

**STANDING COMMITTEE ON
ESTIMATES AND FINANCIAL OPERATIONS**

ONGOING BUDGET ESTIMATES HEARINGS 2010–11

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
FRIDAY, 16 JULY 2010**

SESSION ONE

Members

**Hon Giz Watson (Chair)
Hon Philip Gardiner (Deputy Chair)
Hon Liz Behjat
Hon Ken Travers
Hon Ljiljanna Ravlich**

Hearing commenced at 9.07 am.

FARAGHER, HON DONNA

**Minister for Environment representing the Premier; Minister for State Development,
sworn and examined:**

NOLAN, MS ANNE

sworn and examined:

McGOWAN, MS GAIL

**Deputy Director General, Department of State Development,
sworn and examined:**

BLACK, MRS STEPHANIE

**Director Corporate Services, Department of State Development,
sworn and examined:**

CARDEN, MR PETER

**Chief Finance Officer, Department of State Development,
sworn and examined:**

The ACTING CHAIR: Good morning. You will notice that we are a smaller than usual committee this morning. Two of our members are overseas at the moment so it is just the three of us—myself, Hon Liz Behjat, MLC, Hon Ken Travers, MLC and Hon Ljiljanna Ravlich, MLC, and Lisa Peterson our advisory officer.

I welcome you to this meeting. Before we begin, I must administer the oath or affirmation. If you prefer to take the oath, please place your hand on the bible in front of you.

[Witnesses took the oath or affirmation.]

The ACTING CHAIR: Starting with the minister, could you please state your full name and the capacity in which you appear before the committee.

The ACTING CHAIR: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: Yes, thank you.

The ACTING CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please also be aware of the microphones and try to talk into them; please ensure that you do not cover them with papers or make noise near them. Please try to speak in turn. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that the uncorrected transcript should not be published or disclosed. This prohibition does not however prevent you from discussing your public evidence generally once you

leave this hearing. Government agencies and departments have an important role and duty in assisting Parliament to scrutinise the budget papers on behalf of the people of Western Australia, and the committee values that assistance. Members, it would greatly assist Hansard if, when referring to the budget statement volumes or the consolidated fund estimates, you could please give the page number, item, program, amount and so on in preface to your questions.

Hon KEN TRAVERS: I want to start with page 166 and the money listed under “Major Spending Changes” for the “Browse Liquid Natural Gas Precinct Project”. Can you give us a brief outline of what that money will be spent on or used for?

Ms Nolan: In terms of the Browse project, additional funding was provided in this year’s state budget for that project. First of all, there was a large amount of money for the regional benefits package—around \$31 million of the \$41 million package. Also, included in that \$41 million increase in our budget was funding for socioeconomic studies, commercial work, work with the Indigenous people, and planning and other approvals.

Hon KEN TRAVERS: Do you have a list that breaks down that expenditure at all?

Ms Nolan: We have an indication of the \$31 million in particular, and the rest is more of a general pool, which we will allocate funding to on a needs basis.

Hon KEN TRAVERS: So it is basically a slush fund to be used as you require.

Ms Nolan: I would not call it a slush fund, but a carefully allocated budget to meet the needs of our work on the project plan in terms of what we need for approvals, what we need for legal, commercial, and socioeconomic studies, as well as assistance to the Indigenous community.

Hon KEN TRAVERS: But isn’t that what the \$31 million does?

Ms Nolan: No; the \$31 million is actually a regional benefits package payable upon the signing of the ILUA, which we anticipated would have been signed by 30 June 2010. That would be a payment of \$20 million for economic development for Indigenous people, as well as \$10 million for a housing development fund.

Hon KEN TRAVERS: Right.

Ms Nolan: So that is a specific benefits package to the Kimberley Indigenous people.

Hon KEN TRAVERS: Are you spending any money apart from that over and above that \$40 million? Is there any other money that you are spending as an agency?

Ms Nolan: There will be general moneys in terms of the corporate overheads, building, cars, travel—those sorts of issues. Some of that is built into that direct cost, but in the main that is the additional funding we received this year for our project. In addition, we have ongoing staff costs that we would already be meeting from those —

Hon KEN TRAVERS: But did you already have an internal allocation for that project?

Ms Nolan: We had some internal allocation that was provided in the previous year’s budget.

Hon KEN TRAVERS: And how much was that?

Ms Nolan: Look, in round terms, it was probably about—eight?

Ms McGowan: Yes; about \$8 million.

Ms Nolan: About \$8 million.

Hon KEN TRAVERS: Right; and for the out years? I mean, you have talked about the \$40 million in this year, but what about the 32, 12 and 12 in the out years?

Ms Nolan: In 2011–12, \$32 million is for the regional benefits package; in 2012–13, there is about \$12 million, and of that around \$11 million is for the regional benefits package; and in 2013–14, it is around \$12.5 million, and of that, \$11.3 million is for the Indigenous benefits agreement.

Hon KEN TRAVERS: Right. So at the conclusion of this financial year, you do not, as an agency, expect to be expending much money internally on the project—is that correct?

Ms Nolan: We will have our existing departmental base funding and we anticipate that we will be able to meet the needs from that.

Hon KEN TRAVERS: What sort of magnitude are we talking about from your internal departmental budget?

Ms Nolan: Gail might be able to best answer that.

Ms McGowan: Staffing costs and internal would probably be around \$1 million to \$1.5 million. Some of the reason for the reduction in expenditure is that by the time we finish this financial year things like the strategic assessment and environmental report will be completed, and a lot of the legal costs and other advisory costs related to the native title benefits package should be completed. We will be in the implementation phase rather than that preparatory phase.

Hon KEN TRAVERS: With legal costs, do you use the State Solicitor or do you contract that out to private firms?

Ms Nolan: Both; we use the State Solicitor on an ongoing basis, but will also contract in some legal services to assist. We do that through the State Solicitor—in conjunction with him.

Hon KEN TRAVERS: How much are you spending on legal fees with the State Solicitor and how much are you spending with private firms?

Ms Nolan: As you are probably aware, legal fees through the State Solicitor are not charged for; in terms of outside legal fees, we are talking in the vicinity of about \$1.5 million to \$2 million.

Hon KEN TRAVERS: Do you choose those or is it the State Solicitor who chooses the outside law firms?

Ms Nolan: We have a joint discussion. He is usually in the best position to know the relative strengths of the legal firms and he provides advice to us. In general, we do not have a difficulty.

Hon KEN TRAVERS: Do you currently have an ongoing arrangement with any law firms?

Ms Nolan: Yes; Allens Arthur Robinson.

Hon KEN TRAVERS: You are suggesting that the bulk of the work will be completed in this financial year. Do you have a time line of all the actual key dates for this project?

Ms Nolan: We do. There are a series of key dates associated with the strategic environmental assessment and the native title claim, as well as the work to do with the commercial lease arrangement for the industrial estate.

Hon KEN TRAVERS: What about things like the production licence and stuff like that? Do you have those key dates as well?

Ms Nolan: That is sometime down the track. The production licence is actually issued by the Department of Mines and Petroleum.

Hon KEN TRAVERS: Yes, but because you are coordinating the project from the state point of view, I am asking: do you have a Gantt chart or something of that magnitude —

Ms Nolan: Yes.

Hon KEN TRAVERS: —that lists all the key dates for when different sign-offs are required to complete the project in the current timelines?

Ms Nolan: Yes, we do.

Hon KEN TRAVERS: Are we able to get that as supplementary information?

Ms Nolan: Sure.

[Supplementary Information No A1.]

