

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2012–13 AGENCY ANNUAL REPORT HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
THURSDAY, 30 JANUARY 2014**

**SESSION TWO
DEPARTMENT OF FINANCE**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Martin Aldridge
Hon Alanna Clohesy
Hon Rick Mazza**

Hearing commenced at 1.35 pm

Hon PETER COLLIER

Minister for Education representing the Minister for Finance, examined:

Ms ANNE NOLAN

Director General, examined:

Dr RAY CHALLEN

Deputy Director General, Public Utilities Office, examined:

The CHAIR: On behalf of the Legislative Council Standing Committee on Estimates and Financial Operations, I would like to welcome you to today's hearing. Can each of the witnesses confirm they have read, understood and signed a document headed "Information for Witnesses"?

The Witnesses: Yes.

The CHAIR: Witnesses need to be aware of the severe penalties that apply to persons providing false or misleading testimony to a parliamentary committee. It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard and a transcript of your evidence will be provided to you. The hearing is being held in public, although there is discretion available to the committee to hear evidence in private, either of its own motion or at witnesses' request. 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 before answering the question. Government agencies and departments have an important role and duty in assisting Parliament to review agency outcomes on behalf of the people of Western Australia. The committee values your assistance with this.

Did any of the witnesses wish to make a short statement before we commence? We will go straight to questions. I will start with one. It relates to the standard terms and conditions for contracts. What I noticed looking through is that in the past you often used to include a provision in the contract asking companies to identify whether or not there would be a settlement discount of seven days, 14 days or 21 days of the date of the invoice, if payment was made within those dates. I noticed in more recent documents, it now talks about whether the invoice was paid within 30 calendar days of the date of the invoice. I was trying to work out: has there been a policy change in respect to the terms of those standard contracts about moving away from seeking seven, 14 and 21-day settlement discounts to purely seeking a 30-day discount?

Dr Challen: This is a general procurement matter.

Ms Nolan: As a procurement —

Dr Challen: It is a procurement issue under standard terms and conditions.

Ms Nolan: Standard terms.

The CHAIR: Is that something that is in your agency?

Ms Nolan: Standard terms and conditions—I am not aware of that; sorry. We can come back to you. It is not a good start. I heard "standard terms and conditions" and I thought electricity contracts! In more general terms, I am not aware of that, so I will come back to you on that one.

The CHAIR: And if there has been a change, when did that occur? It may be that there are just different settlement discounts. People seek different settlement discounts, but I had never seen the

30 days before and I saw it on a contract recently and when I went back and checked, previously it had been seven to 21.

[Supplementary Information No B1.]

The CHAIR: I do not know whether you are able to answer this question or whether it is Treasury. Is it still government policy to try to pay all accounts within 30 days?

Ms Nolan: I understand it is government policy rather than Treasury policy.

Hon PETER COLLIER: I am fairly sure it is government policy as opposed to Treasury, but again we will check on that.

Ms Nolan: I believe the intent still is a 30-day turnaround. I do not think there is a specific Treasurer's Instruction on that item.

[Supplementary Information No B2.]

The CHAIR: Anything you could give us in terms of what is the current standard, and with respect to the standard terms and conditions, whether or not that is just a choice for agencies to choose those different variations or there has been a change in terms of the standard, would be good as part of B1 and B2.

Hon ALANNA CLOHESY: Can I go to Building Management and Works and just ask what the criteria are for determining whether a new building is allocated to Building Management and Works for the Office of Strategic Projects?

Ms Nolan: As compared to the Office of Strategic Projects?

Hon ALANNA CLOHESY: Yes.

Ms Nolan: The Office of Strategic Projects, which is located within the Department of Treasury, tends to focus on the higher end—large, complex projects—typically projects over \$100 million; whereas projects less than \$100 million typically relate back to the Department of Finance, with BMW being the appropriate agency within the Department of Finance. There are exceptions that depend on the nature of the project, but that is the general rule of thumb that is applied.

Hon ALANNA CLOHESY: How many projects managed by Building Management and Works were prepared under the strategic asset management framework?

Ms Nolan: Can I just seek clarification? Last year there were in the order of 200 projects that the Department of Finance—Building Management and Works was responsible for and they would have all implicitly come under the strategic asset management framework for the respective departments for whom BMW was providing that service. For example, if we are providing a school, the strategic asset management framework aspects of it would be handled by the Department of Education, and we are the service delivery agency, effectively, for providing the school.

Hon ALANNA CLOHESY: That clarifies that.

The CHAIR: I am intrigued. I just want to clarify something. In terms of looking at options for electricity tariffs, is that something that the individual agency such as Synergy would do or is it something that your Public Utilities Office would be responsible for—looking at alternative billing and tariff arrangements?

Hon PETER COLLIER: What do you mean in terms of the billing—in terms of the price set?

The CHAIR: Yes. At the moment, there is just a flat tariff and you just pay a supply charge and then a flat figure. With water, you pay a supply charge and then there is a graduated tariff. I am trying to work out, if the government was looking at alternative tariff arrangements, whether that is something that Synergy would be doing or would the Public Utilities Office be the agency that would look at that work?

Hon PETER COLLIER: I will tell you what was happening. I am not sure if it has shifted since. When I was minister, the Office of Energy did look at that tiered tariff structure in terms of price based upon consumption et cetera. We decided at that time not to go down that path, but I think work was still being done. I am not sure if that is still the case—Ray?

