

Deputy Speaker; Mr Paul Omodei; Mr Bob Kucera; Mr Colin Barnett; Mr John Day; Ms Alannah MacTiernan;
Mr John Quigley; Mr Max Trenorden; Dr Janet Woollard; Mr Eric Ripper; Acting Speaker

NEW METRORAIL PROJECT - CONSIDERATION BY PUBLIC ACCOUNTS COMMITTEE

Matter of Public Interest

THE DEPUTY SPEAKER (Mrs D.J. Guise): Members, today I received, within the prescribed time, a letter from the Leader of the Opposition advising that today he would seek to debate as a matter of public interest the following motion -

That this house direct that the Public Accounts Committee investigate all matters relating to the cost blow-outs, completion delays and contractual arrangements for the New MetroRail project, including -

- (a) continual cost blow-outs, despite assurances that fixed price contracts were in place;
- (b) continual delays to the completion date of the project;
- (c) the nature and value of outstanding contractor claims;
- (d) the nature and value of settled contractor claims;
- (e) the impact of industrial action on timelines for completion and contractor payments;
- (f) the adequacy of insurance arrangements relating to the project;
- (g) the state's exposure to further unbudgeted expenditure; and
- (h) any other matters determined by the committee,

and that the Minister for Planning and Infrastructure be called before the committee to answer questions regarding her management of the project and that the committee report to the Legislative Assembly by 31 August 2006.

The matter appears to me to be in order. If at least five members will stand in support of the matter being discussed, the matter can proceed.

[At least five members rose in their places.]

MR P.D. OMODEI (Warren-Blackwood - Leader of the Opposition) [3.08 pm]: I move -

That this house direct that the Public Accounts Committee investigate all matters relating to the cost blow-outs, completion delays and contractual arrangements for the New MetroRail project, including -

- (a) continual cost blow-outs, despite assurances that fixed price contracts were in place;
- (b) continual delays to the completion date of the project;
- (c) the nature and value of outstanding contractor claims;
- (d) the nature and value of settled contractor claims;
- (e) the impact of industrial action on timelines for completion and contractor payments;
- (f) the adequacy of insurance arrangements relating to the project;
- (g) the state's exposure to further unbudgeted expenditure; and
- (h) any other matters determined by the committee,

and that the Minister for Planning and Infrastructure be called before the committee to answer questions regarding her management of the project and that the committee report to the Legislative Assembly by 31 August 2006.

The motion is self-explanatory. The issue is the major infrastructure project for Western Australia in the term of this government. There is no doubt that the cost of the project is blowing out and that the Minister for Planning and Infrastructure has made a number of conflicting statements in her explanations of cost blow-outs. I will give members just an overview of the background of this issue and how it is has changed over a period of time.

First, with regard to misleading the public, the original cost of Labor's direct route for the Perth to Mandurah rail project was \$1.2 billion. A joint statement of the former Premier, Dr Geoff Gallop, and the current minister, Hon Alannah MacTiernan, released on 16 July 2001, read -

... the cost of the direct route will be contained within existing budget estimates.

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The first blow-out, on the railcar contract, was \$137 million. The minister said on 8 December that the contract, worth in the order of \$300 million, was a major element of the \$1.2 billion Perth urban rail development project and was within the project's budget.

Point of Order

Mr R.C. KUCERA: The audio system does not seem to be working in the chamber today. It is very difficult to hear what is being said.

Mr C.J. BARNETT: May I suggest that the conversation that has just concluded was probably more of a problem for the member for Yokine?

The DEPUTY SPEAKER: There is no point of order. However, I would like members to pay attention to the speaker on his feet rather than their own conversations so that the Hansard reporter is able to do his job without interference.

Debate Resumed

Ms A.J.G. MacTiernan: Would you repeat that?

Mr P.D. OMODEI: I will. On 8 December 2001 the minister talked about a \$300 million railcar contract. On 12 May 2002 the cost had blown out to \$437 million - a \$137 million increase. The project was costing \$1.4035 billion in May 2002. Under the master plan, the government approved the escalation of the budget amount to cover inflation up to the time the money was actually spent, which increased the budget out to the year 2007 to \$1.4035 billion. There was another cost blow-out for putting the rail underground in the city, so the project then reached \$1.419 billion. The minister, in a media release of 10 June 2002, said that the project was expected to add \$15.5 million to the \$1.403 billion project budget. The minister continued to try to paint a rosy picture. She was reported in *Hansard* of 20 August 2002 as saying -

We are very confident that this project will be delivered on time and on budget.

A media release of 20 October 2003 reads -

... Ms MacTiernan said she wanted to assure the Western Australian public that she was confident that the Government had budgeted appropriately.

“We are advised by NewMetroRail, who have now received all tender submissions, that we can now be confident that the NewMetroRail project will be delivered at - or very close to - the \$1.419 billion budget,” the Minister said.

The cost of the project then went up by another \$100 million to a cost of \$1.518 billion. The minister is reported in *Hansard* of 15 December 2005 as saying -

The cost of the south west suburbs component is now \$1.059 billion - an increase of about \$100 million on our original estimates.

In a media release of 15 December 2005 the minister said -

This has increased the overall cost of the NewMetroRail project by seven per cent to \$1.518 billion.

Of course, the minister was still saying everything was going pretty well. On 26 October 2004 the minister welcomed the opportunity to tell the community about how well the rail project was going. In her words it was going “fantastically well”. The minister was reported in *The West Australian* of 18 April 2005 as saying that the \$1.5 billion Perth to Mandurah railway line would come in on time and on budget despite industrial problems. There was then another blow-out. The minister was reported in *Hansard* of 27 April 2005 as saying -

Although the project is still within budget, we have decided to lift the contingency sum by \$45.193 million, thus bringing the total project budget to \$1.563365 billion.

