 years from an estimated total expenditure of $3 billion.\textsuperscript{7} The GovNext-ICT Common Use Arrangement was approved by the Government on 20 January 2017 and resulted in the appointment of three consortia of vendors which are to provide a range of technical solutions to the whole of government.

The Special Inquirer notes that the latest estimate from the Office of the Government Chief Information Officer is for savings of $65 million over three years. The achievement of the savings is dependent on a

\textsuperscript{4} Office of Energy, Briefing Note to Minister for Energy, Western Australian Residential Net Feed-In Tariff Scheme, (25 May 2011).
\textsuperscript{5} Ibid., 5.
\textsuperscript{6} Department of Finance response to Special Inquiry request for information, received 14 June 2017.
\textsuperscript{7} Western Australian Government Media Statement, GovNext-ICT Promises New Digital Era for WA, (19 November 2015).
seamless and expedient transition from existing operations into GovNext-ICT. The success of the GovNext-ICT program is dependent upon the successful transition of the largest government agencies.

The Special Inquirer examined the GovNext-ICT governance and project management arrangements within the Office of the Government Chief Information Officer and a cross section of five agencies. The examination included the current status of these agencies transition into the GovNext ICT program. Agencies have reported that transitional arrangements will require additional funding, for which they are not currently resourced and which will be requested through the 2018/19 budget process.

**ROAD SAFETY COMMISSION AND AUSTRALIAN RUGBY UNION AND WESTERN FORCE PARTNERSHIP**

On 30 January 2017, the Minister for Road Safety approved the Road Safety Commission negotiating a contract with the Australian Rugby Union and the Western Force. A proposal outlined by the Road Safety Commission in a business case dated 23 January 2017 was to be “a baseline” for the recommendation to the Minister. A key part of the contract was that $1.5 million was to be paid by the Road Safety Commission from the Road Trauma Trust Account. The agreement was finalised in late March 2017.

It appears there was undue haste in preparing the Western Force Proposal Assessment and the subsequent business case which was the baseline for the Minister’s approval of the partnership. In addition, the proposal to allocate $1.5 million to the Western Force partnership was far and away the largest partnership that the Road Safety Commission had entered into. The next most substantial was a partnership of some $50 000. The funding of the Western Force partnership also appears to be beyond the provisions of the Road Safety Council Act 2002.

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8 Road Safety Commission, 2016-2017 Road Trauma Trust funding agreement, signed 28 March 2017.
ELIZABETH QUAY

“Much was done well in developing this project but some questions remain due to undue haste in decision-making and pressures from Ministers.”

- John Langoulant, Special Inquirer

Few major projects have enjoyed a higher profile than Elizabeth Quay, designed to satisfy a long term goal to make the Swan River more accessible to Perth’s central business district.

The management of the project overall has been satisfactory and lot sales proceeds have exceeded most expectations.

The official opening on 29 January 2016 was marred by controversy surrounding the water park, a major recreational feature of the development. It emerged that the certificate to operate the water park was only obtained at the eleventh hour after a number of problems, including the detection of certain bacteria in the water, had emerged. Despite approvals being in place it seems the opening was premature.

Another questionable decision was the sale of two lots to Chevron for $64 million in November 2013. The price was consistent with market values at the time, but the process lacked transparency. It is unknown whether an even more favourable sale could have been achieved through a competitive bidding process. Chevron has been granted several extensions on its requirement to build its proposed Asia-Pacific headquarters on the site. It is unclear to the Special Inquirer when the project will proceed.

Government agency:
Metropolitan Redevelopment Authority, Department of Planning, Lands and Heritage (previously Department of Planning), Western Australian Planning Commission, LandCorp

Project timeline:
2007 - current

Total cost to Government
$456 million (net cost to date $307 million)
$170 million outstanding on private lots

2007
Initial proposals for Perth Waterfront sought

2008
Concept plan released and supported

2010
Cabinet approves business case

2012
Construction commenced and formed; transfer of project responsibility to Metropolitan Redevelopment Authority

2016
Official opening

2016
Elizabeth Quay opens. Water park contaminated on two occasions

2017
CA Corporation in contract negotiations to purchase Lot 4 for $85 million

* All prices exclude GST
SUMMARY

Elizabeth Quay was a long awaited project with early plans for such a development dating back to 1991. Expedited timeframes for its construction commencement, however, placed pressures on the project team resulting in a departure from recognised best practice during the planning process, and creating additional risks.

The governance arrangements initially established for the project were complex. These arrangements were simplified following full transfer of the responsibility for the project to the Metropolitan Redevelopment Authority. Although this reduced the level of transparency over the project as the Metropolitan Redevelopment Authority Board had overall governance responsibility, in the main the project appears to have been well managed with the public domains being delivered on budget and to a high standard.

The sale of the private development lots has achieved value for money outcomes with the sales yielding potentially $319 million, compared with the $130-$140 million initially estimated. Private development of the lots is expected to be completed within the next 10 years and therefore total benefits to the State of the project will not be known for some time.

There was significant publicity around the issues associated with the water park, with some health concerns emerging immediately after its opening which did not materialise into a major issue.

The City of Perth will assume the responsibility for ongoing place management from the Metropolitan Redevelopment Authority in 2019/20, with the expectation that this will be cost neutral.
PROJECT SYNOPSIS

The Elizabeth Quay project, which was renamed from Perth Waterfront in May 2012, took many years to come to fruition. Initial proposals were sought by the Western Australian Planning Commission in February 2007.

The concept plan for the development was released in February 2008. It was widely supported. The change of government in 2008 resulted in a new master plan being developed in 2009.

A 2010 business case anticipated that construction based on that master plan would commence in late 2012. Cabinet requested the acceleration of project construction to commence early in 2012. Detailed site investigations, the preliminary design and feasibility study, together with updated cost estimates, were completed by February 2011 when capital funding of $438.5 million was approved by Cabinet.

Construction on the Perth Waterfront commenced on 26 April 2012. The Metropolitan Redevelopment Authority assumed responsibility for the project in July 2012.

The official opening of Elizabeth Quay occurred on 29 January 2016 with total expenditure of $456 million, against which the sale of the private lots has offset some of the cost.

Business case

In August 2009, Cabinet formally considered the Perth Waterfront project and endorsed the Western Australian Planning Commission assuming strategic planning responsibility for the project through the Central Perth Planning Committee. The Department of Planning assumed lead agency role with support from LandCorp. The Business Case included the following objectives:

- the project was to be underway by the end of 2012;
- the project was to achieve an outcome of international standing following a robust design and evaluation process; and
- the project was to deliver a seamless pedestrian connection of the city to the river and to foster pedestrian journeys to and from the river.

In December 2009, the Premier and Minister for Planning released the State Government’s revised master plan for the 10-hectare redevelopment of Perth Waterfront between Barrack and William Streets.

Figure 1: The two preferred master plan options
The 2010 business case included master plan options narrowed down to two preferred thematic models — Water Square (diagram on the left) and Barrack Island (diagram on the right). The Water Square development was recommended for the development. Project works were to commence within the current term of Government.\textsuperscript{1}

Construction was to commence in late 2012, with the public domains expected to be completed by late 2015 and full development by 2030. The projected land sales revenues were estimated to be between $133 million and $140 million, with the estimated net cost to Government of the project to be $254 million to $295.5 million.\textsuperscript{3}

Following completion of detailed planning, design, technical investigations, statutory approvals, land assembly and procurement, a further business case was to be submitted to Cabinet in late 2011 seeking approval and capital funding to commence construction.

Cabinet requested updated capital cost estimates to be completed in time for the 2011/12 budget, and for the commencement of project construction to be brought forward to early 2012.

Detailed site investigations, the preliminary design and feasibility study, together with updated capital cost estimates, were completed by February 2011. The further business case due in 2011 was not prepared.

On 7 February 2011, Cabinet approved the revised budget for capital funding of $438.5 million for the development. It proposed the newly formed Metropolitan Redevelopment Authority would be responsible for the project implementation upon its establishment. The budget details were as follows.\textsuperscript{4}

\textbf{Table 1: Cabinet approved revised budget for capital funding}

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST ESTIMATE [$ MILLION]</th>
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</thead>
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<tr>
<td><strong>Total</strong></td>
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\textsuperscript{1} Perth Waterfront Ministerial Taskforce, Perth Waterfront Business Case, March 2010, 8.
\textsuperscript{2} Ibid., 2.
\textsuperscript{3} Ibid., 23.
\textsuperscript{4} Western Australian Planning Commission Perth waterfront Phase 4 Procurement Plan, [September 2011], 2. This refers to the Cabinet decision and states that the budget has not changed.
Formal transfer of project responsibility to the Metropolitan Redevelopment Authority occurred on 1 January 2012. Planning authority for the project remained with the Western Australian Planning Commission until 1 July 2012, due to the requirement for a Metropolitan Redevelopment Authority scheme amendment to be effected to include the Perth Waterfront Project Area.

A $50 million forward works contract was awarded to the Georgiou Group in April 2012, and construction commenced on 26 April 2012. Works included construction of new roads, demolition of existing buildings and structures on the Esplanade Reserve, and the jetty reconstruction at Barrack Square.

In order to assure the Board that revenue projections estimated by the Department of Planning were achievable in light of the property market at the time and to recommend “a high level lot release strategy” maximising project returns in light of its positioning and timeframes, the Metropolitan Redevelopment Authority engaged CBRE Structured Transactions and Advisory Services. Their task was “to undertake market and project feasibility analysis, provide commercial input into the existing site Master Plan and advice in terms of an optimum market release strategy for the project”.

In August 2012 the Metropolitan Redevelopment Authority submitted a revised “business case” to its Board, to be adopted as the revised budget going forward. The Board paper:

- included recalculated estimates for the commercial/office space, retail and residential space on the basis of the Metropolitan Redevelopment Authority’s August 2012 design guidelines;
- noted that construction costs were still $438.5 million;
- provided CBRE Pty Ltd revenue estimates of $480 million to $490 million over the life of the project, if the lots were progressively released through to 2028 and featured a catalyst occupant;
- identified a revised net cash flow of $44.2 million and a net present value of negative $151.3 million, based on a medium risk rating of 10.03%; and
- noted inclusion of an annual levy to be borne by the owners of the completed buildings, based on an assumed 0.1% value of the completed building value, to deliver between $5 million to $6 million per annum to manage the precinct.

It also recommended:

- a premier 400 key hotel development to be located on Lot 9 due to its unique location;
- early release of Lots 9 and 10 to the market to improve viability of the development; and
- establishing transaction value for Lots 7 and 8 with a catalyst occupant, noting that the Metropolitan Redevelopment Authority was in discussions with a multinational resources company at that time.

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5 Metropolitan Redevelopment Authority response to Special Inquiry request for information, received 17 November 2017
6 Metropolitan Redevelopment Authority, Board Paper, (16 August 2012).
7 Ibid.
8 'Catalyst occupant' refers to securing an occupant for the first lot(s) sold that may hasten the achievement of additional land sales at, or above, market value.
The $200 million contract for the managing contractor was awarded to the Leighton Broad consortium (later CPB Contractors) on 19 December 2012. In 2013 CPB Contractors commenced the public domain works. These works included the creation of the inlet, construction of five food and beverage outlets, the island playground, the water park, the pedestrian bridge and installation of a range of public art and interpretive heritage pieces.

**EVALUATION OF THE PROJECT**

The Special Inquirer notes that the scope of the examination undertaken did not include a reflection on the design features of the project. The assessment of value for money was undertaken based on the design as delivered.

The Special Inquirer has not considered any issues relating to the relocation of the Florence Hummerston Kiosk or compensation paid by the State Government to Barrack Square business owners, as the financial implications of these are known.

**Governance**

The Perth Waterfront Project Taskforce was established in 2008 to oversee the preparation of a Master Plan. The Taskforce membership included representatives from the Western Australian Planning Commission, the City of Perth, the Department of Planning, the Office of the Minister for Planning, the Swan River Trust, Tourism Western Australia, the Department of Treasury and Finance and Office of the Government Architect, as well as the Premier’s representative. The then East Perth Redevelopment Authority replaced LandCorp on the Taskforce in June 2010.

In 2011, the Minister for Planning established the Perth Waterfront Ministerial Taskforce to govern the project oversight for the detailed planning, design, technical investigations, statutory approvals, land assembly and procurement. The State Government identified the Perth Waterfront as one of its highest priority metropolitan projects, and the Minister for Planning was accountable to the Premier and the Cabinet for its delivery. The Taskforce was chaired by Mr Stuart Hicks, who at the time was Chairman of the East Perth Redevelopment Authority and, in addition to the original taskforce membership mentioned above, included representatives of:

- Minister for Planning;
- City of Perth (two representatives);
- Swan River Trust;
- Office of the Government Architect; Tourism WA;
- Department of Transport;
- Department of Water;
- Aboriginal Cultural Materials Committee;
- Environmental Protection Authority; and
- Heritage Council of WA.
At its hearing with the Special Inquirer on 2 October 2017, the Department of Planning, Lands and Heritage advised that Cabinet’s request to bring the project budget forward by 12 months meant that a robust business case (a Project Definition Plan under the Strategic Asset Management Framework) could not be prepared. The Department stated that there was a very clear political urgency for the construction to commence before the 2013 election, thereby shortening the anticipated construction deadline by around nine months. It further advised that the Perth Waterfront Ministerial Taskforce elected to direct effort into preparing a detailed assessment of the design option that was announced by the Government in December 2009.

At its hearing, the Department said despite the time pressures, the detailed budget assessment was undertaken to the same level as would be expected of a Project Definition Plan. This included a geotechnical and environmental assessment, earthworks modelling for construction of the inlet, and a feasibility analysis. The Department needed to be satisfied that the project was achievable and that the cost benefit analysis was such that the Government should proceed. Revenue estimates from the sale of private lots were revised up to $170 million.

At this stage of planning, project control was conducted through a special purpose committee of the Western Australian Planning Commission, the Perth Waterfront Project Control Committee, formed in March 2011.

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Figure 2: Elizabeth Quay reporting structure

10 Metropolitan Redevelopment Authority, Board Agenda, (15 March 2012), 37.
Several working groups dealing with environmental heritage, transport and environmental issues were also established. A Readiness for Market Gateway Review for the Perth Waterfront Project was completed in December 2011 for the Department of Planning. The Gateway Review identified that “the Governance Framework [did] not have any formal Terms of Reference, accountabilities, roles, reporting and delegations to govern how these working groups should operate.”

**Transfer to the Metropolitan Redevelopment Authority**

Following full transfer of project responsibility to the Metropolitan Redevelopment Authority in 2012, the governance structure for the project changed, with the Perth Waterfront Ministerial Taskforce and the Western Australian Planning Commission ending their involvement in the project. The Department of Planning continued to have some involvement in the tendering processes for the private lots, specifically in relation to the land use and urban design.

The Metropolitan Redevelopment Authority Board reports to the Minister for Planning, and the Chief Executive Officer is responsible for day-to-day operations. The land redevelopment committees in the governance diagram below are in effect sub-committees of the Metropolitan Redevelopment Authority and are in essence planning committees. While these Committees had no involvement in overseeing the financial arrangements the Special Inquirer understands all project issues were addressed notwithstanding the change in governance arrangements. Quarterly reports on the progress of Elizabeth Quay were provided to Cabinet by the Metropolitan Redevelopment Authority through the Senior Officers Advisory Committee, a cross agency group for major projects co-ordinated under the auspices of the Department of Treasury’s Strategic Projects (now under Department of Finance).

**Figure 3: Elizabeth Quay governance**

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11 Department of Finance, Gateway Review – Readiness for Market, (8 December 2011), 7

12 Metropolitan Redevelopment Authority responses to Special Inquiry findings, received 28 November 2017.
Project management

To meet the Government’s preferred timeframe, the project funding requirements were broken into two packages: planning funds - including project management - and capital funding. The March 2010 business case sought an allocation of $21.5 million in seed funds to progress the detailed planning phase. The business case included preliminary cost estimates of $312.9 million for the capital works but excluded planning, maintenance and post-construction management costs, GST and escalation. Construction was anticipated to commence in late 2012, with construction of the public domains to be completed by late 2015, and full project development by 2030. At that time the projected land sales revenue was expected to be between $133 million and $140 million, with the net cost to Government of $254 million to $295.5 million.

The high profile nature of the project had a significant impact on the project’s planning and delivery. It is apparent that decision-making had to be adjusted due to pressures put on the project management team. The business case makes it clear that the original decision to proceed with two business cases was made in order “to meet the Government’s preferred timeframes.” The pressure further escalated when the initial construction and budget planning deadlines were bought forward, resulting in a further departure from the Strategic Asset Management Framework.

In its 2011 report, the Public Accounts Committee notes the lack of consideration of a ‘do nothing option’ in the business case, which the agencies are required to consider under the Strategic Asset Management Framework. In response, the Department of Planning explained that the option was not considered as “when responsibility for the project was transferred to the Department, there had been a clear signal from the government that the project was to proceed.”

The project was subject to three independent peer design reviews (in July 2007, May 2008 and October 2009) and regular reviews by a design advisory committee chaired by the WA Government Architect. The need for construction to commence in April 2012 meant that a modified project planning method had to be applied, with key aspects of the project being undertaken in parallel. This in turn necessitated processes being established to provide clear site possession and site access without causing conflict with other contracts. The December 2011 Readiness for Market Gateway Review noted that this was not undertaken at the time. The Gateway Review also identified a lack of other project control and planning documentation, including the absence of:

- an overarching project management plan;
- a resource management plan;
- a contract management plan;
- documented contract principles and processes for agreeing on the contract documentation;
- an issues register;

13 Department of Planning, Perth Waterfront Project Business Case, (March 2010).
15 Ibid., 36.
• a cost management plan;
• an operational transition plan;
• a site release program co-ordinated with other major developments;
• documented processes for record maintenance; and
• a place management plan.16

The Gateway Review also pointed out inadequacies in the project’s risk management processes, including the allocation of responsibility for continuous review of the risk matrix as it was documented in the Risk Management Plan. Neither did the Risk Management Plan mention the project governance structures and their role in monitoring how and to what extent key risks were being managed, mitigated and reported. At their hearing with the Special Inquirer, the Metropolitan Redevelopment Authority advised that it was satisfied with the risk assessments undertaken by the Department of Planning when the project was devolved to its responsibility.

The Department of Planning’s project closure report completed in December 2012 notes that “…the associated administrative and reporting requirements placed significant demand on time and resources.”17 The high profile nature of the project required the project management team to provide regular briefings to the Minister for Planning, the Premier and the Cabinet, and appear before Parliamentary committees to answer questions in relation to specific aspects of the project. The report adds that:

Standard [Department of Planning] committee procedures proved unsuitable to deal with the frequency of reporting and decision making necessary for the project and were ultimately modified … due to the political profile of the project. A review of procedures may be necessary to ensure that they are sufficiently flexible to deal with future matters of Government urgency and priority, while maintaining standards of probity and accountability.18

Handover to the Metropolitan Redevelopment Authority

During its hearing with the Special Inquirer, the Department of Planning, Lands and Heritage advised that the handover process to the Metropolitan Redevelopment Authority was transparent and worked well. The then East Perth Redevelopment Authority worked alongside the Department of Planning from 2011 to ensure there was visibility of the process, the assumptions underpinning the business case, and the advice to Government.

The Special Inquirer notes that the Department of Planning’s project closure report specifies that due to jurisdictional issues the East Perth Redevelopment Authority exercised more of a watching brief and did not commit sufficient resources to the project in the early stages.19 It noted that this placed workload pressure on the Project Management Team, and culminated in the Department of Planning’s ongoing involvement in the project through to December 2012, to ensure a seamless transition to Metropolitan Redevelopment Authority management when it was formally established. This meant that the Department of Planning went beyond its normal planning remit and into detailed design and documentation, contractor procurement and construction commencement.

17 Department of Planning, Project Closure Report - Perth Waterfront (Elizabeth Quay), [30 December 2012].
18 Ibid., 6.
19 Ibid., 5.
Transitional issues were addressed in a Service Agreement and Handover Deed between the Metropolitan Redevelopment Authority and the Department of Planning. The Department of Planning agreed that a number of key personnel involved in the project would provide specific services to the Metropolitan Redevelopment Authority. This included detailed design and documentation for public works, management of existing agreements, preparation of plans and documents, contractor procurement for the development of public works and oversight of construction commencement. The Handover Deed addressed issues relating to the handover of responsibility and risk, including transfer of information, work in progress and novation of the existing contracts to the Metropolitan Redevelopment Authority.

The 2011 project budget appears to have been robust. The Metropolitan Redevelopment Authority advised that the total cost of the project to Government to date is $456 million compared to an initial capital budget of $438.5 million. This includes the place commissioning expenditure for opening Elizabeth Quay and costs incurred for unplanned works the Metropolitan Redevelopment Authority was asked to undertake on behalf of other agencies and for which it has been reimbursed. As at 30 June 2017, the Metropolitan Redevelopment Authority had received income of $197 million from the project, consisting of $149 million in sales proceeds and $48 million in other revenue, with a net cost to the Government of $259 million. This is an improvement on the 2011 budget estimate of a net cost of $270 million. In the coming years the State is expected to receive a further $170 million from the sale of the private lots, bringing total sales proceeds to $319 million. Should all the land sales be completed, the net cost to Government is estimated at $115.5 million. During its hearing with the Special Inquirer, the Metropolitan Redevelopment Authority advised that when it took control of the project it did not identify any issues that indicated that the budget assessment for the project was not sound.

The Department of Treasury’s Strategic Asset Management Framework, including the Gateway Review process, is not traditionally applied to Metropolitan Redevelopment Authority projects. There were no Gateway Reviews for the project, other than the Readiness for Market Gateway Review that was conducted for the Department of Planning in December 2011. The Metropolitan Redevelopment Authority advised the Special Inquirer that its project delivery framework is constructed around the same principles of project assurance that the Gateway Review Process is based upon and therefore makes provision for Gateway Reviews to occur as required, and in accordance with the Premiers Circular 2016/05.

The Special Inquirer has been advised that the practical completion for Elizabeth Quay has not yet been granted. It is understood, however, that the outstanding issues are of a minor nature and include landscaping, paving maintenance, replacement planting and signage.

20 Metropolitan Redevelopment Authority response to Special Inquiry questions on notice, received 15 September 2017.
21 Metropolitan Redevelopment Authority response to Special Inquiry request for information, received 20 October 2017.
The water park

In April 2014, the Western Australian Planning Commission approved the development application featuring Station Park, inclusive of an aquatic play facility and an alfresco dining area. In January 2015, BHP Billiton obtained naming rights for the water park in exchange for a $10 million contribution to its development, with the State contributing a further $3 million. The opening of the water park saw the emergence of some issues.

On 29 January 2016, the day of the opening of the water park, contractors were still addressing issues identified during a 19 January 2016 inspection by Department of Health. The issues included non-compliance of sanitary facilities, structural and electrical certifications and lighting under the Western Australian (WA) Code of Practice for the design, construction, operation, management and maintenance of aquatic facilities (the Code). Presence of bacteria was also detected.22

Super-chlorination was undertaken overnight on 28 January 2016. At 11:30 am on 29 January 2016, the paperwork advising that all issues were addressed was submitted to the Department of Health for review. No water testing was undertaken on the day as:

- results of the water testing from 28 January 2016 confirmed that E. coli was not present;
- remedial works undertaken were considered sufficient to kill the Naegleria bacteria;
- earlier water tests from the backwash showed that the bacterium present was not the dangerous Naegleria fowleri.

In view of this it was agreed there was no risk to the public. As absence of Naegleria bacteria in the water was not confirmed through testing, a delegate of the Executive Director of Public Health exercised the powers under section 20 of the Health (Aquatic Facilities) Regulations 2007 to approve a variation in operational requirements for an aquatic facility, thus enabling a Certificate of Compliance to be granted and for the opening to proceed. While section 20 had not been “relied upon for the decision-making purposes relating to water quality issues”23 in Western Australia the Special Inquirer found there was no reason to be critical of this process.

There were instances of detection of Pseudomonas aeruginosa bacterium after the opening of the water park and a temporary closure of the water park in early February 2016 for remedial cleaning and maintenance work. The failure of the filtration system to cope with the microbial loading was not identified until 22 February 2016, when water sample results indicated the presence of Pseudomonas aeruginosa bacterium in the balance tank.24 The water park was closed immediately, and not reopened until December 2016.

In February 2016, following two compliance inspections and review of drawings and photographs, the Building Commission identified instances of non-compliance with the Plumbing Code of Australia unrelated to

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23 Department of Health response to questions taken on notice at the Estimates Hearing, 16 June 2016.
24 ‘Balance tank’ refers to a reservoir where treated water is contained before being returned to the surface.
the water quality issues. The Metropolitan Redevelopment Authority submitted that eight minor plumbing items were rectified by 4 March 2016.\(^{25}\)

The Special Inquirer understands that practical completion for the water park was granted on 28 January 2016.\(^{26}\)

**Procurement**

A procurement plan for capital works was completed in September 2011 and it proposed procurement for three forward works packages and a managing contractor for public domains.

Shortened timeframes for construction commencement created a number of challenges for the project management team and materially increased delivery risks impacting the project, including timely planning, environmental approvals and the transition of the project to a newly established delivery authority. In order to meet project timeframes, the then Department of Planning procured 11 lead consultants and up to 25 sub-consultants. In the Department of Planning’s project closure report it was stated that “with only a partial SSC [State Supply Commission] exemption the procurement task was incredibly arduous and inefficient, and threatened to delay the delivery program.”\(^{27}\)

To manage risk within the shortened timeframes, the Department had to alter its procurement process for capital works. This was led by a consulting company, Appian Group’s project management team (which was appointed as project manager for the Perth Waterfront Project in July 2011 following an open tender), with the assistance of the then Department of Treasury’s Strategic Projects branch. Instead of a single master contract, the contract was split into three forward works contracts and a separate managing contract for the major public works. At their hearing with the Special Inquirer, the Department of Planning, Heritage and Lands advised:

“...that allowed us to use that initial time we had to undertake the level of investigation needed on the forward works, to be satisfied with the level of risk and complexity involved before we went to procurement.”

A two-stage approach was adopted for procurement of the managing contractor. After the preferred contractor was selected, the Department of Planning consultants were novated to Leighton Broad (later CPB Contractors) to finalise design and documentation so that a final guaranteed price could be agreed.

The December 2011 Readiness for Market Gateway Review found that the proposed managing contractor procurement method and the forward works packages were consistent with the timing objectives of the Government, with the potential to provide value for money outcomes.

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\(^{25}\) Metropolitan Redevelopment Authority response to Special Inquiry questions on notice, received 21 September 2017.

\(^{26}\) Metropolitan Redevelopment Authority response to Special Inquiry draft findings, received 28 November 2017.

Land sales

In total there were nine lots available for sale at Elizabeth Quay starting at Lot 2, with Lots 7 and 8 combined into a single lot. The location of the lots is shown on the diagram below.

Figure 4: Map showing the current status of land sales

In November 2013, the first sale was announced of the former Lots 7 and 8 (Lot 7) to Chevron (TAPL) Pty Ltd (Chevron). The Metropolitan Redevelopment Authority advised that Chevron approached them to acquire the lots for the purposes of constructing their Asia-Pacific headquarters.

The Metropolitan Redevelopment Authority considered that securing Chevron, a major international company, would deliver on key elements of the release strategy, set a benchmark in terms of both price and quality, and create impetus for the following stages.

As a result, the Metropolitan Redevelopment Authority sought Cabinet approval to engage in direct
negotiations with Chevron. The purchase price of $64 million was agreed following valuations by both parties. This was within a private third-party valuation range of $61 million to $67.5 million that the Metropolitan Redevelopment Authority had obtained, above any previous value achieved in Perth, and some 28 per cent to 60 per cent above Chevron’s valuation range. It was also in line with Landgate’s valuation for the land. There is no money outstanding from this sale.

Lots 9 and 10 were released to the market subject to a mandatory five-star hotel development. At the time, no significant new hotel developments had taken place for several years. The Metropolitan Redevelopment Authority advised the Special Inquirer that the government wanted to stimulate high quality hotel development within the city. The sites were offered as either Lot 9, Lot 10, or both as long as a hotel was a part of the bids. The documents provided to the Special Inquirer indicate that there were three respondents being considered for the land. On 26 March 2014 the Government announced that Far East Consortium International Ltd was selected to develop a 204-room Ritz-Carlton hotel and 420 residential apartments. Further details of the agreement between the Metropolitan Redevelopment Authority and the Far East Consortium are confidential. The agreement was approved by Cabinet in 2014. Lots 9 and 10 were valued by Landgate as a single parcel at $22.75 million. The hotel is currently under construction and practical completion is due in January 2020.

Lots 5 and 6 could be purchased separately or together. Brookfield Office Properties Australia Pty Ltd (Brookfield) was selected on the basis of the financial terms proposed, financial offer and financial capacity to deliver the project. Although the sale was announced in September 2014, negotiations on the final commercial terms were protracted and took around three years to complete due to market conditions. The Metropolitan Redevelopment Authority indicated that;

...with new commercial construction becoming almost non-existent at that point no proponent was willing to offer a straight cash settlement up front ... so it was considered that that best approach to securing the $60m price was to enter into an Exclusive Working Period ... Based on Brookfield paying a non-refundable deposit for that right.

The $60 million figure is consistent with the value of the parcelled lots provided by Landgate. Construction is forecast to commence in 2020 and be completed in 2023.

Nine proposals were received in relation to Lots 2 and 3. They were assessed on the developers’ financial capacity to deliver their proposed projects, technical experience, response to key financial principles and terms, and the financial offer for the land. Victor Goh (CA & Associates) was recommended and the sale of Lots 2 and 3 for $85 million was agreed to in January 2016. Settlement proceeded in March 2017 with a $60 million payment being received: this price surpassed the valuations of the sites prepared by Landgate and a third party private valuation. Construction on Lots 2 and 3 is expected to commence in February 2018 with completion scheduled for September 2019.

28 Western Australia, Parliamentary Debates (Hansard), Assembly Estimates Committee A, (24 May 2016), 2.
31 Metropolitan Redevelopment Authority response to Special Inquiry hearing questions taken on notice, received 12 October 2017.
Three conforming proposals were made for the purchase of the last lot, Lot 4, after an eight-week marketing campaign. The sale of land for $85 million was announced in April 2017 and final commercial terms are still being negotiated with CA & Associates. Construction is expected to take place between September 2019 and September 2021.

As mentioned, the total sale proceeds of the original nine lots are expected to total $319 million. This is higher than expected although less than the CBRE estimates if a more gradual sales process had occurred.

The Special Inquirer has determined that the sales process was satisfactory overall. It is noted that the sale of Lots 7 and 8 was not undertaken in a competitive process and was not transparent. While the purchase price paid to the Metropolitan Redevelopment Authority was in line with the market value at the time, the Metropolitan Redevelopment Authority elected to enter into direct negotiations with Chevron against the advice of the Department of Planning. The Special Inquirer recognises that a catalyst sale was being sought but remained unconvinced that it could not have been achieved through a competitive bid process and given the circumstances that a higher sales price could not have been achieved. It will never be known!

Evidence sighted by the Special Inquirer notes that Chevron’s original plans to be the owner-occupier of the completed building changed during negotiations and it wished to retain the right to have their building delivered and owned by a third party, with the site acquisition and design novated to the third party. Chevron has requested two extensions of time to begin construction. In September 2017 Chevron sought to vary its contract with the Metropolitan Redevelopment Authority to enable it to test the market for a suitable development partner for its Elizabeth Quay tower. This request was considered and approved by the Board of the Metropolitan Redevelopment Authority on the basis of:

- Chevron’s capability to select an appropriate third party developer; and
- the project’s potential to deliver the much-needed commercial space at Elizabeth Quay and to contribute to the success of the precinct through its daytime activation.

