

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO PUBLIC SECTOR CONTRACT MANAGEMENT PRACTICES



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 8 APRIL 2019**

SESSION TWO

Members

**Dr A.D. Buti (Chair)
Mr D.C. Nalder (Deputy Chair)
Mr V.A. Catania
Mr S.A. Millman
Mrs L.M. O'Malley**

Hearing commenced at 10.00 am**Mr MICHAEL COURT****Deputy Under Treasurer, Department of Treasury, examined:****Mr NEIL HUNTER****Acting Director, Infrastructure and Public Sector Reform, Department of Treasury, examined:****Mr ANTHONY SMITH****Manager, Financial Policy and Oversight, Department of Treasury, examined:****Mrs CHELSEA LIM****Project Director, Government Trading Enterprise Reform, Department of Treasury, examined:**

The CHAIRMAN: Thank you for appearing before the Public Accounts Committee today to provide evidence to the committee's inquiry into public sector contract management practices. My name is Tony Buti; I am the committee Chair and member for Armadale. To my right is Mrs Lisa O'Malley, the member for Bicton; to my left is Mr Simon Millman, member for Mount Lawley; and to his left is Mr Vince Catania, the member for North West Central. We have an apology from the Deputy Chair, Mr Dean Nalder, who is unable to be here today.

Thank you for your submission to the inquiry. We are likely to publish it after today's hearing. Do you have any concerns you would like us to take into account before we do so?

Mr Court: No.

The CHAIRMAN: It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Although your evidence is protected by parliamentary privilege, this privilege does not apply to anything you might say outside of today's proceedings. I would also like to advise that today's hearing will be broadcast live through the Parliament House website.

Do you have a brief opening statement before we ask you some questions?

Mr Court: I have a very brief opening statement which summarises the key points from our submission. Treasury's key responsibilities are to provide economic and financial policy advice to government and act as a steward of the state's financial management frameworks. As such, Treasury has an indirect role in contract management in its administration of legislation on behalf of the Treasurer and through development and implementation of policy frameworks that impact on public sector contract management. The legislative and policy frameworks that govern the impact on contract management include the Financial Management Act, the Government Financial Responsibility Act and the strategic asset management framework, for which Treasury is the responsible authority. In addition, Treasurer's Instructions prescribe minimum requirements to enable the Financial Management Act agencies to achieve the purposes of the FMA, and the Treasurer may issue with respect to matters of financial administration. The Treasurer's Instructions that are relevant to contract management include the register of contracts, which is TI 820; variances in capital expenditure, which is TI 813; and authorisation of payments, which is TI 304.

The CHAIRMAN: In regard to Treasurer's Instruction 820, agencies obtain a list of these contracts and the schedule of their contractors' performance reviews. What is the rate of compliance with this requirement across the sector for each of the last five years and what are the penalties for non-

compliance? Can you tell us of any situations in the last five years in which these penalties have been enforced, and what this involved?

Mr Court: Treasurer's Instruction 820 came into operation about two or so years ago. It has not been in place for five years. The rationale for putting in place that TI was that we did have concerns that agencies did not have full visibility over all of their contracts; hence, we worked with relevant agencies—in particular, the Department of Finance—around putting in place this Treasurer's Instruction which requires accountable authorities to establish and maintain a register of contracts for all contracts that are above \$50 000. As with all Treasurer's Instructions, they are auditable, so the Office of the Auditor General can audit compliance with the contract registers that agencies have put in place.

The CHAIRMAN: In regard to Treasury setting a framework, do you take into consideration social dividend; and, if you do, how is that calculated?

Mr Court: What do you mean exactly by "social dividend"?

The CHAIRMAN: Treasury is asked to give their views on an infrastructure project. As part of your decision-making process, do you have a social element to it—what social benefit will be obtained by that contract or that infrastructure project?

Mr Court: Sure. Agencies are required to put in place their strategic asset plans. When they are coming forward and identify a need for a new capital works project, that is always in the context of what their corporate plan requires and their service delivery. Obviously for social service agencies, the investment in infrastructure is all about providing those services to the community, and the business case would be outlining what that social benefit is associated with that infrastructure.