Dr Challen: Just as a bit of background first, the tariffs that we are talking about here are the household and small business tariffs, and they are actually set —

The CHAIR: The non-contestable tariffs.

Dr Challen: That is right. They are actually set by regulation. Ultimately, those tariffs, including how much is the supply charge and how much is a unit of supply consumption charge in electricity, are actually set by regulation. It is a government decision for which government would tend to be advised by the Public Utilities Office in coming to that decision. In coming to that decision, though, of course, there is actually engagement with Synergy, the retailer, for those tariffs principally to work out what is the financial impact on the business, which would include, if you were considering different tariff structures, the financial impact on the business and on customers of the different tariff structures.

The CHAIR: The minister talked about the work that had been done in the past. Is there any work continuing to be done to look at alternative tariff structures for non-contestable customers?

Dr Challen: That is actually being undertaken, without having reached any outcome at this point. There was work done before I started with the department, so it would have been two years ago or so, which I think, as you alluded to, looked at similar tariff structures to what we have with water with graduated tariffs, but that actually did not continue and did not find its way through to policy. But it is actually being looked at again.

The CHAIR: I guess what I am interested in is: what is the process for looking at that? I think when the minister was there, he actually engaged WACOSS to be involved in that process. There was quite a bit of research; it was all kept private, unfortunately. I am intrigued to know, if there is work being done, what is the process for that work and what is the estimated time line for a conclusion to that work?

Dr Challen: There obviously has been some press coverage around tariff structures, in particular the size of the fixed component of that tariff. The timing for that would necessarily go through the budget process of government if we are putting through a tariff change, because fees and charges, including regulated tariffs, are matters that go through the budget process. In between that time, there is a process. Obviously, government would want to know what are the impacts on customers of a change in tariff structure. That is not necessarily a simple thing to work out, because when you are changing a tariff structure, you are obviously concerned about customers that are more vulnerable to increases in bills. But when you are changing tariff structures, there is not necessarily a correlation between who is paying what level of electricity price and the impact. For example, you have got some disadvantaged customers who are reasonably high users of electricity for various reasons and may actually benefit from a change in the tariff structure that has a relatively lower variable charge and a higher fixed charge as opposed to other customers that are low consumers of electricity and may be adversely affected by that change. That is what we do. The Public Utilities Office would lead provision of that advice to government. In doing so, we would use data provided by Synergy, which has the customer data, to work out who is affected.

[1.45 pm]

The CHAIR: Do you expect the work that you are doing to be completed in time to feed into the current round of budget discussions or future budget discussions?

Dr Challen: To the extent that the government wants to pursue a change in tariff structure at this time, we would see it as our role to provide that advice to government before it goes through the budget process.

The CHAIR: Maybe this is a question for the minister: is it intended there be public consultation for that or will it just be an announcement of government?

Hon PETER COLLIER: I was not aware of the work that the Public Utilities Office is doing at the moment and I am not sure whether the minister intends to engage in public consultation.

Ms Nolan: At this point, if it was for this upcoming budget round, there would not be sufficient time for extensive consultation outside. If that was the decision of government—to pursue it at a later time—there may be opportunity for further discussions more broadly.

The CHAIR: In the policy timeline, you are working towards providing advice to the government for this round of budget, and it is obviously a policy decision of government as to whether it accepts that advice.

Ms Nolan: We are doing preliminary work at this stage. We are not coming up with specific proposals. We are doing investigative work at this stage. It is a trend in all overseas jurisdictions as well as elsewhere in Australia. We have been tracking that sort of information as well. It is a research and policy role that we are providing advice to government on. We do not have a specific request from government to come up with a particular framework at this point.

The CHAIR: I might have misunderstood some of the earlier comments. It is more an ongoing general examination and advice to government about those issues, rather than working towards a specific proposal.

Dr Challen: It is an area of interest to government without a specific proposal.

The CHAIR: Those ones always make me nervous!

Hon PETER COLLIER: I can understand. I remember that one of the outcomes of the proposal put to government two years ago or two and a half years ago was that a move to a price based on consumption et cetera was that it was not necessarily going to assist those who are less able to pay.

The CHAIR: Large families?

Hon PETER COLLIER: Yes; they would be worse off. That was one of the contributing factors that led to us not accepting that shift.

Ms Nolan: There is a different driver at the moment, which is in terms of the changes that are happening around us in photovoltaic cells. That is probably more the driver at this stage of whether there is a need to look at the structure of electricity tariffs and how costs are incurred. Are they incurred as fixed costs regardless of your level of consumption in a household or is the cost more related to your usage of electricity? One can envisage an environment in which you would think of poles and wires—type costs as being fixed. You either have a pole and some wires past your house or you do not; whereas your usage of electricity, which relates back more to generation costs and the like, is more a throughput cost, a variable cost. That is the sort of thing we are looking at. Although we are saying there is no specific proposal, this is all a rather new phenomena and we are looking at those issues and whether that would be in time for this budget is just too early to say.

The CHAIR: I get the issue. But water fees, for instance, if you have a sewer line running past your house—whether or not you want to connect to it—you still have to pay for it, even if you are on septs. Is the sort of thing you are looking at? Would it be to every property or only properties that connect into the network?