The approved amendment contemplates that Chevron will enter into a long-term lease (minimum 15 years) in relation to the proposed office accommodation and negotiated development timeframes will delay the project completion by 12 months.

The Metropolitan Redevelopment Authority reserves the right to buy back land if progress on the site does not commence within agreed timeframes. The Metropolitan Redevelopment Authority also retains control over the final build through the Development Application approval process as it will need to consent to any change of control or transfer of Lot 7 to the proposed third party developer.

For the remaining private lots, the Metropolitan Redevelopment Authority undertook the necessary due
diligence assessment in selecting its choice of the purchaser. Proponents were assessed on several criteria, including:

- project experience;
- financial capacity;
- commercial terms; and
- project design.

Third party consultants with the relevant land valuation expertise were engaged to evaluate the proposals submitted and their reports were provided to the Evaluation Panel to assist with their deliberations. Valuations were also obtained from Landgate. The commercial terms were then further negotiated by the Metropolitan Redevelopment Authority’s consultants with the proponents and finalised in a project development agreement. This included design development to ensure that both the master plan and business case objectives for Elizabeth Quay were met.

Although Brookfield’s towers designed for Lots 5 and 6 do not conform with the height restrictions under the Elizabeth Quay design guidelines, at its hearing with the Special Inquirer the Metropolitan Redevelopment Authority emphasised the importance of strong design over height limitations and was therefore prepared to waive this requirement. The guidelines provide for the opportunity to exceed the height limits if the proponent can demonstrate the performance of the building and the achievement of proper urban design and planning outcomes. This is consistent with the project objectives for Elizabeth Quay.

Should the sales all proceed as currently negotiated, they will generate $319 million, which is higher than the 2011 budget estimate of $170 million, but less than the CBRE assessment of $480 million to $490 million. It should be noted that since 2012 the Perth property market has undergone a significant correction, particularly with respect to vacancy rates for commercial property. The Metropolitan Redevelopment Authority advised that:

…the modelling prepared by CBRE projected a land release approach spanning over 15 years (which was not considered unrealistic at the time based on traditional market uptake rates) culminating in a Net Present Value (NPV) of revenues of $210 million. The analysis by CBRE was then balanced by the MRA [Metropolitan Redevelopment Authority] against other State objectives and a more conservative approach was taken towards reporting of revenues…The subsequent lot release program by the MRA was consistent with the CBRE recommended strategy albeit over a more aggressive timeframe (5 years) based on actual market appetite as the project evolved, along with the government objective to complete the project as soon as practicable, culminating in a NPV broadly consistent with the CBRE analysis.

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35 Metropolitan Redevelopment Authority responses to Special Inquiry request for information, received 17 November 2017.
**Water park compliance**

At its hearing with the Special Inquirer, the Metropolitan Redevelopment Authority advised it was reliant on the Department of Health to provide guidance on the requirements for the water park and that the Authority had some difficulties engaging with the Department on the requirements for the facility. Responsibility for the design of the water park lay first with a specialist water feature sub-consultant, JLM, and then with Waterforms International that had extensive experience in design, management and operation of water features across Australia. It is unclear to the Special Inquirer why JLM or Waterform International were unable to provide sufficient guidance on the design and requirements for the facility.

In light of the subsequent issues identified with the water filtration system it can only be concluded that the water park was opened prematurely, before adequate testing of the water pumps and the filtration system had been undertaken.

At its hearing, the Metropolitan Redevelopment Authority further advised that the water park now has a foolproof system whereby only water that is within the Department of Health’s guidelines reaches the surface. If the water does not meet guideline tolerances the system automatically shuts down and the water is cleaned until it is compliant.

The plumbing defects were not originally identified due to the contractor’s misinterpretation of the Plumbing Code requirements and resultant failure to notify the Building Commission’s plumbing inspectors of the works. The Metropolitan Redevelopment Authority advised that the contractor was obliged to design and construct all elements of the public domain and inlet in compliance with all codes and regulations as is standard practice. It is understood that the rectification works were undertaken at the contractor’s expense. It also covered the costs of the upgrades to the filtration system to the capacity specified in the 2010 Code. The Metropolitan Redevelopment Authority advised that improvements to the water park filtration system in excess of the 2010 Code were over and above CPB Contractors’ contractual obligations and the cost of $290,923 was covered by the Metropolitan Redevelopment Authority out of the approved $438.5 million project budget.

**Ongoing management**

The Metropolitan Redevelopment Authority is currently responsible for daily cleaning of the precinct, security, landscaping, costs associated with leasing, repairs and maintenance. This includes the ongoing maintenance and operations of the BHP Billiton Water Park, with $2.9 million being approved in the Metropolitan Redevelopment Authority’s 2017/18 operational expenditure. Funding for facilities and asset management is included in the forward estimates until 2019/20.

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36 Metropolitan Redevelopment Authority responses to Special Inquiry findings, received 28 November 2017.
37 Metropolitan Redevelopment Authority response to Special Inquiry questions on notice, received 21 September 2017.
There is no funding for place activation\(^{38}\) after 2017/18. While the 2010 business case did not contain any assessment of the potential maintenance and place management costs, the 2011 budget contained an allocation of $12.878 million for these costs. Expenditure is currently within budget with $8.833 million spent in 2015/16 and 2016/17.

The Metropolitan Redevelopment Authority has transferred responsibility for:

- management of the inlet, ferry terminal and moorings to the Department of Transport;
- management of the inlet water body to the Department of Biodiversity, Conservation and Attractions; and
- is progressing the transfer of management of the precinct to the City of Perth.

The Special Inquirer has been advised that the City of Perth has responsibility for place management in other public domain areas of the city and has been consulted during all aspects of project design and delivery.\(^{39}\)

In May 2017, the Metropolitan Redevelopment Authority and the City of Perth signed a Site Specific and Public Asset Agreement. The agreement sets key milestones to be achieved in order for the City of Perth to take over management responsibility and provides a high-level overview of how handover of the assets, the transitional governance, and financial aspects will be undertaken. The transition of place management (activation, facilities and asset management) is anticipated to take place by 2019/20, subject to finalising the method and implementing the place making levy, which is expected to generate between $2 million and $3.7 million per annum.

The Metropolitan Redevelopment Authority advised that by 2019/20 place management at Elizabeth Quay is estimated to be cost neutral, due to incomes from venue hire and leases and the place making levy.\(^{40}\)

**Benefits realisation**

The benefits of the project have not been measured, as practical completion for all aspects has not been granted. Any immediate benefits will be assessed when the project is complete. The Metropolitan Redevelopment Authority noted that the timing of the development of the private lots does not have a direct impact on the project financials and therefore has not been assessed at this point. The revenue for the sale of the lots has exceeded expectations.

A Deloitte Access Economics report dated November 2016 estimates that the project would contribute a cumulative $637 million to gross State product between 2011/12 and 2025/26 in present value terms and provide an average of 543 jobs per year.

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\(^{38}\) “Place activation” refers to the temporary, creative reinterpretation of public space.

\(^{39}\) Metropolitan Redevelopment Authority, responses to Special Inquiry questions on notice, received 12 October 2017.

\(^{40}\) Ibid.
Financial implications of the transfer of the Elizabeth Quay project to the Metropolitan Redevelopment Authority

Requesting the Metropolitan Redevelopment Authority to oversee the development of this project raises issues about the adequacy of the legislation and funding arrangements for the Authority.

The Metropolitan Redevelopment Authority was formed in 2011 as an amalgam of several other redevelopment authorities that had operated across the broader metropolitan area in recent times. It was asked to oversee major projects across the city including the Elizabeth Quay project and the Yagan Square development in Northbridge. Both projects had major social amenity and economic dimensions in their objectives.

The legislation creating the Metropolitan Redevelopment Authority is based on the Western Australian statutory authority model more so than a Government Trading Enterprise approach. It specifies the Authority’s functions, creates the role of a Chief Executive Officer and provides for an independent Board. It does not require the Metropolitan Redevelopment Authority to achieve commercial rates of return on assets but does require it to operate on a self-funding basis. The Board must comply with normal budget process requirements and prepare and seek approval of an annual business and operational plan. The Minister has powers to direct the Board but unlike the Trading Enterprise model the Board does not have the authority to seek appropriations when required to undertake a non-commercial activity.

The Metropolitan Redevelopment Authority’s Chief Executive Officer explained to the Special Inquirer that the legislative model “is actually a hybrid…We have an ethos of acting in a commercial manner, but we don’t have a hurdle rate associated with our projects. I think there’s always been an understanding that redevelopment authorities are working in places of market failure in the main, and so not expected to make a return”.41

He went on to say that “the hybrid works on the basis that to have our planning consent powers you need to be an agent of the Crown. So a GTE can’t be an agent of the Crown. And so that’s basically the contradiction in the work that we do and the work that the Land Corporation does.”42

The structure, role and funding arrangements of the Metropolitan Redevelopment Authority was reviewed as part of an Agency Expenditure Review in May 2017 which made recommendations concerning the future role of the Authority especially between its statutory planning and commercial development roles, that it should become a full GTE with all the powers and accountabilities of the GTEs and that its funding arrangements should be changed to include project by project equity injections to fund the non-commercial aspects of its responsibilities.

41 Metropolitan Redevelopment Authority, Special Inquiry hearing, 4 October 2017
42 Ibid.
The Special Inquirer noted that these changes would address several concerns that the Authority and its Board had raised in responding to the Authority Expenditure Review report where it said that "Given the nature of the MRA’s major projects, including their significant public works and remediation components, it is clear that the MRA has been inappropriately funded."

**RECORD KEEPING**

The Department of Planning, Lands and Heritage and the Metropolitan Redevelopment Authority were able to provide information and documentation that was requested by the Special Inquirer.

**FINDINGS**

1. The Elizabeth Quay project was delivered close to budget and broadly on time despite undue haste being applied by Government in the early planning stages of the project.

2. Governance arrangements were initially complex. The transfer of the project to the Metropolitan Redevelopment Authority enhanced the governance arrangements albeit at the cost of transparency. It would have been desirable if other key agencies were represented in the governance structure. While the Metropolitan Redevelopment Authority reported to Cabinet quarterly on the progress of Elizabeth Quay through participation in the Senior Officers Advisory Committee, this group did not have an official role in the governance arrangements for the project.

3. There was less than satisfactory external review of progress with the project from the successful Gateway Review process which was not applied once the Metropolitan Redevelopment Authority assumed control of the project.

4. The sale of private Lots has generated good value. The sale of Lots 7 and 8 to Chevron did not align with the best practice of competitive tendering for the sale of such assets and project transparency. While sale proceeds against market values were high it remains unclear if highest value was secured for the lots.

5. Consultants engaged by the Metropolitan Redevelopment Authority were unable to provide sufficient guidance and advice to the Authority regarding the design of the water park.

6. The opening of the water park was rushed. It did not follow best project management practice, with the certificate to operate granted just hours prior to opening.

7. Should all the land sales be completed, the Government is expected to receive $319 million, which is significantly more than originally estimated, but less than estimated in the proposal submitted to the Metropolitan Redevelopment Authority Board in August 2012.

8. While short term benefits can be measured at project completion, long term benefits of the project will not be measured for some time due to the timeframe in developing the private lots.

9. The hybrid nature of the Metropolitan Redevelopment Authority and its unsatisfactory funding arrangements resulted in undue reliance on debt funding.
LAND ASSET SALES PROGRAM

“Land is a precious asset and should be managed accordingly. It should not be sold simply to try and protect the State’s credit rating.”

– John Langoulant, Special Inquirer

The Land Asset Sales Program was launched in September 2014 with the twin aims of reducing State debt and helping to retain the Triple-A credit rating despite Moody’s having downgraded the rating in August 2014.

But all was not plain sailing. For a start there are two classifications of government land. The former Department of Lands, now the Department of Planning, Lands and Heritage, managed sales of Crown land and prepared properties for sale. Government agencies and trading enterprises own their land freehold and have some autonomy. They were encouraged, but could not be forced, to participate in the program.

Another problem was that about half of the properties initially earmarked for sale were not ready to be placed on the market.

Although the revenue generated to date is considered satisfactory, more than half of the properties have been sold at a loss, including some at less than half their previous purchase price. But an overall assessment of sales by government agencies is difficult, because they are not required to disclose market valuations.

The Department of Planning, Lands and Heritage, which should be given increased powers over land sales, is yet to assess whether the program has achieved value for money. While there has been some discussion regarding the sale of government property in a depressed market\(^1\), the Special Inquirer is of the view that the management of asset sales to achieve maximum benefit for the State and the associated transparencies are the priority focus here.

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SUMMARY

The Western Australian Government owns around 92 per cent of the state’s land, or 232 million hectares reportedly valued at around $73.7 billion. Government land has many uses including for service delivery (for example, schools, hospitals and transport corridors), as reserves (for example, Kings Park), and for pastoral leases (for example, Roy Hill Station in the Pilbara).2

In September 2014, the Premier and the Minister for Lands announced the Land Asset Sales Program which identified 20 government-owned surplus properties for sale, with initial sales expected to raise $250 million.3 In 2015, identified sales proceeds over forward estimates to 2018/19 were stated to be $461 million. This was confirmed at the Special Inquiry hearing with the Department of Planning, Lands and Heritage on 2 October 2017.

Under the Land Asset Sales Program, government agencies are required to work with the Department of Lands (now the Department of Planning, Lands and Heritage) to identify surplus properties.4 The Department of Planning, Lands and Heritage manages sales of Crown land and prepares properties for sale. Freehold properties can still be sold by other government agencies, but sales are required to be reported to the Department of Treasury via the Land Asset Sales Program and where appropriate the Department of Treasury acts to remit proceeds to the Consolidated Account.5 The Department of Planning, Lands and Heritage has indicated, however, that it currently has no definitive way of ensuring agencies report their disposals.6

Since the program’s inception in 2014, some of the issues identified include the need for more transparency, clearly defined agency responsibilities towards land management, focus on governance arrangements and provision of oversight and guidance. The Special Inquirer has identified further opportunities for improving land management and land asset sales. These include measures to improve accountability for land management, a whole-of-government focus on the management of government land, and the reframing of the Land Asset Sales Program to encompass the broad objectives of government.

The Land Asset Sales Program includes an unsolicited bids process which allows consideration of proposals by the private sector that have not been formally requested by the Government. The process involves multiple stages and requirements commencing with lodgement of a submission. The sale of land through unsolicited bids is a separate element of the Land Asset Sales Program, and is not a central focus of this report.

PROGRAM SYNOPSIS

In August 2014, prior to the commencement of the Land Asset Sales Program in September 2014, the State Government had decided to sell Market City in Canning Vale, Utah Point Bulk Handling facility in Port Hedland, and the port handling facilities in Kwinana. The Premier stated that the State’s priority was to reduce

3 Government of Western Australia Media Statement, Government land sales to raise revenue, (25 September 2014).
4 Department of the Premier and Cabinet, Premier’s Circular 2015/06, (2 September 2015).
5 Department of Treasury, Strategic Asset Management Framework – Land Asset Sales Program: Financial Guidelines.
6 Department of Planning, Lands and Heritage response to Special Inquiry questions on notice, received 15 September 2017.
debt and retain the Triple-A credit rating. The three assets were expected to generate between $1 billion and $2 billion.\(^7\)

In September 2014, the State Government announced that a further 20 sites, including five hospital precincts, were to be sold to help reduce net debt (See Appendix A). The expectation was that the initial land sales would generate about $250 million. These sites had been identified as surplus to the State’s needs. The Land Asset Advisory Group was established to provide ongoing advice on the sale of property assets.

The Department of Lands was given responsibility for designing the program, developing land assessment criteria, and administering the program.

The Kaleeeya Hospital site was the first sale as part of the program via public tender in late 2014 for $17.5 million.\(^8\) In February 2015, expressions of interest were sought for development of the East Perth Power Station into a precinct that included a mix of living, working and leisure opportunities.

The Minister for Lands responded to questions at Assembly Estimates on 25 May 2016 that the program was on target for overall budget estimates but that the 2015/16 Crown land sales were significantly under the original target, while freehold sales were significantly over.

In June 2015, the State Government decided to bring additional government-owned properties to the market. New sites announced by the Premier included the Old Cottesloe Cable Station, Claremont Police Station and three disused school sites. The Minister for Lands estimated the total sales of the combined properties would generate a further $268 million which would help to drive down debt.

At that stage, 75 assets with a combined value of $140.5 million had been sold. A further 538 assets were at various stages of asset identification, a significant expansion of the original scope.

An advisory group of Directors General — the Land Asset Management Advisory Group — was established to provide the Minister with advice on the preferred divestment strategy for key surplus or underutilised real property assets.

The Special Inquirer notes that the sale of government assets, such as land in this case, to retain a credit rating can lead to adverse overall outcomes when larger drivers of net debt growth, such as operating deficits and capital expenditures are not being addressed. The sale of land at values below market values is one of those adverse consequences.

**Crown land versus freehold**

While all government land is owned by the State, the treatment of the sale of Crown land differs from that

\(^7\) Government of Western Australia Media Statement, First round of Government asset sales announced, (28 August 2014).

\(^8\) Government of Western Australia Media Statement, Kaleeeya Hospital site sells to aged care provider, (8 December 2014).
of freehold land. Crown land is managed centrally and covers planning, land acquisition and divestment, leasing, granting tenures and legal framework management. Freehold land is ‘owned’ by government agencies and Government Trading Enterprises and is managed within those agencies.

The Department of Planning, Lands and Heritage notes that general government agencies have been consulting with the Land Asset Sales Program since it commenced in 2014. Statutory authorities and Government Trading Enterprises operating under their own land asset management and disposal programs, however, are generally working in isolation.9

All agencies are required to provide the Land Asset Sales Program with their planned and actual sales. Only Crown land sales are reported with the market valuation.

Unsolicited bids

While it was intended that Government would initiate the sale of land as part of the Land Asset Sales Program, the Government also established a process to manage unsolicited bids — that is, those proposals put to Government by the private sector which have not been formally invited by Government. As mentioned previously, the sale of land through unsolicited bids is a separate element of the Land Asset Sales Program, and is not a central focus of this chapter. Further information on this element of the program is provided later in this chapter.

Current status

Table 1: Crown and freehold land sales as at October 2017

<table>
<thead>
<tr>
<th>SALES (September 2014 – October 2017)</th>
<th>NO. OF ASSETS</th>
<th>VALUATION</th>
<th>SALES PROCEEDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crown (Land Asset Sales Program)</td>
<td>51</td>
<td>$51 410 564</td>
<td>$57 843 837</td>
</tr>
<tr>
<td>Freehold</td>
<td>104</td>
<td>Not available*</td>
<td>$187 062 628</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$244 906 465</td>
</tr>
</tbody>
</table>

*Freehold land valuations are currently not provided by agencies to the Department of Planning, Lands and Heritage.

No Crown land assets disposed via the Land Asset Sales Program have been sold at more than 10 per cent below valuation. Outside of the Land Asset Sales Program, Crown land is at times sold at below market value where this represents optimal use of the land. This is generally initiated by Ministerial or Cabinet direction. (See Appendix B for list of sales to date).

Because of lack of transparency relating to the sale of freehold land by agencies, the total benefit (or lack thereof) is not known. Although it was within the power of the Special Inquirer to access such information, it

9 Department of Planning, Lands and Heritage Special Inquiry hearing 2 October 2017.
was not possible to do so within the time provided. At its hearing on 2 October 2017,\textsuperscript{10} the Department of Planning, Lands and Heritage noted that previously some agencies have held on to land for which they had no use (landbanking). Some of this was due to the capability of agency chief financial officers, and their lack of understanding of their responsibilities.

**Auditor General Audit — April 2016**

An audit of the Land Asset Sales Program by the Auditor General noted that good progress was made in managing the planning and implementation of the program.\textsuperscript{11} There is a robust framework for management of asset sales: there has been an increase in the accountability of agencies to identify surplus properties by requiring them to justify holdings, and if there is no reason to retain them, then to sell them.

The report noted some findings and recommendations including the need for more transparency over sales, and the failure of the Land Asset Sales Program’s website.

There was discussion about the sale of more than half of the properties at a loss or at less than half their previous purchase price. The Auditor General also noted that the Land Asset Sales Program’s website failed to reveal sales prices or costs of preparing land for sale; and the fact that some of the sales had been between agencies: for example, some properties had been sold to LandCorp and the Housing Authority which may have had land tax implications.

The Auditor General noted that a new module was being added to the Strategic Asset Management Framework — the Department of Treasury’s framework that provides policies and guidelines to improve asset investment planning and management across the State public sector, including in relation to surplus properties. This framework guides agencies when dealing with surplus properties. The new module is supported by a comprehensive handbook for Department of Lands staff and participating agencies, which advises on the identification and assessment of surplus properties.

The Auditor General also recommended that the Department of Lands report each sale on its website, including the property valuation, sale price and cost of sale for each property sold. A further recommendation was that the Department of Lands conduct a formal review of the impact and effectiveness of the Land Asset Sales Program.

\textsuperscript{10} Department of Planning, Lands and Heritage Special Inquiry hearing, 2 October 2017.

EVALUATION OF THE PROJECT

Governance

A Premier’s Circular issued in early September 2015 noted the expectation that Ministers, boards and chief executive officers would ensure that agencies under their control understood the Government’s objectives and priorities for the Land Asset Sales Program.\textsuperscript{12}

The former Government’s Economic and Expenditure Reform Committee endorsed the following key principles of the program.

1. The State, rather than individual agencies, is the owner of all real property assets. Assets are to be used at their highest and best use. Assets are to be made available for core agency business.
2. The Department of Lands will develop and coordinate a program of land asset sales.

Agencies were informed that previous arrangements for the retention or sharing of proceeds from the sale of land would no longer apply and that all sale proceeds would be delivered to the Government’s Consolidated Account. Requests for new land had to be made through a separate submission to the Department of Treasury through the Strategic Asset Management Framework.

The Land Asset Sales Program was established to reflect the Government’s commitment to an orderly program for the sale or lease of surplus and underutilised State-owned land.

The Land Asset Sales Program was initially overseen by the Premier with support from the Treasurer, the Minister for Planning, the Minister for Lands, and the Minister for Finance. This oversight was supported by the cross-agency Land Asset Management Advisory Group which comprised chief executives from related agencies.

Significant land divestments — those valued above $5 million or where de-constraining costs (that is the cost of removing constraints such as contamination or rezoning) are above $500,000 — are considered by the Land Asset Management Advisory Group. Divestment cases are prepared to identify the range of options available for future use of a surplus land asset, and recommend a preferred divestment approach for the Land Asset Management Advisory Group’s consideration. The Land Asset Management Advisory Group is said to have been only ‘modestly effective’ as a governance body because the membership did present some challenges.\textsuperscript{13} Some representative agencies had a vested interest, in that they were overseeing the sale of their own assets.\textsuperscript{14} The Department of Planning, Lands and Heritage’s Director General intends to restructure the group to minimise interests and the inevitable conflicts that arise.

\textsuperscript{12} Department of the Premier and Cabinet, Premier’s Circular 2015/06, (2 September 2015).
\textsuperscript{13} Department of Planning, Lands and Heritage Special Inquiry hearing 2 October 2017.
\textsuperscript{14} Ibid.
The Auditor General reported in 2016 that:

1. the program had made a good start;
2. there were sound processes and governance arrangements in place; and
3. this should produce a good outcome for the taxpayer.

Unsolicited bids

Unsolicited bids — that is, those where a proposal is put to the Government by the private sector without Government invitation to buy — aimed to provide a mechanism for government collaboration with the private sector, leverage expertise and harness innovative ideas for the benefit of the community.

Stage 1 of the approval process involves the former Department of Lands providing an assessment report on a proposal to the Land Asset Management Advisory Group and a recommendation to the Minister. If proponents are successful at Stage 1 they are then invited to submit a detailed bid for further assessment at Stage 2 where the proposal is assessed. At Assembly Estimates on 25 May 2016, the Minister for Lands stated that there had been 21 unsolicited bid proposal inquiries received. Of those, five had proceeded to the mandatory pre-submission meeting stage of the process and one had proceeded to Stage 1 the preliminary assessment stage.

The Auditor General has noted that unsolicited land sales have been approached cautiously in other jurisdictions. As mentioned earlier, the sale of land through unsolicited bids is a separate element of the Land Asset Sales Program, and is not a central focus of this report. It is referenced here as it was referred to in the Auditor General’s report.

Transparency

The Department of Lands, now the Department of Planning, Lands and Heritage, reports on the market valuations and settlement details on all Crown property. When land owned by agencies is sold, however, the same approach is not taken. Agencies are able to hold and dispose of freehold land in accordance with the legislation and processes of that agency. The Department of Planning, Lands and Heritage’s role in this respect is limited to providing reporting to government. It is noted that reporting completeness is dependent on information received from agencies.

Program management

To facilitate the appropriate selection and disposal of surplus land, a sound method was developed. The method included a market valuation for each property and an assessment of the ‘highest and best use’ according to a multi-criteria analysis framework. In making assessments about land, agencies are also required to consider the de-constraining costs and selling costs required for property sale.

Having a sound method in place, however, does not compensate for the lack of rigour on the initial identification of ‘surplus’ land. This was conducted through a desktop audit which did not consider de-constraining costs or the depressed market. During the hearings, the Special Inquirer learned that around 50 per cent of properties intended for sale as advised in 2015 are still not ready for sale.

OTHER COMMENTS

The Department of Planning, Lands and Heritage is responsible for the oversight, coordination and administration and success of the Land Asset Sales Program. Currently, the Department of Planning, Lands and Heritage does not have the authority to compel agencies to identify their surplus land, or to report fully on sales. The collation of such information depends upon other agencies providing it on a voluntary basis.

The Department of Planning, Lands and Heritage is well placed to lead and to create a framework which reduces the real risk that land needed in the long-term is sold, that issues around de-constraining costs are not contained, and that agencies are able to landbank without penalty.

RECORD KEEPING

The Department of Planning, Lands and Heritage provided the Special Inquirer with all documents and information requested.

FINDINGS

Program establishment and achievement of objectives

1. Reducing net debt and securing the State’s credit rating were key drivers of the Land Asset Sales Program but the principal objective should be optimising land asset use and value for the State.
2. Optimal management of land assets requires a comprehensive understanding of whole-of-government land holdings and consideration for the best long-term use of land.
3. The announcement of the ‘Top 20’ parcels of land and the sales target did not adequately consider the constraints which were applicable. Approximately half were not readily marketable and analysis of the marketability was not thorough. It is noted, however, that while the ‘Top 20’ properties have played a limited role in the total projected land sales, there has been over $280 million generated through sales since the inception of the Land Asset Sales Program, and therefore it has met its original objective of realising $250 million.
4. The Land Asset Sales Program has a robust framework for guiding the identification and assessment of land for sale. There is still, however, inadequate whole-of-government consideration of disposal of land assets as long as individual agencies and Government Trading Enterprises are making divestment decisions without consulting the Department of Planning, Lands and Heritage.
5. The Land Asset Sales Program appears to be achieving expectations for Crown land sales. Evidence demonstrates that Government achieved sales at or higher than market valuation when aggregated across all sales between 2014-15 and 2016-17.
6. The results for sales of freehold land cannot be fully analysed because the information on sales of freehold land is not complete. Government agencies and Government Trading Enterprises are not required to provide market valuations and the provision of sales information to the Land Asset Sales Program is not mandatory.
7. The Department of Planning, Lands and Heritage is yet to make an assessment on the achievement of value for money on the program.
8. The recently established Department of Planning, Lands and Heritage has not yet implemented the recommendation of the Auditor General (April 2016) to report sales, valuations, and other information on its website.

9. The objective and scope of the Land Asset Sales Program is now broader and more relevant than just sales; with a focus on whole-of-government ‘best use’ planning and infrastructure needs.

**Governance and transparency**

10. While the Land Asset Management Advisory Group has seen high levels of collaboration and cooperation by members, the structure of this advisory group needs review. The Land Asset Management Advisory Group membership at times included agencies with conflicted objectives. A review is underway to this effect by the Department of Planning, Lands and Heritage’s Director General and will clearly refine the roles of participating agencies to ensure that land management recommendations are made by the accountable agencies while ensuring the experience and knowledge of other agencies regarding land use and divestment of land is retained.

11. The Department of Treasury has implemented a new module into the Strategic Asset Management Framework to guide agencies in land management and to require them to identify surplus land. This also gives the Department of Treasury a mechanism to track land sales net revenue. At this stage, these requirements are not mandatory for Government Trading Enterprises.

**Freehold land management and agencies’ responsibilities**

12. Land sales processes are not consistent and agencies and Government Trading Enterprises are not required to consult with the Department of Planning, Lands and Heritage or central agencies on the sale of freehold land.

13. The approach to market valuations and their publication differs for Crown land as compared to freehold land. This means that there is less transparency than desired, thus the Department of Planning, Lands and Heritage does not have full information about sales.

14. There is limited overview of the disposal of property owned by agencies and government trading enterprises. Business cases for sale are not reviewed by the Department of Planning, Lands and Heritage and the Department of Planning, Lands and Heritage is not advised on pre-sale market valuations on these properties. The Department of Planning, Lands and Heritage does not have sight over the de-constraining costs.

15. Agency business cases do not always provide adequate information on de-constraining costs.

16. There is no lower threshold with respect to market value below which a sale may not be made.

17. Chief financial officers are not currently being held to account for managing their assets due to capability issues. Some of these issues are being addressed through the Strategic Asset Management Framework.

18. Agencies are not compelled to provide sale of land information to the Department of Planning, Lands and Heritage. Reports are therefore not comprehensive and there is a lack of accountability arising from this poor transparency.

19. Some of the reported sales are transactions between government agencies which may have land tax implications.

20. The Land Asset Management Advisory Group needs to receive full information when there is a divestment of land from one government authority to another to prevent landbanking.
RECOMMENDATIONS

1. Land asset management
The principal objective of State land asset sales should be optimal management, including strategic land use and valuation aspects, of the asset — not credit rating objectives.

An integrated whole-of-government land management model should be developed by the Department of Planning, Lands and Heritage which covers all public sector agencies (including Government Trading Enterprises). The model should:

- use the Strategic Asset Management Framework land management module to identify all surplus land;
- ensure agencies do not landbank;
- require all agencies’ business cases for proposed land sales to be reviewed by the Department of Planning, Lands and Heritage;
- set requirements for agencies to obtain land valuations (for freehold and Crown land) prior to sale processes commencing;
- record costs for de-constraining land and land sales;
- ensure land sales are conducted to maximise sales proceeds; and
- manage the publication of valuations, cost of selling (including de-constraining and divestment costs), and sales revenue with protections for sensitive information as appropriate.

Consistent with Department of Planning, Lands and Heritage’s integrated land management model, the authority of the Land Asset Sales Program should be broadened and the program renamed to include responsibility for the development of a public sector state-wide land sales program.

2. Transparency
Greater transparency around the sale of land assets will enhance accountability. It is recommended that:

- all government agencies (including Government Trading Enterprises) be required to provide all information on their proposed and actual land sales to the Department of Planning, Lands and Heritage for publication;
- proceeds from land sales should be published alongside pre-sale market valuations; and
- Government Trading Enterprises should include proposed land sale information in their annual Strategic Development Plans. Other statutory bodies should advise the Department of Treasury and Department of Planning, Lands and Heritage of their plans as part of the annual State budget process.