The CHAIRMAN: Can you actually put an economic number to it? How do you actually measure the social benefit or social dividend?

Mr Court: That is obviously quite difficult. It is a bit easier with what we call traditionally economic infrastructure that might have a rate of return. In the case, though, of education or health, there are obviously KPIs and outcomes that the government is expecting for the community. That is part of the outcome-based management framework that those agencies comply with, and that infrastructure is about delivering on those outcomes.

Mr V.A. CATANIA: The Treasurer issued instructions, about two years ago, that projects that are \$50 000 or above are to have a business case attached to it; is that correct?

Mr Court: What I was referring to in that regard was the register of contracts, which is a Treasurer's Instruction issued in accordance with the Financial Management Act. Agencies are now required to maintain a register of all their contracts above \$50 000. That register would have information on the contract title and description of the contract, whether it is goods, services or works; the value of that contract; any variations; who the counterparty is; the date and duration of the contract; who the contract manager is; and the schedule of contractor performance reviews. That was put in place after concerns that agencies were not traditionally managing their contracts and aware of the information that was—had a one-stop shop for the information on all their contracts.

Mr V.A. CATANIA: Since that has been in place, has there been better cooperation or better output of managing contracts?

Mr Court: I think it has provided a level of transparency. That is always good in terms of getting better outcomes in terms of contracts.

Mr V.A. CATANIA: In that there is a sheet that you can check and tick to make sure that you have adhered to all those areas of what the Treasurer's Instructions are; is that correct?

Mr Court: Yes. The director general and the CFO are responsible for doing that.

Mr V.A. CATANIA: In that list, would it be ensuring that you have sought the right advice, whether it be from your internal legal support or external such as the State Solicitor's Office—would that be on that list?

Mr Court: I do not think that is mandatory, no.

Mr V.A. CATANIA: It is not mandatory to make sure that you run past your contracts with the State Solicitor's Office, for example?

Mr Court: No.

Mr V.A. CATANIA: So the answer is no.

Mr Court: Yes.

Mr V.A. CATANIA: In regard to the strategic asset management framework, you require everyone to have a business case with strategic projects, or projects in general; is that correct?

Mr Court: Where an agency is seeking additional funding above \$1 million, they are required to provide a business case.

Mr V.A. CATANIA: Given the Langoulant report has highlighted a viewpoint that there has been a lack of business cases in various projects, over the last couple of years have you had any projects come forward through Treasury that has not had a business case, perhaps, attached to it?

[10.10 am]

Mr Court: There have probably been a few examples where the business case, or project definition plan, is still under development, but there is a commitment to those projects and some funding may have been allocated and held in Treasury, administered pending the completion of business cases and project definition plans.

Mr V.A. CATANIA: Do you have any examples of those projects?

Mr Court: Off the top of my head, there have been some in education and roads. There has been a commitment to fund those and to make sure the forward estimates reflect that there is a commitment to those projects, but the funding is not released until there has been compliance with those requirements.

Mr V.A. CATANIA: Do election commitments fall under this new strategy of having a business case attached?

Mr Court: Yes. For new projects, yes.

Mr V.A. CATANIA: So, all commitments from 2017 have a business case attached to them?

Mr Court: They should have or something should be put in place to do that before the funding is allocated. The business case is about providing the funding for that project.

Mr V.A. CATANIA: For example, the Carnegie wave energy project, did that have a business case originally attached to it?

Mr Court: That project, I think, was probably viewed as a grant and may not have had necessarily a business case that would have been expected in relation to a capital investment by a government.

Mr V.A. CATANIA: So, you are saying that the Carnegie wave energy project was a grant and, therefore, it did not require business case attached to it?

Mr Court: I would have to check exactly what was required at the time, but I think it was viewed more as a grant and the usual processes around tendering into grant arrangements with third parties would have been put in place.

Mr V.A. CATANIA: Would it have been better for it not to have been a grant and had a business case, and perhaps that would have prevented what has occurred and what we have seen now where that project seems to have stalled or failed?