Ms Nolan: That is a degree of detail. Most properties in Western Australia that are in south west interconnected system connect into the south west interconnected system, so that is where we are looking at that structural issue. The analogy does not quite work with water. Water charges are based partly on land value, which is more of an indicator of capacity to pay rather than the actual cost of providing the sewer lines. Although there are some lessons to be learnt from the water example, the direct analogy is not there.

The CHAIR: Except that in terms of future policy outcomes, if fixed charges become quite high there is a risk that people will look to have their own battery storage facilities on site and disconnect from the grid altogether, particularly as the price of storage comes down, which seems to be the general direction. I suspect the next stage after photovoltaics will be that even though most are connected to the grid, there will be a point where they might say they will stay off the grid because the fixed charge is too high.

Ms Nolan: Point well put, but technology continues to change in the energy game. We have seen quite significant changes in technology, such as PVs. As you say, one day battery storage of energy will become an efficient mechanism for households to think about and, therefore, we need to think of it in that context as well. Do we go one step or two steps, and what is the third step along the way? Should we be pre-empting technology change and the like? It is quite a complex area; hence, the ability to provide a time line at this stage is unfeasible.

The CHAIR: My final question in this area relates to the reports that were previously done for government. Is there any reason that they should be kept confidential or can they be made public so that people can see the options and the impacts?

Hon PETER COLLIER: Do you mean the tariffs?

The CHAIR: Yes.

Ms Nolan: That will be a matter for government to decide.

The CHAIR: That is my question is directed more to the minister, if he is aware of any reason why it still needs to be confidential.

Hon PETER COLLIER: I am not aware of any reason, quite frankly.

The CHAIR: If it is possible I would appreciate those documents being provided to the committee. If the government no longer feels that they need to be kept confidential, it could advise us of that; and, if it thinks they need to remain confidential, it could advise us of that.

Ms Nolan: I will make only one comment in response to that: time has moved on. That is not the range of tariff restructuring that we are looking at currently. The desire to look at tariff restructures two years ago had completely different drivers. I do not think we could learn a lot from looking at that in our current review.

The CHAIR: I take your point that they are now historic. I am interested in the impacts on different family groups. I accept that there might be completely different models that come up in the future. It is more about understanding it.

[Supplementary information B3.]

The CHAIR: In terms of tariff prices, when the existing gas contracts expire my understanding is that will have an impact on the average cost of production of electricity. The expectation is that gas will go up. I am never too sure whether your agency or Synergy is doing this. Has any work been done on the estimated increase in the average cost of production of electricity when those contracts expire in 2015 or 2017—somewhere around there?

Dr Challen: Those contracts expire at different times, so it is progressive. Also, the businesses have, of course, been buying gas for amounts greater than those original contracts, so they are already paying higher prices for some of the gas they are purchasing now. In terms of the impact on the businesses, Synergy itself has done work on that as part of its normal financial forecasting budgeting process. The Public Utilities Office has not specifically looked at that other than in relation to the financial forecasts and budgets overall of the businesses.

The CHAIR: So Synergy has done work on the impact on the average cost of production.

Dr Challen: I imagine that it would have done that work as part of its normal business process.

The CHAIR: Would it become your responsibility to work out what tariffs would need to rise to accommodate that increase in cost of production or is it still Synergy's job to give that advice?

Dr Challen: One piece of work that the Public Utilities Office does do is calculation of the cost-reflective tariffs. As you are aware, the retail price of electricity is heavily subsidised by government. To work out the size of that subsidy payment from government, we calculate a cost-reflective tariff and compare that with the tariff that Synergy is charging to determine the size of the subsidy. In doing that modelling, we take into account the generation costs to Synergy, and the increasing cost of fuel would be addressed in that.

The CHAIR: Do you do that on an annual basis or on a forecasting-out basis?

Dr Challen: It is obviously more detailed for the year ahead, but it is done over the forward estimates period.

The CHAIR: Are we able to get figures about what you forecast those increases will be over the forward estimates to maintain cost-reflective tariffs? I think we got from Synergy the other day that it is currently 33 per cent. Do not quote me exactly, but it is around there. I am interested to know what you expect that to increase by over the forward estimates. If tariffs remain the same, then it is a government policy decision to work out much it needs to increase the tariffs each year as to how close it wants to get to cost reflectivity.

Dr Challen: Ultimately it is a government decision as to whether that information is made public.

The CHAIR: But you are saying it is part of the formulation of the budget

Hon PETER COLLIER: It is available, but obviously not in terms of the government tariffs, which is a completely separate issue. Are you talking about cost-reflective levels?

The CHAIR: Yes. As you know, minister, a glide path is given in the budget. I am trying to work out whether the glide path is based on the modelling you do for cost reflectivity or an estimate in the government's mind as to what it may or may not increase the tariffs by? Does that make sense?

[2.00 pm]

Hon PETER COLLIER: It does. The policy at the moment is to go up at the rate of inflation—the CPI increase—so there is not a glide path per se.

The CHAIR: But in the calculation for the budget there is a glide path.

Hon PETER COLLIER: Yes, absolutely.

Dr Challen: I think there are values in the budget papers.