The project was still on time and on budget! On 27 April 2005 the minister said -

I make it clear that at this point in time we are still within budget.

Again, on 27 April 2005 the minister said -

We are still within budget.

She also said -

As I have explained, we are still within budget . . .

We acknowledge that we are increasing the budget.

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The minister went on to say on the same day -

I am not in any way trying to disguise the fact that there has been an increase in the rail budget.

Again, the minister acknowledged that she knew prior to the 2004 election that there could be a blow-out, because she said, according to *Hansard* of the same date -

We knew before the last election that the package B contract was likely to exceed the budgeted amount.

...

I knew before the election that we had a contract, that we were in the process of negotiating and that the contract was likely to come in over budget.

One must ask why the minister did not tell the Parliament about the claims the contractors lodged against the Public Transport Authority.

Ms A.J.G. MacTiernan: Would you read the rest of the quote?

Mr P.D. OMODEI: Let me finish.

Ms A.J.G. MacTiernan: You are dishonest. Read the rest of the quote.

Mr P.D. OMODEI: The minister will have her chance. She is not backward at coming forward at the best of times, so she can respond to these statements. These are direct quotes, so the minister had better have a good explanation. The minister said on 3 January, in response to a question on notice -

(a) ... The current total expected cost of the New MetroRail Project is \$1,563.372 million.

(b) The current time for completion of the Southern Suburbs Railway is April 2007.

It now transpires that the minister knew about three key facts but kept them to herself when she tabled those responses. First, the minister knew that the chief executive of the firm involved in almost \$1 billion of the rail contracts had threatened legal action if the government did not settle significant financial disputes that would have blown out the \$1.56 billion budget. Second, Leighton Kumagai Joint Venture, which is working on the city tunnel section, had formerly asked the Public Transport Authority for a four-month extension to the completion deadline. Third, by the minister's own subsequent admission, Leighton Kumagai had already submitted claims worth about \$100 million more than the fixed price value of the tunnel project. That is according to *The West Australian* of 30 January 2006.

The opposition is saying that if the government has nothing to hide, it has nothing to fear. If this issue is referred to the Public Accounts Committee, which is the appropriate body of this Parliament and is certainly not dominated by opposition members, I am confident that within the processes of the Parliament we can get some answers to these questions. Mark Drummond is a very reliable reporter for *The West Australian*. Under the headline "Leighton moves to dump rail tunnel", an article by him relates to package F. Leighton Kumagai claimed that the Public Transport Authority had failed to put in place adequate insurance arrangements. We understand that the coverage was for \$30 million and that Leighton Kumagai was not prepared to go back to work unless the government guaranteed that that insurance covered the project.

From my understanding of the project prior to this government coming into power, the reasons for the rail alignment going through the Kenwick route were not only to pick up more passengers but also it was the option that had least risk, because it would hook up into the central business district without the requirement for a tunnel. With the current project the rail corridor narrows as it approaches the Narrows Bridge, and it has been made quite clear publicly that there is a risk associated with that. Obviously, once the tunnel got close to the CBD, there would certainly be some problems. That fact is borne out by Leighton Kumagai going to court to try to get out of that contract.

The only way in which we can find out the details surrounding package F and the issue of the insurance is for this matter to be thoroughly examined by an independent body. I understand that Leighton claims in its writ that the Public Transport Authority was obliged under a February 2004 contract to arrange insurance cover for the package F contract. However, the writ claims that the insurance cover that the Public Transport Authority subsequently took out in April 2004 was inadequate because it did not cover the entire contract sum. Obviously, the minister will respond to that issue. I would like members to consider that any company that undertook an infrastructure project, whether it be a private or a public project - particularly a public project with such high risk - that was not covered by insurance would be obviously acting illegally. That is an important issue for the minister and the Parliament to consider.

I do not think anyone knows exactly what problems will emerge as the direction of the tunnel changes to underneath the central business district where acid sulfate soils might exist. It is fairly well known that Perth is

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situated among a series of wetlands on the Swan coastal plain comprising in part acid sulfate soils. We all know that acid sulfate soils produce sulfuric acid and that could have a major impact on the environment. If acid sulfate soils exist, they need to be disposed of appropriately to avoid any impact on the environment. That process could involve extra costs. Another issue that arises from that is the stability of buildings, given that many of our major office blocks in the city of Perth are built on piles because of the wetland environment. Obviously that would have been investigated by the contractor prior to its undertaking the project. However, the only way we will get honest answers to these questions is if the contract is examined by the Public Accounts Committee. The member for Cottesloe will confirm that, early in this government's first term of office, the Windimurra vanadium plant closure was examined by the Economics and Industry Standing Committee. That project was being wound down. This is the largest infrastructure project being undertaken by the government at this time. Given that this government came into power trumpeting that it would be an open, accountable and transparent government, I pose the question yet again: if the government has nothing to hide, why does it fear a parliamentary inquiry by the Public Accounts Committee? If the minister has nothing to hide, I suggest she agree to the motion to refer this contract to the Public Accounts Committee so that the public of Western Australia can be apprised of all the issues whether they be related to cost blow-outs; the completion dates of each phase of the project; the nature and value of outstanding claims, which, according to media reports, amount to about \$200 million; the nature and value of the claims already settled and how and why they were settled; the impact of industrial relations action and the time lines for completion and contractor payments; the adequacy of the insurance arrangements being considered by the state now; the state's exposure to further unbudgeted expenditure; and any other issue the committee thinks should be investigated. It is a fair proposition that the people of Western Australia know the issues surrounding this contract, particularly as it is reaching a very sensitive stage in disturbing subterranean soil that could potentially impact on the city and the approach to the rail station. The opposition has not moved this motion lightly; it has thought about it very carefully. Cost blow-outs are arising all too often and the insurance issue must be clarified. Obviously, the public of Western Australia must know the detail surrounding this project. I commend the motion to the house.