Ms Nolan: Of course, that time line is always subject to change. I mean, I think the thing that we know about projects like this is that sometimes the initial timetables can be ambitious and that there are also issues that can come along. We are all aware of the issues associated with native title in the Kimberley—in particular, in the Browse situation.

Hon KEN TRAVERS: Right.

Ms Nolan: So that does provide potentially an alternative timetable, but we have an existing timetable that we are working to.

Hon KEN TRAVERS: But at the moment there are suggestions that there are key pressures, in terms of timelines, on the project. What are those key pressures that need to be met at the moment?

Ms Nolan: The key pressure is access to land. Part of that is in terms of the exploration leases that the joint venture holds. Particular sets of work need to be undertaken and to enable them to do that work we need access to land as well as to ocean. Gail is giving me a note; I will let her read it out.

Ms McGowan: One of the key drivers of the retention lease requirement is that the joint venture reaches financial investment decision by June 2012. That is the end date, pushing back to, again, what that means for going into front-end engineering and design work; and what that means for completion of environmental studies, which, again, drives into access to the land.

[9.18 am]

Hon KEN TRAVERS: What drives access to the land as a key criteria? Why do they need to have formal access to the land?

Ms McGowan: To be able to reach a final investment decision, certain technical and other studies need to be done, particularly the front-end engineering design stage that precedes any financial or final investment decision, and so doing work both terrestrially and in the marine environment is needed to finalise that as well as the site master plan.

Hon KEN TRAVERS: What date do you require that access to the land to meet all the deadlines?

Ms McGowan: Ideally, to be able to do that work the access to the land would be by about April 2011. There is ongoing access required now in accordance with the heritage protection agreement that has been entered into, which enables things like continued heritage and other surveys to be done. But to start to do any of the front-end engineering and design work, that is around April 2011.

Hon KEN TRAVERS: Does that require it to be finalised, once you have commenced action under the Land Administration Act—if you go down the path of compulsory acquisition? Obviously, if you go down the path of an agreement, I would imagine that as part of the agreement you would have access from that point onwards, but under the Land Administration Act are you able to access the land once you commence the proceedings of compulsory acquisition?

Ms McGowan: If the government were to decide to go down that path, we would need to look at those sorts of things, as well as some of the things we are looking at now in light of some of the issues with the Indigenous parties there and what that means in how we would acquire access and in the completion of the environmental assessments et cetera. It is something we do not have a definitive answer on.

Hon KEN TRAVERS: At this stage, you have not been given any instructions to commence the compulsory acquisition?

Ms Nolan: No.

Ms McGowan: No.

Hon KEN TRAVERS: I am still not clear on whether you need to have a decision to compulsorily acquire the land, if that was the path chosen, and I accept that the decision has not been taken—hopefully it never will. Do you need that decision before April next year?

Ms McGowan: There are various access arrangements—some that fit under native title arrangements and some under the state Land Administration Act requirement. At this point in time, the compulsory acquisition—or proceedings for compulsory acquisition do not necessarily lead to an automatic right to get on to the land, so we would still be looking to negotiate any access.

Hon KEN TRAVERS: Do we have a time line for when the decision for that needs to be taken?

Ms McGowan: It would flow through from any decision taken to commence alternative action to the Indigenous land use agreement process, but we do not have anything finalised at this stage.

Hon KEN TRAVERS: You were saying earlier that you need the land by April of next year. If you had read recent media reports, you would have got the impression the land needed to be acquired immediately to enable the project to continue. However, from what I am hearing, I am still trying to get clarification of the time you would need to make the decision about compulsory acquisition to meet all the deadlines that are required.

Ms McGowan: There are two paths. We had hoped to achieve agreement under the Indigenous land use agreement by 30 June this year, which would have enabled a lot of it through the agreement. Should there be a decision to proceed with compulsory acquisition, there are a number of statutory time frames that have to be followed—they would be geared more towards any of those final investment decisions; but there is an initial one-month period for notification, and then four months, which in a very complex way can include that initial month. The whole process could take from 12 to 18 months to proceed to a registration of a future act in the federal native title sphere, which as you said would not fit with the April 2011 time line.

Hon LJILJANNA RAVLICH: To the extent that you can, could you take us through the steps you would go through to meet these statutory time frames? What would need to happen over this 18-month period?

Ms McGowan: To the extent that I can, you would need to issue a notice of intention to take the land. That notice, generally, under the statute is required for about one month—I may not have the dates exactly right because I do not have the information at my fingertips; then, as I said, inclusive of that first month there is a four-month original period, which culminates effectively in a six-month period of negotiation in good faith from the date any first action is taken. There is that six-month period, and then there is potentially a further six months of an arbitration–mediation process, which takes you to 12 months and then a period of registration. Under that requirement, the federal native title tribunal does some of its checks and balances, which takes us into that 12 to 18-month period.

Hon LJILJANNA RAVLICH: Is there a capacity for an appeal by the traditional land owners or is there something that would limit them from taking legal action in the High Court, for example?

Ms McGowan: To my knowledge, there are no actions that would. They have a range of rights and can appeal. There are a number of pieces of legislation that can intersect as well—the heritage protection legislation and state and federal legislation. But the native title process is designed to ensure that we can actually identify who the traditional owners are who have the native title rights for that country. A lot of the appeal processes are very much built into trying to determine who can actually speak for that country.

Hon LJILJANNA RAVLICH: Just by way of conclusion, you have given us a very good outline of your understanding, I wonder whether you could provide to the committee the written documentation of the actual process with the relevant time frames and include in that information the appeal mechanisms that might exist for the native title holders.

The ACTING CHAIR: Is that documentation available publicly?

Ms McGowan: Basically, that would be a flowchart from the National Native Title Tribunal website or thereabouts that explains that process, and the additional information would be what we understand of any appeal mechanisms.

The ACTING CHAIR: And you are able to provide that to the committee?

Ms McGowan: Yes.

[Supplementary Information No A2.]

Hon KEN TRAVERS: Is the \$40 million, \$32 million, \$12 million and \$12 million the only contribution that you expect from the state for this project or is there any other state contribution that you believe may be required either now or down the track?

Ms McGowan: In terms of the regional benefits package that has been negotiated as part of the Indigenous land use agreement arrangements in the heads of agreement that was struck between the state and Woodside joint venture or Woodside Energy Ltd and the Kimberley Land Council in April 2009, the state contribution is of direct benefit over a period of about 30 years of about \$251 million; and, in addition to that, there is provision for there to be a land swap equivalent to the terrestrial area required for the precinct that would be on top of that. We have not done a monetary value of that land swap, although it is estimated to be probably around \$50 million. As we do not know where the land is, we cannot actually value the land.

Hon KEN TRAVERS: That will be in terms of like-for-like value land, rather than a cash component for the state?

Ms McGowan: Yes.

Hon KEN TRAVERS: Are there any other expectations of ports, supply bases or other infrastructure like roads, rail access—probably not rail but roads, although maybe —

Ms Nolan: No, we have not got any railway involved!

Hon KEN TRAVERS: — to allow the James Price Point development to go ahead?

Ms McGowan: One of the objectives of the whole project is to increase Indigenous participation. Insofar as some of the management arrangements for the precinct and the benefits by the foundation proponent and any future proponents include some of that thinking, they are not necessarily finalised at this stage. For instance, the extent to which the worker accommodation camps could be part of any joint venture arrangements with Indigenous parties, the extent to which at the end of the processing life of the port—if in fact there was some decision in future years for the port to be an ongoing operation—ordinarily the port would be remediated and returned to that land, if possible. If there is a requirement to extend, there have been discussions about what arrangements would apply in those situations, but none of those are finalised.

Hon KEN TRAVERS: At this stage, are you expecting all those other infrastructure costs to be borne by the proponent, rather than the state?