3. Addressing the Auditor General’s recommendations
It is recommended that the Department of Planning, Lands and Heritage complete all work to address the Auditor General’s recommendations by March 2018.

4. Unsolicited bids
It is recommended that the Department of Planning, Lands and Heritage publishes lessons learned from unsolicited bids processes that have occurred to date to educate future proponents.
APPENDIX A - FIRST 20 SITES FOR SALE IN THE LAND ASSET SALES PROGRAM

<table>
<thead>
<tr>
<th>NAME OF ASSET</th>
<th>AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kaleeeya Hospital: 15 Wolsely Rd, East Fremantle</td>
<td>1.1 ha</td>
</tr>
<tr>
<td>Shenton Park Hospital Site: 6 Selby St, Shenton Park</td>
<td>15.8 ha</td>
</tr>
<tr>
<td>Princess Margaret Hospital Site: Roberts Rd, Subiaco</td>
<td>4.16 ha</td>
</tr>
<tr>
<td>Swan District Hospital Site: Eveline Rd, Middle Swan</td>
<td>10.6 ha</td>
</tr>
<tr>
<td>Woodside Maternity Hospital: Dalgety St, East Fremantle</td>
<td>1 ha</td>
</tr>
</tbody>
</table>
| DAFWA Site Forrestfield: 100 Bougainvillea Ave, Forrestfield | Total area 13.342ha
Est dev area 9.34ha |
| DAFWA Site Medina: Abercrombie Rd, Postans | 161.196 ha |
| Deaf School Cottesloe: 53 Curtin Ave, Cottesloe | 1.988ha
Est dev area 1.3 ha |
| PTA Lots 420 and 42: Mandurah Rd, Rockingham | 7.29 ha |
| PTA Area C site Forrestfield: 777 Abernethy Rd, Forrestfield | 28.7846ha |
| Claremont Oval Development: Davies Rd, Claremont | 1800m² |
| Wanneroo Lot 500: 4 Shaw Rd, Wanneroo | 1.66ha |
| Fremantle Police Station: 45 Henderson St, Fremantle | 0.7106ha |
| Industrial Foundation for Accident Prevention Site (IFAP): 128 Farrington Rd, North Lake | 4.36 ha |
| Old Perth Girls’ School: Plain St, East Perth | 1.7427 ha |
| Potato Marketing Corporation Headquarters: Cockburn Rd, North Coogee | 1.6775ha |
| Yirra Yaakin Theatre: 65 Murray St, Perth | 0.0852ha |
| DAFWA Headquarters: 3 Baron-Hay Ct, Kensington | 20.47ha
Est 14.2ha |
| East Perth Power Station: Summers St, East Perth | 8.5ha |
| Police Headquarters East Perth: 2 Adelaide Tce, East Perth | 1.78ha |

16 Department of Planning, Lands and Heritage response to Special Inquiry questions on notice, received 15 September 2017.
### APPENDIX B - LAND ASSET SALES PROGRAM SALES TO DATE

#### Crown land sales

<table>
<thead>
<tr>
<th>NAME OF ASSET</th>
<th>SETTLEMENT FIGURE (excl. GST)</th>
<th>VALUATION</th>
<th>SETTLEMENT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Shaw Road, Wanneroo</td>
<td>$3,465 122</td>
<td>$3,465 122</td>
<td>7/10/2014</td>
</tr>
<tr>
<td>2 Rochdale Road, Mount Claremont</td>
<td>$1</td>
<td>$1</td>
<td>9/01/2015</td>
</tr>
<tr>
<td>13 Greybox Crescent, Kununurra</td>
<td>$410 000</td>
<td>$363 636</td>
<td>14/04/2015</td>
</tr>
<tr>
<td>Kim Beazley School: 125 Stevens Street, White Gum Valley</td>
<td>$4,288 255</td>
<td>$4,288 255</td>
<td>3/12/2014</td>
</tr>
<tr>
<td>421 Massingham Street, Kellerberrin</td>
<td>$70 000</td>
<td>$70 000</td>
<td>5/03/2015</td>
</tr>
<tr>
<td>17 Lawrence Way, Mills Well, Karratha</td>
<td>$320 273</td>
<td>$309 091</td>
<td>28/01/2015</td>
</tr>
<tr>
<td>Roleystone Primary School: Lot 1352 &amp; Lot 3268 Robin Road, Roleystone</td>
<td>$1,250 000</td>
<td>$1,227 273</td>
<td>5/05/2015</td>
</tr>
<tr>
<td>54 Brookman Street, Kalgoorlie</td>
<td>$909 091</td>
<td>$909 091</td>
<td>13/01/2015</td>
</tr>
<tr>
<td>28 Carajina Road, Reserve 32220, Port Hedland</td>
<td>$415 000</td>
<td>$386 364</td>
<td>24/12/2014</td>
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<tr>
<td>87 Johnston Street, Dalwallin</td>
<td>$45 455</td>
<td>$45 455</td>
<td>19/12/2014</td>
</tr>
<tr>
<td>17 Mead Street, Kalamunda</td>
<td>$2,310 000</td>
<td>$1,854 545</td>
<td>27/05/2015</td>
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<tr>
<td>69 Carawatha Avenue, Mount Nasura</td>
<td>$730 000</td>
<td>$700 000</td>
<td>14/11/2014</td>
</tr>
<tr>
<td>Former Potato Marketing Corporation Headquarters: Cockburn Road, North Coogee</td>
<td>$4,146 364</td>
<td>$4,000 000</td>
<td>20/11/2015</td>
</tr>
<tr>
<td>Fremantle Police Station: 45 Henderson Street, Fremantle</td>
<td>$3,682 000</td>
<td>$3,682 000</td>
<td>10/05/2016</td>
</tr>
<tr>
<td>Yirra Yaakin Theatre: 65 Murray Street, Perth</td>
<td>$2,600 000</td>
<td>$2,000 000</td>
<td>25/05/2016</td>
</tr>
<tr>
<td>80, 81, 82 &amp; 84 Ellesmere Street, Mount Hawthorn</td>
<td>$1,933 000</td>
<td>$1,250 000</td>
<td>27/06/2016</td>
</tr>
<tr>
<td>Former Midland Licensing Centre: 12 Padbury Terrace, Midland</td>
<td>$1,650 000</td>
<td>$1,650 000</td>
<td>10/07/2015</td>
</tr>
<tr>
<td>234 Scarborough Beach Road, Doubleview</td>
<td>$750 000</td>
<td>$700 000</td>
<td>30/03/2016</td>
</tr>
<tr>
<td>1083 Eulup-Manurup Road, Mount Barker</td>
<td>$600 000</td>
<td>$555 000</td>
<td>18/04/2016</td>
</tr>
<tr>
<td>28 Loch Street, Derby</td>
<td>$409 091</td>
<td>$409 091</td>
<td>4/12/2015</td>
</tr>
<tr>
<td>28 Harvey Place, Kalbarri</td>
<td>$72 727</td>
<td>$72 727</td>
<td>9/05/2016</td>
</tr>
<tr>
<td>47 Bartram Road, Dumbleyung</td>
<td>$13 636</td>
<td>$10 000</td>
<td>3/09/2015</td>
</tr>
<tr>
<td>Old Perth Girls School: 2 Wellington Street, East Perth (School site only)</td>
<td>$5,075 000</td>
<td>$5,075 000</td>
<td>14/06/2017</td>
</tr>
<tr>
<td>Former Hospital Site: 2 Mulga Way, Wickham</td>
<td>$700 000</td>
<td>$700 000</td>
<td>15/06/2017</td>
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<tr>
<td>South Merredin Primary School: Lot 510 Caw Street, Merredin</td>
<td>$240 909</td>
<td>$240 909</td>
<td>25/01/2017</td>
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<tr>
<td>900 Woodlands Road, Stoneville</td>
<td>$565 000</td>
<td>$538 658</td>
<td>22/09/2016</td>
</tr>
<tr>
<td>2 Berthold Street and 11 Bolton Way (Lot 503 Gilmore Avenue), Orelia</td>
<td>$1,900 000</td>
<td>$1,900 000</td>
<td>3/05/2017</td>
</tr>
<tr>
<td>24 Museum Drive, Nungarin</td>
<td>$2,506</td>
<td>$2,506</td>
<td>7/10/2016</td>
</tr>
<tr>
<td>15 Mines Road, Norseman</td>
<td>$5 909</td>
<td>$5 545</td>
<td>16/05/2017</td>
</tr>
<tr>
<td>Lot 555 Walker Street UCI, Kalbarri</td>
<td>$400 000</td>
<td>$400 000</td>
<td>26/05/2017</td>
</tr>
<tr>
<td>2 Weston Street, Cervantes</td>
<td>$245 455</td>
<td>$240 910</td>
<td>19/09/2016</td>
</tr>
<tr>
<td>Buntine Primary School: 2 Douglas Street, Butine</td>
<td>$63 750</td>
<td>$63 750</td>
<td>10/05/2017</td>
</tr>
<tr>
<td>39 Sandhills Road, Beelerup, Donnybrook</td>
<td>$163 636</td>
<td>$163 636</td>
<td>20/12/2016</td>
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<tr>
<td>1896 North West Coastal Highway, South Plantations</td>
<td>$100 000</td>
<td>$100 000</td>
<td>30/06/2017</td>
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<tr>
<td>214 De Witt Road (Karratha Road), Mount Anketell</td>
<td>$118 182</td>
<td>$100 000</td>
<td>2/09/2016</td>
</tr>
<tr>
<td>50 &amp; 52 Stubbs Street Reserve 27942, Lake Grace</td>
<td>$205 000</td>
<td>$200 000</td>
<td>3/02/2017</td>
</tr>
</tbody>
</table>

17Department of Planning, Lands and Heritage response to Special Inquiry questions on notice, received 15 September 2017. (The reason for missing figures is not known)
<table>
<thead>
<tr>
<th>NAME OF ASSET</th>
<th>SETTLEMENT FIGURE (excl. GST)</th>
<th>VALUATION</th>
<th>SETTLEMENT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greenough Depot: 11329 McConkey Rd, Greenough</td>
<td>$2,000</td>
<td>$2,000</td>
<td>18/04/2017</td>
</tr>
<tr>
<td>Lot 1533 Pyramid Rd, Karratha</td>
<td>$330,000</td>
<td>$330,000</td>
<td>14/02/2017</td>
</tr>
<tr>
<td>Lot 21 (43) Robinson St, Northam</td>
<td>$201,500</td>
<td>$200,000</td>
<td>14/09/2016</td>
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<tr>
<td>Lot 180 Tsavo St, Mundaring</td>
<td>$236,705</td>
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<td>18/04/2017</td>
</tr>
<tr>
<td>Lot 224 (26) Gray St, Mullewa</td>
<td>$7,273</td>
<td>$5,000</td>
<td>30/09/2016</td>
</tr>
<tr>
<td>Bull Rd (amalgamation), North Coogee</td>
<td>$70,000</td>
<td>$70,000</td>
<td>9/01/2017</td>
</tr>
<tr>
<td>North Fremantle Post Office: Lot 1, 211 Queen Victoria St, North Fremantle</td>
<td>$450,000</td>
<td>$450,000</td>
<td>24/11/2016</td>
</tr>
<tr>
<td>Lot 3 Wongan Rd, Wongan Hills</td>
<td>$49,000</td>
<td>$30,000</td>
<td>28/04/2017</td>
</tr>
<tr>
<td>24 Helm St, Maddington</td>
<td>$474,000</td>
<td>$470,000</td>
<td>16/05/2017</td>
</tr>
<tr>
<td>Shenton Park Hospital Site (partial payment/valuation only)</td>
<td>$15,000,000</td>
<td>$15,000,000</td>
<td>2017/18</td>
</tr>
<tr>
<td>Lot 83 Radburn Rd (Tone River), Lake Muir</td>
<td>$559,091</td>
<td>$525,000</td>
<td>2017/18</td>
</tr>
<tr>
<td>Old Bunbury Post Office: Lot 500 Stephen St, Bunbury</td>
<td>$480,000</td>
<td>$480,000</td>
<td>2017/18</td>
</tr>
<tr>
<td>Tincurrin Primary School: Lot 17 Tincurrin Rd, Tincurrin</td>
<td>$53,612</td>
<td>$53,612</td>
<td>2017/18</td>
</tr>
<tr>
<td>189 Avon Tce, York</td>
<td>$36,364</td>
<td>$36,364</td>
<td>2017/18</td>
</tr>
<tr>
<td>2 Caley Way, Corrigin</td>
<td>$31,818</td>
<td>$31,818</td>
<td>2017/18</td>
</tr>
<tr>
<td>Kymba Rd</td>
<td>$7,500</td>
<td>$7,500</td>
<td>2017/18</td>
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</table>

**Total: $57,844,223 $51,394,858**
### Freehold land sales

<table>
<thead>
<tr>
<th>NAME OF ASSET</th>
<th>AGENCY RESPONSIBLE</th>
<th>SETTLEMENT FIGURE (excl. GST)</th>
<th>SETTLEMENT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kaleeeya Hospital Site: 15 Wolsley Rd and 73 &amp; 75 Alexandra Rd, East Fremantle</td>
<td>Department of Health</td>
<td>$17,500,000</td>
<td>29/12/2014</td>
</tr>
<tr>
<td>8 High Rd, Wanneroo</td>
<td>Water Corporation</td>
<td>$2,400,000</td>
<td>10/06/2015</td>
</tr>
<tr>
<td>Unit 1 170 Jersey St, Wembley</td>
<td>Disabilities Services Commission</td>
<td>$750,000</td>
<td>8/12/2014</td>
</tr>
<tr>
<td>814 Canning Rd, Carmel</td>
<td>Department of Water</td>
<td>$680,000</td>
<td>6/02/2015</td>
</tr>
<tr>
<td>Lot 55 Sheffield Rd, Welshpool</td>
<td>Main Roads WA</td>
<td>$310,000</td>
<td>30/06/2015</td>
</tr>
<tr>
<td>94 Astley St, Gosnells</td>
<td>Western Australian Planning Commission</td>
<td>$670,000</td>
<td>17/12/2014</td>
</tr>
<tr>
<td>72 Hope Valley Rd, Naval Base</td>
<td>Main Roads WA</td>
<td>$2,090,000</td>
<td>23/06/2015</td>
</tr>
<tr>
<td>437 Great Eastern Hwy, Greenmount</td>
<td>Western Australian Planning Commission</td>
<td>$310,000</td>
<td>15/03/2015</td>
</tr>
<tr>
<td>9 Tully Rd, East Perth</td>
<td>Western Power</td>
<td>$3,960,000</td>
<td>20/03/2015</td>
</tr>
<tr>
<td>90 Clarke Rd, Neerabgoby</td>
<td>Department of Water</td>
<td>$1,750,000</td>
<td>31/03/2015</td>
</tr>
<tr>
<td>81 Clarke Rd, Neerabgoby</td>
<td>Department of Water</td>
<td>$1,750,000</td>
<td>31/03/2015</td>
</tr>
<tr>
<td>Lots 9504, 1, 53, 54 &amp; 804 - North Lake Rd (vacant Land), Cockburn Central</td>
<td>Western Australian Planning Commission</td>
<td>$5,000,000</td>
<td>22/06/2015</td>
</tr>
<tr>
<td>233 James St, Northbridge</td>
<td>Western Power</td>
<td>$4,280,000</td>
<td>8/08/2014</td>
</tr>
<tr>
<td>320, 308, 320 Hawtin Rd &amp; Lot 9501 Lovett Dr, Forrestfield</td>
<td>Western Power</td>
<td>$34,500,000</td>
<td>21/12/2015</td>
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<tr>
<td>Lot 800 McTaggart Cove, North Coogee</td>
<td>Western Australian Planning Commission</td>
<td>$9,090,000</td>
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<tr>
<td>329-331 Murray St (Murray Mews), Perth</td>
<td>Western Power</td>
<td>$6,000,000</td>
<td>24/06/2016</td>
</tr>
<tr>
<td>4 Mandurah Rd (Lot 4 Port Kennedy Drive), Port Kennedy</td>
<td>Western Australian Planning Commission</td>
<td>$5,227,000</td>
<td>27/06/2016</td>
</tr>
<tr>
<td>54 Mirrabooka Av, Mirrabooka</td>
<td>Department of Health</td>
<td>$5,000,000</td>
<td>16/11/2015</td>
</tr>
<tr>
<td>134 Roe St, Northbridge</td>
<td>Western Power</td>
<td>$4,750,000</td>
<td>18/05/2016</td>
</tr>
<tr>
<td>Lots 12 &amp; 14, Neerabup</td>
<td>Western Australian Planning Commission</td>
<td>$4,070,443</td>
<td>13/10/2015</td>
</tr>
<tr>
<td>Lot 9001 Goddard St, Rockingham</td>
<td>Western Australian Planning Commission</td>
<td>$3,990,000</td>
<td>27/06/2016</td>
</tr>
<tr>
<td>325 Murray St (No. 2 Substation), Perth</td>
<td>Western Power</td>
<td>$2,800,000</td>
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<tr>
<td>69 Mather Dr, Neerabup</td>
<td>Western Power</td>
<td>$2,515,000</td>
<td>11/02/2016</td>
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<tr>
<td>55 Fauntleroy Ave (Redcliffe, Lot 603 Hay Rd - vacant land), Ascot</td>
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<tr>
<td>8 Properties High St &amp; Stock Road</td>
<td>Western Australian Planning Commission</td>
<td>$2,147,148</td>
<td>11/09/2015</td>
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<tr>
<td>Pt Lot 8 Pipidiny Rd, Eglinton</td>
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<td>$1,818,000</td>
<td>27/06/2016</td>
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<tr>
<td>Pt Lot 1231 Orton Rd, Oldbury</td>
<td>Western Power</td>
<td>$1,750,000</td>
<td>26/01/2016</td>
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<tr>
<td>5 Yampi Way, Willetton</td>
<td>Western Power</td>
<td>$1,650,000</td>
<td>5/04/2016</td>
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<tr>
<td>Lot 53 - Aberdeen St (adj. church), Northbridge</td>
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<td>$1,607,000</td>
<td>10/05/2016</td>
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<tr>
<td>96 Nicholas Rd, Wanneroo</td>
<td>Western Power</td>
<td>$1,400,000</td>
<td>1/09/2015</td>
</tr>
<tr>
<td>180 Marine Tce, Geraldton</td>
<td>Lotteries Commission</td>
<td>$1,350,000</td>
<td>6/05/2016</td>
</tr>
<tr>
<td>21 Rockton Rd, Nedlands</td>
<td>Western Power</td>
<td>$1,175,000</td>
<td>15/06/2015</td>
</tr>
<tr>
<td>3 Shields Cres, Booragoon</td>
<td>Western Power</td>
<td>$1,100,000</td>
<td>7/06/2016</td>
</tr>
<tr>
<td>20A Subiaco Rd (Lot 3 Subiaco Road), Subiaco</td>
<td>Western Australian Planning Commission</td>
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<td>25/05/2016</td>
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<tr>
<td>15 Mainsail Dr, Ocean Reef</td>
<td>Water Corporation</td>
<td>$980,000</td>
<td>14/05/2016</td>
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</tbody>
</table>

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18 Department of Planning, Lands and Heritage response to Special Inquiry questions on notice, received 15 September 2017
<table>
<thead>
<tr>
<th>NAME OF ASSET</th>
<th>AGENCY RESPONSIBLE</th>
<th>SETTLEMENT FIGURE (excl. GST)</th>
<th>SETTLEMENT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>440 Nicholson Rd, Forrestdale</td>
<td>Western Power</td>
<td>$955 000</td>
<td>17/02/2016</td>
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<tr>
<td>49 William St, Herne Hill</td>
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<tr>
<td>37 Moss St, East Fremantle</td>
<td>Department of Health</td>
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<tr>
<td>26 Manning Rd [formerly Lot 259 Manning Rd], Como</td>
<td>Western Australian Planning Commission</td>
<td>$825 000</td>
<td>31/05/2016</td>
</tr>
<tr>
<td>Kaleeeya House: 77 Alexandra Rd, East Fremantle</td>
<td>Department of Health</td>
<td>$810 000</td>
<td>6/08/2015</td>
</tr>
<tr>
<td>1A Newton St, Bayswater</td>
<td>Western Power</td>
<td>$700 000</td>
<td>9/03/2016</td>
</tr>
<tr>
<td>Lot 1195, 16 Pechey Rd, Swan View</td>
<td>Water Corporation</td>
<td>$693 750</td>
<td>24/12/2015</td>
</tr>
<tr>
<td>Lot 3 &amp; Part Lot 5 Hope Rd, Jandakot</td>
<td>Western Power</td>
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<td>24/12/2015</td>
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<tr>
<td>7-29 McNicholl St [Lot 359 Goddard/McNichol St], Rockingham</td>
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<td>27/07/2015</td>
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<td>(Lot 12) 4 Valencia Cl, Orana</td>
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</tr>
<tr>
<td>25 Dowling St, Rockingham</td>
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<tr>
<td>49 Arlunya Ave, Belmont</td>
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<td>$500 000</td>
<td>16/10/2015</td>
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<tr>
<td>10 Midgely St, Lathlain</td>
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<td>$480 000</td>
<td>21/12/2015</td>
</tr>
<tr>
<td>Lot 1015 Pechey Rd, Swan View</td>
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<td>$479 000</td>
<td>5/10/2015</td>
</tr>
<tr>
<td>25 Simpson St [vacant land], West Perth</td>
<td>Western Australian Planning Commission</td>
<td>$477 500</td>
<td>1/06/2016</td>
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<td>$272 727</td>
<td>1/09/2015</td>
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<tr>
<td>88 Clarke Rd, Neerabup</td>
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<td>$247 500</td>
<td>12/08/2015</td>
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<tr>
<td>Lots 12 and 14 (Part 2), Neerabup</td>
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<td>$220 045</td>
<td>16/12/2015</td>
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<tr>
<td>11 Sovereign Dr, Two Rocks</td>
<td>Water Corporation</td>
<td>$185 000</td>
<td>5/08/2015</td>
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<tr>
<td>(Lot 13) 6 Valentine Cl, Orana</td>
<td>Department of Training and Workforce Development</td>
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</tr>
<tr>
<td>57 Duff St, Merredin</td>
<td>Department of Health</td>
<td>$25 000</td>
<td>18/12/2015</td>
</tr>
<tr>
<td>Lot 4 Coalfields Rd, West Arthur</td>
<td>Department of Water</td>
<td>$5 000</td>
<td>8/09/2015</td>
</tr>
<tr>
<td>Pt Lot 2 Stanton Rd &amp; Tonkin Hwy, Redcliffe</td>
<td>Main Roads WA</td>
<td>$4 168 000</td>
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<tr>
<td>17 Henderson St (W3 Part 1), Fremantle</td>
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<tr>
<td>79 William St, Beckenham</td>
<td>Western Australian Planning Commission</td>
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<td>2/03/2017</td>
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<tr>
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<td>$1 700 000</td>
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<td>74 Leonora St, Como</td>
<td>Main Roads WA</td>
<td>$1 325 000</td>
<td>26/07/2016</td>
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<tr>
<td>164, 166 &amp; 168 Canning Hwy, South Perth</td>
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<tr>
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<td>Western Power</td>
<td>$990 000</td>
<td>23/08/2016</td>
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<tr>
<td>90 Ellege Rd, Midvale/Midland</td>
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<td>18/05/2017</td>
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<tr>
<td>94 &amp; 98 Canning Hwy, South Perth</td>
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<tr>
<td>142 Aberdare Rd, Shenton Park</td>
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<td>Cannington Terminal Site - WEST 1</td>
<td>Western Power</td>
<td>$715 000</td>
<td>22/12/2016</td>
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<tr>
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<td>Main Roads WA</td>
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<td>30/06/2017</td>
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<tr>
<td>21 Ibis Pl, High Wycombe</td>
<td>Western Australian Planning Commission</td>
<td>$655 000</td>
<td>15/07/2016</td>
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<tr>
<td>91 Bedford Cres, Forrestfield</td>
<td>Western Australian Planning Commission</td>
<td>$600 600</td>
<td>1/06/2017</td>
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<tr>
<td>NAME OF ASSET</td>
<td>AGENCY RESPONSIBLE</td>
<td>SETTLEMENT FIGURE (excl. GST)</td>
<td>SETTLEMENT DATE</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------------</td>
<td>------------------------------</td>
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<tr>
<td>Lot 132 [72] Gordon St, Osborne Park</td>
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<td>$600 000</td>
<td>28/02/2017</td>
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<td>364 Lord St, Highgate</td>
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<td>26 Hamilton Rd, Hamilton Hill</td>
<td>Water Corporation</td>
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<td>27/04/2017</td>
</tr>
<tr>
<td>15 Green St, North Perth/Joondanna</td>
<td>Western Australian Planning Commission</td>
<td>$500 000</td>
<td>6/12/2016</td>
</tr>
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<td>Lot 400 Cnr Beaufort and Harcourt St, Inglewood</td>
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<tr>
<td>Lot 38 Barfield Rd, Hammond Park</td>
<td>Western Power</td>
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</tr>
<tr>
<td>3 Casuarina Way, Kununurra</td>
<td>Horizon Power</td>
<td>$400 000</td>
<td>2/06/2017</td>
</tr>
<tr>
<td>58 Cassowary Dr, Ballajura</td>
<td>Water Corporation</td>
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<td>10/02/2017</td>
</tr>
<tr>
<td>12 Perth St, Bedford</td>
<td>Water Corporation</td>
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<td>1/03/2017</td>
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<tr>
<td>Pt Lot 720 Great Eastern Hwy, Belmont</td>
<td>Main Roads WA</td>
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<td>30/08/2016</td>
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<tr>
<td>6 Wilga Pl, Kununurra</td>
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<td>27/04/2017</td>
</tr>
<tr>
<td>20 Downey Way, Hannan (Kalgoorlie)</td>
<td>Main Roads WA</td>
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</tr>
<tr>
<td>5 Buzolic Ct, Brockman (Carnarvon)</td>
<td>Main Roads WA</td>
<td>$320 000</td>
<td>7/04/2017</td>
</tr>
<tr>
<td>6 Snoek Ct, Brockman</td>
<td>Main Roads WA</td>
<td>$313 500</td>
<td>25/07/2016</td>
</tr>
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<td>43 Casuarina Way, Kununurra</td>
<td>Main Roads WA</td>
<td>$310 000</td>
<td>5/04/2017</td>
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<td>26 Granbury Dr, Brockman</td>
<td>Main Roads WA</td>
<td>$290 000</td>
<td>25/07/2016</td>
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<td>Lot 901 Welshpool Rd East, Carmel</td>
<td>Department of Water</td>
<td>$282 182</td>
<td>14/11/2016</td>
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<td>10 Duncan St, Mount Tarcoola</td>
<td>Main Roads WA</td>
<td>$280 000</td>
<td>7/03/2017</td>
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<tr>
<td>17 O’Connor Way, West Lamington</td>
<td>Western Power</td>
<td>$270 000</td>
<td>9/05/2017</td>
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<td>2 Corboy St, Wembley</td>
<td>Water Corporation</td>
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<td>18/08/2016</td>
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<td>26 Willessee St, Carnarvon</td>
<td>Main Roads WA</td>
<td>$255 000</td>
<td>23/11/2016</td>
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<tr>
<td>20 Gawthorne St, Karratha (Millars Well)</td>
<td>Main Roads WA</td>
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<td>6/02/2017</td>
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<td>12 Nyando Pl, Port Hedland</td>
<td>Main Roads WA</td>
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<td>14 Curlew Cres, South Hedland</td>
<td>Main Roads WA</td>
<td>$210 000</td>
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<tr>
<td>1 Cassia Pl, South Hedland</td>
<td>Main Roads WA</td>
<td>$175 000</td>
<td>1/05/2017</td>
</tr>
<tr>
<td>12 Genesta Pl, Two Rocks</td>
<td>Water Corporation</td>
<td>$120 000</td>
<td>25/11/2016</td>
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<tr>
<td>Lot 502 Patterson Rd, Rockingham</td>
<td>Water Corporation</td>
<td>$110 000</td>
<td>28/02/2017</td>
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<tr>
<td>Lot 17 Klem Ave, Redcliffe</td>
<td>Main Roads WA</td>
<td>$100 000</td>
<td>1/07/2016</td>
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<td>300 Chapman Rd, Beresford</td>
<td>Public Transport Authority</td>
<td>$48 704</td>
<td>16/01/2017</td>
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<tr>
<td>Woodside Maternity Hospital site</td>
<td>Departments of Health</td>
<td>$13 000 000</td>
<td>3/08/2017</td>
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<td>Lot 100 Brockman Rd, East Nannup</td>
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<td>$300 000</td>
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<tr>
<td>5 Calista Ave, Calista</td>
<td>Department of Health</td>
<td>$250 000</td>
<td>14/08/2017</td>
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$187 062 628
NET FEED-IN TARIFF SCHEME

“Because the Government delayed implementation of the Office of Energy’s recommendation to reduce the concession for the power generated by solar panels, a surge in the number of applicants produced an additional cost blowout.”
John Langoulant, Special Inquirer

The Net Feed-in Tariff Scheme was an expensive success story. It was started in 2010 to introduce electricity consumers to solar panels to help promote the fledgling renewable energy industry.

The response far exceeded expectations. This meant more energy than expected, for which householders were paid, was pumped into the grid.

And the Minister for Energy was slow to act on the advice of the Office of Energy to suspend the scheme, resulting in a further 13,000 applications before the cut-off date.

So not only did the Government have to find extra money to buy the surplus electricity but the power utilities, Synergy and Horizon Power, sold less electricity than initially forecast to these households. Revenue suffered.

The project experienced a series of planning and management failures. Clear targets for the uptake of the panels failed to be set, and built-in controls to handle the demand were inadequate, resulting in a “hit” on the Budget.

Given the significant extra impost for taxpayers, and the fact that the cost of the panels fell significantly shortly after the scheme became operational, it is doubtful whether the program delivered value for money.

Government agency:
Office of Energy, Public Utilities Office (now Department of Treasury. Formerly Department of Finance), Synergy, Horizon Power

Project timeline:
2009 - 2014

Liability
Ongoing until 2021

Net costs to Synergy
$83.2 million (estimated)

Total cost to Government:
$533.13 million over the life of the scheme

2008
Residential Net Feed-in Tariff scheme announced

2010
Net Feed-in Tariff Scheme commences

2011
Scheme suspended due to high uptake

2012
Department of the Premier and Cabinet and Department of Treasury perform audit, providing recommendations
INTRODUCTION

The Net Feed-in Tariff Scheme was designed to provide an additional incentive to homeowners to purchase renewable energy solar panel systems at a time where the cost of those systems was very high.

The net feed-in tariff works by Synergy or Horizon Power providing a payment for each unit of renewable energy excess to the household’s use which is exported from household to the electricity grid. Net feed-in tariff customers also receive the Renewable Energy Buyback Scheme, which varies with the market value of energy and is set as part of a regulatory scheme.

An alternative gross feed-in tariff was proposed initially. This type of tariff works by an electricity corporation paying the household for all of the renewable energy that household generates. The uptake under this initial proposal was high and a gross feed-in tariff became unaffordable.

One of the key measures that the Office of Energy1 was monitoring was the capacity of the solar panels (which could change if more panels were added), and the inverter capacity of the systems, which is fixed and based on the size of each inverter. A solar inverter or photovoltaic inverter converts the variable direct current output of a photovoltaic solar panel into a utility frequency alternating current that can be fed into the electricity grid.