MR J.H.D. DAY (Darling Range) [3.24 pm]: I strongly support the motion moved by the Leader of the Opposition for this very high cost project to be referred to the Public Accounts Committee for consideration of all the matters that are listed in the motion. Almost everyone in Western Australia knows that this is not only a high-cost project but also a high-risk project. They knew that was the case at the time the government announced the route of the Perth-Mandurah rail project. Many engineers around Perth said at the time, and have said since, that tunnelling under William Street and close to the foreshore in the wet soil area in that part of the central business district would involve high risks. I understand that one of the companies initially interested in tendering for the project withdrew because of its concern about the very high risk involved.

Ms A.J.G. MacTiernan: Who was that?

Mr J.H.D. DAY: The minister has more knowledge about all the processes involved, so she can find out later.

Ms A.J.G. MacTiernan: I do not know about a company.

Mr J.H.D. DAY: It has been obvious to almost everyone, except it seems to the government, that the route chosen for the rail line to Mandurah is a high-risk, high-cost option. All that is now becoming very evident as, almost day after day, there are further revelations of completion delays and escalating costs. The opposition strongly believes that the government has shown a significant degree of ineptitude in the management of this project. More importantly, it has shown a substantial amount of deceit in trying to cover up the true cost of this project at sensitive times, particularly before the last election. It is appropriate that all these issues, together with the overall management of the project and future events, be considered by the Public Accounts Committee. As the Leader of the Opposition indicated, the government has a majority on the Public Accounts Committee, so we are not trying to establish some sort of biased investigation. Two non-government members of the committee will also help scrutinise the issues.

The opposition is seeking a fair process and fair consideration of these issues. Given that this is the highest cost public works project in Western Australia at the moment - whether it is the best value for money project is another matter, and many people are now coming to the view that the government's management of the project has not provided good value for money - it is entirely appropriate for a project that has such major ramifications for the taxpayers of Western Australia to be thoroughly examined by a parliamentary committee. It is worthwhile noting, that, as I understand it, a federal parliamentary standing committee exists to consider major public works projects. It routinely considers and makes determinations about the management and the likely progress of major public works projects. Perhaps it is time for this Parliament to consider implementing something like that.

A very similar debate to this was held in this chamber on 27 April last year when I moved a motion that the project be referred to the Public Accounts Committee. That followed an announcement by the minister of a

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significant cost blow-out of about \$45 million. The motion was rejected by the government then, and, in a sense, that was predictable. We are now 12 months down the track and the story has not changed; it has gotten worse. The completion date has further blown out from what the minister announced in April last year to July 2007 - about eight months later than the government's promised completion date of the end of 2006 - and the cost also has further blown out. In putting her own spin on the subject, the minister is trying to pretend that the cost of the project has increased by only about six per cent since she first announced it.

Ms A.J.G. MacTiernan interjected.

Mr J.H.D. DAY: When the minister first announced the changed route in July 2001, in her own media statement she said -

The \$1.2 billion project will connect Mandurah - Australia's fastest growing city - and the southern suburbs to Perth.

She referred to \$1.2 billion in her media statement in July 2001. By the government's admission, the cost is now about \$1.6 billion. That is a \$400 million increase. According to my calculations, a \$400 million increase on \$1.2 billion is a 33 per cent, or one-third, increase in that time, not a six per cent increase, as the minister is trying to have us believe. We know that the final cost will inevitably be higher than has been announced at this stage. The Public Accounts Committee needs to provide information to this Parliament on what the final cost will be.

As I have said, the government has shown a substantial amount of deceit on this issue. I will now demonstrate - as I did in a briefer manner during question time about three weeks ago - how the minister and the government have been deceitful. The first demonstration of the government's deceit is that on 17 January 2005 the member for Cottesloe and then Leader of the Opposition wrote to the minister in the following terms -

As you aware, many concerns have been raised recently about the New Metrorail project, including demolition problems, industrial strikes, the possibility of legal action by landowners and the presence of acid sulphate soil under the city section of the rail.

In light of these concerns, I would appreciate you providing my office with the following information -

1. The current estimated budget for the New Metrorail project, which was last revised in December 2003;
2. The current estimated completion for the New Metrorail project.

In the interests of open and accountable government, I would appreciate your cooperation in this matter.

The letter from the then Leader of the Opposition seeking that information was written just before the last state election was called. I am pleased to acknowledge that the minister responded to that letter within about three weeks. I commend the minister for responding to the letter, but that is what she had an obligation to do. The minister said in her letter dated 4 February, among other things -

There has been unprecedented openness and disclosure on this project with hundreds of reports tabled in Parliament in addition to the tabling of contract documents.

Later in her letter the minister says -

The future exposure of the State to cost pressures on this project is limited, with 95% of the value of the contracts awarded and almost 40% of the total project works already completed.

To date, every contract signed for the project has been publicly announced - this practice will continue.

The following sentence is perhaps the most important -

The New MetroRail Project is on schedule to be completed by the end of 2006 and within its current budget of \$1.518billion.