The CHAIR: The glide path is available, but I am trying to understand and what I want to know is if the glide path that is outlined in the budget based on what the expectation will be to cost reflectivity or, if it is not, what is it? It is not based on government policy. You are right and if it was based on government policy, you would expect the glide path to reflect the CPI that is based in the earlier assumptions to the budget. I am wondering whether that seven per cent is effectively based around what the impact on cost reflectivity is expected to be. Obviously, one of the other drivers in that—one of the big drivers, I would imagine—is the changeover in gas contracts over that time period. That is why I am asking the questions around cost reflectivity and projecting forward.

Dr Challen: The calculations of the cost-reflective tariff are not in the public domain at present, and it would ultimately be a decision of the minister as to whether he wanted those to be.

The CHAIR: I will make it supplementary information B4, and if you could provide us advice as to whether or not the glide path that is contained in the budget papers is based on cost reflectivity. If it is not, I would formally ask, through you to the minister, that we be provided with the projected changes in cost reflectivity over the forward estimates.

[*Supplementary Information No B4.*]

Ms Nolan: It is not really the glide path per se, because government has made no decision on a glide path. You want to see what changes in total cost of delivering electricity to the households are embedded in the budget.

The CHAIR: I want to see two things. I know that there is a glide path incorporated into the modelling of the budget, which includes seven per cent increases, I think, for the next two years.

Ms Nolan: That is the budgeting assumption, yes.

The CHAIR: Yes, the budgeting assumptions. I am trying to understand how that budgeting assumption is arrived at and is that linked to what your modelling says will happen to cost reflectivity. Does that make sense?

Ms Nolan: Almost.

The CHAIR: If that seven per cent is not based on what you expect to happen in trying to maintain cost-reflective tariffs, how is it arrived at? Also, what is your expectation that we would need to increase tariffs by each year to maintain our current position with respect to cost reflectivity, as opposed to getting a further gap? Does that make sense now?

Ms Nolan: Yes.

The CHAIR: I am trying to get that understanding. It is as much about the process as it is about the actual figures, but I am also interested in the final figures and where they will fit.

Hon RICK MAZZA: On page 767 of the budget papers there is “Income from State Government”. The first line there, “Service appropriations”, has got \$295 million, \$275 million and then there is a drop-off in the forward estimates of almost \$100 million. I just wondered why the difference is there.

Ms Nolan: I think the larger driver of that is the fact that this is what the Department of Finance’s cost of service provision is over that period. The department used to provide corporate services to other state government agencies through Shared Services, which was a division of the Department of Finance. We have closed our shared services business unit down as of December and therefore will no longer be providing those services to government agencies. Therefore, effectively, they have dropped out of the Department of Finance’s budget and they will be picked up in other agencies’ budgets. So, it is a structural change.

Hon RICK MAZZA: Then on page 770 in the expenses you have got “Pay-roll Tax Rebate Schemes”. I see there is a sharp jump in the budget estimate this year and next year and I just wondered what that related to.

Ms Nolan: Government, as part of an election commitment or a budget commitment, provided payroll tax rebates to particular smaller payroll taxpayers. It is done on a rebate scheme and it was a one-off initiative by government, hence there is that increase to \$128 million in the budget year 2013–14.

Hon RICK MAZZA: All right, so it was a bit of small business relief for those couple of years.

Ms Nolan: It was a one-off measure, yes. We are actually in the process of providing that relief now and nearly all the applications have been received and the payments are being made.

Hon MARTIN ALDRIDGE: I noticed, I think in today’s paper, that the department is going to be offering some payroll relief to CBH. I think that there was a tax ruling or a successful legal case. Somewhere in the order of \$38 million in payroll taxes have been paid which they are not liable for. Does that sound correct?

Ms Nolan: That is an article that is in *The West Australian* today. I am not the Commissioner of State Revenue, I cannot explicitly talk about what the Commissioner of State Revenue has done in

his environment, but I would make the comment there is probably a little bit of inaccuracy there in the sense that the state government does not actually make tax rulings. Whilst I could provide —

Hon MARTIN ALDRIDGE: We should ask the Office of State Revenue.

Ms Nolan: Yes.

The CHAIR: My advice was going to be just do not offend the ABC because they are the only ones in the gallery!

Ms Nolan: I am not sure if they are right; I think it is in *The West*. I am constrained by the fact that I cannot talk about individual taxpayers, first, because I do not necessarily know because I am not the commissioner for state tax and, second, I just make the point that the commissioner for state tax does not make state tax rulings. It may well have been an administrative tribunal decision. There was a tribunal decision that I think did result in a refund of some payroll tax to CBH, though.

Hon MARTIN ALDRIDGE: Just help me with the relationship. Is the Office of State Revenue an agency in its own right or part of the Department of Finance?

Ms Nolan: The Commissioner of State Revenue actually has explicit powers and functions under state tax legislation. Notwithstanding that, the Office of State Revenue is a business unit, effectively, of the Department of Finance. That being so, I do not have any direct knowledge of individual taxpayer assessment of taxpayer issues because I am not the commissioner for state tax. I guess there is a functional differentiation but, that being said, from a broader administrative basis, the Office of State Revenue is part of the department. For instance, the Commissioner of State Revenue, Bill Sullivan, is on the corporate executive of the Department of Finance and is an equal participant as is the Public Utilities Office, Building Management and Works, procurement.

Hon MARTIN ALDRIDGE: I was going to ask a question of whether or not that ruling would lead to further liabilities in relation to other similar organisations, but I guess that is a question better put to the commissioner.