Ms Nolan: All the channel work, the port infrastructure, the associated airstrip and all of that which is project specific will be paid by the proponent who goes on site, whether that is Woodside joint venture or any other secondary player who would also make contribution to that cost. But the state government has not allocated funding and is not expected to pay for the capital up-front requirements.

[9.30 am]

Hon KEN TRAVERS: Other than the community benefits package and the land-swap arrangements, what about access roads and the like?

Ms McGowan: For access roads the proponents would meet the majority of costs, although the state is likely to provide at least an access road to James Price Point, and Main Roads WA are doing some work on costings there.

Hon KEN TRAVERS: So when would the access road for the development need to be completed by?

Hon DONNA FARAGHER: That is a matter for the Minister of Transport to answer.

Hon KEN TRAVERS: With all due respect, they are the coordinating agency. They are coordinating the overall project. I would have thought that one of the key components of coordinating the project, minister, is to have road access, and they have just admitted that is one of the key components.

Hon DONNA FARAGHER: I appreciate that, but if you are going to start going into conversations and discussions with respect to matters that fall within another portfolio, I just do want to reflect that that is for other ministers to answer as well.

Hon KEN TRAVERS: I was asking about the timing of when the road is required for the project to go ahead. That is not the detail of the Minister for Transport; that is the detail of the coordinators getting the project up and running. I would be very surprised if your officers do not know the answer to the question I am asking.

Hon DONNA FARAGHER: They might well do, but what I am saying is that if we are going to go into a line of discussion within the Minister for Transport's portfolio, I just raised that.

Hon KEN TRAVERS: We are not. It is not about the Minister for Transport's portfolio.

Hon DONNA FARAGHER: That is good.

The ACTING CHAIR: Ms Nolan.

Ms Nolan: My comment would be that the road is probably the only area of infrastructure that the state has any commitment to, and that commitment is probably in two parts. The first one would be a gravel road to James Price Point and the second part would be a bituminisation of that road, following further decisions being taken that supported the need for further expenditure. The actual gravel road could happen in 2011. It is a potential date at this stage. As the minister has said, we have not got final funding knowledge of that.

Hon KEN TRAVERS: I understand that you may not have the final funding knowledge, but I would have thought you would know when you require the road access.

Ms Nolan: In 2011.

Hon KEN TRAVERS: When we get to the Minister for Transport later in the month we can ask him whether he has got it in his budget or not. Is there a time line for when bituminisation will be required?

Ms Nolan: Not at this stage.

Hon KEN TRAVERS: What about commonwealth contributions. Is any of this money that we are talking about here commonwealth money or is there any commonwealth contribution expected?

Ms Nolan: All the funding that we have discussed today has been state government contribution. In terms of the commonwealth contribution, that is of a different nature, and Gail can speak to that.

Ms McGowan: There has been no direct commonwealth contribution in terms of any of the benefits, as part of the negotiations with the traditional owners of the land. What there has been is a tripartite working group that comprises commonwealth officers, state officers and traditional-owner representatives. The commonwealth has committed as part of its contribution to the broader Kimberley region a sum of money of around about \$340 million over four years, as I recall the

figure, for social benefits to the Kimberley, and that is in terms of housing, health and education, but not directly related to the precinct.

Hon KEN TRAVERS: But they will be doing that as direct investment, not through the state government. They will be funding that directly.

Ms McGowan: The Commonwealth of Australia is not a party to the actual negotiation of the heads of agreement.

Hon KEN TRAVERS: With the community benefits package, where does that actually come out of your budget, under what line item?

Ms Nolan: Where does it come out?

Hon KEN TRAVERS: Or get expended.

Hon LJILJANNA RAVLICH: Is that the \$85 million?

Hon KEN TRAVERS: Yes, \$31 million this year and then over four years.

Ms Nolan: It is under grants and subsidies.

Hon KEN TRAVERS: That is the problem. It does not have any money listed under grants and subsidies this year or next year. You have it for last year. That is where I would have thought it would be the obvious place for it to come out, but my reading of that shows that you have not got it coming out of your budget.

Ms Nolan: I can assure you that it is there.

Mr Carden: It is actually supplies and services.

Ms Nolan: It is supplies and services. It is on page 172, the third line down under expenses of supplies and services. If you read across, in 2009–10, it is about \$19 million; in the following budget year of 2010–11, it is \$60.4 million, and of that, \$31 million-odd is for the regional benefits package.

Hon KEN TRAVERS: Why would that not be a controlled grant or subsidy?

Ms Nolan: I think it is because of the actual way it is paid.

Ms McGowan: There is an arrangement whereby, under the heads of agreement, on the registration of Indigenous land use agreement, \$10 million would be paid into an economic development fund and \$20 million into an Indigenous housing fund, and then over the next number of years, there would be further amounts paid on an annual basis into education, cultural preservation, additional housing, additional economic development, a Kimberley enhancement scheme, conservation and heritage reserve funds, administration and Indigenous employment. That it is geared as a payment of that nature.

Ms Nolan: I think it is just purely an accounting treatment.

Hon KEN TRAVERS: The thing that amazes me is why no two items in government are ever treated the same for accounting purposes.

Ms Nolan: We will make the accounting profession answer that!

Mr Carden: We get significantly driven by the way Treasury tells us to put it.

Hon LJILJANNA RAVLICH: In relation to that list that Ms McGowan has just identified, I wonder whether we can get on notice a break-up of how that total of \$85.1 million, which is the regional benefits agreement, will be split over the forward estimates in terms of the break-up, and what each sum of money will actually be spent on.

Ms McGowan: It is subject to a confidentiality agreement in the heads of agreement, but I do not see that there would be an issue with providing it in confidence to this committee.

Ms Nolan: For the forward estimates period only, though; not in the out years.

Hon DONNA FARAGHER: Just given that the officers have just indicated that it has been part of a confidential agreement, I think prior to determining whether we can actually provide it, I would hope that the committee would just appreciate that we will just check into it obviously.

Hon LJILJANNA RAVLICH: We have seen the Oakajee agreement. It was sent here in confidence.

Hon DONNA FARAGHER: Hon Ljiljanna Ravlich, I am not trying to be difficult.

Hon LJILJANNA RAVLICH: I think you are.

Hon DONNA FARAGHER: No, I am not being difficult. Goodness me. But all I am just saying is that the officers have indicated that it is part of a confidential agreement, so prior to them releasing it, it is just appropriate that they check that. That is all I am asking.

The ACTING CHAIR: I think it is appropriate, minister; you are right.

Hon KEN TRAVERS: I think the easiest way is for us to formally request it, and obviously the officers will come back and say, “Yes, we can” or “We cannot.”

Hon DONNA FARAGHER: Exactly, and that is what I am trying to reflect.

Hon KEN TRAVERS: We will note that they will put a request in that it be kept confidential.

[Supplementary Information No A3.]

Hon LJILJANNA RAVLICH: Just as a follow-up from that, \$126.5 million will be spent over five years from 2009 to meet the cost of salaries, a strategic assessment, environmental and social studies, and legal work related to this project related to the LNG precinct project. I wonder if we can have a breakdown of the expenditures in each of those categories.

The ACTING CHAIR: Which page are you referring to?

Hon LJILJANNA RAVLICH: I am actually on budget paper No 3, page 93, which forms part of the budget.

Ms Nolan: We will look to provide that data.

Hon LJILJANNA RAVLICH: It is —

Browse Liquefied Natural Gas (LNG) Precinct Project

A total of \$126.5 million will be spent over five years from 2009-10 to meet the cost of salaries, a strategic assessment, environmental and social studies, and legal work related to this project. It also includes funding to the Kimberley Land Council and the negotiation of associated agreements.