As I have said, that letter was written in February 2005. That was about three weeks before the last state election was held.

That was the response from the government at that time. A couple of months later, on 27 April 2005, we had a debate in this Parliament about this project. During that debate the minister said -

I knew before the election that we had a contract, that we were in the process of negotiating and that the contract was likely to come in over budget.

I then asked the minister how long before the election, and the minister responded -

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It was probably a month or so before the election.

So the truth came out only after the election -

Ms A.J.G. MacTiernan: Read the rest of the sentence!

Mr J.H.D. DAY: I have read the whole of the sentence.

Ms A.J.G. MacTiernan: It is totally out of context, even by opposition standards. It is totally lacking in intellectual honesty.

Mr J.H.D. DAY: It is in *Hansard*. Everyone can read it.

Ms A.J.G. MacTiernan: Read the whole of the sentence!

Mr J.H.D. DAY: Okay. I will read the rest of the paragraph. It states -

I sought assurance from the PTA that we would be able to cover it within the existing budget . . .

It is in *Hansard*. Everyone can read it for themselves. The important point is that the minister said she knew probably a month or so before the election that there would be a cost blow-out. The minister admitted that after the election. However, before the election, in response to the then Leader of the Opposition, she denied that there would be any cost blow-out.

Ms A.J.G. MacTiernan: You are confusing two different things!

Mr J.H.D. DAY: The minister will have her chance to respond in a moment.

Ms A.J.G. MacTiernan interjected.

The DEPUTY SPEAKER: Order!

Mr J.H.D. DAY: That is the first example of deceit by the government. The second example of deceit from the government is in response to a question on notice that I put to the minister on 1 December last year when I asked, among other things -

- (a) what is the current expected total cost;
- (b) when will the project be completed;

The minister responded to those two questions as follows -

- (a) . . . The current total expected cost of the New MetroRail Project is \$1,563.372 million.
- (b) The current time for completion of the Southern Suburbs Railway is April 2007.

What the minister did not tell us in that response, which was published on 3 January this year, was that in the meantime the minister - and I think also the then Premier - had had a meeting with the head of Leighton, which was making a major claim against the government for cost escalation. It may be the case that there was no agreement between the government and Leighton. I can understand that. However, in the interests of open and accountable government - which the minister has tried to portray herself as following - the minister should have at least mentioned in her response to Parliament that discussions were taking place about a review of the final cost and the completion date. The minister knew that the cost was likely to blow out, yet she concealed that from the Parliament at the time. The minister tried to cover it up. The minister actually responded as quickly as she could - which is unusual in some cases - to my question on notice so that she could get in a response before this kind of information would have had to have been included. However, the truth eventually came out.

That is the second example of how the government has tried to mislead the public of Western Australia about the real costs and construction time for this project. That is another reason that this matter should be considered by the Public Accounts Committee.

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [3.35 pm]: We have had an unprecedented level of accountability on this project. I ask members to compare this project with any of the projects that were implemented by the previous government. We tabled seven boxes of documents on this project. We tabled the full contract document. Members opposite do not need to go to the Public Accounts Committee to see the contract. All members need to do is walk up the stairs to the Parliamentary Library - I assume they know where it is - and dust off the two and a half years of accumulated detritus on top of the boxes and read the contract. They will then find out what the contractual provisions are. I recognise that will not give members a good idea about whether the contract is being well managed. However, there is an agency that can help us with that task. That agency is the Office of the Auditor General. The Auditor General has recognised -

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as the opposition says, and as we acknowledge - that this is a big and important project for the state. The Auditor General has said in his report titled "Contract Management of the City Rail Project" -

It is always a challenge to deliver major infrastructure projects on time and budget. Such projects are inherently difficult due to their significant financial investment, technical complexity, exacting regulatory framework and potential for industrial action.

Recognising the scale and magnitude of the City Rail Project, I decided to audit the contract management arrangements midway into the contract, rather than waiting until its completion. My motivation was that providing an audit view of the administration of the contract at this point in time is better than the traditional approach of conducting an audit after completion, when there is a limited opportunity to address any issues arising.

He goes on to say -

Although competent contract management alone cannot guarantee a positive outcome, it is fundamental to protecting the State's interests. In this context, comfort can be taken from the robust processes and systems in place at the time of the audit.

He goes on to say -

I will continue to observe progress and may revisit this project.

A competent agency has conducted an examination of the management processes. It has burrowed in detail into the administration of the project. The key finding of the Auditor General on this matter was that -

As at 30 June 2005, PTA is capably fulfilling its contract management role by:

- using suitably qualified and experienced people
- maintaining sound systems and processes
- vigilantly monitoring the Contractor's performance
- keeping up a cooperative working relationship with the Contractor.

He goes on to say -

PTA has been protecting the State's interest by carefully assessing contractor claims.

The Auditor General's report basically says that this project has been well managed by experienced, competent people, and that very robust and sound processes are in place. The Auditor General then said that he would continue to observe the process and that he may revisit it. I can assure members of the house that the Auditor General is still actively involved in overseeing this project. His staff are regularly involved in meetings and regularly attend the team meetings of the Public Transport Authority to make sure that this project is adequately and appropriately monitored. That is the appropriate way for us to achieve the level of comfort necessary to ensure that this important project is being well managed. It must be made very clear what is at play. It is a very tough project and the government has entered into a very tough contract. Of course, we are going to find that the contractors want to maximise their strategic position by taking every opportunity to put pressure on the government to give the contractors more money than the government believes the contractors are entitled to. I am very disappointed that the opposition is unable to see that it is being manoeuvred into this position. We have heard extraordinary statements by the member for Murray. He says he has been racing around talking to the contractors to see whether he can help them to improve their case.