It was difficult for the Office of Energy to predict with any certainty what the uptake of the Net Feed-in Tariff Scheme would be as similar schemes in Australia were in their infancy.

Uptake turned out to be much higher than expected and, like its predecessor, the Net Feed-in Tariff Scheme also became unaffordable.

SUMMARY

In 2009 the Liberal Government wanted to fulfil its election promise to implement a residential feed-in tariff scheme for solar panels.

The Government adopted a Net Feed-in Tariff Scheme as its preferred model. The scheme opened on 1 July 2010 and was suspended on 1 August 2011.

The policy settings for the scheme were established by the Government with advice from the Office of Energy. Synergy and Horizon Power administered the scheme based on a customer contract approved by the Office of Energy.2

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1 The Office of Energy became the Public Utilities Office in the Department of Finance in April 2012. On 1 July 2017, the Public Utilities Office became part of the Department of Treasury.

2 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 3.
Residential customers who applied to the Net Feed-in Tariff Scheme received a 10 year subsidy for electricity use generated by solar photovoltaic panels connected to the electricity grid. In general terms, for applications made before 30 June 2011, 40 cents per kilowatt hour is credited. For those made after 1 July 2011 but before 1 August 2011, 20 cents per kilowatt hour is credited.

In the short time the scheme was open the 2010/11 State budget funding of $23.3 million over four years blew out due to the high uptake of the scheme and resulted in total additional expenditure of $65.8 million over four years. The cost over the life of the scheme is estimated to be $533.13 million.

On the face of it the scheme achieved its objectives — there was increased uptake of solar panels by households and the emerging renewable energy industries were supported. But these objectives were achieved at a high cost to government.

The project experienced a series of planning and management failures:

- clear targets for the uptake of solar panels were not set;
- there were inadequate controls built into the scheme to manage the uptake and consequential risks to the budget;
- uptake issues identified early on by the Office of Energy were not acted upon in a timely way;
- following the scheme review crucial advice was given by the Office of Energy to immediately implement changes to the scheme. This recommendation was not accepted by government, which resulted in a flood of applications being made to the scheme in the last six weeks;
- there was no common understanding between the Office of Energy and Synergy as to whether the number of applications or the number of installed systems were being reported; and
- the uptake of the scheme was not clearly understood by the Office of Energy until after the scheme had been suspended. By that time the 150 megawatt scheme cap had been breached.

The solar panel residential market changed from the time the scheme was conceived. The cost of panels had fallen significantly. This meant that the market was more accessible and affordable to households wanting to install solar panels. The need to provide incentives to householders to purchase renewable energy systems was significantly reduced by the time the scheme became operational.

While the scheme increased the number of systems installed and supported industry establishment, given the change in the market it is questionable if this project represented value for money.

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3 Ibid.
4 Ibid., 5.
PROJECT SYNOPSIS

In September 2008 the incoming State Government announced its intention to introduce a residential Net Feed-in Tariff Scheme. The commitment was “$13.5 million towards a feed-in tariff for homeowners, and an investigation of the feasibility of extending the scheme to small businesses and commercial premises.”

The initial renewable energy scheme was based on a gross feed-in tariff. The unprecedented uptake rate for this scheme meant that it was not affordable. The scheme was modified and integrated into the Net Feed-in Tariff Scheme. Around 21,000 existing system owners were automatically rolled onto the Net Feed-in Tariff Scheme.

The Net Feed-in Tariff Scheme is an administrative scheme funded through consolidated revenue. The original budget was $23.3 million over four years.

Synergy needed to make changes to its systems before the tariff could be implemented and this could not be done until the first quarter of 2010. This necessitated a delay in the implementation of the scheme.

A summary of key milestones of the scheme is set out in Table 1 below.

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5 Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017, Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 3. This was part of the Liberal Plan for Environmental Sustainability and Water Management.

6 Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017.

7 Ibid. The Office of Energy provided recommendations on the design of the scheme based on the Government’s election commitment (60 cents gross payment, 10 megawatt new generation and with a contract duration linked to forecast payback time). It estimated that the $13.5 million committed to the scheme could support about 2,900 with a total capacity of about 5 megawatt. There were already 2,800 new systems installed so the scheme would have opened and closed shortly thereafter.

8 This scheme became known as the Household Renewable Energy Scheme.


10 Office of Energy, Western Australian Draft Feed-In Tariff Scheme Design Paper (Attachment 2) (October 2009). A levy was considered but rejected because it would have taken too long to implement and required legislative change: Office of Energy, Briefing Note to the Minister for Energy, Western Australian Net Feed-in Tariff Scheme, [27 August 2009]. This is despite the responses from the public consultation process being “overwhelmingly in favour of legislating the feed-in tariff”. See Office of Energy, Western Australian Feed-in Tariff Consultation Summary (undated), 5.

11 Department of Treasury written submission, received 16 November 2017.

Table 1: Key milestones - Net Feed-in Tariff Scheme

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCTOBER 2009</td>
<td>Public consultation paper published.</td>
</tr>
<tr>
<td>17 MAY 2010</td>
<td>Cabinet approves scheme design.</td>
</tr>
<tr>
<td>1 JULY 2010</td>
<td>Scheme opens.</td>
</tr>
<tr>
<td>24 DECEMBER 2010</td>
<td>10 megawatt review triggered – terms of reference approved by the Minister for Energy.</td>
</tr>
<tr>
<td>FEBRUARY 2011</td>
<td>Review of Net Feed-in Tariff Scheme completed.</td>
</tr>
<tr>
<td>18 APRIL 2011</td>
<td>Cabinet approves changes to scheme design and introduction of scheme cap of 150 megawatt of new capacity installed.</td>
</tr>
<tr>
<td>21 MAY 2011</td>
<td>Minister for Energy announces scheme changes to come into effect from 1 July 2011.</td>
</tr>
<tr>
<td>23 JUNE 2011</td>
<td>Office of Energy advises Minister for Energy that 150 megawatt cap will be breached by 30 June 2011.</td>
</tr>
<tr>
<td>1 AUGUST 2011</td>
<td>Scheme suspended.</td>
</tr>
<tr>
<td>30 SEPTEMBER 2011</td>
<td>Cut-off date for instalment to be eligible for 40 cents per kilowatt hour rate.</td>
</tr>
<tr>
<td>14 OCTOBER 2011</td>
<td>Synergy cut-off date for accepting applications based on prior commitment.</td>
</tr>
<tr>
<td>17 NOVEMBER 2011</td>
<td>Synergy ceases processing applications.</td>
</tr>
<tr>
<td>7 MARCH 2012</td>
<td>Audit report prepared by Department of the Premier and Cabinet and Department of Treasury into scheme following imposition of 150 megawatt cap.</td>
</tr>
<tr>
<td>2014</td>
<td>Scheme closed.</td>
</tr>
</tbody>
</table>

The principal driver for renewable energy was the Commonwealth Government’s mandatory Renewable Energy Target scheme which required electricity retailers to source a percentage of supply from renewable energy generators.13

In October 2009 a public consultation paper was published which sought submissions about the design of the scheme.14

The scheme design ultimately chosen and approved by Cabinet on 17 May 2010 was a Net Feed-in Tariff with a rate of 40 cents per kilowatt hour payable over 10 years. A review trigger was set at every 10 megawatts of inverter capacity. There was no cap based on inverter capacity placed on the scheme and no time limit placed on the life of the scheme.

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13 Ibid, 2. The State had agreed to a set of national principles through the Council of Australian Governments, which applied to new feed-in tariff schemes, to promote consistency of schemes across Australia, and confirming that residential consumers with small renewables should have the right to the export energy to the grid and be paid for it: Office of Energy, Western Australian Draft Feed-in Tariff Scheme Design Paper, (October 2009), Attachment B National Principles for Feed-in Tariff Schemes, Council of Australian Governments Meeting Canberra (29 November 2008); Council of Australian Governments, Meeting Communiqué, Canberra (28 November 2008).
14 Sustainable Energy Development Office, Western Australian Feed-in Tariff Consultation Paper (October 2009).
The scheme commenced on 1 July 2010 with payments starting on 1 August 2010.\textsuperscript{15}

On 18 April 2011 Cabinet approved the following revisions to the scheme to have effect from 1 July 2011:\textsuperscript{16}
- the premium rate to be reduced to 20 cents per kilowatt hour;
- the payback period to remain as 10 years;\textsuperscript{17} and
- that the scheme be capped at 150 megawatts of new capacity installed.

These changes were announced by the Minister for Energy on 21 May 2011.

In June 2011 the Office of Energy advised the Minister for Energy that the scheme cap would be breached by 30 June 2011.\textsuperscript{18} The Office of Energy briefed the Minister for Energy regarding options for the closure of the scheme.\textsuperscript{19}

On 1 July 2011, at the Minister for Energy’s request, the Office of Energy prepared a Cabinet submission outlining options for extending the scheme.\textsuperscript{20}

The Minister for Energy suspended the Net Feed-in Tariff Scheme on 1 August 2011 and it was announced that the 150 megawatt cap had been reached.\textsuperscript{21}

The Net Feed-in Tariff Scheme was closed in 2014. Payments under the scheme will finish in 2021.

**EVALUATION OF THE PROJECT**

One of the challenges faced by the Special Inquirer in evaluating this project was that at the time of the Net Feed-in Tariff Scheme, the Office of Energy was a stand-alone agency. In April 2012 the Office of Energy’s functions were taken over by the Department of Finance’s Public Utilities Office. Key staff from the Office of Energy with knowledge of the scheme have since left the public service and could not be readily located for hearings. The Special Inquirer was able to take evidence from one member of the original project team of the Office of Energy and this officer provided a great deal of insight into the net feed-in tariff project.

The Special Inquirer has relied upon the available documentation and evidence given in the course of this Special Inquiry to build a picture of the events that unfolded.

\textsuperscript{15} Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 4.
\textsuperscript{16} Adopting some of the recommendations from the 10 megawatt Review but not all.
\textsuperscript{17} the Office of Energy had recommended this be reduced to five years for new applicants.
\textsuperscript{18} Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 11.
\textsuperscript{19} Office of Energy Briefing Note to Minister for Energy, Options for Feed-in Tariff Scheme Closure, (23 June 2011).
\textsuperscript{20} Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 4.
\textsuperscript{21} Ibid., 5, 13.
Governance

The implementation of the scheme was an election commitment of the Liberal Government. The Office of Energy was tasked with figuring out “how do we make this work?”^22

The main features of the Net Feed-in Tariff scheme were set by Cabinet as outlined in Table 2 below.

Table 2: Cabinet decisions

<table>
<thead>
<tr>
<th>DATE</th>
<th>CABINET DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 MAY 2010</td>
<td>Scheme design parameters established:</td>
</tr>
<tr>
<td></td>
<td>• Net Feed-in Tariff from 1 July 2010;</td>
</tr>
<tr>
<td></td>
<td>• rate of 40 cents per kilowatt hour;</td>
</tr>
<tr>
<td></td>
<td>• system size limit of 5 kilowatts for Synergy and 10 kilowatts (up to 30 kilowatts)</td>
</tr>
<tr>
<td></td>
<td>• per phase for Horizon Power; and</td>
</tr>
<tr>
<td></td>
<td>• payable for 10 years from installation.</td>
</tr>
<tr>
<td>18 APRIL 2011</td>
<td>Revisions to the scheme approved with effect from 1 July 2011:</td>
</tr>
<tr>
<td></td>
<td>• to reduce the rate to 20 cents per kilowatt hour; and</td>
</tr>
<tr>
<td></td>
<td>• to introduce a cap such that the scheme is terminated when 150 megawatts of</td>
</tr>
<tr>
<td></td>
<td>new capacity is installed.</td>
</tr>
<tr>
<td>8 AUGUST 2011</td>
<td>Notes scheme suspended and informed of increased budget requirement.</td>
</tr>
</tbody>
</table>

The Western Australian Residential Feed-in Tariff Scheme Audit undertaken in 2012 found inconsistent levels of decision-making between the policy and administrative settings for the scheme — some decisions were made by Cabinet and others by the Minister for Energy.^^23

This is highlighted through key decisions made by the Minister for Energy:

• to instruct the Office of Energy and Synergy on 9 August 2011 to accept applications where prior contractual commitment could be demonstrated;
• to agree that Synergy advertise on its website that it would accept applications based on prior commitment until 14 October 2011;^^24 and
• to extend the deadline for providing Synergy of details of prior commitment from 14 October 2011 to 31 October 2011 for processing purposes.^^25

^22 Department of Treasury, Special Inquiry hearing, 21 November 2017, 5.
^23 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 17.
^24 Ibid., 22.
^25 Ibid., 11-12.
The Office of Energy also made the following decisions which were inconsistent with the Cabinet decision of 18 April 2011:

- on 22 July 2011 authorisations were given to Synergy and Horizon Power by the Office of Energy on to allow them to accept applications after the 150 megawatts cap was exceeded and to extend eligibility to applicants who had applied in time but made errors on their forms; and
- on 22 September 2011 approved amendments to Synergy’s feed in tariff contract to reflect the “committed customer” criteria.

Once the cap approved by Cabinet had been reached further approval should have been sought from Cabinet to exceed the cap. The Office of Energy had advised the Minister for Energy that the 150 megawatt cap would be breached by 30 June 2011. The scheme ought to have been suspended at that point and processing of applications placed on hold pending a further Cabinet decision on the parameters of the scheme.

Within the Office of Energy two parallel work streams were developed — one for finance and regulation and the other for scheme design. These groups worked closely with the State Solicitor’s Office and Parliamentary Counsel.

The Feed-in Tariff Strategic Implementation Group was established by the Office of Energy in January 2010. It was chaired by the Office of Energy with representation from Synergy, Western Power and Horizon Power.

Project planning

The objectives of the Net Feed-in Tariff Scheme were to:

- increase the penetration of household renewable energy systems;
- increase the affordability of investment in residential renewable energy systems;
- help householders manage their exposure to electricity price increases;
- provide transitional support to the renewable energy industries that supply systems to the residential sector; and
- enable households to contribute to the achievement of national energy and carbon reduction targets.

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27 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 11.
28 Ibid., 23.
31 Synergy response to Special Inquiry questions on notice, received 22 November 2017.
32 Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017; Office of Energy, Western Australian Draft Feed-In Tariff Scheme Design Paper (Attachment 2), 2.
In August 2009 a project plan was prepared for the Net Feed-in Tariff Scheme development and provided to the Minister for Energy on 27 August 2009. The Office of Energy sought approval from the Minister of the general suitability of the key tasks and timelines and the stakeholder engagement proposed for the development of the scheme.

While some project milestones were not met, the scheme opened as scheduled on 1 July 2010.

The project plan is brief and lacks any accountabilities, assessment of benefits or risks and reporting requirements. No other planning documents were provided to the Special Inquirer.

The Special Inquirer was interested to know if any risk workshops were held or risk analyses were undertaken by the Office of Energy in relation to the program. The former Office of Energy witness could not recall this having been undertaken.

The Special Inquirer notes that the 2012 scheme audit completed by the Department of the Premier and Cabinet and the Department of Treasury identified as a key problem area that “Cabinet decisions were not followed up with detailed implementation plans”.

With the scheme being an election commitment, the Department of Treasury considered that the Office of Energy was:

“...developing policy quickly, perhaps without sufficient, robust evidence to guide some of the decision-making...I think also there wasn’t a [sic] good oversight in terms of the governance and the implementation in terms of keeping tracking and monitoring how the program was going. And as a result there was an inevitable increase in the costs of the program.”

Scheme design

The objectives of the scheme set no measurable targets for additional new capacity or for the number of households it hoped would participate. The lack of clear outcomes in the objectives flowed on to the scheme design.

34 Ibid.
35 Department of Treasury, Special Inquiry hearing, 21 November 2017.
36 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 17.
37 Department of Treasury, Special Inquiry hearing, 21 November 2017, 2.
The Department of Treasury informed the Special Inquirer that the:

“...total generation capacity that was intended under the Government’s scheme is not known with certainty. However, documentation suggests that the amount of capacity to be achieved by the FiT [feed-in tariff] was 10 MW [megawatts].”38

Although the original election commitment appears to have intended to achieve 10 megawatts of inverter capacity, there was no specification for a cap in the scheme design, which once reached would effect the suspension or closure of the scheme.

The Office of Energy recommended that the scheme life be 20 years to give industry certainty to facilitate investment in those businesses and that the scheme be reviewed every four years or 20 megawatts of installed capacity to allow issues that may impact on uptake to emerge.39 The Government opted instead not to fix the life of the scheme but for the tariff to be paid for a period of 10 years.

The Office of Energy considered that the uptake of the scheme was uncertain and difficult to predict. Several demand projections were modelled in the design of the scheme. Actual uptake, however, exceeded the highest threshold modelled.40 As feed-in tariff schemes were in their infancy in other States, there was no Australian experience which could provide insight into the likely uptake of the scheme in Western Australia.41 Despite this uncertainty there was no evidence of contingency planning for high uptake provided to the Special Inquirer.

While modelling of costs and the system payback duration were important factors in determining the scheme design, “the proposed scheme design provided to Government in February 2010 was heavily influenced by ministerial expectations that the scheme would be the ‘best’ in the country.”42

In these circumstances and with a history of the gross tariff quickly becoming unaffordable, the Office of Energy ought to have vigorously advocated for strong controls to be included in the scheme design to minimise risk to the State. The Office of Energy did not do this.

The Special Inquirer notes that as an administrative scheme the Net Feed-in Tariff Scheme could have been suspended, changed, or closed by the Government at any time. The scheme only included two controls in its

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38Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017, 2.
40 Department of Treasury response to Special Inquiry questions on notice, received 16 November 2011.
41 Department of Treasury, Special Inquiry hearing, 21 November 2017.
42 Department of Treasury response to Special Inquiry questions on notice, received 16 November 2011. The Minister’s office asked the Office of Energy to provide a ranking of the proposed Western Australian tariff against schemes in other States on criteria which included price, duration, technology breadth and customer eligibility.
initial approved design:

- the payment period of 10 years from the date of installation (after which time eligibility would cease); and
- the review trigger at 10 megawatts of inverter capacity.

The Office of Energy needed the Minister for Energy’s approval to conduct the review43 (by approving the terms of reference). Further Ministerial approval was needed to suspend the scheme.

Neither of these mechanisms allowed for a timely response where there was a surge in uptake.

A scheme design with no clear targets and inadequate controls resulted in inadequate control over the scheme budget when the scheme uptake exceeded forecasts.

Contractual provisions in the customer contracts for Synergy and Horizon Power minimised the corporations’ exposure to liability when the scheme changed.44

It was not until the 10 megawatt review was prepared in February 2011 that a cap of 150 megawatts on the total scheme capacity was recommended by the Office of Energy to the Minister for Energy. The reason given for this recommendation was that the “cap also caps Government’s budget liability and provides a clear view of how long support will be provided”.45

**Project management**

Three issues stood out for the Special Inquirer from the information provided to the Special Inquiry:

1. there was a lack of urgency in responding to higher than anticipated uptake issues which affected budget;
2. crucial advice was not accepted and acted on; and
3. there were problems with Synergy’s data quality and timeliness of delivery to the Office of Energy and the Office of Energy misunderstood what data were being provided.

**Slow response to higher than expected uptake**

The Office of Energy briefed the Minister on 28 July 2010, less than a month after the scheme commenced, that there was a higher uptake of the scheme than had been anticipated in calculating the budget.46 The Office of Energy proposed to commence the review before the 10 megawatt trigger was reached due to increased uptake.47 There was no documentation provided to the Special Inquirer to suggest that the Minister for Energy responded to this recommendation or that this was followed up by the Office of Energy.

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43 which when it was triggered, involved the Minister for Energy approving the Terms of Reference for the 10 megawatt review.
45 Office of Energy Briefing Note to Minister for Energy, Western Australian Residential Net Feed-in Tariff Scheme Review,(18 February 2011), 2
47 Ibid.
The Net Feed-in Tariff Scheme design was based on the assumption that there were 600 installations per month with an average system size of 1.24 kilowatts. The significant reduction in the cost of systems by the time the scheme became operational, however, meant that systems were selling for between $2,000 and $4,500 after rebates, compared with some $12,000 historically.48

By 29 October 2010 the Office of Energy had briefed the Minister for Energy about significant additional budget being required to meet the costs of the scheme as the uptake had increased to an average of 1,730 applications per month and systems were increasing in size.49

On 20 December 2010 the Office of Energy provided the Minister for Energy with the terms of reference for the review, which were approved by the Minister on 24 December 2010. The Office of Energy advised the Minister that it estimated the 10 megawatt review trigger was reached in October 2010.50

The timing of the Minister’s approval of the review terms of reference meant that the review was prepared by the Office of Energy over a Christmas period with staff on leave.51 The Special Inquirer was told that at the time the relatively small feed-in tariff team had competing priorities — the team was responding to dozens of pieces of correspondence from the community each week.52

The review was completed and the report was forwarded to the Minister for Energy on 18 February 2011.53 The review revealed that by 31 December 2010 50 megawatts of capacity had been reached — well past the 10 megawatt review trigger point.54

It was not until 18 April 2011 that Cabinet approved revisions to the scheme and not until 21 May 2011 that those changes were announced. Effectively it took five months of the 13 months the scheme was open to review the scheme and announce changes...
By 30 May 2011 the scheme uptake had risen and 61,955 Synergy customers had been approved at the 40 cent rate in respect of 154 megawatts of inverter capacity.\textsuperscript{56}

It is clear that the 10 megawatt review trigger was an ineffective control mechanism in an environment of surging demand and slow decision-making by Government.

The Special Inquirer notes that the terms of reference contemplated a comprehensive review of the scheme, including comparing the scheme with alternative scheme design parameters. Opting for a comprehensive review created an inherent delay in delivery of the review. The Department of Treasury conceded that, in hindsight, narrower terms of reference “would have been a faster outcome for sure”.\textsuperscript{57}

The Special Inquirer was interested to know what the objective of the review was. The Department of Treasury did not provide a clear response to this question.\textsuperscript{58}

The Net Feed-in Tariff briefing note from the Office of Energy to the Minister for Energy dated 5 February 2010 sets out the rationale for a proposed review every four years or 20 megawatts of installed capacity which was not adopted. The four year review duration was to:

“allow issues that may impact on uptake such as system costs, electricity tariff increases and changes to Commonwealth policy to emerge ... Including a medium/high capacity trigger enables the Government to respond to changes which may drive unanticipated uptake, such as policy changes at a national level.”\textsuperscript{59}

The documentation provided to the Special Inquirer does not reveal why 10 megawatts of installed capacity was chosen instead as the review trigger.

As a matter of good planning the terms of reference for the review ought to have been approved by Cabinet as part of the scheme design.

\textbf{A recommendation made is not accepted}

The review recommended a reduction in the scheme rate to 20 cents per kilowatt hour for new customers and the introduction of a 150 megawatt cap based on inverter capacity.\textsuperscript{60} Importantly, the review also recommended that the scheme changes be announced to apply immediately but be implemented later to allow for a lag in Synergy system changes that were required to implement the new tariff rate.\textsuperscript{61} The recommendation to announce the changes to the scheme with immediate effect was made to avoid significant liabilities arising from customers joining the scheme after the date of announcing the changes.\textsuperscript{62}

\textsuperscript{56} Ibid., 22.
\textsuperscript{57} Department of Treasury, Special Inquiry hearing, 21 November 2017.
\textsuperscript{58} Ibid.
\textsuperscript{59} Office of Energy, Briefing Note to the Minister for Energy – Net Feed-in Tariff, (5 February 2010), 9.
\textsuperscript{60} Office of Energy, Review of the Western Australian Net Feed-in Tariff Scheme, (February 2011).
\textsuperscript{61} Ibid., 6.
\textsuperscript{62} Ibid.
Government did not adopt the Office of Energy’s recommendation to announce the changes with immediate effect but instead announced the changes on 19 May 2011 to take effect on 1 July 2011. The effect of this decision was to cause a flood of applications to the scheme to be made — approximately 13 000 in this six week period compared with the prior monthly application rate of about 2 000 to 3 000.63

At 30 May 2011, 61 955 Synergy customers had been approved at the 40 cents per kilowatt hour rate which was the equivalent of 131 megawatts of panel capacity and 154 megawatts of inverter capacity.64 By December 2011, 76 000 had applied to Synergy and Horizon Power to purchase 164 megawatts of panel capacity or 193 megawatts of inverter capacity.65

The budgetary consequences of this were significant, and this will be discussed later in the chapter.

The Department of Treasury told the Special Inquirer that:

“the critical thing they didn’t do was agree to close it — to announce the changes and have them effective immediately.... Because the real issue with PV systems and the feed-in tariff was that you didn’t actually have to buy one to qualify. All you had to do was fill out the paperwork and send it in...and then you could purchase one at a later date... you would have to pay for a meter change, but a meter change... was very inexpensive... So you’re not talking about a big financial commitment on behalf of the community to apply for the scheme and then you were locked into it for 10 years. So we felt that an immediate announcement, you know, effective immediately — was important...[T]hey gave six weeks’ notice, and in that time we had more than 13, 000 applications and we were tracking at about two to three thousand a month immediately prior.”66

The documentation provided to the Special Inquirer does not indicate why the Minister for Energy did not accept the Office of Energy’s prudent advice.

Synergy data

The Office of Energy wrote to Synergy on 10 September 2010 requesting information about the number of applications received and the number of applications approved.67 The Office of Energy told Synergy that it required specific information on customer numbers, system capacity and generation as part of the monitoring, forward forecasting and review of the scheme.68 It required Synergy to provide forecasting of system uptake to enable the Government to manage adequately the budgetary requirements of the scheme.69

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63 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit (7 March 2012), 4.
65 Ibid.
66 Department of Treasury, Special Inquiry hearing, 21 November 2017, 17.
67 Office of Energy Letter to Synergy, (10 September 2010). The type of information that would be exchanged had earlier been agreed by the working group which included members from Synergy, Horizon Power and Western Power: Department of Treasury, Special Inquiry hearing, 22 November 2017.
68 Ibid.
69 Ibid.
From early on in the life of the scheme there were problems with delays in Synergy providing reports to the Office of Energy and data integrity issues. For example, in mid-December 2010 the Minister for Energy was informed by the Office of Energy that “Synergy has experienced ongoing delays in reporting”, and that Synergy’s reports for October and November 2010 had not been finalised.

At that time applications to Synergy for the scheme were not online but were largely being lodged via paper based application forms and by facsimile.

On 23 June 2011 Synergy told the Office of Energy that the data it had provided was based on the number of installed connections made by Western Power, rather than the number of applications received as the Office of Energy had believed. Installation lags by Western Power and shortages of appropriate meters exacerbated the discrepancies in the numbers. The uptake of the scheme was therefore underestimated and incorrect. The Office of Energy’s understanding and therefore the Minister for Energy’s understanding of the status of inverter capacity vis-à-vis the 10 megawatts review trigger and the scheme cap was incorrect.

On 27 October 2011 Synergy advised the Office of Energy that it had under reported 4,972 net feed-in tariff customers (later revised by Synergy to 4,992 or 10 megawatts of panel capacity). These applications were initially entered into Synergy’s reporting system with a photovoltaic system capacity recorded as zero. These revised figures meant that the capacity rose from 175 megawatts to 194 megawatts increasing the cost of the entire program by $57 million — from $509 million at 175 megawatts to $566 million at 194 megawatts. The amended data was not included in the figures provided to the Office of Energy until November 2011.

The Special Inquirer asked whether Synergy had any processing issues at the time. Synergy responded that the feed-in tariff applications were based on contractual commitment to the purchase of a renewable energy system. This was “irrespective of whether a valid application had been submitted by the scheme closure date if the customer could demonstrate that they were a ‘Committed Customer’”. This caused significant complexity in administering the scheme.

It is not clear to the Special Inquirer as to why this data anomaly and the misunderstanding as to whether data related to installations or applications received took so long to identify by Synergy and the Office of Energy.
Scheme costs

The budget of $13.509 million over four years which was allocated to the earlier scheme was included in the 2009/10 budget and distributed to households which had solar panel systems installed between 6 September 2008 (the State Government election) and 2 June 2009.80 The Office of Energy retained $21.6 million for administration costs.81

The scheme costs in each year are set out in Table 3 below.

Table 3. Feed-in Tariff funding82

<table>
<thead>
<tr>
<th>PERIOD</th>
<th>BUDGET AND FORWARD ESTIMATES EXPENDITURE ($ MILLION)</th>
<th>TOTAL SCHEME COST ($ MILLION)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lump sum payments (2009/10 to 2012/13)</td>
<td>13.5</td>
<td>N/A</td>
</tr>
<tr>
<td>2009/10 budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inverter capacity (2010/11 to 2013/14)</td>
<td>23.3</td>
<td>N/A</td>
</tr>
<tr>
<td>2010/11 budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inverter capacity (2011/12 to 2013/14)</td>
<td>146.8</td>
<td>N/A</td>
</tr>
<tr>
<td>2010/11 Mid-year review</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inverter capacity (2011/12 to 2014/15)</td>
<td>114.4</td>
<td>303.0</td>
</tr>
<tr>
<td>2011/12 budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inverter capacity (2011/12 to 2014/15)</td>
<td>197.8</td>
<td>498.0</td>
</tr>
<tr>
<td>Revised figures (Cabinet submission)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Panel capacity (2011/12 to 2014/15)</td>
<td>180.2</td>
<td>454.0</td>
</tr>
<tr>
<td>Life of scheme estimate as at 28 November 2017</td>
<td>-</td>
<td>533.13</td>
</tr>
</tbody>
</table>

By the end of 2011, inverter capacity had reached about 190 megawatts and the Economic and Expenditure Reform Committee was advised that the revised forecast over the forward estimates period 2011/12 to 2014/15 was $200 million — an increase of $85.6 million over the 2011 budget allocation.83 The revised cost over the life of the scheme was $566 million using inverter capacity.84

80 less $200 000 allocated to the investigation of a commercial feed-in tariff scheme. $812 000 was allocated in 2008/2009 as unspent monies and $251 000 was for 233 rejected applications.
81 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit [7 March 2012], 3.
82 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit [7 March 2012], 3; and Department of Treasury written submission, received 28 November 2017.
83 Department of the Premier and Cabinet and Department of Treasury, Western Australian Residential Feed-in Tariff Scheme Audit [7 March 2012], 14.
84 Ibid.
Currently it is estimated that:

- the annual average cost of the scheme over the 2010/11 to 2020/21 period is $48.5 million;\textsuperscript{85} and
- the costs over the life of the scheme are $533.13 million.\textsuperscript{86}

**Synergy costs**

In March 2010 Synergy forecast its costs to implement the net feed-in tariff in 2009/10 were $682,858, comprised of $52,600 for communications, $501,680 for system costs and $128,578 for operational costs.\textsuperscript{87}

On 19 April 2012 the Government decided that Synergy would absorb all scheme costs above those specified in the 2012/13 State budget and subsequent budgets.