Ms Nolan: Yes, thank you.

Hon RICK MAZZA: Just in your annual report, on page 26 it is stated that State Revenue collected more than \$7 billion in revenue. Do you have a breakdown of where that revenue comes from as far as payroll tax, stamp duty and other sources?

Ms Nolan: The budget provides a full breakdown of that.

Hon RICK MAZZA: Does it?

Ms Nolan: Absolutely. In fact, that table you referred to earlier on page 770 provides taxation by head of duty.

The CHAIR: I think there is quite a bit more detail in appendix 2.

Ms Nolan: There is a lot of detail, yes.

Hon ALANNA CLOHESY: I want to go back to Building Management and Works; it is my thing! You did not know that, did you? I refer to the Better Places and Spaces policy, which was announced in January last year—about 12 months ago. The annual report indicates that 53 projects have been reviewed under that policy. I want to get a sense of how many of those complied with the policy, what were the general areas that were reviewed in relation to that policy—in particular, the sustainability aspect of it interests me. How many complied and what kind of things did those projects have to do in order to comply with the policy? I am fully aware that that may be taken on notice.

Ms Nolan: I will make some general comments to start with. That was a very good document in terms of Better Places and Spaces policy and it was a high-level policy document that provided some advice on how you foster a culture of excellence in design and functionality and good value,

as well as how you actually assess good design. The guidelines are then being developed to support that. To say that 53 projects have been reviewed in that context, it was not necessarily a review to say did they pass or fail; it was more a question of what sorts of things and what learnings do we have from applying that. Some of those were retrospective and some of them were projects that were going forward. I cannot give you a scoresheet on that, but it has certainly been very valuable to start the conversation and to have better informed planning early on in the process. That is the real value that that document has provided. It has provided a good source of information for agencies when they are first starting off, so it has been very valuable in that context.

Hon ALANNA CLOHESY: How is the review process undertaken?

Ms Nolan: The review process is undertaken by the Office of the Government Architect. Steve Woodland, who was our state government architect, was very passionate about that. His office itself had a desktop review process effectively that it was undertaking as part of an initial implementation of that policy.

Hon ALANNA CLOHESY: Is that policy still being implemented? Is that process continuing?

Ms Nolan: Absolutely. It is a government policy. It went through the appropriate processes to be endorsed by government. As I mentioned earlier, some of the guidelines that are flowing from that to provide more advice and insight are still being developed.

Hon ALANNA CLOHESY: Is there a summary of the learnings following on from the review of those projects? You mentioned that there were things.

Ms Nolan: I do not know if there is actually a document or if it is just individual assessments. I could look into that for you.

[Supplementary Information No B5.]

Hon ALANNA CLOHESY: That is a summary of the outcomes, the findings and the reviews. What is proposed? What sort of buildings are proposed?

Ms Nolan: We will include that in that as well.

Hon ALANNA CLOHESY: Great.

The CHAIR: I just want to talk about the number of proposals for moving office space to regional areas. Without jumping straight to Joondalup, I might start with Stirling. Stirling, I think that that is all now on track and the Department of Commerce is going into this building across the road from the Stirling railway station and Ikea—is that correct?

Ms Nolan: No.

The CHAIR: Has the government leased space in the building that is currently getting built next door to Ikea on Ellen Stirling Boulevard?

Hon PETER COLLIER: Near Ikea?

The CHAIR: Maybe I will put my questions another way. Where are we up to with procuring space for government offices in Stirling?

Ms Nolan: Stirling went through an EOI process more than a year ago. Since we went out for that EOI, there has been a large change in the environment for office space. Vacancy rates have significantly declined and we are seeing far more competitive negotiation of leasing costs. One of the drivers to decentralising or moving offices out of the CBD was actually to reduce the cost to government of providing office accommodation. In the Joondalup case —

[2.15 pm]

Ms Nolan: Sorry, Stirling.

The CHAIR: You went to an expression of interest.

Ms Nolan: It is one of those situations; I know the answer, but I am not sure whether it is public or whether I can reveal what has happened to the EOI process at Stirling.

The CHAIR: Maybe we can go into a private session at the end of the public session, if you are happy to do that.

Hon PETER COLLIER: Yes.

The CHAIR: I will keep going through my others and there might be others that are private. What about Fremantle?

Ms Nolan: Fremantle was not as formal a process as the Stirling case. In Fremantle we went out for a market sounding, which we have yet to come to a conclusion on. It will be considered as part of the budget process. We did a number of business cases—I am going to jump to Joondalup—including Joondalup, in that market sounding process. They will all be presented to government as part of this year's budget process.

The CHAIR: Were the market soundings across the regions or was there a separate market sounding for each?

Ms Nolan: They were separate market soundings for Fremantle and Joondalup.

The CHAIR: I guess this is a question for the minister because it goes to policy. Is it still the government's policy to move the 80 000 square metres to Stirling, Fremantle and Murdoch and to relocate 600 public servants to Joondalup? There were two separate announcements; there was the 600 public servants to Joondalup and then I think it was 80 000 square metres to Stirling, Fremantle and Murdoch. Is that still government policy or is it subject to review as part of the budget process?

Hon PETER COLLIER: As far as I can recall it is, but, again, I will need to get clarification on it. I am not aware of any shift in policy in that area.