Mr Court: I think as a general principle we would expect all funding requests of a capital or recurrent nature or grant should have some sort of business case. The amount of information in the business case would depend on the complexity and risks associated with projects, so as a matter of good practice that should be the case and it is something that was recommended as part of the special inquiry.

Mr V.A. CATANIA: Do you see this grant for Carnegie Wave Energy as good practice, rather than having a proper, thorough business case that perhaps would have prevented millions of dollars of taxpayers' money being lost?

Mr Court: I think it always helps to have a good business case, obviously. I mean there have been other projects too where there have been business cases of varying quality where things have not delivered on what was expected.

Mrs L.M. O'MALLEY: My question is related to GTE reform. Firstly, is it correct to say that government trading enterprises, or GTEs, in WA generally operate under their own enabling legislation with regard to procurement?

Mrs Lim: That is correct.

Mrs L.M. O'MALLEY: Firstly, can you please clarify areas of overlap in the procurement policy frameworks and requirements for GTEs and public authorities?

Mrs Lim: With regard to GTEs, they, as a matter of best practice, will utilise state supply policies in the development of their internal corporate policies. What we have seen to date is that they utilise the State Supply Commission policies as a basis for the formulation of their procurement policies, but they are not strictly required to follow those requirements.

Mrs L.M. O'MALLEY: Secondly, are you aware of other jurisdictions around Australia that do not have overarching legislation for GTEs, similar to us?

Mrs Lim: Western Australia is the last jurisdiction in Australia that does not have an umbrella piece of legislation.

Mrs L.M. O'MALLEY: What is the time line for the GTE reform program?

Mrs Lim: The current time frame for the legislative aspect of the framework is for a bill to be introduced into Parliament in the second half of 2019.

Mrs L.M. O'MALLEY: Finally, page 5 of your submission also draws reference to the special inquiry's findings that actions are required to change public sector culture and attitude to ensure stricter compliance with the SAMF, including by GTEs. What is Treasury doing to ensure greater compliance with the SAMF in the future?

Mrs Lim: The process we have been undertaking in the development of the GTE framework is one also of cultural change, so getting the GTEs to understand how they fit within government and the fact they are part of government. Part of that process is getting them to understand government processes that are currently established, including SAMF, and the purpose of those particular processes. Part of what we believe is the gap that exists at present is GTEs not necessarily

appreciating the rationale of why completing the SAMF process or undertaking a practice that is consistent with SAMF is best practice. Part of our interactions with the GTEs is explaining that government, as owner of the GTEs, needs to be aware of the decisions that are being made by the boards of the GTEs, and that is because government sets the overarching strategy when it comes to policy. Therefore, GTEs, being an arm of government and a body that is consistent with government, need to have their decision-making bearing in mind any strategic viewpoints of government.

Mrs L.M. O'MALLEY: It sounds almost like an education program forming part of the overall reform.

Mrs Lim: Yes. We do believe from a cultural viewpoint that that educational piece in terms of GTEs understanding how their decisions impact upon governments decisions more widely is an integral part of the framework.

The CHAIRMAN: Can I refer back to the Treasurer's instruction 820. I am not sure whether in my question previously this was answered, but do you check compliance with the Treasurer's instruction 820?

Mr Court: The Auditor General has the ability to audit compliance with the contract register. I would have to take on notice exactly what we have checked specifically to give you a thorough answer to that question.

The CHAIRMAN: That is fine; we can take that on notice. I refer to the strategic asset management framework, the SAMF. This is a three-part question. Can you tell us a little bit about why it was ever introduced—the origins to it and why we actually have that? Secondly, how are the mandatory requirements of the framework overseen and enforced? How does Treasury define compliance with the mandated requirements of the framework?