On 13 August 2012 the Minister for Energy directed Synergy\textsuperscript{88} to absorb (without any increase in Tariffs) all additional costs relating to the Feed-in Tariff Scheme over and above the 2012/13 and subsequent State budgets:

- for the financial years 2012/13, 2013/14, 2014/15, 2015/16, 2016/17, 2017/18, 2018/19, 2019/20 - all additional costs above $30.3 million; and
- for the 2020/21 financial year - all additional costs above $17.4 million.\textsuperscript{89}

While Synergy was unable to advise the Special Inquirer about historical costs prior to 2013/14 due to the time constraints of this Special Inquiry, the costs associated with the net feed-in tariff scheme from 2013/14 to 2016/17 were:

- gross payments to customers for feed-in tariff - $204.4 million;
- feed-in tariff reimbursement to Synergy by government - $121.2 million (up to $30.3 million per annum by way of a customer service obligation payment);\textsuperscript{90} and
- net cost borne by Synergy - $83.2 million.\textsuperscript{91}

Synergy is required to act in accordance with prudent commercial principles and to endeavour make a profit but the Ministerial direction overrides those obligations.\textsuperscript{92} The costs to Synergy of the feed-in tariffs are met by a community service obligation.\textsuperscript{93}

\textsuperscript{85} Department of Treasury response to Special Inquiry hearing questions taken on notice, received 28 November 2017.
\textsuperscript{86} Ibid.
\textsuperscript{87} Synergy, email to Office of Energy, 23 March 2010.
\textsuperscript{88} pursuant to section 111 of the Electricity Corporations Act 2005
\textsuperscript{89} Department of Treasury response to Special Inquiry questions on notice, received 16 November 2017. This Ministerial direction was reported in the Synergy Annual Report 1 July 2013 – 30 June 2014 at 33 and tabled in Parliament.
\textsuperscript{90} The Economic Regulation Authority Synergy’s Costs and Electricity Tariffs Final Report (4 July 2012) at 145, shows subsidies paid to Synergy as 2010/11 Estimated actual $13.0 million, and estimated budget 2011/12 as $24.0 million, with a forward estimate for 2012/13 of $29.8 million.
\textsuperscript{91} Synergy response to Special Inquiry questions on notice, received 22 November 2017.
\textsuperscript{92} “Community service obligations” are defined as “obligations to perform functions or meet performance targets that it is not in the commercial interests of the corporation concerned to perform or meet”, and these are included in Synergy’s Statement of Corporate Intent.
Synergy identified that the non-financial impacts resulting from the decision to suspend the scheme included:

- reputation damage;
- operational impacts such as increased call volumes and complaints;
- ongoing and often negative media attention; and
- requirements to redirect critical business resources away from strategic projects.\(^{94}\)

### Benefits realised

The Special Inquirer asked the Department of Treasury whether there was any policy merit in a Net Feed-in Tariff. The Department responded:

“... At the time that it was implemented, yes. The election went back in 2008/2009. I certainly recall the view of the policy officers being it was a very expensive way to install renewable energy; that if you were doing it, you could do it a lot cheaper. That was your goal. That was your primary goal. But the objectives of the scheme were broader than that, you know. They looked at other things like individual benefits and households...”\(^{95}\)

When asked by the Special Inquirer whether the Net Feed-in Tariff Scheme met its objectives, the Department of Treasury said:

“... is there additional PV [photovoltaic] on roofs because of the scheme? Yes. Certainly I think it brought forward investment. There’s maybe an outstanding question as to whether or not that investment would have taken place anyway over time. I suspect that it would have, because prices have continued to fall. As time goes on the average system size is considerably larger. I think it’s nearly three times larger than it was during the life of the feed-in tariff in terms of period when it was open. Did it facilitate the growth of the industry? Yes. I think capacity was built quite quickly in Western Australia, and then subsequent to the scheme being suspended there was consolidation. But, you know, the remaining entities have remained in the market, so it did build that industry.”\(^{96}\)

Synergy data supports the view that the scheme encouraged growth of the industry. The suspension of the Net Feed-in Tariff Scheme resulted in a significant decrease in Renewable Energy Buyback Scheme growth as shown in Table 4 below.\(^{97}\)

### Table 4: Renewable Energy Buyback Scheme growth following suspension of the scheme on 1 August 2011

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Total REBs Numbers (incl. FIT)</td>
<td>EOFY</td>
<td>4</td>
<td>836</td>
<td>5,691</td>
<td>19,209</td>
<td>60,168</td>
<td>92,767</td>
<td>119,943</td>
<td>141,347</td>
<td>165,731</td>
<td>185,920</td>
</tr>
<tr>
<td>% Growth</td>
<td></td>
<td>238%</td>
<td>213%</td>
<td>54%</td>
<td>29%</td>
<td>18%</td>
<td>17%</td>
<td>12%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^{94}\) Synergy response to Special Inquiry questions on notice, received 22 November 2017.
\(^{95}\) Department of Treasury, Special Inquiry hearing, 21 November 2017, 26.
\(^{96}\) Ibid., 27.
\(^{97}\) Synergy response to Special Inquiry questions on notice, received 22 November 2017.
As at October 2017 there are 75,875 customers on the Net Feed-in Tariff Scheme. Panel capacity as at September 2017 was at 157.5 and inverter capacity was at 182.3 megawatts with the total installed capacity being 153.4 megawatts.

**RECORD KEEPING**

The Department of Treasury and Synergy provided all relevant documents and information requested by the Special Inquirer.

**FINDINGS**

1. The Net Feed-in Tariff Scheme objectives did not include any clear targets.
2. Project planning and implementation planning were inadequate.
3. Controls in the scheme design were inadequate.
4. The Office of Energy and the Government were slow to respond to the higher than expected uptake of the scheme.
5. The Office of Energy was heavily influenced by Ministerial expectations. It did not advocate strongly enough for controls in the scheme design, or to progress the review earlier.
6. The purpose of the 10 megawatt review trigger was not clear.
7. The announcement of the decision on 21 May 2011 to reduce the scheme rate to 20 cents per kilowatt hour and to cap the scheme at 150 megawatts of capacity with effect from 1 July 2011 resulted in about 13,000 applications being received by Synergy by 30 June 2011.
8. The quality and timeliness of data provided by Synergy to the Office of Energy in relation to the Net Feed-in Tariff scheme was unreliable.
9. There was no common understanding between Synergy and the Office of Energy as to whether the data provided by Synergy represented the number of applications or installations until 23 June 2011.
10. Synergy underreported almost 5,000 applications for the scheme and this was not quantified prior to the suspension of the scheme.
11. From the commencement of the scheme until its suspension the Office of Energy did not have a true understanding of the number of applicants to the Scheme nor the inverter capacity to be installed. This lack of understanding meant that the Minister for Energy and the Cabinet did not have an accurate understanding of the scheme uptake prior to the scheme’s suspension.
12. There was a lack of urgency in managing the issue of the higher than expected uptake of the scheme.
13. The objectives of the scheme were met.
14. The Special Inquirer is unable to conclude whether or not the scheme represented value for money for the State.
TEMPORARY PERSONNEL SERVICES
COMMON USE ARRANGEMENT

“All public sector agencies must review the adequacy of the systems and processes they use to record and analyse temporary personnel use.”
- John Langoulant, Special Inquirer

The use of temporary personnel is big business. Between 2012 and 2016 the Government spent $536 million employing temporary staff on a short term basis. In 2016 temporary staff employed under the common use arrangement cost $115 million. Ten agencies accounted for 73 per cent of that cost.

The heavy reliance on temporary staff could sometimes prove counterproductive, by hastening the decline of capability in the public sector. In addition, their use in cases where the work would normally be done by permanent public servants could add to costs.

There are many valid reasons agencies use contract personnel. It is important that decisions to use contract staff consider all options, that there are sound reasons, that they are compliant with guidelines and policy, and that good records on contracts are maintained.

The purpose of the Temporary Personnel Common Use Agreement is to fill short-term needs for resourcing. Use of this Common Use Agreement to fill long-term resourcing needs is unlikely to be the most cost-effective solution. Agencies wishing to fill resource gaps with long-term contracts should procure differently to make sure they get the best value for money.

All public sector agencies must review the adequacy of the systems and processes they use to record and analyse their use of temporary staff.
SUMMARY

The Temporary Personnel Services Common Use Arrangement gives public authorities access to a valuable complement to the Western Australian public sector workforce, which currently numbers 140,403 employees. Agencies use temporary personnel for a variety of reasons, including short term project work and unscheduled and scheduled staff absences.

In 2016, Western Australian public sector agencies spent a total of $115 million on contracted temporary personnel services using the common use arrangement, with the top 10 public sector agencies accounting for 73 per cent of all expenditure.

The Special Inquirer examined the use of the Temporary Personnel Services Common Use Arrangement by the following agencies which had consistently high expenditure between calendar years 2012 and 2016:

- the Department of Health;
- the Department of Mines and Petroleum (now part of the Department of Mines, Industry Regulation and Safety);
- Main Roads Western Australia;
- the Housing Authority (now part of the Department of Communities);
- the Department of Water (now part of the Department of Water and Environmental Regulation); and
- Western Australia Police.

The Special Inquirer’s examination comprised analysis of data provided by the Department of Finance, as the manager of the common use arrangement, and by these six agencies.

Most of the agencies examined by the Special Inquirer require improvements to their oversight of the use of temporary personnel services engaged under the Temporary Personnel Services Common Use Arrangement, although some agencies had better controls in place than others.

The six agencies showed awareness of the policy requirements around the use of the common use arrangement, but two of the highest spenders — the Department of Mines and Petroleum and Main Roads Western Australia — did not provide satisfactory explanations for their very high use of temporary contracts and, in many cases, for the very long duration of that use.

In addition to serious concerns about the behaviour of individual agencies and their management

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2 Department of Finance response to Special Inquiry request for information, received 14 June 2017.
and monitoring of the use of temporary personnel, the Special Inquirer is concerned about four main consequences of the high use of the Temporary Personnel Services Common Use Arrangement.

1. Temporary personnel do not appear on agency employment figures and, therefore, high use can mask very high resourcing levels.
2. The separation of temporary personnel from other records of employee numbers could be an indicator that an agency is under-resourced in certain areas.
3. The use of temporary personnel for project and specialist work is exacerbating the decline of capability in the public sector.
4. The use of temporary personnel where there should be a permanent public sector role or for a long period is not necessarily cost effective.

**PROGRAM OVERVIEW**

**Common use arrangements**

Common use arrangements are whole-of-government standing offer arrangements for the provision of specific goods or services commonly used within government. They are aggregated supply arrangements that enable public authorities to source goods and services efficiently and cost-effectively.\(^3\)

**Temporary Personnel Services Common Use Arrangement**

The Temporary Personnel Services Common Use Arrangement is in place to support government agencies in covering short-term workload needs. The Common Use Arrangement allows agencies to engage suitably skilled people through an aggregated purchasing arrangement.

The current Temporary Personnel Services Common Use Arrangement was established in November 2014 and supports the staffing requirements of public sector agencies.\(^4\) It is mandatory for the Perth metropolitan area and is available across the State.

There are five categories offered in the Temporary Personnel Services Common Use Arrangement:

1. Clerical and Administration;
2. Technical and Trades;
3. Professional;
4. Finance and Accounting; and
5. Information and Communications Technology.

Of these categories, Professional and Information and Communications Technology have the broadest scope and, therefore, the greatest potential for inconsistency in pricing arrangements that are not benchmarked to public sector employment classifications set by the Public Sector Commission.

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\(^3\) State Supply Commission, Common Use Arrangements Policy, (2 May 2016).
There are 13 suppliers of services within the Temporary Personnel Services Common Use Arrangement. Two offer only one category of service and the others offer services in multiple categories.\(^5\)

In 2015, the Department of Finance engaged Deloitte to review the benefits of several common use arrangements. The report showed that the Temporary Personnel Services Common Use Arrangement performs ahead of benchmark reference sets by nearly eight per cent. The review noted that there were opportunities for improvement if agencies allocated their expenditure to the lowest cost providers in the categories.\(^6\)

Annual expenditure on the use of temporary personnel through the common use arrangement has increased from $92.9 million in 2012 to $115.3 million in 2016.\(^7\)

**Government policy**

**Approved Procedure 5 — Approved Contracts for Services Procedures**
The Public Sector Commission Approved Procedure 5 relates to the powers of employing authorities in engaging personnel under contracts for services.\(^8\)

The procedure states that appropriate engagement of contracts for service are where:

- the appropriate expertise is unavailable in the public sector at the time of need;
- there is a requirement for impartiality and objectivity external to the public sector;
- the required expertise and specialist skills are available only from external sources; and/or
- a need arises to fill a position on very short notice for which the appropriate expertise within the public sector cannot be made readily available.

**State Supply Commission policy**\(^9\)
The Temporary Personnel Services Common Use Arrangement buying rules require agencies to seek multiple quotes for purchases over $150,000. It is noted that this requirement is triggered when a contract has an hourly rate of $144 or more over a six-month period.

**Requirements during recruitment freezes**
Recruitment freezes are not uncommon in the public sector. The Public Sector Commission is careful to direct agencies not to use temporary personnel to circumvent such freezes. During the freeze announced as part of the 2015/16 Mid-Year Review, the Public Sector Commission provided procedures for agencies seeking to obtain staff in emergency situations. The document clearly stated that agencies should not enter into new temporary personnel arrangements to fill vacant positions.\(^10\)

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\(^5\) Ibid., 9.
\(^6\) Deloitte, Department of Finance - CUA Benefits Review, (26 June 2015), 17.
\(^7\) Department of Finance response to Special Inquiry request for information, received 14 June 2017.
\(^8\) Public Sector Commission, Approved Procedure 5, (11 February 2009), 1-2.
The use of temporary personnel 2012-2016

Between 2012 and 2016, Government spent $536 million on the use of temporary personnel from the Temporary Personnel Services Common Use Arrangement. The following analysis is based on information prior to the 1 July 2017 machinery of government changes. A table showing the current and previous agency names is provided at Appendix A.

The top 10 spending agencies account for 73 per cent of the use and the top 20 spending agencies account for 87 per cent of the use.

The Common Use Agreement Buying Rules State it is appropriate to use the Temporary Personnel Services Common Use Arrangement under the following circumstances:

- a need arises to fill a position at very short notice, for which the appropriate expertise within the public sector cannot be readily made available; or
- the appropriate expertise is unavailable in the public sector at the time of need.11

As a general guide, Temporary Personnel should not be engaged for longer than six months. It is recommended that if a vacancy is required to be filled for more than six months, public authorities should consider undertaking a recruitment and selection process to appoint to the position or re-evaluating their requirements.

The Special Inquirer’s examination focussed on six of the seven agencies in the top 10 that had high and rising (or stable) expenditure, with the exception of the Public Transport Authority which was not included because the Special Inquirer decided to limit the review to six agencies due to the Inquiry’s time constraints. It is noted, however, that the Public Transport Authority’s expenditure has increased from $4.9 million in 2012 to $7.9 million in 2016.

The Departments of Finance, Education and Commerce (prior to 1 July 2017) have significantly reduced their expenditure. The Department of Finance has reduced its expenditure by 84 per cent by taking a number of internal policy and process measures.

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The following agencies were the focus of the Special Inquirer’s examination.

Table 1: Agency Expenditure - Temporary Personnel Services Common Use Arrangements

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>2012 EXPENDITURE ($)</th>
<th>2016 EXPENDITURE ($)</th>
<th>TOTAL EXPENDITURE 2012 - 2016 ($)</th>
<th>HEADCOUNT</th>
<th>2016 EXPENDITURE PER CAPITA ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Health</td>
<td>9,941,417</td>
<td>21,043,658</td>
<td>72,565,135</td>
<td>45,322</td>
<td>464</td>
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<tr>
<td>Department of Mines and Petroleum</td>
<td>10,502,818</td>
<td>14,477,382</td>
<td>69,378,823</td>
<td>834</td>
<td>17,359</td>
</tr>
<tr>
<td>Main Roads Western Australia</td>
<td>6,269,774</td>
<td>14,568,366</td>
<td>57,873,432</td>
<td>1,071</td>
<td>13,603</td>
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<td>Department of Housing / Housing Authority</td>
<td>6,997,113</td>
<td>10,515,229</td>
<td>51,746,558</td>
<td>1,656</td>
<td>6,350</td>
</tr>
<tr>
<td>Department of Water</td>
<td>2,535,363</td>
<td>5,319,481</td>
<td>20,634,864</td>
<td>507</td>
<td>10,492</td>
</tr>
<tr>
<td>Western Australian Police</td>
<td>2,574,060</td>
<td>3,061,893</td>
<td>11,974,921</td>
<td>2,548</td>
<td>1,202</td>
</tr>
<tr>
<td><strong>Total (above agencies)</strong></td>
<td><strong>38,820,545</strong></td>
<td><strong>68,986,009</strong></td>
<td><strong>284,173,745</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Whole sector total</strong></td>
<td><strong>92,889,819</strong></td>
<td><strong>115,339,994</strong></td>
<td><strong>535,743,491</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Information and Communication Technology Services Common Use Arrangement**

In addition to the Temporary Personnel Services Common Use Arrangement, there is a common use arrangement for the provision of specialist information and communication services. In the same period as this review (2012-2016), government agencies spent $931 million on contracts using the Information and Communication Technology Services Common Use Arrangement.

**DEPARTMENT OF HEALTH**

The Department of Health spent over $72 million on temporary personnel over five years (2012-2016). This does not include engagement of nursing staff, which has a separate panel arrangement (refer to the Special Inquiry report chapter on NurseWest for more information).

Health is the second largest public sector employer in Western Australia, with a headcount of 45,322 in 2016. Using the per capita expenditure measure for comparison, Health’s use of the Temporary Personnel

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12 Department of Finance response to Special Inquiry request for information, received 14 June 2017.
13 Public Sector Commission, Quarterly Workforce Report, (March 2016), Table 2. (Note that more recent data was available but 2016 was considered appropriate because it aligns with the timeframe for the expenditure.)
14 Department of Finance, ICT Services by Calendar Year All Agencies 2012-2016, (11 August 2017).
Common Use Arrangement is the lowest of the agencies reviewed. There are, however, some improvement opportunities available.

Health has provided the Special Inquirer with additional data which show that between November 2014 and June 2017 it spent $54.1 million on temporary personnel services, with the majority of temporary personnel employed under the Clerical and Administration (42 per cent) and Information and Communications Technology (24 per cent) categories.\textsuperscript{15}

The Department of Health and the Health Support Services division (this does not include Health Service Providers such as the North Metropolitan Health Service) had 138 temporary personnel engaged from the common use arrangement for longer than six months over the period of the review. The Department of Health could only provide a basic explanation for 47 of these engagements, and did not provide the Special Inquirer with additional documentation or advice to indicate that effective management systems were in place for temporary personnel engaged for longer than six months.\textsuperscript{16}

Health is also the largest user of the Information and Communication Technology Services Common Use Arrangement and spent $203 million under this arrangement between 2012 and 2016.\textsuperscript{17}

**Case example 1 — Cleaning and reception\textsuperscript{18}**

The Department of Health has ongoing contracts for both cleaning and other and reception. These have been in place since mid-2014 and Health’s rationale is that there are no substantive positions available. The cost for the receptionist is equivalent to a permanent government employee at Level 3.2 ($65,000 - $70,000 per annum). Generally, an employee paid at this level would be undertaking higher level duties than reception.

The cleaning positions’ costs are equivalent to around Level 4. The Public Sector Capability Profile indicates that Level 4 employees should demonstrate an ability to harness information and opportunities, apply and build professional expertise, and take responsibility for managing projects to achieve results.\textsuperscript{19}

It is understood that government agencies require cleaning services. The intent of the Temporary Personnel Common Use Arrangement is to provide relief for agencies with a specific, short-term need. Departments should investigate more cost-effective ways to employ cleaners on contract. Reception functions are usually required on a permanent basis. It is not cost-effective to use temporary personnel. It is understood that some agencies use temporary personnel because they do not have allowance in their Full-Time Equivalent cap to add new substantive positions to their structures. The Special Inquirer considers this may be a false economy.

**Case example 2 — Information and communication technology\textsuperscript{20}**

The Department of Health and Health Support Services use temporary personnel to fill information and communication technology positions.

\textsuperscript{15} Department of Health response to Special Inquiry request for information, received 16 October 2017.

\textsuperscript{16} Department of Health response to Special Inquiry request for information, received 6 October 2017.

\textsuperscript{17} Department of Finance, ICT Services by Calendar Year All Agencies 2012-2016, (11 August 2017).

\textsuperscript{18} Department of Health response to Special Inquiry request for information, received 11 November 2017.


\textsuperscript{20} Department of Health response to Special Inquiry request for information, received 11 November 2017.
It is noted that in addition to the $21 million spent in 2016 on the Temporary Personnel Services Common Use Arrangement, Health spent $35 million on the Information and Communication Technology Services Common Use Arrangement (down from $52 million in 2015). The Special Inquirer recognises that Health has commissioned a number of hospitals in the metropolitan area and in the regions over the period and can demonstrate a need for additional staff during this period. Health is aware that the long-term use of common use arrangement services is a costly alternative to creating positions under government salary arrangements.

Health has engaged a software developer from the Temporary Personnel Services Common Use Arrangement since July 2008. Their payment is equivalent to that of a member of the State Executive Service. Health states that the Director General has approved creation of positions that will reduce dependence on the software developer position. Health has identified other positions for incorporating into permanent establishment.

**DEPARTMENT OF MINES AND PETROLEUM**

The Department of Mines and Petroleum (now part of the Department of Mines, Industry Regulation and Safety) was the largest per capita user of the Temporary Personnel Services Common Use Arrangement over the five-year period ($17,349 spent on temporary personnel for every person working at the former Department in 2016). In addition, the Department spent $17 million on the Information and Communication Technology Services Common Use Arrangement over the same period.

The Department of Mines and Petroleum was not a large agency, with fewer than 1,000 employees. Using an estimated average of $100,000 per employee, the 2016 expenditure by the Department on temporary personnel equates to 145 additional people, and with the $3 million spent in 2016 on engaging information and communication technology services, a further 30 people. The Department effectively increased its headcount of 834 to greater than 1,000, an increase of around 20 per cent to the staff establishment.

As previously stated, there are valid reasons for the engagement of temporary personnel. While the Department of Mines and Petroleum provided a rationale for the engagement of some temporary personnel that extended past six months, the reasons as to why so many casual staff were engaged under the Clerical and Administration category could not be explained. All temporary personnel engaged under the Information and Communications Technology category and in specialist positions (such as environmental and geological...
experts) were engaged based on the expertise not being available in the public sector. The Special Inquirer is confident that the public sector has at least some of these skills.

There are numerous examples of Information and Communications Technology engagements extending beyond 2 000 days and some unusual arrangements.21

Two permanent employees since the early 1970s retired and were re-engaged through temporary personnel contracts in 2013 and 2016 respectively. The first was on a salary of $133,233 per annum at the time of leaving. The hourly rate now paid to the temporary personnel provider is $91.58. This equates to an annual salary of around $178,000. The second was on a salary of $146,283 at the time of leaving. The temporary personnel service is being paid $72.54 per hour which equates to slightly less.22 The Department did not state whether the former employees were now engaged for fewer hours and for specific work. The Special Inquirer notes that there may be circumstances where these arrangements are appropriate.

The Department informed the Special Inquiry that temporary personnel procured through the Common Use Arrangement are engaged as a contract for service to undertake a specific body of work. They do not have positions within the department. Therefore, the department does not have the same data for temporary personnel as it does for its employees.23 The Special Inquirer has two views about this:

1. it is difficult to imagine that a role would exist for over 40 years and then disappear to become a ‘contract for service’ to achieve an outcome; and
2. it is the Department’s responsibility to maintain good records about all people working within it to ensure value for money.

In response to the Special Inquirer’s request for information on the use of the Temporary Personnel Services Common Use Arrangement, the Department of Mines, Industry Regulation and Safety’s Director General stated that the:

“main use of CUA [Common Use Arrangement] Temporary Personnel is for programmers of Information Systems which accommodates the flexibility needed due to technology evolving at a fast rate; variable funding provided for Information systems development; and higher market rates for programmers which often mean that it’s not possible to attract and retain these personnel on public service rates of pay.”24

In addition to the very high expenditure on the Information and Communications Technology category of the Temporary Personnel Services Common Use Arrangement, the Department of Mines and Petroleum spent $17 million on the Information and Communication Technology Services Common Use Arrangement between 2012 and 2016.

21 Department of Mines and Petroleum response to Special Inquiry request for information, received 18 October 2017
22 Department of Mines, Industry Regulation and Safety response to Special Inquiry request for information, received 27 November 2017 and 18 October 2017.
23 Ibid.
24 Department of Mines, Industry Regulation and Safety response to Special Inquiry request for information, received 18 October 2017
The high proportion of information and communications technology staff as compared to permanent staff and the large amount of expenditure for a relatively small agency indicates sub-optimal use of the common use arrangement. The existence of contracts for longer than 40 years from the Temporary Personnel Services Common Use Arrangement requires immediate examination.

**MAIN ROADS WESTERN AUSTRALIA**

Between November 2014 and June 2017, based on data received from Main Roads Western Australia, Main Roads spent $36.7 million on temporary personnel services with the majority of staff employed under the Clerical and Administration and Professional categories.\(^{25}\)

In the same period, Main Roads had 309 staff engaged for longer than six months under the Temporary Personnel Services Common Use Arrangement.\(^{26}\) One contractor was recorded as having worked for longer than four years.\(^{27}\)

Main Roads reported that expenditure for temporary personnel engagement peaked in 2016/17, at $16.3 million, with projected expenditure forecast to reduce to $11 million per annum from 2017/18 to 2020/21. Main Roads reports that during the period 2014/15 to 2016/17 it had converted 35 roles from temporary to permanent.

Main Roads has processes in place to monitor and control the use of temporary personnel contracts. These include the placement of a filter for engagements where the hourly rate is above $136 per hour (that is, indicating a six-month contract would begin to breach the requirements of the common use arrangement buyers guide). Main Roads also provided evidence of the use of a probity checklist for purchases under the Temporary Personnel Services Common Use Arrangement.

Main Roads’ substantiation of reasons for contract extensions beyond six months was not satisfactory. For example, some of the reasons given included “Business Services Officer”, “Customer Support”, “Contract engagement in line with the contract requirements”, and “Receptionist”.\(^{28}\) It is also noted that a number of these had no indication whether they were temporary or permanent. While the level of detail provided by Main Roads was indicative of the agency having established effective data storage systems for temporary personnel staff data, Main Roads does not appear to have effectively analysed or acted on this information.

Non-engineering roles at Main Roads currently filled by temporary personnel include a Public Affairs Coordinator (for longer than three years) and a customer information centre officer (for almost one year). Expertise for these roles could easily be recruited to, or found in, the public sector.

Main Roads also has a number of Project Managers engaged through the Temporary Personnel Services

\(^{25}\) Main Roads response to Special Inquiry request for information, received 13 October 2017.
\(^{26}\) Main Roads response to Special Inquiry request for information, received 23 October 2017.
\(^{27}\) Ibid.
\(^{28}\) Ibid.
Common Use Arrangement. These people are being paid the equivalent of between $257,000 and more than $550,000 per annum. Given that one of Main Roads’ most important and significant roles is to build road infrastructure, the Special Inquirer considers it curious that there is not adequate in-house support for this work.

Main Roads is the fourth highest spender on the Information and Communication Technology Services Common Use Arrangement, spending $55 million between 2012 and 2016.

DEPARTMENT OF HOUSING / HOUSING AUTHORITY

The Housing Authority’s expenditure on temporary personnel increased by more than 50 per cent between 2012 and 2016. Between November 2014 to June 2017, Housing spent $25 million on temporary personnel services, with the majority of staff employed under the Professional (35 per cent) and Information and Communications Technology (29 per cent) categories.

In response to a request for data from the Department of Communities (which now includes the Housing Authority), the Acting Director General stated “The Housing Authority does not hold data for the purpose of identifying when CUA [Common Use Arrangement] staff were used to undertake duties of positions within the Housing Authority’s staff.”

Further correspondence received by the Special Inquirer on 27 October 2017 included a list of contracts that had been in place for longer than six months. A number of the contracts related to two specific information and communications technology projects and housing projects.

The Department of Communities has progressively put in place control and oversight measures to better manage temporary staff. It is noted, however, that better maintenance of information would support these measures.

DEPARTMENT OF WATER

Between 2012 and 2016, the Department of Water was the second highest user of temporary personnel on a per capita basis, spending $21 million in total. Between November 2014 and June 2017, the Department spent $13.5 million on temporary personnel services, with the majority of staff employed under the Professional (56 per cent) and Clerical and Administration (30 per cent) categories.

The Department of Water had 92 contractors engaged for longer than six months over the period. The Department was able to provide to the Special Inquirer good examples of its managerial oversight, including analysis and reports to the Department’s executive management.

29 Department of Communities response to Special Inquiry request for information, received 17 October 2017.
30 Department of Water, Attachment 1 – Special Inquiry Response, [24 October 2017].
The Department of Water has been working over the last two years to manage its temporary staff contracts more effectively. The Department’s Corporate Executive implemented an internal review in October 2016 to examine its use of the Temporary Personnel Services Common Use Arrangement and to renegotiate prices with main contracting agencies.31

The Department of Water spent $14 million on the Information and Communication Technology Services Common Use Arrangement between 2012 and 2016. The Special Inquirer is satisfied that the Department is taking measures to better manage its temporary personnel expenditure.32

**WESTERN AUSTRALIA POLICE**

At nearly $12 million over the five-year period, Western Australia Police’s expenditure on temporary personnel is the lowest of the reviewed agencies. On an agency size comparative basis, Western Australia Police’s expenditure is also low. Additional data provided by Western Australia Police show that between November 2014 to June 2017, Police spent $6.7 million on temporary personnel services, with the majority of staff employed under the Clerical and Administration (56 per cent) and Professional (20 per cent) categories.33

Western Australia Police had 87 staff engaged for longer than six months under the Temporary Personnel Services Common Use Arrangement. It was able to demonstrate to the Special Inquirer that it had effective management systems in place to monitor the use of the common use arrangement, and that use of the common use arrangement is based on obtaining a cost-effective outcome for temporary positions instead of using consultants.34

It is noted that Western Australia Police is the third highest user (after Health and Education) of the Information and Communication Technology Services Common Use Arrangement. Expenditure between 2012 and 2016 was $105 million.

**FINDINGS**

**General**

1. Temporary personnel do not appear on agency employment figures and, therefore, high use can mask very high resourcing levels or under-resourcing in certain areas, or failure of agencies to work within the full time staffing cap as applied by the Department of Treasury.

2. The use of temporary personnel for project and specialist work may reflect a decline of capability in the public sector.

3. The use of temporary personnel where there should be a permanent public sector role or a long term contract is usually not cost-effective.

31 Department of Water, Corporate Executive – Corporate Performance Meeting Minutes, [10 September 2015].
32 Department of Finance, ICT Services by Calendar Year All Agencies 2012-2016, [11 August 2017].
33 Western Australia Police, Revised CUA new request Oct 2017 – FINAL, received [1 November 2017].
34 Ibid.
4. It is apparent that some of the six agencies reviewed are breaching the buying rules for the Temporary Personnel Services Common Use Arrangement.

5. There was no indication from the agencies reviewed that temporary personnel staff were utilised to support key agency priorities or where they fitted into existing workforce strategies, despite the significant expenditure.

6. All reviewed agencies (except the Department of Water) were assessed to have deficiencies in their management practices for temporary personnel. This situation needs to be improved.

7. The guidelines and emphasis on agency self-reporting and review do not appear to be effective. There is not enough evidence to suggest that agencies actively review their temporary staff levels to ensure that effective workforce planning is undertaken. Main Roads Western Australia keeps very good records on the use of Temporary Personnel CUA.

8. The cost of administering the large number of contracts is not considered by agencies when making decisions about engaging temporary contractors.