What we want is a breakdown of how that money will be spent, so that we can see where the money is going and for what purpose. That would be much appreciated.

[Supplementary Information No A4.]

Hon KEN TRAVERS: While we are getting that, can we get a more detailed breakdown of your supplies and services for this year and over the forward estimates, broken into what are the different components under supplies and services?

Ms Nolan: Perhaps I could give you an indication now. It is indicative estimates that we have got. The supplies and services, as we mentioned, for 2010–11, are predominantly the Browse, but we have got additional funding that we will spend on a variety of legal and consortium requirements for Anketell and Oakajee, so we can give you that number for 2010–11.

Hon KEN TRAVERS: If we can get a break-up in that way, that would be fantastic.

[Supplementary Information No A5.]

Hon KEN TRAVERS: At Point Torment, what work is the agency doing there and is there any money in the budget for work on the Point Torment project?

Ms McGowan: There is no money specifically in the budget. Any work that we have done has been done internally. There was, however, as part of the state submission to Infrastructure Australia, a request for some funding towards the establishment of a marine supply base at Point Torment, which is near Derby. The work we have done, or are doing, is very preliminary. We have been working with a potential proponent company and looking at facilitating, rather than undertaking, their environmental and land-based studies and some possible marine studies there. The department has previously commissioned—about 18 months or two years ago—some work by WorleyParsons, which is available on our website, around options for supply bases to support the Browse Basin activity out there. That looked at Broome, Derby, Point Torment and James Price Point. As I say, there is at least one potential proponent company interested in establishing a supply base but, like the work we have been doing, it is at a very preliminary stage.

Hon KEN TRAVERS: Are you able to quantify the amount of money or the amount of activity that the department is doing? Is there an officer fully assigned to the project?

Ms Nolan: We are chairing a Point Torment supply base approvals working committee, which is our normal role in terms of leading a project and working with the proponent to look at what the nature of that project is, what their timetables are, and facilitating native title, heritage and environmental clearances, so it is our normal day-to-day work, and it would be a very small proportion of an officer's time. It is also interesting to note that Inpex itself is not proceeding with their work as fast as they had initially anticipated. So it has probably slowed a little.

Hon KEN TRAVERS: As part of that coordinating committee then, is it one of the job roles to identify what impact it would have on the state budget? Is that a role for that committee to identify that?

Ms Nolan: It could be a role of the committee. The committee is more about facilitating and assisting Inpex in terms of looking at what its options are. One of the consequences of that is that any decision made or any outcome would be for the rest of the department to work out if there were any budgetary flow-on consequences for that.

Hon KEN TRAVERS: Is that something you are doing now?

Ms Nolan: What I am saying is that committee actually involves Inpex, and any consequent funding or looking at what the costings would be would be done in conjunction with that committee but also part of the department's general work.

Hon KEN TRAVERS: Have we got to that point in the process, though, where we are identifying the potential impacts on the state?

Ms Nolan: It is far too premature for that.

Ms McGowan: And, as was pointed out in the Infrastructure Australia submission, any costs of developing a supply base would be expected to be primarily borne by the proponent companies.

Hon KEN TRAVERS: How do we then put something like that into an Infrastructure Australia submission, when it is so preliminary in its work?

Ms McGowan: Because part of Infrastructure Australia's role is looking at a pipeline of potential projects; so in effect we flag potential projects and then further develop them if and when we actually know there is a requirement or need to do them. The whole Infrastructure Australia process is predicated on doing some longer term planning. In their most recent report that they released, either at the end of June or very early this month, they have categorised various projects as being in very early stages or showing potential and almost ready to go. There are about four categories. That is really the nature of the discussion we had with them, just looking at what might potentially be on the radar.

[9.45 am]

Hon KEN TRAVERS: I am happy to move on to Infrastructure Australia and your coordinating role a little bit later, but for now, it is more than that. You listed it as one of your seven priority projects. It was not just listed as a long-term potential project; it was listed as one of the seven priority projects in a government submission. I am trying to understand how it gets listed as a priority project when it is so early in the process at this stage.

Ms Nolan: That priority process involves flagging issues as well; it is not necessarily about saying what the timetable is. When the Infrastructure Australia submission was put forward, the urgency was far greater than it is now because of Inpex's decision to delay the construction of its LNG facility in Darwin. The pace of work has slowed and therefore, if we had been in a different situation, we would have a better understanding of those costings. As Gail has also mentioned, largely the cost of this will be funded by the proponent, which is Inpex. The question is whether the Infrastructure Australia funding would need to put a full business case at a later date, but at this stage we have flagged that as a priority. As you said, it was number seven, not number one.

Hon KEN TRAVERS: It was the number three on the list that I saw. They may have been listed in a random order, but the list I saw that was submitted on 5 November was —

Ms Nolan: I apologise; it was number three.

Hon KEN TRAVERS: Which means that it is a bit higher up, if your thoughts are that they are listed in the order of importance.

Ms Nolan: There is, in terms of significance to the state, potentially. Our number two priority was Pilbara Cities. Again, that is early days and it has real potential, as indicated by Infrastructure Australia. We have provided some indicative funding estimates to them for that.

Hon KEN TRAVERS: In part of that submission for Point Torment, or the Kimberley supply base that was referred to in the submission, you were saying that funding is sought for common-use land-based infrastructure to provide access and land for related businesses and industry. Do we have any quantification of the size of that cost?

Ms McGowan: The overall estimate in the Infrastructure Australia submission was around \$550 million, but that included private sector funding as well. All we have at this point is we have done some preliminary work on road infrastructure, and that would be a road from Derby up to Point Torment. Again, the estimates of that vary quite greatly from about the \$60 million to the \$100 million mark, depending on which way—some of the early costings that Main Roads WA provided to us, they have changed some of their current formula for estimating costs in remote locations because of weather delays and things so that they now have a far greater range, but it really has not been fleshed out in any great detail. A road alignment has been discussed with Inpex, but nothing is concrete.

Hon KEN TRAVERS: I think the Shire of Derby/West Kimberley thought the road would be only \$43 million.

Ms McGowan: As I said, it has varied widely over time.

Hon KEN TRAVERS: Maybe we will stick with Infrastructure Australia. Actually, the Anketell port project—you mentioned earlier that some money has been allocated in the budget for the purpose of that. Can you advise us on how much has been allocated for the development? Is it just that \$5 million?

Ms Nolan: It is \$5 million over two years.

Hon KEN TRAVERS: For what purposes will that be used?

Ms Nolan: That is largely for the additional costs that will be incurred for legal and technical advice for establishing—as well as commercial advice—to establish that industrial estate.

Hon KEN TRAVERS: Right. Have you attempted to quantify any impacts for the state budget of that development across the state?

Ms Nolan: Again, this is a project that is largely being led by the private sector; three proponents in terms of FMG, API and China Metallurgical Construction Group. The three companies would like to see the Anketell port developed and the industrial estate area, but particularly the port and rail. They are working together to facilitate that happening in a coordinated way. More recently, API has taken the lead on gaining environmental approvals for the entire project in terms of the port development and associated infrastructure. At a later date, the consideration of how that will be funded by the three parties will be considered.

Hon KEN TRAVERS: I understand that, but are there any implications for the state? As part of your work, are you looking at industrial areas, access to it—again, talking about roads and the provision of an industrial estate or any other common-user infrastructure that the state may be required to contribute to making that port happen?

Ms Nolan: At this stage, it will be private sector funded.