Mr Court: The strategic asset management framework has been in place for a number of years now. I think the version that is in now was probably put in place around 2006. The framework requires agencies to have strategic asset plans, which cover the whole life cycle of assets. It originates in their corporate planning, as I have said before, in terms of what they need in terms of assets to deliver on their key services. It is about investigating where there may be gaps in your assets. It covers new investments, so it looks for agencies to have longer time horizons—over 10-year capital works or asset investment plan—and as we get closer to the forward estimates, they put forward a concept approval form that identifies what new assets they might require and a prioritisation of those assets. They would look at business cases that define the problem that they are trying to address, looking at asset and non-asset solutions and coming up with various options to deliver on assets that meet that problem as part of getting any new funding.

After they have a business case approved, they then go through the project definition planning, which goes to more detail around their cost plan for that project, and they would check back as to whether that project was going to deliver on the original aims of the business case. If that is the case and they have the funding required, they can go out to tender. As part of the project definition plan too, they would look at procurement planning and delivery of that asset—how they would be ready for delivery of that asset. There is also a maintenance plan requirement and asset disposal, and all the time just checking back to your corporate plan and service-delivery priorities.

The aim is to have a common framework across government that looks at asset planning and management, which is what the framework provides. There is a list of guidelines and policies that agencies can use to help them in their asset planning.

[10.20 am]

Those strategic asset plans are required as part of budget submissions. In cases when they are actually looking for new funding, they need to have that business case completed. In terms of

compliance, there is a KPI that Treasury reports on that is around the top 25 agencies having in place strategic asset plans. Any agency that comes forward in a budget process with a business case for new funding would also have to have their strategic asset plan accompany that as well.

The compliance has been improving but there is still probably further improvement to go, as was highlighted by the special inquiry, so we have a project as part of the public sector reform looking at strengthening asset management and improving compliance with the framework. We have been meeting with agencies around that to get their feedback on the framework and areas where we can improve and potentially refresh the framework. That is happening at the moment.

The CHAIRMAN: You measure compliance by whether they achieve the KPI?

Mr Court: The KPI has been relatively low; it is improving. We probably need to look at perhaps modifying the KPI. It is really around quantifying the number of agencies that have provided their strategic asset plans. It is probably around how effective and robust those plans are as well—not just providing it but it actually being of a certain standard.

The CHAIRMAN: If they do not comply, what happens?

Mr Court: It makes it difficult to get new funding for projects.

Mr S.A. MILLMAN: I have a few questions that follow on from that. In terms of the Treasurer's Instructions, you need to lodge a strategic asset plan with Treasury to get your funding, and your measurement of whether they have done that is the audit that you are doing. Is that right?

Mr Court: The budget circular that we put out each year specifies the aims and objectives of the upcoming budget that the government is going to be running. As part of that, budget submissions are required by, usually, a time in January. In terms of capital works projects, those top-25 largest capital works agencies have to provide a strategic asset plan as part of their budget submission and any agency that is seeking new funding with its budget submission for capital works project above \$1 million has to provide the business case.

Mr S.A. MILLMAN: What are the KPIs you assessing when you do the assessment that you are talking about in respect of the Treasurer's Instructions?

Mr Court: It is actually covered under a Premier's circular. We are looking at whether those agencies actually have done strategic asset plans. What we are doing now is looking at and making sure that those plans are of a good quality. That is why we are going out as part of the public sector reform program, with liaison with agencies around the quality of their SAPs and where improvements can be made. I suppose the issues that agencies tend to focus on is that business case for new works, whereas, as I have described, it is the strategic asset plan that is supposed to cover the whole life cycle.

Mr S.A. MILLMAN: I am not so concerned about the formulation of the business case. This inquiry is looking into contract management by the public sector. Formulating a good business case is great and assessing whether agencies are doing that is great, but is there a mechanism at Treasury's disposal to see whether agencies are performing their contract management function well; and, if not, is that because it is more appropriately located somewhere else, such as Finance?

Mr Court: Finance has appeared before you and they have indicated that that is their core responsibility and they have a program under the public sector reform around building capability in contract management.

Mr S.A. MILLMAN: In Treasury's view, is that the right place for it to be located?

Mr Court: Yes, and we are happy to work with Finance and other agencies in delivering on that. If there is any other help we can do through the financial management framework more generally, we will be participating in that reform program.