[Supplementary Information No B6.]

Ms Nolan: My comment on that is that it is a matter of timing as much as anything and the driver to the decentralisation policy was based on cost and that necessitated us doing a raft of business cases to look at the viability and feasibility of making those changes and when they will occur. The consideration of those business cases is currently the subject of consideration by government in the budget process.

The CHAIR: The original announcements certainly gave the indication it would be done by 2015. Is that likely to occur?

Ms Nolan: It is considered as part of the budget process.

The CHAIR: Yes, but even if you do, it would be highly unlikely to be completed by 2015, would it not, even if it was announced in this budget? I am not asking you to make the decision, but the idea of being able to secure a tenant unless it is an existing building —

Ms Nolan: That would be very challenging.

The CHAIR: Yes; challenging. What about Murdoch, which was supposed to be a purpose-built police facility?

Ms Nolan: There are land issues associated on that site and other costs associated with that site being factored into the business cases.

The CHAIR: That is still subject to government decision?

Ms Nolan: They are all subject to government decisions.

The CHAIR: With EOI, there is a decision to be made, and you can tell us that later; with market sounding, there has to be a decision about whether you go to an expression of interest.

Ms Nolan: Correct.

The CHAIR: There will still have to be a process beyond that. What is the process regarding the police facility at Murdoch?

Ms Nolan: That is in conversation with the department of police to ascertain the exact nature of their need for that space at Murdoch and how they want to structure their business in terms of location. There are ongoing conversations on that. We have not gone out for market sounding.

The CHAIR: Is that intended to be a government-owned development or are you looking at private land and at getting a private developer?

Ms Nolan: We will look at the range of options available there. We have not even gone out for those options yet; we are still at the planning stage.

The CHAIR: You said there was a problem with the site, so that is not a physical piece of land that there is a problem with, it is the general vicinity of Murdoch that is the problem?

Ms Nolan: There could be issues associated with the ownership of the site that was initially thought of concerning who owns it and how functional that will be for the police department. It is both aspects: the land itself and the specifics of accessibility et cetera.

The CHAIR: Is the land government owned or is it private?

Ms Nolan: I am pretty sure it is government owned in the broader context.

The CHAIR: We have plenty of land in Joondalup we can look at for putting them up there!

Joondalup is at the market sounding stage as well. There were also a number of regional centres announced at the same time—I say to my colleagues on the left and right of me, do not get upset—Mandurah, Busselton and Northam. How are we going with each of those?

Ms Nolan: Business cases are now before government for government to consider as part of the budget process. It is premature for me to make any comment.

The CHAIR: What process has been followed to date regarding each of those locations?

Ms Nolan: I cannot recollect whether we went out for specific soundings on those. I will need to get back to you with that to understand whether they are EOIs or market soundings.

The CHAIR: Can you give us a brief update, as far as you are allowed to reveal, where we are up to with each of those?

[Supplementary Information No B7.]

Hon PETER COLLIER: The three regionals?

The CHAIR: There was also the election commitment regarding the relocation of a department to Bunbury. I do not know whether it is the department or yourselves involved in that. Who is involved in that?

Ms Nolan: Not the Department of Finance.

The CHAIR: Why is that the case? I thought you managed office locations for government. I think it is Parks and Wildlife. Why are you not the lead agency? The announcement was very specific about where that site would go, so why are you not the lead agency on that proposal?

Ms Nolan: I understand that under their act, they have the ability to procure and build their own accommodation and do their own public works. That is why it was considered to be a feasible option.

The CHAIR: Are you able to provide us—I am happy for to you take it on notice if you cannot—with a break-up of the costs involved in the relocation of two minister's offices in July 2012 from Governor Stirling Tower to Dumas House? I understand the total cost was \$3 million, but I was looking for a break-up of that cost in terms of fit-out, new furniture, removalist's costs and any other items and the relocation of two ministers referred to in the 2013–14 midyear review. Is it

different from the cost of that 2012 relocation; and, if so, why? Again, can we have a break-up of the cost of the \$3 million for fit-out, removalists, new furniture et cetera?

Ms Nolan: We will take that on notice, thank you.

[Supplementary Information No B8.]

The CHAIR: There might be other categories such as architecture, building design, building services, surveying and your fees.

Hon MARTIN ALDRIDGE: I refer to the expenses, grants and subsidies on page 770 of budget paper No 2. The public swimming pool operating cost subsidy appears to have concluded in 2012–13. I understand that was a small direct subsidy to local governments but nevertheless important for the maintenance of swimming pools. Did that program cease as part of a rationalisation or efficiency dividend of the department?

Ms Nolan: That swimming pool subsidy scheme had been in existence for a number of years. Government took a decision as part of the budget process that it would no longer fund that program.

Hon MARTIN ALDRIDGE: Is that part of your spending changes?

Ms Nolan: No, it was not part of that; it was a specific budget initiative by government.

Hon MARTIN ALDRIDGE: Has the department had any complaints from local government about the cessation of the program?

Ms Nolan: Not to the best of my recollection, no.

Hon MARTIN ALDRIDGE: Can you take that on notice?

Ms Nolan: Sure.

[Supplementary Information No B9.]