9. The Special Inquirer considers that a number of positions examined do not meet the requirements of Approved Procedure 5. This is especially the case where agencies have used the ‘expertise not available in the public sector’ rationale for the appointment of staff to generic roles and/or for very long term contracts.

10. Given the findings from this examination there is concern about the management practices for temporary personnel across other government agencies where there are likely to be other examples of Common Use Arrangement misuse.

**Agency Specific**

11. The Departments of Health, Mines and Petroleum and Housing need to improve how they manage and monitor their temporary personnel use. The Department of Housing’s initial response to the Special Inquirer’s questions was insufficient.

12. The Department of Finance has put numerous measures in place to reduce its own expenditure on temporary personnel contracts by 84 per cent over five years. The Department has used this knowledge to support other agencies.

13. The Department of Water and Environmental Regulation has adequate oversight of its use of the Temporary Personnel Services Common Use Arrangement. The Department was able to provide good examples to the Special Inquiry of its managerial oversight, including analysis and reports to the Department’s executive management.

14. The Department of Mines and Petroleum’s use of the Temporary Personnel Services Common Use Arrangement requires immediate examination. The Special Inquirer considers that this level of expenditure by a relatively small agency is inappropriate.

15. The Department of Communities has improved its oversight of the Temporary Personnel Services Common Use Arrangement following an internal review in 2016 and introduced further management controls in August 2017. The Department of Communities needs to continue to progress work in this area, including maintaining appropriate records.
16. The volume and value of the Department of Health’s use of the Temporary Personnel Services Common Use Arrangement means that oversight is complex. It is unclear whether central oversight extends to the Health Service Providers and whether they are properly monitored.

17. Western Australia Police has adequate oversight of its use of the Temporary Personnel Services Common Use Arrangement. Police was able to provide good examples to the Special Inquirer of its managerial oversight, including analysis and reports to management and appropriate delegations based on the estimated aggregate value of the contract. Western Australia Police needs to review its use of the Information and Communication Technology Services Common Use Arrangement.

18. Although Western Australia Police has been found to monitor and manage its contracts well, there are a number of positions where contractors are being paid at rates well above their government salary equivalent. For example, Level 2 camera operators are being paid $37.23 per hour, whereas under general government salaries arrangements Level 2 officers are paid around $28.50 per hour.

19. Main Roads WA has inadequate oversight of its use of the Temporary Personnel Services Common Use Arrangement. The cost of some contracts is extremely high and the length of some contracts requires immediate investigation.

AGENCIES’ VIEWS

Department of Mines, Industry Regulation and Safety

The Department of Mines and Petroleum is working with the Department of Treasury as the result of a separate review. Improvements to the Department of Mines, Industry Regulation and Safety’s procurement and contract management processes are being implemented.

The Department states that the use of contractors is mainly related to specific government projects and there are some cases where it has been unable to recruit staff with the right skills at public service rates.

The Department has not engaged contractors in staff positions and has not used contractors to replace staff reductions due to workforce renewal budget measures.

Department of Water and Environmental Regulation

The Department of Water and Environmental Regulation does not believe finding 5 reflects its use of temporary personnel staff. The Special Inquirer notes that following requests for information about personnel being employed through the CUA for longer than six months, the Department provided a list of 92 positions. Of those, 22 were listed as being attached to a project. The list included general (non-specialist) positions including Finance Officer, Administration Officer, Ministerial Writer and “unknown” and it would be difficult to tie this information to a workforce strategy. That said, the Special Inquirer accepts that the Department may have a strategy.
**Department of Health**

The Department of Health does not accept that it may be one of the agencies breaching Approved Procedure 5. Based on the evidence provided by Health, this is not the finding of the Special Inquirer. The Department provided a list of positions filled by the CUA for over six months. To meet the requirements of Approved Procedure 5, the Department must meet one of the criteria. There were positions listed that, based on the evidence, the Special Inquirer believes do not meet the criteria. That said, the Special Inquirer accepts that the Department may have other records on this matter.

**RECOMMENDATIONS**

1. The Department of Mines and Petroleum must undergo an immediate examination of its contracts and provide a briefing for its Minister.
2. Main Roads Western Australia must undergo an immediate examination of its contracts and provide a briefing for its Minister. The Department of Transport’s Director General must include the Public Transport Authority in the above examination, as the Public Transport Authority is a very high spender on the Temporary Personnel Services Common Use Arrangement.
3. All public sector agencies must review the adequacy of the systems and processes they use to record and analyse temporary personnel use. Where contracts have been in place for longer than six months, agencies must ensure they comply with Approved Procedure 5.
4. The Department of Finance and the Public Sector Commission should jointly develop a simple framework that allows all agencies to provide reporting on their use and management of contracts for temporary personnel and information and communications technology services. This framework will allow agencies to provide verifiable reports to the Public Sector Commission bi-annually.
5. The Public Sector Commission should by December 2018 commence reporting on temporary personnel engagement as part of its State of the Sectors report.
6. The Department of Finance is to undertake a full review of the Temporary Personnel Services Common Use Arrangement to inform the future development or final extension of the arrangement by November 2018.
7. The Department of Finance should review the Buyers Guide for the Temporary Personnel Services Common Use Arrangement and provide information such as case studies to inform agencies how to better use the arrangement.
8. Agencies should discuss with the Public Sector Commission their needs in relation to permanent staff to fill reception and other administrative functions that are required on a permanent basis but where they do not have substantive positions available.
9. Where agencies have the need for long-term contracts for personnel services, they should explore alternative service options in the market to ensure they are receiving the best value for money.
## APPENDIX A - DEPARTMENT NAMES

<table>
<thead>
<tr>
<th>DEPARTMENT NAME BEFORE 1 JULY 2017</th>
<th>DEPARTMENT NAME FROM 1 JULY 2017</th>
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</thead>
<tbody>
<tr>
<td>WA Police</td>
<td>WA Police</td>
</tr>
<tr>
<td>Road Safety Commission</td>
<td></td>
</tr>
<tr>
<td>Department of Mines and Petroleum</td>
<td>Department of Mines, Industry Regulation and Safety</td>
</tr>
<tr>
<td>Department of Commerce</td>
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GOVNEXT-ICT

“The GovNext-ICT Program has considerable merit. But its implementation has been hampered because too much is being left to individual agencies which lack the necessary resources to drive change.”
John Langoulant, Special Inquirer

The GovNext-ICT program aims to transition Government from a model of ownership and operation of information and communications technology infrastructure to one where it pays only for what is used.

The Government Chief Information Officer says that the program could generate savings of $65 million across Government over three years, through a better connected information and communications technology network. But much will depend on the successful transition of the largest agencies.

Agencies reviewed by the Special Inquirer are at various stages in transitioning to the new arrangements. They are raising concerns about the length of the process, the costs involved — and who will pay — and the availability of the necessary expertise to implement change.

The Special Inquirer was told that the Office of the Government Chief Information Officer lacks the resources to offer project management assistance or provide coordination for agencies in the transition. So at this stage agencies manage for themselves.

For the strategy to succeed, the Government must not only reaffirm its commitment but also allocate additional resources, including a Program Management Office, to provide essential coordination.
INTRODUCTION TO GOVNEXT-ICT

Government’s current information and communications technology environment is outdated. Agencies own and operate their own data centres and server rooms and run on isolated networks. This has resulted in complexity and duplication.

Giles Nunis, the Government Chief Information Officer stated at his hearing with the Special Inquirer that:

“...in the last five or so years [there] has been quite a radical shift in the way technology has been [provided] .... In essence they’re actually charging what they call ‘as a service’. So you pay for what you use.”

GovNext-ICT is a key initiative under Digital WA: Western Australian Government ICT Strategy 2016 — 2020 developed by the Office of the Government Chief Information Officer. The program seeks to transition government away from a model of ownership and operation of information and communications technology infrastructure to one where it pays only for what is used.

According to the Government Chief Information Officer, the implementation of GovNext-ICT will lead to cost savings and “strip away the technical components that restrict the data sharing capability ... [leading to] a consolidated network environment”.

GovNext-ICT is the first program of work to emanate from the Digital WA strategy and aims to provide government with the enabling infrastructure upon which the Digital WA strategic outcomes will be delivered. This will be achieved by:

• co-locating government data centres and server rooms;
• migrating to cloud services; and
• creating a data and communications network that connects government workers across Western Australia.

The cost structure under GovNext-ICT moves from lumpy capital injection to replace infrastructure every two to five years, to a consumption based model where agencies pay for what they need.

The Office of the Government Chief Information Officer was established in July 2015. It currently comprises a small team of 19 full-time equivalent staff and reports to the Minister for Innovation and ICT. The Government Chief Information Officer controls limited funding relative to cross-government information and communications technology initiatives and agencies retain control of their own information and communications technology budgets. Agencies will be required to fund their transition to GovNext-ICT and in most cases costs will be incurred before total savings are achieved.

1 Office of the Government Chief Information Officer Special Inquiry hearing, 10 November 2017.
2 Ibid.
SUMMARY

The Office of the Government Chief Information Officer estimates that GovNext-ICT could generate $65 million in cost savings to Government over three years. The premise for the program is that a better connected government information and communications technology network will support improved service delivery outcomes and enhanced cost effectiveness via system synergies and provide a “big data” technical solution that will facilitate a range of future innovative reforms.

GovNext-ICT aims to rationalise data centres and server rooms, migrate agencies to the cloud, provide an interconnected State-wide communications network and govern the ICT procurement arrangements across whole-of-government.4

More than 60 government agencies have enrolled under the GovNext-ICT procurement program (see Appendix A). More than 20 agencies have taken the first steps towards transitioning from their existing arrangements.

Information provided to the Special Inquirer by the Office of the Government Chief Information Officer indicates that early commitments under the GovNext-ICT Common Use Arrangement will deliver $12.6 million in savings over five years.5 The success of the GovNext-ICT program is dependent upon the successful transition of the largest government agencies. The scale of these agencies this will support the vendor market and drive cost reductions.

Whole-of-government contracts have been signed with three providers for the services required. The services include:

- co-locating government’s data centres and server rooms;
- migrating to cloud services; and
- creating a data and communications network that connects government workers across Western Australia.6

The panel arrangement, or common use arrangement, is currently managed by a team within the Office of the Government Chief Information Officer known as the Government Service Broker. The Government Service Broker works with agencies and vendors to ensure mutually beneficial outcomes.

Agencies are preparing for the transition from owning and operating infrastructure to an “infrastructure as a service” consumption model. The transition will involve some complexity for agencies.

The Special Inquirer examined the GovNext-ICT governance and project management arrangements within

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5 Office of the Government Chief Information Officer response to Special Inquiry request for information, received 14 November 2017.
the Office of the Government Chief Information Officer and the following five agencies. Agencies selected for this examination are as follows.

1. Department of the Premier and Cabinet
2. Western Australia Police
3. Department of Health
4. Department of Justice
5. Department of Education

All agencies are progressing their transition to the new arrangements. Most have expressed some concerns, including:

- the confirmation of the GovNext-ICT services took longer than anticipated. The Department of Justice now has critical systems that are out of support and need to be remediated before moving to GovNext-ICT;
- the source of funding; and
- the availability of expertise.

The Department of Education commented that:

“The Office of the GCIO [Government Chief Information Officer] is necessarily focussed on achieving the cost benefits of GovNext-ICT but its guidance does not appropriately consider the potentially high impact of changes at the school level.”

The Office of the Government Chief Information Officer is not currently resourced to offer project management assistance or a coordination function to agencies to support a coordinated approach to transition. It has provided group and one-on-one high level advice and some documentation to support the development of business cases and plans. Agencies, however, are largely left to manage their own transitions.

The Department of Health advised that:

“The Office of the Government Chief Information Officer has focussed on developing the strategic intent for the State Government and has provided high level guidance. It has not gone so far as to take agencies on a step-by-step journey to demonstrate how to reform.”

GovNext-ICT is a complex program with many facets. The procurement of the services and signing of the contract were significant milestones. These have been previously examined by Ernst and Young and in a

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7 Department of Education response to Special Inquiry questions on notice, received 13 October 2017.
8 Department of Health response to Special Inquiry questions on notice, received 12 October 2017.
9 Ernst & Young Services Pty Ltd, Review of GovNext-ICT Program Procurement Business Case, (14 September 2016).
Department of Finance coordinated Gateway Review of the tender decision.\textsuperscript{10} Both reviews indicated that the procurement process was sound and therefore the Special Inquirer did not examine this element. The Special Inquirer focussed on the readiness of government agencies to transition to GovNext-ICT and the issues that are arising and on making recommendations for potential solutions.

\section*{PROJECT SYNOPSIS}

\subsection*{Background}

In November 2015, the Western Australian Government announced the GovNext-ICT program, promising a new digital era which could potentially save taxpayers $650 million over 10 years from an estimated total expenditure of $3 billion.\textsuperscript{11} The Special Inquirer notes that the latest estimate from the Office of the Government Chief Information Officer is for savings of $65 million over three years. The achievement of the savings is dependent on a seamless and expedient transition from existing operations into GovNext-ICT.

The GovNext-ICT program comprises four projects:

\begin{itemize}
  \item Stage 1 — establishment of the common use arrangements for GovCloud and GovNet and the design of the GovNext-ICT Service Broker function;
  \item Stage 2 — GovNext-ICT pilot implementation;
  \item Stage 3 — GovNext-ICT transition/rollback; and
  \item Stage 4 — GovNext-ICT optimisation.\textsuperscript{12}
\end{itemize}

\subsection*{Procurement}

The Office of the Government Chief Information Officer developed the GovNext-ICT model in consultation with a number of government agencies that had the highest information and communications technology expenditure. The whole-of-government procurement strategy will offer agencies a range of GovNext-ICT related services and replace relatively outmoded information and communications technology solutions that require significant maintenance and ongoing capital investment.

Six vendors were shortlisted from an initial expression of interest process. A formal request for detailed proposal was issued to the shortlisted vendors for their response. Three respondents were recommended to progress to contract negotiations with the State.\textsuperscript{13}

The GovNext-ICT Common Use Arrangement [Contract Number: GNICT 2015] was approved by the Government on 20 January 2017 and resulted in the appointment of three consortia of vendors which are to provide a range of technical solutions.

\begin{itemize}
  \item \textsuperscript{10} Office of the Government Chief Information Officer, Gateway Review – Tender decision, (23 November 2016).
  \item \textsuperscript{11} Western Australian Government Media Statement, GovNext-ICT Promises New Digital Era for WA, (19 November 2015).
  \item \textsuperscript{12} Office of the Government Chief Information Officer, Gateway Review – Tender decision, (23 November 2016).
  \item \textsuperscript{13} Ibid.
\end{itemize}
Implementing GovNext-ICT

Agencies have previously relied on a range of existing information and communications technology contracts available through a large network of pre-existing common use arrangements that were due to expire within 18 months from the commencement of the GovNext-ICT Common Use Arrangement.

Several large agencies have committed to be early adopters of GovNext-ICT. These include the:

• Department of Health;
• Department of Education;
• Department of the Attorney General and Department of Corrective Services (now combined as the Department of Justice);
• Western Australian Police Force;
• Department of Finance; and
• Department of Transport, Main Roads Western Australia and the Public Transport Authority (combined under the Department of Transport banner).

Together these agencies account for approximately 80 per cent of the Western Australian Government’s information and communications technology expenditure.

The Office of the Government Chief Information Officer engaged with agencies during the development of the vendor service catalogues which were made available in May 2017 to ensure a provision of a suite of key services. Agencies have engaged with the various vendor consortia over several months to assist in the development of business cases and transition plans.

Agencies have reported that transitional arrangements will require additional funding, for which they are not currently resourced and which will be requested through the 2018/19 budget process. Business plans are to be approved by agencies in December 2017 and submitted to the Department of Treasury for initial review on behalf of the Government.

The Office of the Government Chief Information Officer has established a Government Service Broker to assist agencies by working with vendors to ensure that:

- offerings are defined;
- they meet the required standards;
- they have visible pricing; and
- they create diversity of supply.

The Government Service Broker does not provide agencies with planning or project management services to transition to the new arrangements.14

14 Office of the Government Chief Information Officer response to Special Inquiry questions on notice, received 19 October 2017.
EVALUATION OF THE PROJECT

Governance
A governance structure was established by the Government Chief Information Officer in late 2015 comprising a Directors General working group (formally established as the Directors General ICT Council), a program board of senior representatives from key agencies and working groups made up of chief information officers and corporate service executives from the agencies with the largest information and communications technology operations.

The Directors General ICT Council oversees the entire Digital WA strategy program, while the program board and working groups have been focused on the implementation of GovNext-ICT, including the initial specific procurement deliverables of the common use arrangement and service catalogues. The program board was disbanded in November 2016 following the completion of the procurement stage.

The governance structure was relatively complex and the working groups operated only when considered necessary. Consultation between the Office of the Government Chief Information Officer and stakeholder agencies has been frequent and multi-layered.

Procurement
From submissions received by the Special Inquiry and previous local media interest, the Special Inquirer is aware that the GovNext-ICT tender process has been criticised. Submissions raised concerns about scope changes and the relevant local expertise and experience held by the three successful suppliers.

As noted previously, where credible reviews have examined elements of projects, the Special Inquirer will not re-examine those matters. For that reason and in consideration of a probity audit and a Gateway Review of the tender decision process, the Special Inquirer has not examined procurement in detail. The previous review reports examined by the Special Inquirer did not substantiate the criticisms of the procurement process.

Project management — Office of the Government Chief Information Officer

Planning
The Office of the Government Chief Information Officer has informed agencies that they have control and responsibility for determining their own objectives, budgets and timelines.15 Agencies are required to:

- plan for their GovNext-ICT transition;
- benchmark current costs;
- develop business cases for major transition activities or a holistic GovNext-ICT transition as appropriate;
- provide cost reporting; and
- develop reinvestment plans.

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Financial analysis

GovNext-ICT appropriations from Government were $4.1 million in 2016/17 and are expected to be $7.2 million in 2017/18. The cost of implementing GovNext-ICT and “myWA” (a separate Office of the Government Chief Information Officer program) is expected to increase from 3.1 per cent of the overall Government expenditure on related services in 2016/17, to 5.2 per cent in 2017/18.16

The Office of the Government Chief Information Officer administers the ICT Renewal and Reform Fund which is estimated to have spent $16.9 million between 2015/16 and 2017/18. The Office of the Government Chief Information Officer is not currently funded beyond 2017/18.

Due to limited information being available and agency business cases being at draft stage at the time of the Special Inquirer’s examination, the Special Inquirer was not able to fully verify financial costs or savings attributable to GovNext-ICT. The Government does not currently have an accurate estimate of whole-of-government information and communications technology expenditure.

It is anticipated that during the development of the 2018/19 budget a significant number of government agencies will include bids for funding their transitions to GovNext-ICT.

In recognition of the potentially large budget impact of GovNext, the Public Accounts Committee wrote to the Auditor General asking him to consider undertaking an audit in 2017 to ensure that the program has been implemented as intended. At the time of this report (November 2017), the Auditor General has not yet confirmed whether GovNext-ICT will be part of its audit program.

Benefits realisation planning

Due to the inconsistent nature of information and communications technology funding over the last decade, calculating a baseline of information and communications technology expenditure has been difficult across the public sector. In its “Doing ICT Better” report published in September 2016, the Public Accounts Committee estimated total expenditure on information and communications technology to range between $1 billion and $2 billion per year.17

The Western Australian Government employs a significant number of information and communications technology staff. A 2015 benchmarking survey by the Office of the Government Chief Information Officer found that 34 per cent of all agency full-time equivalent contract staff were engaged in providing information and communications technology services and that agencies identified that external contractors represent 36.5 per cent of the current information and communications technology workforce. A reduction in staffing cost is likely under GovNext-ICT. That has not yet been quantified.

16 Government of Western Australia, 2017/18 State Budget, 687.
In its September 2016 review of the draft GovNext-ICT business case, Ernst and Young stated that to deliver the benefits identified in the business case, Government would need to gain significant, consistent and continuous support from Cabinet and agencies and that the success of the program would be dependent on the volume of services procured.\(^{18}\) Ernst and Young also noted that the costs for agencies to transition to GovNext-ICT, including migration, decommissioning and resourcing costs would affect the overall benefits achieved and will need to be clearly understood by Government.

The GovNext-ICT business case states that achievement of forecast benefits will be dependent on agencies taking a transformational approach to information and communications technology, rather than simply transferring existing services on a like-for-like basis. The translation of benefits needs to be planned well with effective systems established for evaluation.

The Office of the Government Chief Information Officer has developed and implemented a Benefits Realisation Management Strategy\(^{19}\) to assist agencies to plan their transition to GovNext-ICT and to establish a framework for the timely achievement and measurement of benefits.\(^{20}\) The proposed strategy outlines seven key benefits to government from the program:\(^{21}\) Benefits will arise from:

- the consolidation of data centres and the provision of a dedicated government cloud and connectivity to public cloud services;
- a unified state-wide communications network enabling whole-of-government voice, video and data communications to be delivered in a fit for purpose, consumption based, high quality way; and
- a central service team approach to assist agencies to transition to GovNext-ICT and to ensure that best possible value is achieved through performance monitoring of the contracts and the provision of governance and contract management services.\(^{22}\)

The strategy includes a framework that agencies can use to identify and map future benefits and develop their own benefits realisation plan. Agencies will be responsible for ensuring their plan is monitored against progress and for providing regular reports to the Office of the Government Chief Information Officer’s Government Service Broker.\(^{23}\)

\(^{18}\) Ernst & Young Services Pty Ltd, Review of GovNext-ICT Program Procurement Business Case, (14 September 2016).
\(^{21}\) Ibid.
\(^{22}\) Ibid., 6.
The Office of the Government Chief Information Officer has provided the Special Inquirer with information on initial confirmed orders valued at a total of $63.6 million under the GovNext-ICT Common Use Arrangement, and indicates that early adopter agencies are expected to save $12.6 million collectively over the first three to five years.\textsuperscript{24} The largest savings to be gained by the Department of Finance which has ordered all services.\textsuperscript{25}

Some of the agencies consulted during the Special Inquirer’s examination have expressed reservations about the level of savings which will be delivered through GovNext-ICT arrangements. Agencies were of the view that initial savings made in one area will be required to be reinvested in other information and communications technology areas.\textsuperscript{26} Agencies noted that a lack of consistent investment over several years has resulted in some key information and communications technology infrastructure being high risk, which will require immediate additional investment. Agencies also report that some solutions are already purchased under a consumption model, so in those service areas savings are likely to be negligible.

**Project management — Government agencies**

The Government Chief Information Officer provided the Special Inquirer with information about GovNext-ICT orders to 10 November 2017. According to the information, there have been 15 orders for services that include network connectivity, cloud and telephony.

The Office of the Government Chief Information Officer states that the following agencies have developed a business case and a transition plan.

- Department of Finance
- Department of Fire and Emergency Services
- Department of Justice
- Inspector of Custodial Services
- Western Australia Police (business case)

As previously noted, the Special Inquirer has examined the plans and progress of five agencies. All agencies have developed or are developing sound governance frameworks to oversee their GovNext-ICT transition projects.

**Department of the Premier and Cabinet\textsuperscript{27}**

The Department of the Premier and Cabinet’s information and communications technology structure supports

\textsuperscript{24} Office of the Government Chief Information Officer response to Special Inquiry request for information, received 14 November 2017.

\textsuperscript{25} Office of the Government Chief Information Officer response to Special Inquiry questions of notice, received 14 November 2017.

\textsuperscript{26} See individual sections in Project Management — Government agencies.

\textsuperscript{27} Department of the Premier and Cabinet responses to Special Inquiry questions on notice, received 10 October 2017.
approximately 1,000 users. Operating expenditure is $7.45 million per annum (direct and indirect costs) and the Department expects to achieve 10 per cent savings by 2020.

**Business case preparation**
The Department is establishing its business case for GovNext-ICT. The planned transition date is November 2018 which aligns with the current data centre contract expiry. A detailed project plan will be included in the business case due to be completed by 31 December 2017.

**Estimated costs and benefits**
Transition costs are being estimated and the Department plans to meet one-off transition costs from its existing capital works program. The Department has sought and received approval from the Economic Review Committee to reallocate capital budget to recurrent appropriation to procure information and communications technology services.

The Department plans to include a base level of transformation to ensure that benefits are achieved. It believes that it has the internal capability to manage the project but may rely on some specialist assistance for design, implementation and transition.

**Agency concerns**
The Department has not identified any barriers to the completion of its transition to GovNext-ICT and noted that the Office of the Government Chief Information Officer’s Government Service Broker had facilitated the introduction of the vendors to the Department.

**Department of Justice**
Prior to the machinery of government changes that formed the Department of Justice on 1 July 2017, the former departments of Corrective Services and the Attorney General had each developed documents as part of their plans to transition to the consumption-based model offered by GovNext-ICT.

**Business case preparation**
The Department of Justice is working on an ICT Transformation Roadmap to outline the transformation activities that will support the justice environment to deliver improved services to clients. The roadmap is expected to be finalised by the end of 2017 and will include a detailed business case.

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28 Department of the Premier and Cabinet email, (30 October 2017).
29 Department of the Premier and Cabinet email, (11 October 2017).
30 Ibid.
31 Department of Justice responses to Special Inquiry questions on notice, received 11 October 2017.
Estimated costs and benefits
The former Department of Corrective Services had estimated its transition costs to be around $6 million (plus or minus 20 per cent). Funding had not been resolved prior to the machinery of government changes. The Department of Justice recognises the need to modernise and transform its ageing information and communications technology environment and this has been endorsed by the Attorney General as the second highest priority in the Department’s Strategic Asset Plan submission for 2018/19.

The Department will require funding to enable the transition to GovNext-ICT and for an holistic information and communications technology transformation. It also needs suitably qualified people to lead the project and notes that there will be changes to the department’s future recurrent funding requirements.

Agency concerns
The Department has raised some concerns that the services procurable through the GovNext-ICT Common Use Arrangement do not include services to support the transformation to GovNext-ICT and that other procurement processes will need to be undertaken.

The Department has received assistance and guidance from the Office of the Government Chief Information Officer but notes added complexity due to delays in the availability of some services, the machinery of government changes, a lack of maturity in understanding the current information and communications technology environment and legacy issues from lack of investment in information and communications technology from over a long period of time.

Western Australia Police Force
The Western Australia Police Force undertook an information and communications technology transformation in 2014/15. The operating model was redesigned and WA Police commenced procurement for bundles of services identical to those delivered by GovNext-ICT. The procurement activity ceased due to a combination of financially unfavourable responses from the market and the commencement of GovNext-ICT. WA Police has been positioning itself for an information and communications technology consumption model since 2014/15.

32 Western Australia Police Force response to Special Inquiry questions on notice, received 16 October 2017.
**Business case preparation**

WA Police has had a dedicated project to address the development of GovNext-ICT since March 2016. To date, business case development has included comprehensive baselining of all information and communications technology costs relevant to GovNext-ICT, foundation works for preparation of transition to consumption based information and communications technology and exploration of the GovNext-ICT vendors.

**Estimated costs and benefits**

To date, the cost for development of the business case and foundation works is almost $1 million which has been internally funded. The business case is expected to be approved in December 2017.

WA Police estimates that it will need a capital injection of $11 million for the transition and a recurrent increase in budget of between $6 million and $8 million per annum, although these estimates are yet to be tested. No funding source has been identified and WA Police intends to submit the business case to the Department of Treasury as part of the 2018/19 budget process. WA Police stated that cost may present a barrier to achieving the outcomes.

Cost modelling predicts that there will not be a financial benefit for WA Police and that it will achieve break-even at best. The changes in funding from capital to recurrent will lead to irregular capital funding allocations which do not allow for appropriate infrastructure life cycle maintenance across the extensive WA Police footprint. The capital cost avoidance is seen as positive but “the agency as it stands cannot avoid recurrent costs it currently does not incur for services it does not yet consume through a recurrent expenditure profile”.33

**Agency concerns**

WA Police has been preparing for an information and communications technology consumption model for some time and is well prepared. The main barrier for WA Police is cost.

WA Police states that even if there was a dollar for dollar conversion of existing capital funding to recurrent funding, this would not meet cost needs. WA Police notes that there are other benefits and necessities associated with moving to consumption based information and communications technology and that the benefits should be considered across government and not in isolation.

**Department of Health34**

**Business case preparation**

The Department of Health’s Health Support Services developed a business case for the ICT Infrastructure Transition Planning Project between February 2016 and July 2017. The business case defined a strategy for moving to the GovNext-ICT ‘infrastructure as a service’ environment.

The business case was submitted to the Health Transition Planning Project Board which includes

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33 Western Australia Police Force response to Special Inquiry questions on notice, received 16 October 2017
34 Department of Health response to Special Inquiry questions on notice, received 12 October 2017
representatives from the Office of the Government Chief Information Officer. Following a recommendation supported by the Health ICT Executive Board the current business case was reviewed to broaden its scope.

Health’s transition project is now called HealthNext. A revised business case is to be developed with an expanded scope to include managed services, network transformation, internet gateway services and the original data centre services.

Health has developed a HealthNext Program Plan to address the planning and procurement phases and a procurement plan was provided to the State Tender Review Committee on 11 October 2017.

**Estimated costs and benefits**
The estimated transition cost in the original business case was $23.5 million. The HealthNext transition costs are expected to decrease to $18 million due to clarification of the scope and removal of certain assumptions.

Health does not expect to achieve financial benefit from GovNext-ICT in the short term but expects to realise benefits over five to 10 years. The HealthNext business case details expectations of having more agile services and a reduction in capital infrastructure investment requirements. The extent of this will be determined by vendor responses to Health’s procurement requirements.

**Agency concerns**
Health’s information and communications technology environment is very complex and Health is currently working with the GovNext-ICT vendors to ensure that it has the capacity and capability to provide the level of service that the health system requires.

Health is concerned about meeting the timeframes being set by the expiry of its current Centralised Computing Services contract. The managed services component of the existing arrangement is a key requirement for Health to manage its extremely complex information and communications technology operations. Managed services, however, is an optional service in the GovNext-ICT Common Use Arrangement. This means that Health may need to go to open tender.

Health notes that the upfront funding required for the transition and the ongoing operational funding requirements are of concern.

**Department of Education**
The Department of Education provided the Special Inquirer with a detailed response to questions on notice. The Department noted that information and communications technology services are currently provided centrally to metropolitan departmental officers and more than 800 schools throughout Western Australia. Schools operate in a decentralised manner and make their own decisions about information and communications technology applications and programs and computing choices.

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35 Department of Education response to Special Inquiry questions on notice, received 13 October 2017.
The Department provides an equity based core information and communications technology platform to all schools. This includes core private bandwidth, wireless infrastructure, fixed telephony, network and security management and centrally managed applications such as human resources, student information systems, and other such systems.

The Department stated that it has a lean approach to information and communications technology expenditure with the primary driver of servicing and supporting schools. Its data centre expenditure per annum is very low but it is committed to divesting the need to own and operate a data centre and sees the GovNext-ICT option as an attractive solution, depending on the additional costs.

As the largest network, the Department anticipates that it would be expected to spread its purchase of services across at least two of the consortia, further driving up prices.

**Business case preparation**
The Department has not completed its business case and continues to engage with the three consortia on GovNext-ICT Common Use Arrangement to gain a clear and complete view of the total costs of services, fees and levies and the impacts on schools.