Mr S.A. MILLMAN: There is one thing about the procurement of infrastructure at the start. Managing a contract is influenced by how good your contracting party is. You can manage the construction of a hospital if you contract with Multiplex to build a hospital; you cannot really manage the construction of a hospital if you contract with John Holland to build a hospital. If you are entering into a contract, how does the government identify who are good contracting party is to enter into that contract with? Is that something that is part of the business case formulation?

Mr Court: It is probably more in that project definition planning and that tendering phase, and it will be part of the tender evaluation. When a contractor tenders for a project, something that is done is looking at the capability.

Mr S.A. MILLMAN: So the business case has already been finalised. We need to build children's hospital in Nedlands; that is done. It is signed off by you guys, and then you proceed to the next stage, which is the project definition plan.

Mrs L.M. O'MALLEY: I will finish off with a final question around GTEs. Further to the answers you were giving earlier, it would be helpful to the committee if we could draw on some examples. Can you provide any details of issues that have been problematic, particularly as they relate to contract development and management in regard to GTEs?

Mrs Lim: There were particular case studies that were included into the special inquiry's report that highlighted from a contract management point of view that the process needs to start from the very beginning of the identification of the need for the asset or the investment to be undertaken. The failure to understand the risks associated with that and the timing of that plays out once a contract is entered into. Western Power's refurbishment of their offices for, example, the identification of the need and the clarity of that need and the timing of that probably came into effect in terms of the end result that came out of the program in terms of expenditure that was undertaken and the outcomes that were achieved. Part of the GTE reform framework is identifying what are the risks associated with the strategic investment, how does that fit in with government strategic planning and who is best placed to make the decisions with regard to timing, funding and also the order in which tasks are undertaken.

Mr V.A. CATANIA: In terms of Hale House, where the Premier was located before moving to Dumas House, was that criteria, or that list, ticked off by all the managers of DPC who would have made that move from Hale House to Dumas House?

Mrs Lim: I would not be able to comment on that.

Mr Court: It is not something that we were involved in; it would have been a combination of DPC and government accommodation in Finance, I would think.

Mr V.A. CATANIA: Departments, like the Department of Transport, lodging their strategic asset plan, would that include large projects like Metronet?

Mr Court: Yes. That would come through the Public Transport Authority and the Metronet office.

Mr V.A. CATANIA: And that would come through to you in Treasury?

Mr Court: The business cases and project definition plans would be considered as part of the budget process.

Mr V.A. CATANIA: Would you see the Metronet project business case as one line at a time or the overall plan to work out exactly what that cost is and the business case of benefit to the state? Is that project, for example, looked at in its entirety or as it looked at line by line?

Mr Court: There is a high-level look at the whole program, and then there is the individual business cases and project definition plans done on each line and then some of the ancillary infrastructure as well require those business cases. Because of the level of commonwealth funding that is going into Metronet, there is also that process around those documents going to Infrastructure Australia.

Mr V.A. CATANIA: So you would have a handle on a project such as Metronet, which is a large project—billions of dollars. Yes, the federal government has been putting in quite a bit of those funds, but is there an overall assessment being conducted by Treasury to say that this project is going to cost X, Y or Z? Do you have a figure on a completed project or are you just doing it on an ad hoc basis once funds come through?

[10.30 am]

Mr Court: No, we are doing the whole Metronet project and all the component lines, so they are all treated in the capital works program as their own discrete project. If you look in the budget papers, you will see the Forrestfield–Airport Link, Thornlie–Cockburn, Yanchep and the projects that are under development, where the commonwealth has provided some funding. Those projects are subject to business cases that are being prepared at the moment.

Mr V.A. CATANIA: So is a project like Metronet a fully costed project from start to finish? Is that what you are saying, and it is in the budget?

Mr Court: The individual lines are outlined in the budget. There are still projects that are under development that are going through the planning phase now.

Mr S.A. MILLMAN: Mr Catania asked you a couple of questions about Carnegie and whether or not there was a business case, I think, for Carnegie. Having a business case does not presuppose the success of a project, presumably. It is part of a whole bunch of things you need in order for a project to be successful.