It is inappropriate at this time to have this matter examined by the Public Accounts Committee. We are in the middle of some very tough commercial negotiations with this company. It cannot in any way assist the position of the taxpayers to have those commercial negotiations compromised by the Public Accounts Committee. The Auditor General has already done the job. He has drilled into the detail of the organisation and said it is being done correctly. He has done that not only in the past, but also he is continuing to monitor the project. We have also asked the Auditor General whether he would like to come back and assess it again at any stage. He is more than welcome to do that. His scrutiny gives us a great deal of comfort that the project is being done well and appropriately.

I will address a number of issues that have been raised by the opposition and by the member for Darling Range in particular. He continues to misquote and distort the debate that was held in Parliament on this matter. In April last year, the government announced it was increasing the budget of the project by \$47 million. That was an increase in the budget. The project was going to cost more than it was previously going to cost. It was an increase in the budget.

Mr J.H.D. Day interjected.

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Ms A.J.G. MacTIERNAN: That is absolutely not true. In the context of that April 2005 discussion, I was talking about a specific contract. I think it was contract B, which was one of the small contracts. It is worth roughly \$20 million or \$25 million. We were having a discussion about that contract and what I knew about it. It was not a discussion about the overall project; it was about this particular small contract. In April I said that I had known about it beforehand and that I was very concerned about it because it was \$5 million or \$6 million over budget. It was certainly less than \$10 million. I went on to say that I sought assurance from the PTA that the government would be able to cover the increase within the existing budget and still have a contingency sum. I was assured that we could do that. I was assured in particular that because a number of areas of the project were proceeding very strongly, we could divert part of the contingency sum from the railcars in particular to cover the increased cost of this project. The opposition is deliberately misleading the Parliament. It knows perfectly well that we were talking about one small package of less than \$30 million in the overall context of a \$1.5 billion budget. That shows that there is no decency on the other side of the house regarding this project.

I was quite astounded by the Leader of the Opposition, who claimed that there was a major cost blow-out in the cost of the railcars. We have already explained that. It is on the record and it has been the subject of numerous debates. The opposition claimed that there was a \$137 million cost blow-out in the cost of the railcars in five months. That is absolute nonsense. That contract came in well within the targeted cost. The opposition was confused about the \$300 million capital cost and the \$137 million ongoing maintenance cost over 15 years. Even when the opposition was in government, the maintenance part of that project had never been included in the capital cost of the budget. The opposition has not examined these contracts in great detail. Even when we have given the opposition the information, it has been unable to absorb it.

With regard to the cost increases - I know that members opposite will not accept this - the \$1.2 billion was the \$1.2 billion that had previously been budgeted for, even when the opposition was in government. It included the railcars.

Mr J.H.D. Day: You said \$1.2 billion.

Ms A.J.G. MacTIERNAN: I agree with the member; I absolutely did say that. I said also that we would have to escalate that cost because those figures had been in the budget since 1998. A rail project cannot be built in 2004-05 on figures that were devised in 1998. The opposition mentor is on the record in *Hansard* agreeing with the government that the budget would have to be escalated. I think he was saying it would have to be escalated by roughly three per cent per annum. I think it was escalated a bit below that. In 2002 we escalated that budget, which added around \$200 million to bring it to contemporary terms to recognise that the construction would not begin in 2004 and would not be completed until 2006 or 2007. Of course we regret the time delay. The largest construction company in Australia and the largest tunnel boring company in the world told the government that they could complete the project within a particular time frame. However, they have been unable to do that. We quite properly relied on their contractual undertakings that they would be able to do this, and therefore the government made statements about the time frame for the completion of the project. We regret the delay, but, unfortunately, we have very little control over the fact that the companies have been unable to meet their contractual undertakings in that regard. Regrettably, the project has taken longer than we announced it would take in 2004. When we announced the new route for the project in 2002, we said it would be completed in December 2007. We changed that date to 2006 at the behest of the contractors, who said that if they could complete it in 2006, it would save the government money. The contractors said they could reduce what they charged the government if they could bring forward the completion time because it would reduce the overheads and mobilisation costs that they would otherwise have.

Contract tunnelling under William Street is a high-risk project. That is why we went to the market. That is why we asked the companies to take the construction risk on this project. It was a conscious decision of government that we were not prepared to take that construction risk. That lay with the company, as did all of the geotechnical conditions. The company was required to satisfy itself about all of the geotechnical conditions, including the acid sulfate soils and all of the complications of what is a very tough engineering project. We do not think there is anything to be gained by assisting the contractor in its case against the state. That is effectively what is being proposed. The contractor has a range of mechanisms available to it within the contracted terms to seek to resolve the disputes. It has sought to go outside those boundaries.

I will take a couple of minutes to tell the house what transpired. There is a difference of agreement about the interpretation of the material damage insurance contract provisions. It does not apply to any insurance affecting the workers or third parties. It simply applies to the PTA's capacity to claim damages for damage to tunnel works from the contractor. As the principal, we have undertaken to provide the insurance to the full value of the contract, which we have done. The insurer has required that there be various sublimits to certain parts of the project, not unlike what happens with home insurance, where there is a maximum amount payable in relation to

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any one particular item. We advised the contractor of this before the contract was entered into. We advised the contractor that this was the nature of the insurance and we could not get any other insurance. No-one was prepared to provide a different insurance regime. The contractor knew that when it entered into the contract. We also said, "If you can find someone else who is prepared to provide the additional insurance, we'll pay you for that", but it could not find anyone.