Implementation of the full GovNext-ICT model which would require there being no servers in schools will require all information and communications technology services to be delivered remotely. This will have a direct impact on the way schools across Western Australia currently manage their information and communications technology resources, require a significant increase in bandwidth across most if not all schools and may have an impact on educational programs including the NAPLAN.

**Estimated costs and benefits**
The Department has not assessed the expected cost due to lack of information. Full transition to GovNext-ICT, however, would see transition costs in the order of several million dollars. No funding allocation has been made at this point.

The Department notes that it already has in place many of the benefits that GovNext-ICT can deliver to agencies and that the move to an operational expense model, rather than a cyclic capital investment model, was undertaken by the Department commencing in 2003.

The Department recognises that it is part of the broader public sector and accepts that improvement is worth pursuing.

**Agency concerns**
When fully implemented, the GovNext-ICT approach operates as a hub and spoke model which, without significant additional investment, is likely to be detrimental to schools. The GovNext-ICT model does not address the need for local in-school, up to date emergency and attendance data in the event that network services are unavailable.
The largest element in the Department’s information and communications technology budget is telecommunications costs. This relates to bandwidth for schools across the largest network in Western Australia. The Department has provided highly detailed information to the Office of the Government Chief Information Officer’s Government Service Broker to obtain indicative costs. Indicative responses from two of the three consortia received on 4 August 2017 were based on full-time equivalent staff count and student numbers. The calculation of levies and fees is complex and the Department’s assessment is that the model is financially unviable as it would impose significant additional recurrent cost and require unfunded transition costs to be met.

The Department has raised several concerns regarding costs with the Office of the Government Chief Information Officer. The Department notes that many of the service levels published in the GovNext-ICT Service Catalogues do not reflect those in place today and will need further negotiation. The agenda and timetable appear to have not considered existing committed programs of work sufficiently, such as the national online rollout of NAPLAN. Removal of servers and equipment from schools and their replacement with virtual services will require all network traffic that does not currently leave the school being transported to the data centres in Perth. The Department estimates this will require three to five times its current bandwidth.

**Government Chief Information Officer’s response to Department of Education’s concerns**

The Special Inquirer asked the Government Chief Information Officer specifically about the Department of Education’s concerns at their Special Inquiry hearing. In response, Mr Nunis noted the following.

- Coordination of the procurement and implementation of services in regional areas could address some of the Department’s concerns relating to provision of telecommunications services (See Appendix B).
- It is the Government Chief Information Officer’s view that the Department is not comparing the true cost within their existing business. The use of switchboards means “hundreds of people” are managing the network and there are many systems and applications. Mr Nunis firmly believes that by entering the planned government telecommunications network, the Department would see a reduction in costs.
- Mr Nunis has discussed school bandwidth with the Department’s Director General. He notes that the Department has the capacity to have more centrally limited bandwidth. Mr Nunis believes that of 860 schools, 854 have the capability of bandwidth well beyond what they are currently allocated.
- There are infrastructure issues in some regions.
- The Office of the Government Chief Information Officer intends to continue to work with the Department to identify options and areas of opportunity.\(^36\)

**Shared risks and issues**

While all agencies that gave evidence to the Special Inquiry agree with the GovNext-ICT vision and are willing to make some sacrifices for the good of the government as a whole, they are separately accountable for all facets of transition, and are keen to ensure their own particular needs are met. This is particularly

\(^{36}\) Office of the Government Chief Information Officer Special Inquiry hearing, 10 November 2017.
important for services that cannot be interrupted such as health, police and education.

The success of GovNext-ICT is dependent on the successful transition of the largest government agencies. Through their scale, this will support the vendor market and drive cost reductions. If there are any significant transition delays by one of the large agencies, this could undermine the solution as a whole and compromise the ability of the vendors to fulfil their investment requirements.

It is acknowledged that transitioning to GovNext-ICT is not a direct substitution of service and has required a significant amount of planning by agencies, in some cases taking far longer than originally envisaged.

Some of the agencies consulted during the Special Inquirer’s examination have expressed reservations about the level of savings that will be delivered through GovNext-ICT. Agencies were of the view that initial savings made in one area will be required to be reinvested in other information and communications technology areas. One Department also reported that some solutions are already purchased under a consumption model, so in those service areas savings are likely to be negligible.

Agencies with high numbers of users will likely require significant subsidisation from government to transition to GovNext-ICT in the early stages, as the current cost per user is higher than that for which those agencies are currently paying.

**Practical problems**

Consultation with the selected agencies has identified the following common practical problems.

- The late development of the service catalogues and service levels that differ from existing operations have delayed agencies in developing business cases and transition plans.
- Some agencies are critical of the homogenous approach to information and communications technology solutions and deficiencies from vendors in matching their offering to existing service standards.
- Early stage negotiations between vendors and agencies have been more difficult than anticipated.
- There is broad uncertainty about the transition costs for agencies in the migration to GovNext-ICT.

The Office of the Government Chief Information Officer acknowledges this issue and advocates a staged migration that minimises upfront costs and optimises reinvestment into other service lines using savings from previous migration.\(^{37}\) The Office of the Government Chief Information Officer is confident.

\(^{37}\) Ibid.
that savings can be achieved and reinvested and that the Department of Treasury will fund agencies.\textsuperscript{38}

- In recognition that some services provided under GovNext-ICT are not direct substitutions, it is anticipated that some large agencies will require significantly more planning as they exit from existing contractual arrangements which may take a further 12 to 18 months.
- Concerns have been raised that the services procurable through the GovNext-ICT Common Use Arrangement do not include services to support the transformation to GovNext-ICT and that other procurement processes will need to be undertaken.\textsuperscript{39}

**Potential barriers**

- The Government Chief Information Officer believes that there are benefits for all agencies and that agencies that believe they will not receive benefits do not fully understand the opportunities that GovNext-ICT presents.
- Agencies were anticipating a level of implementation support from Office of the Government Chief Information Officer consistent with the earlier intensive work done on development of the GovNext-ICT model.
- While agencies acknowledge the whole-of-government mandate to transition to GovNext-ICT, they currently feel unsupported due to a lack of transition funding.

**More assistance and support for agencies through a Program Management Office**

The Office of the Government Chief Information Officer has defined five stages of agency engagement:

1. awareness;
2. considering/planning;
3. enrolling (initial contract sign up);
4. procuring; and
5. consuming.\textsuperscript{40}

This does not describe an additional step between stages 4 and 5 whereby agencies have a significant amount of preparation, planning and project management work to reach the consuming stage.

The Special Inquirer raised the matter of the provision of support and capability building with the Chief Government Information Officer. Mr Nunis stated that agencies are required to evolve their systems and processes progressively to deliver modern digital government outcomes. The Office of the Government Chief Information Officer has developed a number of initiatives to support agencies to build capability and capacity and to demonstrate how GovNext-ICT enables transformation to modern digital government.\textsuperscript{41}

The Directors General ICT Council endorsed the Whole-of-Government ICT Capability and Capacity

\textsuperscript{38} Ibid.
\textsuperscript{39} See individual sections in Project Management – Government agencies
\textsuperscript{40} Office of the Government Chief Information Officer responses to Special Inquiry questions on notice, received 19 October 2017.
\textsuperscript{41} Ibid.
Building Program in March 2017. The plan includes Directors General information and communications technology master classes, forums and showcases and capability framework. It does not include assistance with transition to GovNext-ICT.

The Special Inquirer believes that agencies need more direct assistance and that the whole-of-government initiative would benefit from a coordinated approach by a lead agency Program Management Office.

The most effective potential solution that the Special Inquirer has identified would be to increase the level of assistance and support provided to agencies by the Office of the Government Chief Information Officer. The support could include the following.

- A whole-of-government roadmap to transition that outlines the details of every agency’s expected ‘go live’ date. Existing agency contracts will expire at different times and coordination will prevent unsupported arrangements occurring. This would assist in informing agencies about timeframes and ensuring vendors are not inundated and unable to resource planned transitions, and provide a framework for ongoing program management and oversight.
- A program to achieve a whole-of-government transition. This means integration of project plans, benefits plans, costs and project status reporting.
- A standardised approach to project management, including options analysis, financial analysis, detailed planning, governance arrangements, risk assessment and management, change management and communications. This would also allow for reflection on the lessons learned as agencies undertaking their transitions can share their experiences with other agencies that are yet to enter the new arrangements.
- Leadership in the achievement of potential savings reliant on numerous agencies working together. See Appendix B for a case study example.

Cultural change

The Government Chief Information Officer believes that the success of GovNext-ICT is heavily dependent on the endorsement of government for a culture of achievement in this area. Mr Nunis believes that explicit support for digital transformation from the Government and the Premier could be relied upon to achieve a “can-do” culture.

There will be an effect on the level of employment of information and communications technology expertise and a change in focus as to the roles of information and communications technology functions in agencies. Mr Nunis therefore believes that the initiative needs to be driven by the agency Directors General and Chief Executive Officers and not rely on the actions of middle management.

Mr Nunis stated that “In the absence of that we’re now basically dealing with the silo effect across government.”

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42 Office of the Government Chief Information Officer Special Inquiry hearing, 10 November 2017.
43 Ibid.
RECORD KEEPING

All agencies provided evidence to the Special Inquirer without undue delays. Documentation provided was mostly of a high standard. Some governance documentation, however, lacked accurate version control and in some cases meeting actions were not followed up. The Special Inquirer notes that effective governance reporting is a responsibility of all group members.

FINDINGS

The Special Inquiry notes:

1. There is merit in the GovNext-ICT program developing a cost effective information and communications technology system across government forming the basis of a major digital program which will enhance services and relationships between government and the community.

2. The process undertaken to develop the GovNext-ICT Common Use Arrangement is consistent with Western Australian Government Procurement policy and practice. It included a probity audit, review by the State Tenders Review Committee, an external review of the project business case and a Gateway Review of the tender process.

3. Although consultation between the Office of the Government Chief Information Officer and stakeholder agencies has been frequent, agencies have expressed concern that communications and presentations are broad. Agencies would prefer more individualised assistance.

4. Agencies are progressively improving their accountability for information and communications technology expenditure, though a greater level of reporting to the Department of Treasury is required to ensure that the benefits realised from the GovNext-ICT project are accurately forecast and achieved. There is a significant risk to government if agencies cannot provide accurate estimates of cost savings to be achieved.

5. The benefits realisation strategy developed by the Office of the Government Chief Information Officer is detailed and sound in its approach. Agencies should continue to report back to Government on a biannual basis on benefits realisation.

6. Sufficient risk management planning has not been undertaken broadly and requires improvement.

7. GovNext-ICT lacks a coherent whole-of-government integrated implementation plan. A lack of coordination among the large agencies may impact the viability of the GovNext-ICT purchasing arrangements and the vendors’ ability to cope with fluctuating and unpredictable demand and may undermine the realisation of financial benefits.

8. The Office of the Government Chief Information Officer does not currently provide a central leading and coordinating role to assist the GovNext-ICT vision being realised across government.

9. Agencies appear to lack the necessary resources to transition to GovNext-ICT. It is expected this will be clearer following the development of the relevant agency business plans and transition plans in December 2017.

10. Funding for agencies transition to GovNext-ICT is largely uncertain. There is likely to be significant impact on the 2017/18 Mid-Year Review and the 2018/19 Budget.
RECOMMENDATIONS

1. To achieve the efficiencies targeted under GovNext-ICT, Government will need to reaffirm its commitment to the program and provide additional resources for the establishment of a Program Management Office. This will assist with whole-of-government coordination as described above.

2. Government should consider establishing a centrally controlled transition fund to support agencies, which can be used for planning and implementation over a three-year period. This could be coordinated by the Program Management Office.

3. New governance arrangements are required, including the establishment of a Program Board to oversee whole-of-government implementation through the Program Management Office, with an initial focus on the larger agencies. The Program Board is to be accountable to the Directors General ICT Council and should provide quarterly status reports with clear articulation of risks and milestones.

4. The Directors General ICT Council needs to establish itself more effectively as a steering group to oversee the implementation of the Digital WA strategy across the Western Australian public sector. The Directors General ICT Council must provide a biannual report to Government on implementation progress, including benefits realisation.

5. Gateway Reviews must be undertaken for all projects with an estimated cost of more than $10 million.

6. The Department of Finance should undertake an evaluation review of all agency GovNext-ICT Gateway Reviews undertaken, and report to Government accordingly. The Department of Finance evaluation review should focus on the lessons learned and systemic issues which are apparent. It should provide recommendations for further refinement of the GovNext-ICT program beyond 2018.
### APPENDIX A

#### ENROLLED AGENCIES UNDER GOVNEXT-ICT NOVEMBER 2017

<table>
<thead>
<tr>
<th>NO.</th>
<th>ENTITY</th>
<th>PUBLIC SECTOR COMMISSION CATEGORY</th>
<th>ENROLLED UNDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Department of Communities</td>
<td>1 Department</td>
<td>Department of Communities</td>
</tr>
<tr>
<td>2</td>
<td>Disability Services Commission</td>
<td>1 Department</td>
<td>Department of Communities</td>
</tr>
<tr>
<td>3</td>
<td>Department of Education</td>
<td>1 Department</td>
<td>Department of Education</td>
</tr>
<tr>
<td>4</td>
<td>Department of Finance</td>
<td>1 Department</td>
<td>Department of Finance</td>
</tr>
<tr>
<td>5</td>
<td>Department of Fire and Emergency Service</td>
<td>1 Department</td>
<td>Department of Fire and Emergency Service</td>
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<tr>
<td>6</td>
<td>Department of Health</td>
<td>1 Department</td>
<td>Department of Health</td>
</tr>
<tr>
<td>7</td>
<td>Department of Jobs, Tourism, Science and Innovation</td>
<td>1 Department</td>
<td>Department of Jobs, Tourism, Science and Innovation</td>
</tr>
<tr>
<td>8</td>
<td>Department of Justice</td>
<td>1 Department</td>
<td>Department of Justice</td>
</tr>
<tr>
<td>9</td>
<td>Department of Local Government, Sport and Cultural Industries</td>
<td>1 Department</td>
<td>Department of Local Government, Sport and Cultural Industries</td>
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<tr>
<td>10</td>
<td>Department of Planning Lands and Heritage</td>
<td>1 Department</td>
<td>Department of Planning, Lands and Heritage</td>
</tr>
<tr>
<td>11</td>
<td>Department of Primary Industries and Regional Development</td>
<td>1 Department</td>
<td>Department of Primary, Industries and Regional Development</td>
</tr>
<tr>
<td>12</td>
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<td>1 Department</td>
<td>Department of the, Premier and Cabinet</td>
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<td>Department of the Registrar Western Australian Industrial Relations Commission</td>
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<td>Department of Training, and Workforce Development</td>
</tr>
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<td>Department of Transport</td>
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<td>Department of Treasury</td>
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<td>Department of Water, and Environmental Regulation</td>
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<td>Department of Water, and Environmental Regulation</td>
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<td>Commissioner of Main Roads</td>
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<td>School Curriculum and Standards Authority</td>
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<td>State Supply Commission</td>
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<td>Health and Disability Services Complaints Office</td>
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<td>Department of Health</td>
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<td>Western Australian Tourism Commission</td>
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<td>Department of Jobs, Tourism, Science and Innovation</td>
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<td>Perth Theatre Trust</td>
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<td>ENROLLED UNDER</td>
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<td>North Metropolitan Tafe</td>
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<td>Department of Training, and Workforce Development and soon Independently</td>
</tr>
<tr>
<td>36</td>
<td>Central Regional Tafe</td>
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<td>Department of Training, and Workforce Development and soon Independently</td>
</tr>
<tr>
<td>37</td>
<td>North Regional Tafe</td>
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<td>Department of Training, and Workforce Development and soon Independently</td>
</tr>
<tr>
<td>38</td>
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<td>Department of Training, and Workforce Development and soon Independently</td>
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<td>40</td>
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<td>Healthway</td>
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<td>43</td>
<td>Landgate</td>
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<td>Landgate</td>
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<td>Metropolitan Redevelopment Authority</td>
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<td>WorkCover WA</td>
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<td>Heritage Council of Western Australia</td>
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<td>Racing and Wagering Western Australia</td>
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<td>Electorate Offices</td>
<td>4 Schedule 1 Entity</td>
<td>Department of the Premier and Cabinet</td>
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<td>57</td>
<td>Fremantle Ports</td>
<td>4 Schedule 1 Entity</td>
<td>Fremantle Ports</td>
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<td>61</td>
<td>Police Force</td>
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<tr>
<td>62</td>
<td>City of Canning</td>
<td>5 Other</td>
<td>City of Canning</td>
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</tbody>
</table>
APPENDIX B

CASE STUDY - MOORA

The following case study shows the savings that can be achieved when agencies work together to implement GovNext-ICT. The Office of the Government Chief Information Officer developed this case study but has concerns that none of the agencies involved would be in a position to be the lead agency.

The Special Inquirer considers this case study to be an endorsement of the recommendation to establish a Program Management Office to lead and coordinate the GovNext-ICT program.

![GovNext-ICT Network Price Comparison for Moora, WA](image)
### 'Like-for-Like' GovNext-ICT WAN Service

<table>
<thead>
<tr>
<th>Agency</th>
<th>Detail</th>
<th>Current Cost</th>
<th>GovNext Quote</th>
<th>Saving % Variation</th>
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<tbody>
<tr>
<td>1 DoJ</td>
<td>Moora Court House</td>
<td>$21,960</td>
<td>$4,380</td>
<td>80%</td>
</tr>
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<td>2 Communities</td>
<td>Child Protection District Office</td>
<td>$21,553</td>
<td>$4,350</td>
<td>50%</td>
</tr>
<tr>
<td>3 Communities</td>
<td>Disability</td>
<td>$964</td>
<td>$7,200</td>
<td>632%</td>
</tr>
<tr>
<td>4 WAPol</td>
<td>Moora Police Station</td>
<td>$21,212</td>
<td>$4,360</td>
<td>79%</td>
</tr>
<tr>
<td>5 DoE</td>
<td>Central Midlands Senior High School</td>
<td>$28,933</td>
<td>$7,200</td>
<td>75%</td>
</tr>
<tr>
<td>6 DoE</td>
<td>Moora Primary School</td>
<td>$28,933</td>
<td>$7,200</td>
<td>75%</td>
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<tr>
<td>7 DTWD</td>
<td>Central Regional Tafe (C. Y. O'Connor Institute)</td>
<td>$45,045</td>
<td>$7,200</td>
<td>84%</td>
</tr>
<tr>
<td>8 Health</td>
<td>Moora Hospital</td>
<td>$2,763</td>
<td>$11,700</td>
<td>323%</td>
</tr>
<tr>
<td>9 DPIRD</td>
<td>Agriculture and Food Moora</td>
<td></td>
<td>$4,360</td>
<td></td>
</tr>
<tr>
<td>10 WA Govt</td>
<td>TOTAL Service Cost</td>
<td>$171,403</td>
<td>$58,020</td>
<td>66%</td>
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<td>11 Other Govt.</td>
<td>St John Ambulance</td>
<td></td>
<td>$4,380</td>
<td></td>
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<tr>
<td>12 Shire of Moora</td>
<td>Moora Fire &amp; Rescue Service</td>
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<td>$4,380</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$7,200</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

- Why is it cheaper under GovNext? Consolidation reduces the number of telecommunication links and connections as this is duplicated under a fragmented environment. Further, GovNext vendors are purchasing directly from a wholesaler(s) in bulk, reducing the annual cost. It is understood that Moora is primarily serviced by Textra Retail.
- The like-for-like GovNext service quoted here does not include connectivity to the GovNext core (the “GovNext core” is a managed network service currently performed by government (or their service provider) and it is duplicated across government in each department manages their own network.
- GovNext Core connectivity is priced per user and capped at $20.45 per month. With whole of government (WoG) adoption, the price is expected to drop to approx. $4.50 per user per month.
- Cost increases require further investigation as it may relate to the cost of a substandard connection or the current cost is inaccurate. Hence a higher cost relates to a minimum standard of operation for government.
- Moora has 71 Government FTEs and approx. 969 students within the region. The initial core levy would be $17,474 per year, dropping to $3,845 per year with WoG adoption.
- Even if government implemented the GovNext Core (using maximum core levy), GovNext-ICT total pricing could save up to 56% locally on current costs, while offering higher capacity and better services.
- The GovNext costings also assumes an equal or higher capacity for each of the government agencies.
- No degradation or additional risk would occur under a consolidated telecommunications environment.
- Benefits of a Core Network – reduction of duplication of infrastructure, reduced level of effort, improved data sharing, consistent application of security across network, interoperability allowing diversity of supply, disaster recovery ability if building is destroyed, mobility of staff across different sites regardless of home agency ie plug and play in any government building.
ROAD SAFETY COMMISSION AND RUGBYWA PARTNERSHIP - WESTERN FORCE

“... the proposal to allocate $1.5 million ... to the Western Force partnership was far and away the largest partnership involving [the] Road Trauma Trust Account ...”

- John Langoulant, Special Inquirer

The Road Trauma Trust Account relies on money paid into it from traffic fines. It then allocates funds for programs, subject to Ministerial approval, designed to promote road safety.

The Special Inquirer was told that, up until March 2017, the biggest allocation had been about $50,000. That was until a proposal emerged in January 2017, and was finalised in late March 2017. This allocation was for $1.5 million from the fund to be used in sponsoring the Western Force team which played in the Super Rugby competition and was based in Perth.

It was far and away the largest partnership involving the Road Trauma Trust Account.

The Special Inquirer was concerned at the apparent haste in considering the proposal, which occurred in the highly charged political climate leading to the State election on 11 March 2017. There were several questionable aspects in the decision-making process, and, despite specific requests, the Special Inquirer did not see any documentation that explained how the State would benefit from the decision.

The Australian Rugby Union axed the Western Force from the Super Rugby competition in August 2017.
SUMMARY

On 30 January 2017, the then Minister for Road Safety approved the Road Safety Commission negotiating a ‘partnership’ agreement with the Australian Rugby Union and the Western Force. The Australian Rugby Union was the owner of the Western Force. Part of the proposed agreement involved payment by the Road Safety Commission of $1.5 million in 2017. The agreement was to be based on a proposal outlined by the Road Safety Commission in a business case dated 23 January 2017. The $1.5 million payment was to be funded from the Road Trauma Trust Account. The agreement was finalised in March 2017.

The partnership arrangement was concluded in haste. Its genesis was a meeting between Kim Papalia, the then Road Safety Commissioner, and representatives of the Western Force on 16 December 2016.

After this meeting and on 5 January 2017, the Western Force submitted a proposal to the Road Safety Commission. The Road Safety Commission prepared a document assessing the proposal and recommended against entry into such a partnership agreement. A document was sent to members of the Road Safety Commission for a meeting on 9 January 2017. The title of this document was “Partnership Proposal and Assessment Recommendation”. There was no exact date provided for this proposal document, despite clarification requests of the then Road Safety Commissioner and Chris Adams, a senior officer with the Road Safety Commission. It was, however, ascertained at the hearings that the document was prepared before 23 January 2017 and prior to the Road Safety Commission’s preparation of the business case. Several days after this, on 23 January 2017, the Road Safety Commission concluded a business case that recommended the opposite. This business case was forwarded to the Minister for Road Safety on 25 January 2017, with a recommendation that the Minister authorise entry into an agreement in the broad terms proposed. The Minister adopted this recommendation on 30 January 2017.
The Special Inquirer notes that although he sought information from the Road Safety Commission concerning this matter in June 2017, the Special Inquirer did not receive an adequate response until 8 November 2017. This response followed some direct questioning of Road Safety Commission officers.

The Special Inquirer is concerned that there are no documents evidencing how or why the Road Safety Commission altered its view over the course of several days in January 2017 as to the appropriateness of the Western Force sponsorship.

The Special Inquirer is also concerned that the assessment by the Road Safety Commission of values attributed to rights that the State was to receive from the arrangement was inadequate. Further, there was seemingly no assessment of how the proposed arrangement would enhance goals that the Road Safety Commission professed motivated its entry into the arrangement.

The Special Inquirer is also concerned that no cogent explanation was provided as to why this agreement was entered into in such haste.

It appears to the Special Inquirer that the funding of $1.5 million from the Road Trauma Trust Account for the Western Force partnership was possibly unlawful. Because Mr Papalia refused to answer many questions asked of him, the Special Inquirer had some difficulty in determining whether he and others involved in the approval of funding from the Road Trauma Trust Account were aware of the likelihood that this means of funding was possibly unlawful. The Special Inquirer heard from Ben Allen who was the Chief of Staff to the Minister for Road Safety, the Hon Liza Harvey MLA, during this period. Based on Mr Allen’s evidence, it is plain that neither the Minister nor anyone in her office was aware that the means of funding recommended by the Road Safety Commission was possibly unlawful.

Expenditure of public funds on ‘sponsorship’ or support of particular sporting teams or codes is inevitably controversial. It is essential that expenditure of public monies for these purposes follows appropriate, thorough and transparent processes.

Mr Papalia and Mr Adams appeared before the Special Inquirer. Both were unsatisfactory witnesses. The Public Sector Commissioner has power to inquire into whether witnesses have hindered this Special Inquiry, as specified in clause 5(1) of Schedule 3 of the Public Sector Management Act 1994 or made false or misleading statements in their evidence contrary to clause 5(2) of Schedule 3 of the Public Sector Management Act 1994.
PROJECT SYNOPSIS

On 30 January 2017, the Minister for Road Safety approved the Road Safety Commission negotiating a contract with the Australian Rugby Union and the Western Force. A proposal outlined by the Road Safety Commission in a business case dated 23 January 2017 was to be “a baseline” for the recommendation to the Minister. A key part of the contract was that $1.5 million was to be paid by the Road Safety Commission from the Road Trauma Trust Account.

The agreement was finalised in late March 2017. ¹

Road Safety Commission and the Road Safety Council

Road Safety Commission
Prior to 2015, an Office of Road Safety operated within the department reporting to the Minister responsible for Road Safety.

In 2015, following recommendations to government,² the Road Safety Commission was established as a department of government. It replaced the Office of Road Safety. From 1 July 2015, Kim Papalia was Acting Road Safety Commissioner, and from 28 October 2015 was appointed as the Road Safety Commissioner.³ The Road Safety Commission reported to the Minister for Road Safety. At all times relevant to this Special Inquiry, the Minister for Road Safety was the Hon Liza Harvey MLA.

Road Safety Council
The Road Safety Council is created by the Road Safety Council Act 2002.

Its functions include identifying and recommending measures to improve the safety of roads in the State, coordinating and evaluating responses, and recommending to the relevant Minister how money standing to the credit of the Road Trauma Trust Account should be spent.

The Road Trauma Trust Account receives various monies derived from traffic infringements.

The Road Safety Council has 12 members, representing road users, local government representatives and senior members of the public service responsible for road traffic matters, including police, education, main roads, planning and motor vehicle insurance and registration.

Sections 12(5) and (6) of the Road Safety Council Act provide that the Road Trauma Trust Account is to be administered by the department of the Western Australia Public Sector assisting the Minister responsible for

¹ Road Safety Commission, 2016-2017 Road Trauma Trust Funding agreement, signed 28 March 2017
² Peter Browne Consulting, A review of road safety governance in Western Australia, (March 2014).
road safety. The money in the Road Trauma Trust Account “is to be applied for the purposes determined by the Minister having regard to the recommendations of the Council”.4

Section 6A of the Road Safety Council Act empowers the Minister to give a written direction to the Council requiring it to make a particular recommendation to the Minister about expenditure of funds in the Road Trauma Trust Account. Such a direction is required to be tabled before each House of Parliament within 14 days of the direction.

It is important to observe that, whatever may have been the intention of government in 2015 as to legislative change to alter the role and powers of the Road Safety Commission and the Road Safety Council, no change to its role or powers was ever made.

In addition to being the Road Safety Commissioner, Mr Papalia was also appointed the Chair of the Road Safety Council.

Mr Papalia, Mr Adams and Greg Blycha appeared as witnesses before the Special Inquirer. All were officers of the Road Safety Commission at relevant times. The Commissioner of Police and the current Chair of the Road Safety Council also attended a hearing with the Special Inquirer. The Special Inquirer also heard from Mr Allen who was the Chief of Staff to the Minister for Road Safety when the partnership arrangement with the Western Force and the Australian Rugby Union was approved.

**Office of the Auditor General Report — Recommendations**

In November 2012, the Auditor General released a report which included recommendations for the Road Safety Council and the Office of Road Safety.5 The recommendations were focussed on:

- clarifying the Office of Road Safety’s role;
- demonstrating that funding from the Road Trauma Trust Account is distributed and acquitted under appropriate agreements;
- improving transparency and clear articulation of how the recommendations to the Road Safety Council impact the Towards Zero strategy; and
- improving the quality and consistency of reporting from fund recipients.6

**Browne Review Report Recommendations — Implementation**

The 2012 Browne Review was prompted by the increase in funds from speed and red light camera infringements flowing to the Road Trauma Trust Account. The terms of reference for the Browne Review focussed on:

- the effectiveness and appropriateness of the Office of Road Safety in promoting and coordinating road safety strategies; and

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4 Road Safety Council Act 2002 (WA), Subsection 12(6).
5 Office of the Auditor General, Western Australian Auditor General’s report: Managing the Road Trauma Trust Account, (November 2012).
6 Ibid.
• the effectiveness and appropriateness of the governance arrangements of the Road Safety Council and identification of alternative structures.7

The recommendations, which were in general adopted by the government, were cited as the basis for the establishment of the Road Safety Commission and the devolution of functions from the Road Safety Council.8 This alteration in tasks required legislative change to the Road Safety Council Act 2002. This change has not occurred.

Interaction between the Council and the Commission

Since the establishment of the Road Safety Commission on 1 July 2015, there has been a fundamental misunderstanding by officers of the Road Safety Commission as to its powers and role. In particular, limitations on the powers of the Minister by reason of the Road Safety Council Act 20029 were ignored by Mr Papalia. Despite no legislative change being made to the functions of the Road Safety Council,10 the Road Safety Commission, since its inception, appeared to replace the Road Safety Council’s function of making recommendations to the Minister for Road Safety with respect to programs funded from the Road Trauma Trust Account.11 This is highlighted by the Road Safety Council’s own Report on Activities for financial year 2015/16:

“...the Council has been actively informed of the transition to an alternative road safety informing framework. The Council will continue to meet until such time that legislative change can be undertaken to amend its enabling legislation the Road Safety Council Act 2002.”12

Implementation of recommendations of the Browne Review is cited as the rationale for the Road Safety Council’s functions being assumed by the Road Safety Commission.13 Further, the view of senior staff within the Road Safety Commission was that the Road Safety Council had become redundant. This view gave rise to conflict between Commission officers and Council members.

Genesis of the Western Force partnership

Mr Papalia advised the Special Inquirer that the genesis of the Western Force partnership was his view that road safety in Western Australia could be enhanced by campaigns such as those undertaken in Victoria by the Traffic Accident Commission, where sponsorship of popular sporting clubs or codes has been used to publicise road safety messages.

Mr Papalia advised the Special Inquirer that in February 2016 he dealt with the Australian Football League

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7 Peter Browne Consulting, A review of road safety governance in Western Australia, (March 2014).
10 Road Safety Council Act 2002 (WA), Section 5.
12 Ibid.
13 Ibid.
and the West Australian Country Football League, looking for such opportunities. Shortly prior to 16 December 2016 Mr Papalia met with Ron Alexander, the Department of Sport and Recreation’s Director General, seeking his advice about opportunities to engage with sporting clubs in Western Australia to publicise road safety messages. Mr Papalia provided no explanation as to why he waited until December 2016 to speak with Mr Alexander.