Mr Court: Yes.

Mr S.A. MILLMAN: Did the Muja power station have a business case?

Mr Court: I would have to check that.

Mr S.A. MILLMAN: MAX light rail—did that have a business case?

Mr Court: That, from memory, was a project that was going through planning, so it never got funded.

Mr S.A. MILLMAN: Thank you. The nature of the contract that is to be entered into—where does that feature? By way of example, you prompted this question with your mention of the Forrestfield–Airport Link. The Forrestfield–Airport Link is a design-and-construct contract, I think, but the Yanchep and Thornlie to Cockburn lines are alliance contracts. When people put in their strategic asset plans to you, do they have to identify what the nature of the contracting arrangement with the providing party is going to be?

Mr Court: No. That usually comes in greater detail in the planning process, as touched on in that project definition planning phase, before you —

Mr S.A. MILLMAN: Great, thank you. A lot of my questions seem to be directed to the project definition phase. Okay, that is fine; thank you.

The CHAIRMAN: Can I just return to the SAMF, the strategic asset management framework. I am very interested in the issue about overseeing it and ensuring that the requirements of it are actually met by the agencies. You said that is improving. Is there any aspect of that framework that agencies or Treasury sees as being too onerous?

Mr Court: That is what we are looking at with the agencies now—to get feedback from them around where they might find it onerous. Maybe it is seen as too much red tape and not adding value, so that is something we are working with agencies on at the moment.

The CHAIRMAN: Do you have a view from Treasury itself?

Mr Court: It really is around policies and guidelines. Agencies that do not do a lot of business cases, because they are quite small and only have to go through business case development on an ad hoc basis because they are not investing in assets all the time, may need some help in terms of preparing good business cases. But we are not expecting the level of detail and rigour in a \$2 million business case versus a billion-dollar business case for a new hospital. It is variable across the agencies, depending on the nature of the agency. Some are well versed in the requirements because of the capital works nature of the agency, whereas others who are not so much in that field probably need a bit more help.

The CHAIRMAN: As was mentioned by Mr Millman, the crux of this inquiry is contract management. Of course, the actual contract and business case is also very important, but in the end we are looking at the management of that contract. As you know, we did a major inquiry into the Perth Children's Hospital. There was a dual model where you had two ministers—you had the agency minister, the Minister for Health, and then you had the Treasurer. We were concerned at times that maybe different information was being fed through to the different ministers, and we made some recommendations obviously in our report. In light of the Perth Children's Hospital—the government's recommendations have not been tabled—what is your general feel about how the general management of that contract, from Treasury's position, could have been improved?

Mr Court: I think others in Treasury who are closer to it provided that commentary to the previous inquiry.

The CHAIRMAN: That is not really at all germane to your area?

Mr Court: I suppose I could make some more general comments without making reference to that. The business case is still important for contract management. I think one area where perhaps there could be some improvement is making sure that the contract manager is aware of the business case. Potentially, for those larger, complex projects, the contract manager could be identified and work along the way, so they understand the business case and are involved earlier. By the time it has gone through to the delivery phase and they are given the contract, they will have been there for the entire journey of that project's development, so that should help them in terms of contract management over the term of the contract. That is probably an area where I think we have seen, in a number of projects, with the handing over of the contract to a new manager who has not been involved, they have to get up to speed. I think the government tends to segment that sort of project management and delivery away from the contract management. The people who are involved early tend to then move on to the next building project, and the person in the agency who is left with the contract to manage might not have been closely involved in those earlier stages.

Mr S.A. MILLMAN: How often do you see that?

Mr Court: It is just part of being in government, I think, where you have people who have those specific skills and abilities, and then they move on to the next project.

Mr S.A. MILLMAN: But would it not be worthwhile to have the contract manager—the person responsible for delivering the contract—as part of the business case formulation as well, because they have an idea of what the vision is? That would be —

Mr Court: There are things I think we can probably inject into Finance’s work in terms of improving contract management, so that people who are the contract managers are involved in developing those contracts in the earlier business case stages.