There is a genuine dispute. The PTA team approached the contractor at a regular board meeting two weeks ago and said, "We are not getting resolution on this. Will you waive the mediation process and we will go together jointly to the court to seek a declaration of which interpretation is correct? In the meantime, we will provide protection for you so that your position is not damaged by seeking this declaration." The contractor said, "We need time to think about it." At another board meeting a week later we said, "We still haven't resolved this. We still think it is good to go to the court and get a declaration and find out who is right." The contractor said, "No, we're still thinking about it." The next day it lobbed a writ on us. I am not going to comment on that conduct. It is self-evident what we have here. We have a company that believes a government client can be put under additional pressure by certain strategic positioning. We are not going to let that sort of pressure compromise the proper management of this contract and the proper protection of the rights of the people of Western Australia under that contract.

MR J.R. QUIGLEY (Mindarie) [3.49 pm]: I rise as the member for Mindarie, as is well known in this house, and also the Chairman of the Public Accounts Committee. I express some concerns with the motion before the house. I wish to reassure the chamber that I take the discharge of my functions as Chairman of the Public Accounts Committee very seriously and, as far as one can be independent in politics, remain fiercely independent of influence of the executive in that capacity. I am concerned that the motion may be somewhat premature. The motion implores that this chamber direct the committee to undertake the investigation in the terms sought. I wish to assure the chamber of my confidence in undertaking this task if so directed. Having been counsel on at least eight royal commissions, I know what a decent inquiry is and how it should be run. In a practical consequence at this point, that would inevitably mean that the motion in its final paragraph seeks to direct that the Minister for Planning and Infrastructure be called before the committee to answer questions to resolve the issues listed. A proper inquiry could not be so limited. If the direction is made, I give my undertaking that I will carry out a proper and diligent inquiry. It could not be so limited because we could not resolve those questions without issuing subpoenas to all the executives and consultants of the contractors to appear before the committee.

Mr M.W. Trenorden interjected.

Mr J.R. QUIGLEY: I will get to that. We would need to get their telephone notes, memoranda and all of their internal documents, as the motion seeks to do with the minister's office. I ask the chamber to pause for a moment and think about the consequences of that for the corporate citizens of Western Australia. If a corporate citizen complains that it has been damaged and wants to claim damages in an action it instigates in the Supreme Court, I believe that this corporate citizen should have a fair run at the state of Western Australia if it has a legitimate claim. Equally, I believe that the state of Western Australia should be given the opportunity to resist that. That is the contest of the litigation. If the chamber makes this direction to the Public Accounts Committee, as I said, I will diligently obey that direction and make sure the committee does a thorough job. The consequences for the contractor, however, soon after it has instigated proceedings in the Supreme Court, which could be as early as tomorrow, is that it will receive subpoenas - if it is listening, it understands the consequences of the opposition's motion - for all the executives of Leighton Kumagai to appear before the committee, whilst trying to manage the contract to its company's advantage and trying to manage the litigation before the Supreme Court, to appear ASAP in the committee room before me and my fellow committee members and to produce all of its documents and telephone memoranda - everything related to this. I think that should happen at some point. Is this the appropriate point? I anticipate that the contractors would be concerned. I could imagine that at the end of the day this chamber might be a little less than satisfied with the outcome if by tomorrow afternoon, in response to the subpoenas issued, corporate solicitors acting for the contractor are onto the committee claiming legal professional privilege because the documents the committee is seeking -

Mr M.W. Trenorden: But they can't.

Mr J.R. QUIGLEY: They can claim it. It depends what view the committee takes at the time. Similarly, the contractor would have to disclose in advance on an evidential basis all the matters it wants to put before the Supreme Court. To protect itself, the company would seek to have this hearing heard in camera. That will not provide accountability for Western Australia. These issues must be examined in public so that at the end of the day the people of Western Australia can be satisfied with the process of accountability.

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The member for Avon raised an issue that I think would be critical in the subsequent examination of these issues; that is, the claim of commercial confidentiality. So much has been excised from the contracts because either the government or the government in agreement or the contractor itself -

Ms A.J.G. MacTiernan: Not much has.

Mr J.R. QUIGLEY: But items that have been, which are being examined at the moment, will not come under the regime of the Financial Management Bill 2005 and the Auditor General Bill 2005 in relation to claims of confidentiality. There is a very strict regime applying and a role for both the Auditor General and the Public Accounts Committee to play that would significantly enhance the process of testing the accountability of claims, in private and in confidence. When that legislation passes within a few weeks, the whole process of bringing the government to account on those issues will have a legislative regime and a much better stream of transparency and accountability. The Public Accounts Committee has, of course, seen the previous Auditor General's report for last year, and expects the Auditor General to continue on his audit path in relation to the current financial year. Speaking personally rather than on behalf of the committee, I hold the view that the Public Accounts Committee is there to scrutinise the expenditure of public moneys that have been disbursed either by way of general appropriation or by contractual obligation, and to ensure that it has been done properly, with good governance, and that all accountability has been considered. It is not there to try to second-guess the executive while the executive is locked in litigation with a contractor. That could be injurious to either the state or the contractor - to either litigant. The contractor has not the opportunity to express its concerns about the proposal. My comments are not directed at whether the Public Accounts Committee should be involved in looking at any of these matters; rather - bearing in mind our own standing orders insofar as they touch upon the rules of sub judice - the question is whether it is an appropriate time to do so.

Several members interjected.

The DEPUTY SPEAKER: Order, member for Cottesloe!