Hon KEN TRAVERS: So why is that different to Point Torment then, where you were talking about having some land-based common-user infrastructure sitting behind it, or for that matter, the Oakajee development?

Ms Nolan: Again, the industrial estate—I guess it is a question of there will be land allocated for an industrial estate at Anketell. There is land allocated for an industrial estate of a particular nature that is far broader based in Oakajee. We have not discussed an industrial estate per se at Point Torment; it is a supply base. They are quite different types of projects. The industrial estate at Oakajee is focused on developing the Oakajee and the Mid West region as a whole—it is multiuser, multiproduct, with a potential to see quite extensive downstream processing. If, in the fullness of time, you have to provide potential for that, whereas the Anketell port one is probably earlier days. It is multiuser and potentially multicommodity, but the focus on that has been that the three large companies have come together and put a proposal to government that they are interested in building that and that they have a desire to do it and they have indicated their ability to fund it.

Hon KEN TRAVERS: I still would have thought there would be not necessarily an industrial estate of the size that is maybe proposed at Oakajee, but industrial land, so more of a service area, similar to what would sit behind port in the Kimberley supply base —

Ms Nolan: At Anketell?

Hon KEN TRAVERS: At Anketell.

Ms Nolan: Yes, there will be.

Hon KEN TRAVERS: Would that not have implications for the state for things like roads? Are you saying that the proponents are suggesting that they will build all the access roads into that location?

Ms Nolan: Roads are probably the one area we have not had a detailed discussion about in terms of the common-user road that would go through the facility, but at this stage it is my understanding that the proponents are prepared to fund that road because it would largely be for their own use.

Hon KEN TRAVERS: Right. What time frame are we talking about with Anketell?

Ms Nolan: Anketell has an ambitious timetable. They are looking at 2015.

Hon LJILJANNA RAVLICH: In relation to the \$2.5 million that will be spent in 2010–11 to cover the legal, commercial and technical advice costs associated with the negotiation of an industrial development agreement and native title negotiations for the development of a deep water port and strategic industrial area at Mt Anketell in the Pilbara, can I just ask, in terms of the questions that Hon Ken Travers is asking, which are questions about the government's involvement

in the contribution to the building of infrastructure and the like, might some of this demand on government resources actually become a bit more obvious after some of this \$2.5 million that has been allocated in 2010–11 has in fact been spent and after more information is sourced in relation to the negotiations in relation to the industrial agreement or, indeed, other aspects of the project?

Ms Nolan: You are right. This is about planning and structure design and ensuring that we have the design right to establish an industrial estate. It does not account for the cost of actually establishing that industrial estate. Conversely, at this stage, we have no demand for companies to go into that industrial estate. It will be a question of timing. That could be sometime down the track. The important thing is to plan to ensure that we have the ability to have an industrial estate and we have access from that industrial estate to the port and appropriate other infrastructure that you have planned for rather than you have enabled the particular companies who are exporting iron ore—to use the colloquialism—to take the prime position and not enable common-user facilities to be established later on.

Hon LJILJANNA RAVLICH: Would it be fair to say that the government might come under some additional pressure down the line after some of this work is undertaken?

Ms Nolan: Yes, but in terms of when, it could be in 15 years' time.

Hon KEN TRAVERS: At this stage, your expectation is that the Anketell port project will be completely funded by the private sector?

Ms Nolan: That is my understanding.

Hon KEN TRAVERS: Does the state have any formal agreement with the proponents to that effect?

Ms Nolan: The industrial precinct development will establish most of the legal framework associated with that, but you have to remember that those companies came us to us with their desire to build the port and associated infrastructure to facilitate the export of iron ore. I do not think that is a contentious issue.

Hon KEN TRAVERS: I was at a function recently where one of the proponents stood up and asked the Minister for Transport why they were not getting their contribution, the same as other developers. But anyway, when do you expect to have that agreement signed? Will it occur in this financial year?

Ms Nolan: That will, in part, depend on environmental clearances and native title. The industrial precinct development agreement tends to be one of the—will be developed over time. It could be one of the latter documents. It could be into 2014.

Hon KEN TRAVERS: All right. Is 2015 when the port will be operating, or is it for the construction of the port?

Ms Nolan: We understand that they desire the port to be operational by 2015.

Hon KEN TRAVERS: I would have thought then that you would need to sign some of those agreements fairly soon to meet the time line. Do you have a time line of what the department expects for processing your role in that development at this stage?

Ms Nolan: At the moment we are in conversation with the three parties and do not actually have a Gantt chart or a table that I can provide you with but we are working, as part of our lead agency role, with those three proponents to establish that port and strategic industrial area. We will develop, over time, an appropriate timetable that we will monitor and keep to as best we can.

Hon KEN TRAVERS: The Oakajee port and rail project, which again is listed as an item under major spending changes, is the money listed there the only money the agency is spending on Oakajee port and rail, or is there other money you have from your existing resources that you are spending on Oakajee port and rail?

Ms Nolan: The budget shows the changes in our funding arrangement. We would probably be spending in the vicinity of \$1 million and \$1.5 million from our budget, which is pre-existing funding that we have been doing for the last 12 months.

Hon KEN TRAVERS: On top of the money there that is listed as additional money?

Ms Nolan: That is additional funding.

Hon KEN TRAVERS: On the Anketell project, what is your current estimated budget expenditure over this financial year?

Ms Nolan: It is \$2.5 million.

Hon KEN TRAVERS: Is that just from existing resources?

Ms Nolan: That we were given budget allocation for in this budget.

Hon KEN TRAVERS: Of \$4.5 million.

Ms Nolan: That is over two years.

Hon KEN TRAVERS: That is all that is listed for this year in this budget.

Ms Nolan: That includes Ashburton.

Hon KEN TRAVERS: How much of that is internal staff and how much is consultancy?

Ms Nolan: Of the \$2.5 million?

Hon KEN TRAVERS: Yes.

Ms Nolan: That would largely be external.

Hon KEN TRAVERS: Are we talking mainly about lawyers and consultants?

Ms Nolan: Yes; technical work for the design for the estate, as well as planning issues and then finally the development of the commercial industrial precinct development agreement.

Hon KEN TRAVERS: With the Oakajee port and rail project, what stage are we currently up to with that development?

[10.00 am]

Ms Nolan: I was going to say that I think Gail is really raring to go on that one.

Ms McGowan: Currently, Oakajee Port and Rail is in the final stages of negotiating memoranda of understanding with three potential foundation customers—namely, Karara Mining, Crosslands Resources and Sinosteel. We are discussing with them, or we are doing the due diligence work at this stage; they submitted their draft bankable feasibility study to us in late March. The due diligence work we are involved in, which involves a number of agencies, covers the technical, legal and financial value-for-money due diligence, particularly focused on the common-user infrastructure but also looking at the overall port and rail development, as to how that impacts on that common-user infrastructure. We would expect Oakajee Port and Rail to submit its final bankable feasibility study towards the end of this year. The work that we are also doing there is negotiating port and rail implementation agreements. With that process, we have a number of government agencies involved, and obviously the Geraldton Port Authority is involved in that as well. Again, we need to try to align those with the finalisation of the bankable feasibility study at the end of the year. There is some work going on in terms of ensuring that Karara Mining can export through Geraldton in the initial stages because they are talking of being ready to export some preliminary tonnages in 2011, and so there are discussions on a port services agreement and interim arrangements to export out of Geraldton until Oakajee is operational. In addition, Oakajee Port and Rail is almost ready to submit its preliminary environmental review documentation to the Environmental Protection Authority, and we are in discussions with the commonwealth on what, if anything, we feel is needed under the EPBC act.