Hon MARTIN ALDRIDGE: I notice that the Department of Finance provides some services and advice on cybersecurity to state agencies, including incident response. This is obviously an area, I understand, the Auditor General takes an interest in when he conducts his audits of agencies. I guess this has become a little bit topical recently in relation to the ability and capacity of government infrastructure to deal with cyber threats. Perhaps you would not describe the Greenpeace email petition as a cyber threat, but it did a pretty good job of bringing down the IT infrastructure within the Department of the Premier and Cabinet recently. To what extent does your department work with public agencies in relation to ICT to make sure they are prepared for and capable of dealing with cyber threats?

Ms Nolan: Good question. The department works with all the state government agencies on cyber threats to ensure that agencies think about those issues and their risk assessment processes and their internal planning arrangements and how they provide their ICT systems. Just as significantly, we work with federal government agencies that are the linkage because they obviously have greater oversight, depth, knowledge and experience in that area than state government agencies. We work very closely with the commonwealth government and with the other agencies to detect issues and provide that conduit of, I guess, education, awareness, guidelines and procedures. It is an overarching policy-type role rather than us being responsible for each of the individual agency's cybersecurity arrangements. Over the last couple of years, we have had the Auditor General's reports and I think I have sat here in front of other committees and provided advice on increased efforts we have gone to to ensure agencies are well and truly aware of threats and the potential raft of measures they can take to ward off those sorts of cybersecurity issues, one of which you just mentioned. I know there was a conversation with a raft of different commonwealth government agencies and the state government.

Hon MARTIN ALDRIDGE: Given the department is involved in incident response or at least in assisting agencies to deal with incident response, would you capture information in relation to threats, either attempted or successful, to compromise ICT within agencies?

Ms Nolan: Some.

Hon MARTIN ALDRIDGE: Is that information you can provide to the committee in private, perhaps not specifics, but I am interested in knowing how vulnerable state agencies are and whether some state agencies are more vulnerable than others or some that are greater targets than others and whether we have had compromises of our ICT structure?

[2.30 pm]

Ms Nolan: As you can imagine, that is quite a sensitive area and the commonwealth government is involved in many of those areas. I would need to take that question on notice as to the extent which we are able to reveal that information. The first question that you asked about, the extent of vulnerability, is actually an agency-by-agency issue. But the question of the number of, I guess, thwarted threats that we have had may be available.

Hon MARTIN ALDRIDGE: Some of our agencies have quite sensitive information; information that we want well protected for the privacy of our citizens and our processes of Parliament and government. Obviously, I would like to have a greater understanding of if some of those threats or compromises were successful, whether or not, and how government has responded to those. If you could take that on notice.

Ms Nolan: Yes.

[*Supplementary Information No B10.*]

The CHAIR: I am intrigued and want to go back to that first issue and the view that the Department of the Premier and Cabinet basically did compromise security. Is that the agency's job to be making sure that they have a system that is able to cope with that or not? You would not provide advice then to them on that?

Ms Nolan: We provide advice but we do not provide the system or the mechanism.

The CHAIR: I must say, I found it extraordinary that an agency like that would not be prepared for being inundated with emails. I mean, I would have thought that that would be a fairly common event.

Hon ALANNA CLOHESY: A regular event.

The CHAIR: And if not in the past, I expect it will be in the future. My experience would be, even as members of Parliament, we will have days where an issue will run hot. I remember daylight savings, I think there were worms going around that just created all these emails coming into our offices. I am just surprised that there would not be some sort of a stock standard government policy about having the technology there to prevent those sorts of attacks. Is there not?

Ms Nolan: There is government policy about the need to do risk assessment and put in place appropriate procedures and systems to thwart risks and minimise the chance of risk. The specific case of the Department of the Premier and Cabinet would need to be referred to them.

Hon RICK MAZZA: I would like to ask a few questions about the first home owner scheme, if I could, please.

Ms Nolan: Okay.

Hon RICK MAZZA: Having a glance through the report there seems to be a bit of a spike in the amount of expenditure under the first home owner scheme; there has been an increase. I think it is page 87 of the annual report. The commentary basically is that there has been an increase in housing activity.

Ms Nolan: Right, yes.

Hon RICK MAZZA: During the budget, there was a change in the first home owner scheme to increase the first home owner scheme for new dwellings to \$10 000 and reduce the first home owner scheme for established dwellings down to \$3 000. Is there any data available yet as to whether that has had an effect on first home owners building new homes rather than buying established?

Ms Nolan: The changes have been delivered by the department. As you said it was \$10 000 for new homes and \$ 3000 for existing homes. Activity levels continue to remain strong. December is not a great month to focus on, but in general the number continues to be quite strong. I have got some information that does not quite help go to your question in terms of numbers, but the activity levels are strong, particularly in the new homes.

Hon RICK MAZZA: In the new homes. Is there any evidence of a shift in trend towards new homes since the changes have been made to the first home owner scheme?

Ms Nolan: I do not have trend analysis information in front of me, but my understanding is that the first home owner activity remains strong in general. I do not think we have seen—I would have to take that on board.

Hon RICK MAZZA: Can we get that on notice to find out whether there is a change in trend towards new homes for first home owners—increased stock?

[*Supplementary Information No B11.*]

Hon RICK MAZZA: On page 79 of that same report, it states —

Under the *Contaminated Sites Act 2003*, the Department is required to report known and suspected contaminated sites ...

In 2006–07, DEC reported a contaminated site. What was the nature of that contaminated site? Do you know what the contamination was?