Mr J.R. QUIGLEY: We have our own standing orders on that, and that is why the matters that are currently before the courts cannot be litigated in Parliament. As soon as this matter is raised, I can foresee those points of order being taken in front of the committee. For those reasons, I think it is a little premature to take this direction; but if the direction is made, of course, the committee will be obedient and very thorough in accordance with the directions of the Assembly.

MR M.W. TRENORDEN (Avon) [4.02 pm]: I have a few words to say to this motion, but before I do I would like to refute a couple of things put to the house by the minister. After the Second World War, there was a great saying about "Goebbelspeak" - Joseph Goebbels' great ability to turn disaster into sweet language. The Minister for Planning and Infrastructure has perfected that beautifully. It is now "Alannahspeak". At page 6 of the Auditor General's report 7 of August 2005, it states -

... despite the fixed-price nature of the contract, it is not possible at this stage to accurately estimate its final price.

Ms A.J.G. MacTiernan: We agree.

Mr M.W. TRENORDEN: It continues -

Given the complexity of this project, and the time and cost pressures facing the Contractor, more high value claims are likely.

Further down, it continues -

A number of key construction activities were more than two months behind schedule, which could indicate a further delay in project completion.

Further down again -

... project delays will also affect the people of the State and PTA's public transport operations.

...

The City Rail contract was adapted from a Main Roads (Western Australia) contract model. This model has worked well in the last 10 years for less complex projects and in less heated construction markets.

The key recommendations are outlined on the following page -

... PTA should:

- continue to vigilantly monitor the Contractor's performance ...

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That is, behind the process.

- give priority to developing contingency plans . . .
- retain its experienced contract management team . . .
- periodically review the City Rail budget -

Learn from lessons learnt -

- conduct a thorough post-project evaluation...

All of these are after-the-event activities, none of which could have been carried out by the Auditor General. The information that the minister would try to put forward is that the Auditor General is a policeman. The Auditor General is not a policeman, Madam Deputy Speaker, as you well know. He is an auditor. It is clearly not his role to look at policy. Guess whose role it is to look at policy? It is ours. It is not the auditor's role in any way, shape or form; nor is it the role of the auditor to look at the outcomes of policy. That is our role. To infer that the Auditor General has a role in this process is nonsense.

Ms A.J.G. MacTiernan: He does.

Mr M.W. TRENORDEN: No, he does not. He is an auditor. Any member of the house can read pages 6 and 7 of the report. It clearly demonstrates his function. His function is not to be a policeman. His function is to do an audit. That clearly debunks the minister's argument that he has a role to play in this matter at all. He will say whether or not the money is in or out.

Ms A.J.G. MacTiernan interjected.

Mr M.W. TRENORDEN: I have a minute left. The minister and the Deputy Premier have on many occasions in the past agreed in this house that commercial-in-confidence provisions should not be allowed. In fact, the Deputy Premier moved a bill, which I opposed, to get rid of commercial-in-confidence provisions. Therefore, it is nonsense to argue that these boxes of papers the minister has in the library are of any value. The minister has removed all their value under the guise of commercial-in-confidence provisions - against which the minister railed when she was in opposition. The Treasurer actually moved a bill whereby commercial-in-confidence provisions would not be allowed. California is the seventh biggest economy in the world and people cannot deal with that state unless they declare all matters. That is the reason there is no commercial-in-confidence provision in that state. The Public Accounts Committee must look into this matter.

DR J.M. WOOLLARD (Alfred Cove) [4.06 pm]: I support the motion that the house direct the Public Accounts Committee to investigate all matters relating to completion delays and contractual arrangements for the New MetroRail project. I think that before the words "cost blow-outs" there should be inserted the words "the scandal in relation to".

I have listened to what members have said on this issue, but the question is who is losing from this? Every time there is another cost blow-out, who are the people suffering?

Ms K. Hodson-Thomas: The taxpayers.

Dr J.M. WOOLLARD: The member for Carine is right. It is the taxpayers, but it is also our schools. It is the schools in my electorate that have rusty gutters and threadbare carpets. Many of the children are in demountable classrooms. Year after year people have been promised improvements, and they have prepared their budgets expecting something to happen. Was that not what the government said? The government did not say prior to the election in 2000 that if it was elected it would spend as much money as it has on a railway line alongside the river. The government actually said it would improve the health, education and law and order systems. What is the situation in the health, education and law and order systems? We know that schools are still in a disgraceful state.

Mr J.R. Quigley interjected.

Dr J.M. WOOLLARD: Maybe it varies depending upon whether it is a Labor seat, but my schools have not been funded.

Several members interjected.

Mr J.R. Quigley interjected.

The DEPUTY SPEAKER: Order, member for Mindarie!

Dr J.M. WOOLLARD: My schools are still asking the government for funding for works. What about hospitals?

Several members interjected.

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Dr J.M. WOOLLARD: I do not know. Maybe those opposite do not hear complaints from the community.

The DEPUTY SPEAKER: Order, member for Darling Range!

Dr J.M. WOOLLARD: Numerous people have come into my office to tell me that they are on a waiting list, that surgery has been cancelled, or that they cannot be admitted to hospital. This has happened, particularly with mental health patients, whose caseworkers have told them that they need to be admitted. They have arrived at hospital, and the hospital has said that there are no beds. We need accountability for these costs, because people in the community are suffering badly; yet time after time, as the Leader of the Opposition stated earlier - I am not quite sure how many times he stated this - there has been one cost blow-out after another, but there certainly has not yet been an improvement in hospitals or schools. We certainly have not seen an improvement in mental health or disability services. The government intends to charge people with disabilities for a companion card - something that is provided free in the eastern states. What is this all about? This motion says that we should send these cost blow-outs to a committee to be examined.