Hon LJILJANNA RAVLICH: Just in relation to the bankable feasibility study, originally it was due for completion by the end of March 2010, and I think I heard you say that that should be done by the end of the year, or you are expecting it to be done by the end of the year. I am wondering if there has been a real delay in relation to the bankable feasibility study; and what is the reason for that delay?

Ms McGowan: No; I think the issue is that they submitted a draft bankable feasibility study in March, which was in accordance with the expectations. Certainly it is a very complex project, trying to align the various parts. What they need to be able to do in order to finalise that bankable feasibility study to the level of confidence required is to execute binding supply chain agreements with their foundation customers. That is what they are working to do now, before the end of the year. Certainly that is broadly in accordance with the time frame.

Ms Nolan: I would just add to that: in terms of the financial close, we are anticipating mid-2011, and the project construction timetable is 30 to 36 months, which, as you can see, from mid-2011, 30 to 36 months gives you about a mid-2014 start, which is in accordance with our expectations.

Hon LJILJANNA RAVLICH: I have to say that on your own department's website, which speaks about the project timetable, there is no reference to a draft bankable feasibility study as being a requirement for completion by end of 2010; it actually talks about OPR and a bankable feasibility study. So whether the nomenclature or terminology has been changed, I do not know, but certainly your own website there is no reference to the draft.

Ms Nolan: That is a fact of the nature of this project. It has required OPR to establish supply chain agreements—that is, revenue from that project—with the three major foundation proponents. That work is in process. OPR has done a significant amount of work on estimating the cost base, so that draft had a very strong cost base. But we had not anticipated there would be a draft, but that, in no way, sort of changes from our end objective.

Hon KEN TRAVERS: Are you still confident that mid-2014 will be the start date for that port?

Ms Nolan: I am optimistic that that will be the outcome.

Hon KEN TRAVERS: Optimistic?

Ms Nolan: Optimistic; confident; welcoming; expect.

Hon KEN TRAVERS: You see, “welcoming” and “expect” are a lot stronger than optimistic, I would have thought.

Ms Nolan: I am not an optimist always, so, to me, optimism is good.

Hon LJILJANNA RAVLICH: Only if you are a pessimist by nature, really.

Ms Nolan: I will leave that as an aside.

Hon LJILJANNA RAVLICH: It is all relative.

Hon KEN TRAVERS: Has there been any change to the estimate of the cost of the actual construction of the port; and, if there has been, will that alter the amount of money that will be required to be put in by the state and commonwealth governments for the project?

Ms Nolan: As previously advised, the estimate has not changed. Part of the due diligence process that Gail has referred to that we are undertaking, and as a consequence of receiving that draft bankable feasibility study, we are undertaking technical work as well as procurement analysis to ascertain whether that is a realistic number. The work is ongoing, and we anticipate that by end of this year we will be in a better position to understand the veracity of that number.

Hon KEN TRAVERS: If that number increases, is it expected that the state and commonwealth will pick up the increase, or will the proponent pick up the increase?

Ms Nolan: The state has indicated that it will fund the common-user infrastructure. Whether it will be a state and commonwealth agreement to increase their 50 per cent shares or whether it will be an alternative decision, there has been no conversation to that effect.

Hon KEN TRAVERS: You earlier said that the proponents had done a lot of work as part of the bankable feasibility and the costing side of it. Did that include the common-user infrastructure and the port facilities, or not?

Ms Nolan: Yes, that is the work we are actually trailing through at the moment, through our due diligence process.

Hon KEN TRAVERS: Are you saying that their work still has the same cost for constructing the port as previously been estimated?

Ms Nolan: It is in the vicinity. I mean, there are a range of costs and there are also conversations about what is common user, what is not common user, and refining those costs. At this stage we have no change in the formal estimate.

Hon KEN TRAVERS: You talked about a number of agreements, and do you expect those to be, eventually, put into a state agreement act, or will they just be stand-alone agreements between the state and the proponent?

Ms Nolan: At this stage we are not anticipating there will be a state agreement act, but we have left that option open. We are anticipating there will be implementation agreements that largely cover the nature of the project from, I guess, the final investment decision being taken, to the establishment of the facility.

Hon KEN TRAVERS: I am sure you are aware that we recently debated the Tilley to Karara bill in the Legislative Council, or the Tilley to Karara rail bill, and there are a range of concerns within the industry about how you get from Tilley to Karara, through to the Geraldton port, and do it on a feasible nature, because of concerns that the agreement the state has with OPR will restrict the ability to use any upgraded existing line between Mullewa and the port. Is that something that the department is looking at about the existing agreement or any arrangements they may have with OPR that would restrict the use of that line, or, more particularly, the Narngulu to Oakajee link being used for iron ore once any agreement comes into place between OPR and the state?

Ms Nolan: I shall make two comments: the first one is that Karara is focused on Geraldton as a short-term solution, looking at eight to 10 million tonnes per annum. That is not a sustainable outcome, and they anticipate transferring to Oakajee once the Oakajee facility is available. Karara is a foundation customer for OPR, and they are working feverishly with OPR to establish a supply chain agreement that would see them among the three foundation proponents, the first out of Oakajee. In terms of what the consequences are for their expense incurred on upgrading rail, they are fully aware of the need to minimise that cost because it will have a short-term horizon. Remember, they are working very constructively with OPR to be foundation customers for the Oakajee project, as they are very keen to have the large capacity vessels carrying their ore because it is far more cost efficient.

Hon KEN TRAVERS: I understand that, but are you aware of the concerns that the current agreement may prevent—like, any work that is done to upgrade the Narngulu to Mullewa line will not be able to be recouped because Karara will move to Oakajee, but there is still a capacity for smaller mines to use that line and to use Geraldton port without impacting upon the OPR developments, but that may not happen because of the agreements that are reached.

Ms Nolan: I would not call them concerns. They are part of the mix of issues that are involved with a complex project that has many parts with different timing requirements. Karara's timing is to get ore through Geraldton ASAP, and therefore they want to be ahead of the potential to establish Oakajee. They are trying to spend scarce capital and minimise that cost to make that option work in the short term. But as I have mentioned, it is very much involved with OPR and establishing their

long-term future. They do not anticipate being an eight to 10 million tonnes per annum exporter; they want to move up to 16, 18, 20 million tonnes a year—perhaps even more. Their longer-term solution is through the OPR, and that is why they are working so strongly with OPR at the moment as a foundation customer.

Hon KEN TRAVERS: I understand that, but the ability to do the investment in the existing line, as I understand it, is very dependent upon the capacity for that line to have an ongoing use after they move to Oakajee. Is that something that, as part of your negotiations, you are considering?

Ms Nolan: That is one of the claims. I am not suggesting that that is actual fact, because there are other views around that suggest that because of the nature of the cost savings from Karara moving to Oakajee, that cost—any cost they incur in going through Geraldton—could be amortised quite quickly by going through Oakajee. In other words, the cost savings are quite significant to them going through Oakajee, but they want to go early and they are prepared to spend some costs, recognising that those costs will need to be recouped in a short period of time, or the benefits will be so great from going to Oakajee that they are prepared to forgo those costs. Of course, an upgraded rail system that comes with that would have the potential to deliver benefits, and I think obviously WestNet and the owners of the rail network are aware of that.

Hon LJILJANNA RAVLICH: Can I just ask a question in terms of the state government's contribution of \$339 million to the Oakajee port project? That kicks in, in 2012-13; why is that the case? Is there no demand on the funding prior to 2012-13?

Ms Nolan: That funding is actually called a capital requirement of the investment in assets. As we have already noted, there is actually additional funding for us in terms of our expenditure on legal, commercial, and technical work. That is the actual capital investment.