Mr V.A. CATANIA: Is that happening now? Have those lessons been learnt from the PCH inquiry for the practices we are having now on major projects such as Metronet, Carnegie or whatever the case may be—the Huawei contract? Are those practices in place?

Mr Court: I think the officers involved in that contract management steering committee that Finance has established would be looking at lessons learnt. They would be looking at the special inquiry and the service priority review and other individual cases that would be filtering into the work they are doing, to go forward to get better contract management —

Mr V.A. CATANIA: Do you think that is happening? Given that lessons should be learnt, are they being put into practice from what has happened at PCH?

Mr Court: I think they are starting to be, yes.

Mr S.A. MILLMAN: Have you shared with Finance the idea that you shared with us—to have these contract managers involved in the business case development or to have somebody who is involved in the business case development as the contract manager?

Mr Court: I have spoken to people about that.

Mr S.A. MILLMAN: Probably not for today, but I would like to get the view of Finance on it. That is an idea I would like to explore in a bit more detail, because I think that is the sort of idea that could form a worthwhile recommendation coming out of this committee. There might be various arguments that militate against that, so I would like you to have a think about what those might be and whether or not that would be something you would articulate to us more forcefully as an outcome you would like to see. But that seems to be exactly the sort of issue we are trying to cavil with.

The CHAIRMAN: Maybe as a question on notice, if you could come back with your more expanded views on that.

Mr Court: Yes, sure.

Mr S.A. MILLMAN: I think it is a really good idea. I am concerned that the people who are responsible for having the vision are not the people responsible for delivering the vision, so you lose a lot of continuity, particularly on the government side. It seems like it is a relatively straightforward fix in terms of capacity building and continuity, so I like it.

Mr V.A. CATANIA: Just going back to contracts and legal advice being sought, once those business cases come up to Treasury for vetting, do you go and seek your own legal opinion on business cases?

[10.40 am]

Mr Court: There would probably be some occasions when we may have. We liaise with the State Solicitor’s Office all the time on financial management matters, and that would probably include business cases.

Mr V.A. CATANIA: Is there a figure? So, if you have a \$200 million contract, will you always go and seek your own legal advice?

Mr Court: We, ourselves—Treasury—do not enter into those sorts of contracts, but we work with agencies and the State Solicitor in the development of business cases and so on. There may be steering committees and those sorts of forums, where we would be on them and the State Solicitor would be on them. The government arrangements, associated with developing projects and their delivery, is often a project steering committee, which we might be a member of, and the State Solicitor as well.

Mr V.A. CATANIA: Would you find it unusual for a large contract not to have involvement by the State Solicitor's Office, such as the Huawei contract?

Mr Smith: The State Solicitor's Office would get to see some, and I guess the question you are asking is whether they should see all. That is something that could be looked at, going forward. Something that I think is worthwhile considering is whether there is some threshold around materiality from financial or some other risk matrix that identifies contracts that must go to the State Solicitor's Office before they are executed. That could be put in place through a Premier's circular or Treasurer's Instruction. It is something that could be looked at. An issue with that, too, would be the resourcing that the State Solicitor's Office might have.

Mr S.A. MILLMAN: The corollary of that is building capacity in the State Solicitor's Office to be able to do that.

The CHAIRMAN: That is right, and we are told by the State Solicitor that he is always working very hard. Not the second part of Mr Catania's question, but my follow-up is that obviously there is legal advice that can flow from the State Solicitor's Office, but you can also obtain legal advice from other areas, via private law firms. As you know, at the commonwealth level, the Australian Government Solicitor is only one of many firms that provides advice to the commonwealth.

Thank you very much. I just have some closing remarks. Thank you for your evidence before the committee today. We will forward a copy of the transcript of this hearing to you for correction of transcription errors. Please make these corrections and return the transcript within 10 working days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced by these corrections, and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. We will also have some follow-up questions and questions on notice that we will send. Thank you very much once again.

Hearing concluded at 10.43 am