Mr Papalia advised the Special Inquirer that following advice from Mr Alexander, he met with Mark Sinderberry, the Chief Executive Officer of the Western Force and Geoff Stooke, an officer of Rugby WA and the Australian Rugby Union. This meeting occurred on 16 December 2016.

Mr Papalia was vague as to whether he had any further dealings with Mr Sinderberry or Mr Stooke after this meeting and prior to the creation by the Road Safety Commission in January 2017 of the document entitled Partnership Proposal Assessment and Recommendation (the Recommendation document). Others from the Road Safety Commission met with representatives of the Western Force after 22 December 2016 to assist them in preparing a proposal document to be considered by the Road Safety Commission.

Months after requesting it, the Special Inquirer was provided with iterations of a document produced by the Western Force that outlined the partnership proposal. It appears that work on this document commenced on 5 January 2017 and continued until shortly before 30 January 2017.

**Premier’s letter to the Western Force**

Mr Adams provided the Special Inquirer with a copy of a letter from the then Premier to people who had met with him and who were interested in acquiring the franchise for the Western Force. This letter is dated 22 December 2016. Again it is necessary to observe that this document was not provided by the Road Safety Commission nor was it referred to by Mr Papalia in his evidence, which preceded the appearance of Mr Adams.

This letter rejected a proposal that had been put to the Premier, though the letter does not state clearly what it was. The Premier’s letter concluded with the following:

“The Government is supportive of the Western Force as a member of the Super Rugby Competition and is willing to support this involvement where appropriate. However, the proposal as submitted is not approved because of other arrangements already in place and the challenge of unpicking the implications of a number of other elements of your proposal.”

Mr Papalia did not have an opportunity to explain whether he had been aware of this letter prior to 25 January 2017 as by the time information about this letter came to light he was in the process of leaving the public sector. The date of the letter from the Premier is relevant in the context of Mr Papalia’s recommendation that the Minister authorise the Road Safety Commission to negotiate a $1.5 million partnership arrangement with the Western Force on 25 January 2017.

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14 Premier of Western Australia, letter to Mr R Burke and Mr W Goddard, (22 December 2016).
Similarly, Mr Papalia did not have an opportunity to explain whether what was conveyed in the Premier’s 22 December 2016 letter was consistent with the course that he recommended to the Minister on 25 January 2017. There is no reference to the Premier’s letter in any of the documents produced by the Road Safety Commission.

In nothing that the Road Safety Commission ultimately came to recommend to the Minister is there analysis of how it was consistent with the Premier’s letter. This is notwithstanding the fact that Mr Adams, at least, knew of the letter.

Mr Adams sought to reconcile the Road Safety Commission’s recommendation of the Western Force agreement to the Minister and the Premier’s letter of 22 December 2016, though his explanation was confusing and of no assistance to the Special Inquirer.

**Recommendation document — January 2017**

At a time in January 2017, prior to 23 January 2017, the Road Safety Commission created the Recommendation document. The document records that Mr Adams and other officers of the Road Safety Commission were involved in its preparation.

Page 6 of the Recommendation document states:

“The partnership proposal submitted to the Commission by the Western Force represents an opportunity for the Commission to reach the West Australian community in a forum, elite sports, where there has been a conspicuous absence of targeted and engaging Road Safety disposition in recent years.”

Mr Papalia explained that the development of the Recommendation document and agreements with the Western Force, RugbyWA and Australian Rugby Union was concurrent work and that:

“The reason it was concurrent work, [was that] we’ve had tight timelines to try and achieve - allowing the Minister consideration prior to the commencement of season. Why that is the case is because for us to gain full benefit there would be consideration of investment in terms of merchandising material. That has to have lead time prior to the commencement of the season.”

Mr Papalia’s evidence was to the effect that between February and December 2016 the Road Safety Commission appeared to do little to seek to advance its notion of using sponsorship of elite sporting clubs or codes to publicise road safety messages. From 16 December 2016, however, there was considerable activity and extremely tight time frames to facilitate an agreement “prior to the commencement of season.”

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16 Mr K. Papalia Special Inquiry hearing, 5 October 2017.
17 Ibid.
why it was critical for the Road Safety Commission to embark upon the partnership for the 2017 season is explained nowhere.

Whatever motivated the extreme haste with which the Western Force proposal progressed, with haste came lack of proper consideration of the proposal by the Road Safety Commission.

This lack of proper consideration is exemplified by numerous features of the Recommendation document and by what came to be the Road Safety Commission’s business case that was submitted to the Minister.

The Recommendation document dealt with the source of funding for any such partnership. It outlined that there were two options, both of which involved use of Road Trauma Trust Account funds. The favoured recommendation was “Repurposed allocations from a number of 2016/17 funded programs which are currently forecasting underspend against overall project budget”.

This meant that the Western Force partnership would use funds that had been allocated to be spent on other projects but that were unlikely to be spent.

What is not stated in the Recommendation document is that the budget for expenditure of Road Trauma Trust Account funds for 2016/17 had been the subject of a determination by the Minister on the recommendation of the Road Safety Council.

Similarly, the Recommendation document does not consider the means by which any such re-allocation of funds could lawfully be done, in light of the determination by the Minister.

The Recommendation document outlines, under the heading Comprehensive Analysis, that for an expenditure of $1.5 million, the value of the product to be provided totalled $2.676 million. The Recommendation document stated that:

“The valuations of all proposed inclusions total $2,676 million for the full season. Several of the included quotes are based on standard retail value that the Club will charge any advertiser. Other contributing valuations are based on independent assessment of media agencies. These valuations require evidence based verification to be provided by the Club.”

The Recommendation document contains a breakdown of this figure of $2,676 million, with values being attributed to various benefits or products that the Road Safety Commission was to receive.

Of the $300,000 being allocated to the value of the naming rights, it is stated that “The valuation basis, expert valuation guidance.”

19 Ibid.
20 Ibid.
Although sought by the Special Inquirer, no such expert valuation guidance was provided. It seems that this was simply a figure provided by the Western Force without any specific evidence.

Later in the Recommendation document, it is stated that: “The inclusions often are substantial and represent value for money investment from a branding and promotional standpoint. Verification of costings will be required to ensure accuracy.”

Mr Papalia gave evidence that the Strategic, Creative Design and Media Planning Committee of the State provided this advice. When asked whether he recalled ever seeing a document that justified the valuation of the $300,000 for the naming rights, he answered that he did not. When asked whether he considered it to be “consistent with good governance” to ensure that written advice justifying a valuation of $300,000 be obtained and retained by the Road Safety Commission, Mr Papalia answered that he “believed that the evaluation and analysis was undertaken by the team.” He did not explain the basis for his belief.

Mr Blycha regularly attended the Strategic, Creative Design and Media Planning Committee, which was chaired by Mr Adams. Mr Blycha stated that this Committee did not verify or advise as to the accuracy of any of the valuation figures in the Recommendation document. Mr Adams stated that this committee played no such role.

The Recommendation document allocated a value of $1.1 million to branding on playing apparel. The Recommendation document states that the “Valuation basis [was] Repucom QI media evaluation.”

Mr Papalia did not know whether a written document was produced by Repucom in relation to that value of $1.1 million. He stated that he had never seen any such written advice. None was produced to the Special Inquirer.

Mr Adams stated that he was aware of such documents but had not seen them.

Mr Adams’ evidence in this respect is problematic. As explained by Mr Blycha, the proposal to allocate $1.5 million of Road Trauma Trust Account funds to the Western Force partnership was far and away the largest partnership involving Road Trauma Trust Account monies. The next most substantial was a partnership of some $50,000. So, the Western Force partnership proposal was 30 times greater than any other third party partnership ever considered for Road Trauma Trust Account funds. If any documents existed, it is difficult to believe that Mr Adams did not carefully assess them.

The Special Inquirer has seen nothing to suggest that any comprehensive work was undertaken by the Road Safety Commission to seek to justify values attributed to assets that it was in effect purchasing. It appears that numbers were provided by the Western Force and simply accepted by the Road Safety Commission.

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21 Ibid.
22 Mr K. Papalia Special Inquiry Special Inquiry hearing, 5 October 2017.
23 Road Safety Commission, Western Force - Road Safety Commission partnership proposal assessment and recommendation, [January 2016].
In addition to these obvious shortcomings, the Recommendation document outlines key objectives sought to be achieved by the Road Safety Commission with the partnership. Central was a desire to use the arrangement to enforce road safety messages with adult males and particularly those in rural Western Australia. The Recommendation document contains no analysis of how the proposed partnership would enhance or advance this goal. It appears that no work was undertaken by the Road Safety Commission to assess this.

The Recommendation document made four specific recommendations. The first, and only substantive recommendation, was that

“Whilst there is identifiable potential for promotional and ambassadorial opportunities within the context of the proposed partnership, based on the identified risk of the discontinuing operation, the low media exposure within Western Australia, the risk profile of the Road Safety Commission as a fledgling agency responsible for a significant commitment, that is 100 per cent of trust account funds to Road Safety, and the potential for political implications of government partnership with elite sporting organisations, the level of funding requested within the proposal is inappropriate for the [Road Trauma Trust Account] funding, and it is recommended that a lower amount should be negotiated with the club for the partnership to be considered feasible.”24

Mr Papalia, as the Road Safety Commissioner, received this recommendation.

**Business case document**

By 23 January 2017, Road Safety Commission staff had prepared a business case document which recommended that the Road Safety Commission enter into the partnership arrangement with the Western Force.

The business case was prefaced with the following: “The purpose of this business case is to outline the arguments and justifications in support of the proposed partnership between the Road Safety Commission and the Western Force.”25

Mr Papalia did not accept that this was inconsistent with the recommendations of the Recommendation document. The arrangement considered in the business case was identical to that considered in the Recommendation document.

The business case also provided that funds be allocated from the Road Trauma Trust Account in the same manner explained in the Recommendation document. The business case also expressed that:

“The Commission is aware that the super rugby format has the potential of being changed. This may result in the possible revocation of an Australian team’s licence. This issue will require mitigation strategies that will form part of the final agreement and to mitigate possible repercussions for the Commission and the government in the event that this may affect the Western Force.”26

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24 Ibid.
26 Ibid.
The business case contains the same table as in the Recommendation document with sums attributed to different parts of the proposal; for instance, $300,000 was attributed for naming rights and $1.1 million was attributed to branding on playing apparel.

Whereas the Recommendation document made plain that all figures in the cost schedule were to be the subject of verification, the business case is silent as to this.

The Special Inquirer was not provided with any document to suggest that any analysis had been done in the days between the Recommendation document and the business case.

Mr Papalia was asked to explain the reasons behind the business case recommending entry into a partnership with the Western Force, contrary to the principal recommendation in the Recommendation document.

In effect Mr Papalia denied that there was inconsistency between a recommendation against entry into an agreement and a recommendation of entry into the same agreement. Mr Adams suggested that substantive recommendation in the Recommendation document was a recommendation concerning a different unidentified proposal that was not in fact addressed or referred to in the Recommendation document. The Recommendation document addressed a one-year proposal for a $1.5 million sponsorship, nothing else. To suggest, as Mr Adams did, that the only substantive recommendation in the Recommendation document — which was not supportive of the proposal — referred to a multi-year agreement is fanciful.

None of the shortcomings of the Recommendation document that are noted above were remedied in the business case document.

Because these matters will likely be investigated by others within government, further consideration of the basis or bases upon which the principal recommendation in the Recommendation document changed will be left to them.

That the Road Safety Commission recommended entry into the Western Force arrangement, without producing documents that clearly showed independent analysis of the value of what it was to derive and the means by which it was to achieve what it asserted were its goals, evidences an inadequate process in expending public funds and demonstrated fundamental failures in governance.

**Recommendation to the Minister**

Two days after the business case was provided to him, Mr Papalia, as the Road Safety Commissioner, made a recommendation to the Minister for Road Safety.

The recommendation sought approval for the Road Safety Commission to negotiate a contract with rugby interests using the proposal in the business case “as a baseline” and that the Minister approve funding from the Road Trauma Trust Account.
In respect of funding, the proposed option was expressed by the Road Safety Commission as follows:

“In funding based on underspends during the 2016-17 financial year. There are several 2016-17 funded programs which are currently forecasting underspends against overall project budgets. Main Roads WA (MRWA) have highlighted the possibility that some projects may be delayed underspend in the Metropolitan Intersection Crash program and a $2m surplus in the Electronic School Zone Signs program. MRWA [Main Roads WA] is likely to seek approval reallocate monies to new initiatives in 2016/17 that would have an immediate impact on road safety.” 27

The Minister accepted both recommendations. Following this, an agreement within the terms approved by the Minister was entered into.

Neither the note to the Minister nor the business case (which accompanied it) provided any more detail than what was in the Recommendation document as to the basis for the value attributed to the partnership or detail of how the Road Safety Commission’s desire to use the arrangement to enhance road safety messages with targeted audiences would advance this goal.

Advice of Mr Papalia to the Minister’s Chief of Staff

The Special Inquirer was provided with an email exchange involving (among others) Mr Adams, Mr Papalia and Mr Allen, the Minister’s Chief of Staff.

In an email of 4.34pm on 25 January 2017, Mr Adams advised that Treasury had not been engaged, but that the Road Safety Commission’s Chief Finance Officer had reviewed the funding options and “...agrees that the submission is in accordance with the Road Safety Commissions expenditure limits.” 28

In an email of 3.46pm on 26 January 2017, Mr Allen asked whether approval for reallocation of the Road Trauma Trust Account funds could be effected by the Minister simply signing the briefing note, or whether some other means were required. 29

Mr Papalia’s response that, “I’ll confirm the reallocation with [the Commission’s Chief Finance Officer] this morning and provide some dot points”, 30 resulted in his email to Mr Allen of 9.28am of 27 January 2017. In that email to Mr Allen and copied to Mr Adams and Ms Mazzulo, Mr Papalia stated that “Treasury are aware of the steps and agree the process.” 31

In evidence to the Special Inquirer, Mr Papalia stated that Mr Adams advised him that between 25 January and 27 January 2017, Mr Adams contacted an officer of the Department of Treasury who provided a “direction”, as opposed to advice, that the funds be allocated from the Road Trauma Trust Account in the

28 Road Safety Commission, internal email from Mr Adams to Mr Papalia, (25 January 2017).
29 Chief of Staff to the Minister for Road Safety, email to Mr Papalia of the Road Safety Commission, (26 January 2017).
30 Road Safety Commission, email from Mr Papalia to Chief of Staff to the Minister for Road Safety, (27 January 2017, 7.30am).
31 Road Safety Commission, email from Mr Papalia to Chief of Staff to the Minister for Road Safety, (27 January 2017, 9.28am).
manner proposed. Mr Papalia stated to the Special Inquirer that it was this that gave rise to his advice to Mr Allen that “Treasury are aware of the steps and agree the process”. It is worth noting that any such direction would have been given in writing.

Mr Adams was asked about any consultation by him with Department of Treasury in relation to the Western Force partnership. He denied stating to Mr Papalia that Department of Treasury was aware of the steps and agreed the process.

The Special Inquirer received a copy of advice from the Department of Treasury that it was not aware that the Road Safety Council was considering the partnership with the Western Force prior to it being publicly announced by the Minister for Road Safety. This announcement was after 27 January 2017 when Mr Papalia advised Mr Allen that, “Treasury are aware of the steps and agree the process”.

The Department of Treasury also advised that it was not consulted, either formally or informally, in the development or assessment of any supporting documentation involving the Western Force partnership.

In addition, the Department of Treasury indicated in its memorandum to the Treasurer that

“...at no stage has Treasury provided advice indicating that it would be supportive of that it would be appropriate for additional campaigns, including the Partnership, to be funded through the use of the Road Trauma Trust Account [RTTA] project underspends.”

Mr Allen advised the Special Inquirer that Minister Harvey had mentioned the proposed re-allocation of funds to the Treasurer, the Hon Dr Mike Nahan MLA, at some point in time. Any such conversation could not have been the source of Mr Papalia’s advice to Mr Allen that “Treasury are aware of the steps and agree the process”.

The agreement

The agreement is between the Australian Rugby Union, as the (then) owner and operator of the Western Force, and the Road Safety Commission, as the Administrator of the Road Trauma Trust Account on behalf of the Minister for Road Safety. The deemed commencement date was 1 February 2017. The agreement was signed on 28 March 2017.

It is clear from the provisions of the agreement, and from earlier documents, that the Road Safety Commission was aware that there was the possibility that the Western Force would be involuntarily withdrawn from the Super Rugby competition in 2017. Despite this view, the Road Safety Commission recommended to the Minister for Road Safety a $1.5 million partnership with the Western Force.

32 Department of Treasury, attachment to letter from the Treasurer to the Minister for Road Safety, (11 April 2017).
MATTERS OF CONCERN TO THE SPECIAL INQUIRER

There are a number of aspects of these events that have caused concern to the Special Inquirer.

Absence of documentation

As noted above, there are a number of events that would inevitably require the creation of documents. Principal among these are:

- documents evidencing how the Road Safety Commission altered its view as to the appropriateness of the Western Force partnership in the days between the Recommendation document and the business case;
- documents evidencing the values of the benefit to be received by the State from the arrangement;
- documents analysing how the arrangement would enhance road safety messages with adult males and particularly those in rural Western Australia; and
- documents evidencing the “direction” of the Department of Treasury referred to Mr Papalia’s email to Mr Allen of 27 January 2017.

Either no such documents exist or they have not been provided to the Special Inquirer when required to be provided.

The Special Inquirer has not arrived at a conclusion about these matters. This is largely because both Mr Papalia and Mr Adams were unsatisfactory witnesses.

In respect of Mr Papalia and Mr Adams, it is appropriate that the Public Sector Commissioner inquire as to whether they have hindered the Special Inquiry, contrary to the terms of clause 5(1) of Schedule 3 of the Public Sector Management Act 1994 or made false or misleading statements in their evidence contrary to the terms of clause 5(1) of Schedule 3 of the Public Sector Management Act 1994.

Whether documents, the creation of which these events would inevitably inspire, exist or not will doubtless be addressed by others.

The Special Inquirer simply notes that if such documents do not exist, the Road Safety Commission did not have a proper basis to recommend to the Minister that the State enter into the Western Force partnership.

Use of Road Trauma Trust Account funds

Whether or not the arrangement with the Western Force constituted a good or appropriate one for the State, the means by which it was effected was, in the view of the Special Inquirer, likely unlawful.
As noted, Mr Papalia advised the Minister that funding would be required from the Road Trauma Trust Account and that this could be effected by the Minister simply approving reallocation of “underspends during the 2016-17 financial year”.

As noted, with respect to funding, Mr Papalia advised the Minister that funding would be required from the Road Trauma Trust Account from funded programs that were “forecasting underspends against overall project budgets”.

Sections 12(5) and (6) of the Road Safety Council Act provide that the Minister for Road Safety can only apply funds in the Road Trauma Trust Account to purposes determined by the Minister having regard to the recommendations of the [Road Safety] Council. The only exception to this is provided by section 6A of the Road Safety Council Act, which empowers the Minister to give a written direction to the Council requiring it to make a particular recommendation to the Minister about expenditure of funds in the Road Trauma Trust Account. Such a direction is required to be tabled before each House of Parliament within 14 days of the direction.

At one point in his evidence to the Special Inquirer, Mr Papalia stated that it was his understanding that the approval by the Minister of his recommendation was a Ministerial direction in terms of section 6A of the Road Safety Council Act. This evidence was contrary to other evidence that he gave. Further, had this been the case, he, as Road Safety Commissioner and Chair of the Road Safety Council, would have been required to advise the Minister that she was, in fact, giving the Road Safety Council such a direction. There is nothing to suggest that Mr Papalia gave this advice. Furthermore, there is nothing to suggest that the Road Safety Council in fact received any such direction.

The Special Inquirer has seen the minutes of the two meetings of the Road Safety Council that followed entry into the Western Force partnership; minutes of a meeting of 21 March 2017 and of 27 June 2017.

Illustrative is the following from the minutes of the meeting held on 21 March 2017:

“A list of specific projects, and the value of RTTA [Road Trauma Trust Account] allocated to each, was tabled at the meeting (this is attached at Annexure A). It was noted that the projects were presented to the then Minister, unilaterally, by the Road Safety Commission...

While it was accepted that underspends could be transferred to other Council-approved projects, members expressed concern at the possibility they were used to fund new projects, about which the Council had no knowledge or visibility. The Commission advised that it was within the Minister’s ability to approve such allocations, however the Council believed that, legislatively, the Minister was still required to seek the Council’s opinion under Section 6A of the Road Safety Council Act.

34 Ibid.
35 Mr K. Papalia Special Inquiry hearing, 5 October 2017.
Following extensive discussion on the Council’s lack of awareness of RTTA [Road Trauma Trust Account] projects, expenditure against those projects, and RTTA [Road Trauma Trust Account] financials, Council determined that it should have greater visibility of those things, and expected underspends, and that future meetings of the Council should focus on that. Council members expressed serious concern that, in not having a good appreciation of RTTA [Road Trauma Trust Account] expenditure (nor a substantive role in decision-making on allocation RTTA [Road Trauma Trust Account] funds), they were not being allowed to discharge their statutory obligations and that, therefore, there was poor governance around the RTTA [Road Trauma Trust Account].

Members ... expressed considerable disquiet over the Council’s ability to discharge its statutory obligations based on the way ‘business’ with it was currently conducted. Council noted for as long as the Council’s ‘Governance Charter’ and ‘Code of Conduct’ existed, they needed to be adhered to.”

After initially suggesting that it was his understanding that the approval by the Minister of his recommendation concerning the Western Force partnership was a Ministerial direction in terms of section 6A of the Road Safety Council Act, Mr Papalia gave a different explanation of what had occurred. It was to the effect that the Minister, in addition to power under section 6A, could authorise the expenditure of funds from the Road Trauma Trust Account in the absence of a recommendation of the Road Safety Council. Mr Papalia stated that the Road Safety Commission had received legal advice37 to the effect that this was lawful and indeed, that the same process had been followed with other re-allocations of underspent funds. No legal advice to this effect was produced to the Special Inquirer and Mr Papalia could not recall who provided such advice.

In addition to being implausible, Mr Papalia’s evidence is plainly inconsistent with the understanding of the members of the Road Safety Council, as evidenced by the minutes of the Council’s meeting on 21 March 2017.

If there is any misunderstanding within government as to the proper operation of the Road Safety Council Act and the proper means by which monies standing to the Road Trauma Trust Account are to be expended, this misunderstanding should be resolved immediately by advice from the State Solicitor’s Office.

If a practice has developed with respect to Road Trauma Trust Account monies, that budgeted amounts are regularly or systematically underspent so as to enable unspent amounts in a year to be allocated elsewhere, without Road Safety Council consideration, such a practice should cease. If there are shortcomings in the legislative processes by which Road Trauma Trust Account monies are to be allocated then legislative change should be made.

36 Road Safety Council, Minutes of the meeting, (21 March 2017).
37 Mr K. Papalia Special Inquiry hearing, 5 October 2017.
Refusal to provide answers and the timing of events

At a number of points in his evidence to the Special Inquirer, Mr Papalia refused to answer questions on the basis that to do so would infringe “public interest immunity” by disclosing matters the subject of Cabinet confidentiality. Mr Papalia sought and was provided with advice from the State Solicitor’s Office about this issue prior to giving evidence. The Special Inquirer has been provided with that advice. There is nothing in that advice that supports the stance taken by Mr Papalia.

In providing the briefing note to the Minister, Mr Papalia plainly did not think that the decision was or would be one for Cabinet. Indeed, his advice to the Minister was that it was not.

The Special Inquirer has been advised that there was not a meeting of Cabinet between 16 January 2017 and 30 January 2017 when the Minister approved the recommendation.

The now Leader of the Opposition, the Hon Dr Mike Nahan MLA gave evidence to the Special Inquirer and suggested that the Western Force partnership had been considered by Cabinet. Dr Nahan was uncertain in this recollection. Mr Allen confirmed that the matter did not go to Cabinet, and it is likely that Dr Nahan quite understandably confused his recollection of speaking with Minister Harvey about the matter with it being discussed in Cabinet.

The principal matter that gave rise to Mr Papalia’s refusal to answer the Special Inquirer’s questions related to his dealings with the Minister for Road Safety and her Chief of Staff, Mr Allen, in the period between the finalisation of the business case on 23 January 2017 and the Minister’s decision on 30 January 2017. Mr Papalia had a number of telephone conversations about the Western Force proposal, prior to the Minister’s approval of it, with Mr Allen. He refused to divulge the contents of any of these discussions.

Details of these conversations are important because the haste with which the decision to enter into the Western Force arrangement was made, its proximity to the State election on 11 March 2017, the use of Road Trauma Trust Account funds and peculiarities in the processes followed prior to the Minister’s decision of 30 January 2017, have all given rise to concern about this arrangement. This is particularly so having regard to the terms of the Premier’s letter dated 22 December 2016 that is referred to above, and which at least Mr Adams was aware of.

Mr Papalia’s unhelpfulness was hard to understand to the point of absurdity on a number of levels. The most obvious is that the Special Inquirer has no reason to think that there was anything improper in his dealings with Mr Allen. Mr Allen in his evidence to the Special Inquirer was most forthright and helpful. He explained that the Western Force proposal was generated entirely by the Road Safety Commission and that no pressure to propose it came from the Minister or the Minister’s office. Further, the Minister had no role in the timing of the proposal or its approval. As Mr Allen explained:

38 Mr K. Papalia Special Inquiry hearing, 5 October 2017 and Mr B. Allen Special Inquiry hearing, 22 November 2017.
“...I can most definitely say when they’re provided the notification that something was coming up ... if that was not received by the Ministerial office, there was no intention to follow the matter up.”

But for the evidence of Mr Allen, and if regard were had only to the explanations of Mr Papalia and Mr Adams, the Special Inquirer would likely have characterised the process which the Road Safety Commission followed, from 16 December 2016 until the recommendation was submitted to the Minister, as simply implementing a decision made elsewhere to provide $1.5 million to the Western Force by the early months of 2017. Mr Allen’s evidence to the Special Inquirer makes plain that there was no inappropriate — or indeed any - pressure placed on the Road Safety Commission by the Minister, or anyone else, to recommend entry into the Western Force partnership.

To illustrate, however, the ineptness of the manner in which the Road Safety commission dealt with this matter, regard can be had to an aspect of the evidence of Mr Adams. Although, as explained, neither the Minister, nor anyone from the Minister’s office pressured the Road Safety Commission to recommend anything, within any time frame, Mr Adams seemed to think that they did, and this misconception motivated his actions.

Mr Adams gave the following evidence concerning timing:

MR ADAMS: Timeliness was to do with - there was an expectation that it just - it needed to - that it needed to be done quickly.
MR DONALDSON: Whose expectation?
MR ADAMS: I think, you know, as a public servant, you know, I - it was an implied expectation that things should be done, and done quickly, in the sense of this proposal. And no one was actually ---
MR DONALDSON: Well, in what sense was it implied?
MR ADAMS: Well, it just implied that, you know - you know, it wasn’t formally sort of, you know ---
MR DONALDSON: Could you just tell us what you’re saying?
MR ADAMS: Well, you know, there was an expectation that the proposal needed to get to the Minister’s office fairly quickly.
MR DONALDSON: Right. An expectation of the Minister’s, or of Mr Papalia or of who?
MR ADAMS: There was just an expectation through verbal - you know, through, you know, the engagement process, both with Western Force, with - you know, with the - my superiors, and, you know, those external that were also part - you know, there was an expectation that this needed to ---
MR DONALDSON: Well, who are the other - who were the externals that were a part of it?
MR ADAMS: Well, you know, whilst I’ve got no evidence - but, you know, the Minister’s offices was certainly keen to you know, get this thing to their office for consideration.
MR LANGOULANT: Do you know why?
MR ADAMS: Well, I don’t know why and I what they had - you know, what their logic was because I never spoke to them but I could join the dots pretty quickly.
MR DONALDSON: Well, could you do it for us please?
MR ADAMS: Well, I think the timing was interesting from my observations. The ---
MR DONALDSON: Well, what do you mean by that?
MR ADAMS: Well, the fact is that I think we were going into caretaker mode.
MR ADAMS: So I think those matters were - it just seemed odd with doing you know, those types of projects and getting things approved inside of such short timeframes. But I've got no evidence. I mean, you know, I mean - you know but I've been around the public sector a while. I was a policeman for 20 years before.
MR DONALDSON: ...we're trying to understand what went on and - in this timeframe because these things did happen in a very short period of time. So your understanding of it was that there was a desire on the part of the Minister for this to be dealt with quickly and prior to caretaker period being ---
MR ADAMS: Not so much the Minister. I wouldn't necessarily go that far, but I'd certainly say the office, you know, because I don't ---
MR DONALDSON: Minister’s office?

It is difficult to imagine a more incompetent process than one done poorly - because in haste - where the perceived rationale for haste was misconceived.

Whether the partnership delivered value to the State

As noted the Special Inquirer has not seen any documents evidencing the values of the benefit to be received by the State from the partnership.

Expenditure of public funds on ‘sponsorship’ or support of particular sporting teams or codes is controversial. Sponsorship of one will inevitably result in disappointment of others. It is essential that such expenditure of public monies follow appropriate and transparent processes.

Plainly here, the process that was followed by the Road Safety Commission was not transparent, when it should have been, and was otherwise wholly inadequate.

FINDINGS

1. The funding of the Western Force partnership was likely beyond the provisions of the Act.
2. The implementation of the recommendations of the Browne Review relating to changing the Road Safety Council to an Advisory Council required legislative amendment to the Road Safety Council Act 2002. To date, the Road Safety Council Act has not been amended to reflect any change in the function of the Road Safety Council.
3. There were inconsistencies between the structures of the Road Safety Commission and the requirements of the Road Safety Council Act 2002.
4. There was undue haste in preparing the Western Force Proposal Assessment and then the subsequent business case which was the baseline for the Minister’s approval of the partnership.
5. The valuations cited in the business case and Ministerial memorandum have not been substantiated through any documentation provided to the Special Inquirer. If such documentation existed, it should
have been carefully scrutinised by both Mr Papalia and Mr Adams. The Western Force partnership was a major expenditure of Road Trauma Trust Account monies, which were intended to deliver significant benefits to the State. These benefits needed to be understood by those recommending the partnership to the Minister.

6. There was no comprehensive risk analysis of the partnership proposal.

7. The value for money to be achieved through the partnership was not substantiated by the documentation and provided to the Special Inquirer by the Road Safety Commission.

8. The implications of the risk of the Western Force possibly no longer being a part of the Super Rugby competition were not well considered and assessed in the evaluation of the partnership.

9. In their appearances before the Special Inquirer, the former Road Safety Commissioner, Mr Papalia, and the Road Safety Commission’s Director of Operations, Mr Adams, were unhelpful.

10. The record keeping practices of the Road Safety Commission are not adequate.

RESPONSE TO FINDINGS

Drafts of parts of this report that relate to them were provided to Mr Papalia and Mr Adams, and both were given an opportunity to respond. Mr Adams responded to the effect that he strongly refutes the findings relating to him and that if his conduct involving the Western Force sponsorship is considered by the Public Sector Commissioner he will vigorously defend this conduct.

Mr Papalia responded in very lengthy terms that cannot be summarised. After receiving his initial response, he was given further time to respond. No further response was received. It can be taken from his response that Mr Papalia does not accept any criticism of him and his involvement in the Western Force sponsorship expressed in this report.