Hon LJILJANNA RAVLICH: Is that all capital?

Ms Nolan: For the common-user infrastructure, yes.

Hon LJILJANNA RAVLICH: In relation to the commonwealth's assumed contribution of \$399 million, which I understand will be paid directly to OPR—with the exact payment mechanism to be determined at some later date—this \$339 million, as I understand, is still subject to Infrastructure Australia's analysis of the business case. Would that be your understanding?

Ms Nolan: Can I just firstly clarify one point?

Hon LJILJANNA RAVLICH: Yes.

Ms Nolan: In terms of the initial \$339 million, who that will be allocated to from the commonwealth is yet to be ascertained. I think I remember saying to this committee earlier that that may be a joint investment vehicle by the commonwealth and the state in the common-user infrastructure. It is unlikely, at this stage now, to be funded directly to OPR.

Hon LJILJANNA RAVLICH: I am referring to page 55 of budget paper No 3.

Ms Nolan: I am referring to page 176.

Hon LJILJANNA RAVLICH: I have got to say, there is some inconsistency in the budget.

Ms Nolan: No, it states that the budget assumes a commonwealth contribution will be paid direct to Oakajee Port and Rail; that is not now, necessarily, the case. That is all I am clarifying.

[10.15 am]

Hon LJILJANNA RAVLICH: Has that shifted since this budget?

Ms Nolan: That is a matter for ongoing conversation, yes.

Hon KEN TRAVERS: Do you not have a formal agreement with the commonwealth on this matter?

Ms Nolan: There is a budget funding allocation in the commonwealth budget.

Hon KEN TRAVERS: Do you not have any formal agreement with the commonwealth on this matter for that investment?

Ms Nolan: I believe there is an exchange of letters.

Ms McGowan: There is an exchange of letters. We are negotiating the form of that investment at the moment and are in continuing discussions with the commonwealth in terms of whether it is a special purpose vehicle or some other arrangement.

Hon LJILJANNA RAVLICH: What is OPR's understanding? You are obviously interfacing with OPR all the time. Is it OPR's understanding that this \$339 million will be paid directly to OPR? What is the likely fallout, if any, in the event the \$339 million is not paid directly to it?

Ms Nolan: In terms of the commonwealth's \$339 million, together with the state's \$339 million, that is to effectively purchase the common-user infrastructure. OPR will undertake the procurement of that common-user infrastructure. At one level it is paying for it in terms of direct payment through the procurement process. OPR will be paid for the provision of the common-user infrastructure. But the actual investment vehicle that the state owns the asset in—remembering it will be owned by the state—is more the issue. It will be an accounting issue. OPR is unconcerned whether we have it as a direct payment to the investment vehicle or whether it is even to the Geraldton port, remembering that ultimate ownership of that common infrastructure is through the Geraldton port.

Hon LJILJANNA RAVLICH: Is the investment vehicle a vehicle that will be controlled by the state government?

Ms Nolan: It could potentially be controlled by the state —

Hon LJILJANNA RAVLICH: Let me just clarify this —

Hon DONNA FARAGHER: Sorry; Ms Nolan was mid-sentence, perhaps if you wait until Ms Nolan actually completes her sentence.

Hon LJILJANNA RAVLICH: All right, minister; fair call.

Ms Nolan: It could be controlled by the state or it could be jointly controlled by the commonwealth and the state. They are the sorts of conversations we are currently having. It would depend whether the commonwealth wants to provide that money as an investment or, alternatively, a grant. If it is a grant to the state or a grant to the common-user infrastructure, it may be controlled by the state. If it is an investment, it could be a joint control.

Hon LJILJANNA RAVLICH: Where I can see an issue emerge is that, at some point in time earlier in history, there was an expectation that perhaps the commonwealth would, through Infrastructure Australia, pay the money directly into OPR. Since that time, we are now talking about a vehicle that could be controlled by the commonwealth or the state or jointly between the commonwealth and the state, and that would mean that it cuts OPR out from being the direct recipient of that commonwealth funding. OPR would then have to come back to the state-commonwealth arrangement or back to the state to dip into its \$339 million.

Ms Nolan: That would not in fact be how the mechanics would operate. As I have said, the \$678 million estimate of the common-user infrastructure, as OPR will be procuring it on behalf the state and the commonwealth, OPR will receive the funding. Therefore, it will not need to come back to anyone for anything. It will be a question of whether the payments are direct from the state and the commonwealth or through an alternative vehicle whereby you could monitor that cost over time.

Hon KEN TRAVERS: Going back to the original discussions with the commonwealth on this money, has the commonwealth ever indicated its preference would be to own half the port—that is, if it is going to pay half the cost, it will want to own half the port?

Ms Nolan: Its initial conversations with the state were very much about being an investment in the common-user infrastructure, not a grant.

Hon KEN TRAVERS: Which means ownership of the port?

Ms Nolan: The commonwealth would be a part owner, hence we talk about that investment vehicle potentially half by the state and half by the commonwealth.

Hon KEN TRAVERS: It has never been about giving the money directly to OPR. The payment may go to Oakajee for the construction but the commonwealth's position has always been that it is investing in a port, and it wants to own half the port. It will end up owning half the port. Did the letters that were exchanged indicate that the commonwealth expected to be an investor in the port and therefore part owner?

Ms Nolan: The commonwealth budget shows it as an investment in the port, not a grant.

Hon KEN TRAVERS: That is what the state government signed up to with the commonwealth?

Ms Nolan: Yes, but this is irrelevant. There is no issue as a consequence of this.

Hon KEN TRAVERS: Do you not think it is interesting that for the first time ever the commonwealth will own half a port in Western Australia—a port that would have been fully owned by the state under the previous agreement entered into, which OPR tendered for? I accept this is a policy question. I am happy for the minister to answer whether the state sees that as an issue. For the first time ever, we will end up with the commonwealth owning a port in Western Australia that would have been owned by the state under the original agreement.

Ms Nolan: The state government took a policy decision to invest in the common-user infrastructure. Subsequent to that, it put a case to the commonwealth government, and the commonwealth elected to provide budget funding for half that common-user infrastructure through Infrastructure Australia.

Hon KEN TRAVERS: The state has exchanged letters with it to that effect?

Ms Nolan: Yes. The word “investment” has been used by the commonwealth.

Hon KEN TRAVERS: When you invest in something you end up owning it, proportionate to the amount of the total investment. If you are investing 50 per cent of the cost, you will own 50 per cent of the end product.

Ms Nolan: I also make the comment that in Queensland where I think we have previously provided advice to this committee where Infrastructure Australia was initially going to invest in a rail infrastructure development, it subsequently decided it would make a direct grant, hence there is scope for ongoing conversation, as I alluded to earlier.

Hon KEN TRAVERS: That is fine, if you can get the commonwealth to agree to it. But from what I understand, you have said to us that the original exchange of letters and the agreement you had with the commonwealth was on the basis of an investment. You may be trying to renegotiate that, but that was the agreement you had with the commonwealth at the commencement of this process.

Ms Nolan: It is not a matter of trying to renegotiate; it is in terms of what the commonwealth's objectives were. In the case of Queensland, it was not a case of the rapid transit program deciding it would negotiate a grant instead. That was a joint decision with the commonwealth.

Hon KEN TRAVERS: With all due respect, a rapid transit system does not make a profit, at the end of the day. A port will. If you own a port that will make a profit, you are more likely to want to make sure it is an investment rather than a grant.

Ms McGowan: It may be worth noting that in the original commonwealth announcement about contributing to the project, there was nothing specific about the nature of that investment. The discussions around the nature of the equity injection et cetera have all been at officer level. Anything that is determined will need to go through the Infrastructure Australia process and the commonwealth cabinet process.