I do not know who is winning at the moment. Are the contractors winning? Are the unions winning? My constituents who are at state schools and who use public hospitals are certainly not winning. The member for Mindarie said that he does not want the matter to go to the committee; it should go through the proper process in the Supreme Court. What does that mean? Surely that means that a writ of summons will be filed and then a statement of claim will be lodged. Twelve months later, maybe the statement of claim will be finalised, and then I think discovery will be moved onto next. When would there be an outcome? It would possibly be after the next election.

MR E.S. RIPPER (Belmont - Deputy Premier) [4.11 pm]: On a day on which the opposition is revealed as having made a 600 per cent error in the costings of a major election promise, it is amazing that it comes into this house and complains about a six per cent growth in the cost of the New MetroRail project.

The ACTING SPEAKER (Mr P.B. Watson): Opposition members had a chance to speak before. Now they should let the Deputy Premier have his say.

Mr E.S. RIPPER: Members opposite made a mistake of 600 per cent in their canal costings; yet they have the gall and the hide to complain about a six per cent increase in expenditure on the new MetroRail project. I know that members of the opposition would have been extremely disappointed with the report of the Auditor General. Given their obsession with the New MetroRail project, they must have been devastated when they saw that the Auditor General had examined the Public Transport Authority's contract management processes and systems, and assessed these against better practice guidelines. To quote from the report, the Auditor General found -

No material adverse audit issues were identified. Accordingly, I was satisfied that PTA has been competently managing the City Rail contract.

The Auditor General was not, as the member for Avon said, just looking at the money coming in or going out; he was actually examining contract management processes and systems. The first sentence of the key findings states -

At 30 June 2005, PTA is capably fulfilling its contract management role . . .

People who are much more gifted -

The ACTING SPEAKER: Members, the Hansard reporter is trying to do the job of taking down all the comments made by the speaker. I do not think members would like to work under those conditions, so they should not make Hansard do so.

Mr E.S. RIPPER: People in the Auditor General's office who are much more gifted than any member of the opposition - people with no axe to grind - have had a close look at the systems and contract management processes in the PTA, and the PTA has come up smelling of roses.

The opposition has some gall, because I know what we found when we came to office. Before I had even been sworn in as Deputy Premier and Treasurer, I had on my desk a copy of the Department of Treasury and Finance's priorities of government brief. The most startling information in that Treasury document, which I got on the Monday after the election, before I had even been sworn in, was that the costings for the rail project were wrong. The previous government had been trying to pretend that a railway could be built in 2003, 2004 and 2005 for 1998 prices, and Treasury said that one of the first things that Labor would have to fix was the fact that the coalition had not updated the costings on the rail line. When the opposition comes into this place and moves a motion like this, I always remember what I read on that Monday after the election in 2001 in the priorities of government brief from the Department of Treasury and Finance and how appalled I was at the way in which the people of Western Australia had been misled about the coalition's rail project.

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A steering committee oversees this project. The Department of Treasury and Finance is represented on that steering committee. From time to time I get briefings from the Department of Treasury and Finance representatives on that committee, and they report very positively and very favourably about the quality of the members of the committee and the quality of the management of that project. I believe that there is an element of obsession on the other side about both the project and the Minister for Planning and Infrastructure. My advice to the opposition is to give up on the New MetroRail project. The minister has withstood attack after attack. She is managing the project competently; she is managing it very well, in fact. There is no future for the opposition in seeking to attack this project and to attack the minister.

Finally, I have a piece of advice for the opposition, and it is this: when it comes into this place, it must defend the public interest. It is not good for the opposition if there is a perception that it is ganging up with private interests to do over the taxpayers of Western Australia.

Mr C.J. Barnett interjected.

The ACTING SPEAKER: Has the member for Cottesloe finished having his say? Does he want to say anything else before we continue? The question is that the motion be agreed to.

Question put and a division taken with the following result -

Ayes (22)

Mr C.J. Barnett	Mr J.H.D. Day	Mr D.T. Redman	Ms S.E. Walker
Mr D.F. Barron-Sullivan	Mr B.J. Grylls	Mr A.J. Simpson	Mr G.A. Woodhams
Mr T.R. Buswell	Dr K.D. Hames	Mr G. Snook	Dr J.M. Woollard
Mr G.M. Castrilli	Ms K. Hodson-Thomas	Mr T.R. Sprigg	Dr G.G. Jacobs (<i>Teller</i>)
Dr E. Constable	Mr J.E. McGrath	Mr M.W. Trenorden	
Mr M.J. Cowper	Mr P.D. Omodei	Mr T.K. Waldron	

Noes (27)

Mr P.W. Andrews	Mr R.C. Kucera	Mr N.R. Marlborough	Mrs M.H. Roberts
Mr A.J. Carpenter	Mr F.M. Logan	Mr M.P. Murray	Mr T.G. Stephens
Mr J.B. D'Orazio	Ms A.J.G. MacTiernan	Mr A.P. O'Gorman	Mr D.A. Templeman
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	Mr M.P. Whitely
Mrs D.J. Guise	Mr M. McGowan	Ms M.M. Quirk	Mr B.S. Wyatt
Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich	Mr S.R. Hill (<i>Teller</i>)
Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper	

Pairs

Mr M.J. Birney	Mrs J. Hughes
Mr R.F. Johnson	Mr J.J.M. Bowler
Dr S.C. Thomas	Mrs C.A. Martin

Question thus negatived.