Hon DONNA FARAGHER: I point you to page 176 of budget paper No 1, which states —

The exact mechanism for payment of the Commonwealth contribution to the Oakajee Port will be determined at a later date.

That is specified within the budget papers.

Hon LJILJANNA RAVLICH: With all due respect, I think what Hon Ken Travers is interested in and what I particularly am interested in is whether the commonwealth government will be a part owner of Oakajee port. Everything that has been said thus far indicates that to be true. It is the first time this has been made public because, historically, when the commonwealth has allocated funding it has usually been in the form of a grant. We have something quite new happening here. For what reason this has not been made public until now I do not know. But this is indeed a very interesting development.

The ACTING CHAIR: I think we have exhausted that line and the director general has made it clear those negotiations are ongoing and no decision has been made in that regard.

Ms Nolan: It is a potential. I also make the comment that we have previously had this conversation with the committee in terms of what the nature of that investment vehicle could look like. I have previously made comment to, I believe, this committee that the investment vehicle could be a subsidiary of the Geraldton Port Authority, which could be jointly owned by the commonwealth and the state. It is therefore inappropriate to suggest this is the first time this has been raised.

Hon KEN TRAVERS: I think it may have been to the Public Accounts Committee.

Ms Nolan: I stand corrected if I have got the wrong people, but I do know some of the same players.

Hon LJILJANNA RAVLICH: We are everywhere!

Hon KEN TRAVERS: Maybe it was to this committee when you came before us earlier. I might have not been here. I think you have also given evidence to the other committee.

The ACTING CHAIR: Noting that we have only five minutes left for the hearing, are there questions on any other area?

Hon KEN TRAVERS: We need to finish off on this. The budget papers are about the state's expectations, minister. I understand that that maybe the state's expectations and it is still seeking to negotiate. But I think we were trying to determine the state's understanding of the original commitment by the commonwealth. Can we request that the letters that have been exchanged between the state and the commonwealth be provided as supplementary information?

Ms Nolan: The clearest illustration of the commonwealth's intent is in the commonwealth budget papers, and we will provide appropriate reference to that.

Hon KEN TRAVERS: I am happy with that and with getting those letters as supplementary.

The ACTING CHAIR: The member is asking if those letters are available to the committee.

Ms Nolan: I will need to check whether it is appropriate that they be revealed because it was private correspondence between the then Prime Minister and the Premier.

Hon KEN TRAVERS: We will formally ask and you can indicate whether you are able to provide them.

[Supplementary Information No A6.]

Hon KEN TRAVERS: I think it is clear now that the commonwealth is investing the money. Currently, the commonwealth budget shows that it is an investment that will end up with the commonwealth being an owner. What was the state's expectation of what it would achieve by making it an investment?

Ms Nolan: That was a policy decision taken by the government on coming into power. Therefore, it is a policy decision, but I will make further comments on that, remembering what the actual objective of Oakajee is. It is a multi-user, multi-function port. That differs from many other ports in the north of Western Australia, which are single-product, single-user—or a small number of users. Governments have traditionally owned common-user infrastructure at ports, so it is not unusual in that regard. What is also unique about the Mid West, where the objective is truly about developing the Mid West, is that these are very small players. They are not players who can afford of their own volition to pay for a rail and port facility, particular in an environment where the costs are ever increasing and their profitability is being taxed. As a result, we have a number of small, marginal magnetite players who need access to port and rail. This is about catering to the long-term needs of the state and, in terms of long-term development opportunities, ultimately the extensive development of a strategic industrial area. Notwithstanding that, the government has taken a decision.

Hon KEN TRAVERS: What is the government's objective, minister?

Hon DONNA FARAGHER: As Ms Nolan has indicated, government investment provides an opportunity to ensure that development is designed to cater for those longer term needs of the state and region. As Ms Nolan has indicated, a number of smaller operators operate within the Mid West. It was a decision of government with respect to the longer term needs of the state and region.

Hon KEN TRAVERS: Have all the objectives you outlined been met under the process that Oakajee Port and Rail tendered for and gained preferred status, or are there objectives that are able to be achieved over and above what was under the previous agreement with Oakajee Port and Rail?

Hon DONNA FARAGHER: I think that goes beyond what we are dealing with here in terms of the budget estimates. I do not think it is appropriate that we answer.

Hon KEN TRAVERS: With all due respect, for the first time \$339 million has been placed in the budget for a state investment with a mirroring investment by the commonwealth of \$339 million that we are aware of, and I am trying to understand what the state is hoping to achieve for that investment, over and above what was previously going to be achieved by the state if it had proceeded with the agreement that had previously been negotiated with the proponents.

[10.30 am]

I think that is a very reasonable question. To be able to understand why the state is investing \$339 million and what it is going to achieve in addition to what was going to be achieved under the previous agreement.

Ms Nolan: I make the comment that I went through what the issues were when the government considered funding of the common-user infrastructure. I will add one final comment. This is a very challenging project. For that project to carry the additional costs of the common-user infrastructure, will, I think, truly put at risk the nature of that entire investment.

Hon KEN TRAVERS: Well, the proponents —

Ms Nolan: That is a personal view.

Hon KEN TRAVERS: — obviously did not think that when they originally tendered for the project under an arrangement that would have seen the state ending up owning 100 per cent of the common-user infrastructure. Now, we have learnt today that it is possible that we may end up owning only 50 per cent of the common-user infrastructure. I am trying to understand. I mean, at the time that that decision was taken, I do not think anyone was suggesting that the Oakajee port

and rail project was at risk. Are you saying that the department provided advice to the government that that project was at risk of falling over if the state did not make the investment?

Ms Nolan: I will make two comments. One, my department's involvement with this project was following the election of the Liberal government. And two, the decision to proceed was a policy decision of government.

Hon KEN TRAVERS: Right. Is the minister able to advise us for the Oakajee port and rail project whether the government received any advice, when it took the policy decision to invest, that the Oakajee port and rail project was at risk without this investment?

Hon DONNA FARAGHER: Look, as the honourable member is aware, I am obviously not the Minister for State Development. I cannot provide you with that advice across the table here today. I have already indicated, and I stand by the statement, that the government believes that there is an opportunity to ensure that development is designed to cater for the long-term need of the state and the region with respect to this proposed development. I have already advised the committee of that. Ms Nolan has made a number of comments. I think that we have adequately dealt with the matter.

Hon KEN TRAVERS: Well, no, because you have not answered my question. I would like to have the question I put to the minister taken on notice because —

Hon LJILJANNA RAVLICH: Fair enough!

Hon KEN TRAVERS: — she has not answered the specific question that I put to her earlier about what it was the government hoped to achieve, and whether it had received advice that the OPR project would not proceed without this investment. The other thing that we have not heard about—and if they want to take it on notice to provide the information at a later date—are the objectives that will be achieved that would not have been achieved under the previous OPR tender arrangements. I would like to have both those taken on notice. As the minister has indicated, she is not the responsible minister, but the Minister for State Development can, through her, provide the answer—if there is one!

[Supplementary Information No A7.]

The ACTING CHAIR: That brings us to the conclusion of this part of today's hearings and I need to make some closing comments in regard to that.

The committee will forward any additional questions it has to you via the minister in writing in the next couple of days, together with the transcript of evidence, which includes the questions you have taken on notice. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of this hearing. Responses to these questions will be requested within 10 working days of receipt of the questions. Should the agency be unable to meet this due date, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons as to why the due date cannot be met. On behalf of the committee, thank you very much for your attendance today.

Hearing concluded at 10.33 am