Ms Nolan: That well preceded my time by a number of many years, so I am afraid I would need to come back to you on that.

Hon RICK MAZZA: All right, that was 2006–07, which was quite a while ago. I am just wondering if there have been any other reported contaminated sites since then.

Ms Nolan: As far as I am aware, no, because otherwise we would have had to report it in our annual report! But, no.

Hon RICK MAZZA: So there are no government buildings in existence now with asbestos in them or anything like that that is of concern?

Ms Nolan: I am sorry, my answer was in relation to the fund itself, the specific occasion. You are asking more generally about asbestos and the like. That is sort of a slightly different question.

Hon RICK MAZZA: Yes.

Ms Nolan: I am loath to say it, but I do not know.

Hon RICK MAZZA: You do not know. Is that something else that we can take on notice and you could find the answer?

Ms Nolan: Could you just repeat the nature of that question was, because it is quite a detailed area?

Hon RICK MAZZA: The number, if any, of reported contaminated sites since the one in 2006–07, and the nature of the contamination.

Ms Nolan: Okay.

[*Supplementary Information No B12.*]

Hon ALANNA CLOHESY: You may or may not be associated with this, but when we met with Premier and Cabinet this morning, they suggested that I ask this question of you under Building Management and Works: what is the number of electorate offices that are known to have asbestos contained in them?

Ms Nolan: I do not know the answer to that question. It is a very specific one that perhaps we can take on notice.

Hon ALANNA CLOHESY: Yes, and which offices they are.

Ms Nolan: Which offices, okay.

Hon ALANNA CLOHESY: And then I might extend that, if I may, to: what are the plans for the removal or containment of that?

Hon PETER COLLIER: On the assumption that there are offices.

Hon ALANNA CLOHESY: On the assumption that you know of some.

Ms Nolan: Are we removing the electorate offices? No.

Hon ALANNA CLOHESY: As I do.

Hon PETER COLLIER: Oh, really?

Ms Nolan: We will get that information for you.

Hon ALANNA CLOHESY: Thank you, I appreciate it.

[Supplementary Information No B13.]

Hon ALANNA CLOHESY: In the midyear review, the Departments of Planning and Commerce received an additional amount of money. They got additional funding for accommodation expenses and those departments would work with your department to address those accommodation issues and costs.

Ms Nolan: Yes.

Hon ALANNA CLOHESY: Can you outline what those issues are and how your department intends to work those departments?

Ms Nolan: Yes, sure. My understanding is that the Department of Planning and the Department of Commerce both had budget shortfalls for meeting their accommodation costs. That may have been an accident of history or whatever it may have been, but they were provided with additional funding to meet their accommodation costs. In terms of working with planning, we continue to work with them to ascertain the nature of their needs—they are largely located in 140 William Street—as to best meet their needs. That does not require significant change; it is probably more of a budgetary issue. The Department of Commerce is another issue and it relates back to the issue that the Chair mentioned earlier in terms of where Commerce is to be located into the future. I can provide that detail when we come back.

The CHAIR: That would be B14.

Ms Nolan: You wanted to ask in camera the question of the Stirling —

The CHAIR: Will you do that in camera?

Ms Nolan: Yes, I will do that in camera.

Hon ALANNA CLOHESY: Because it is related.

Ms Nolan: Yes, because it goes back to Commerce's accommodation.

The CHAIR: In the midyear review, the agency was allocated \$2.5 million for the cost of implementing the single company structure to merge Synergy and Verve. What has that \$2.5 million been spent on?

Ms Nolan: That \$2.5 million is an allocation to the Department of Finance, specifically to the Public Utilities Office, to enable it to undertake the legal work, the commercial work, the other technical work associated with that merger arrangement as well as the staffing of the project office.

The CHAIR: How many people are actually allocated to the project office?

Dr Challen: We had a team, that varied depending on the work that we were doing at the time, of four to five people in that office. Some were from the department and some were engaged as consultants for the term of that project and one was actually seconded from Synergy for that project.

The CHAIR: Is that office still going? Have they now finished their role or is there work still being undertaken in terms of regulations and the like?

Dr Challen: That team has actually been substantially reduced in size. We have got a few, for want of a better term, loose ends, to tie up on the merger.

The CHAIR: Wires to make safe.

Dr Challen: Those specifically relate to a second set of regulations that are coming out around the standard product regime, a standard wholesale energy product that the merged entity will have to offer. The regulations are in force, but the actual obligation to provide those standard wholesale energy products will come into force on 1 July and we are developing the guidelines that are imposed by government on the entity to provide those. That is the continuing piece of work, which has a project team of two people working on it at the moment.

The CHAIR: That leads me to my next question. Obviously, the merger occurred on 1 January but not everything has been put in place to manage that merger. Am I correct in that?

Dr Challen: If we look at the instruments that we have put in place for that merger, they really fall into two categories. One was the ring-fencing regulations. The ring-fencing regulations refer to who can know what effectively in the business around information; what information is quarantined to the retail business, what information is quarantined to the wholesale business and what information is quarantined to the generation business. All of that came into effect on 1 January when the merger actually occurred. As I said previously, the one piece of outstanding work is this standard wholesale energy products regime. The reason that that was put off is that that is actually a fairly technical piece of design work which, if designed poorly, can expose the business to a lot of financial risk. It also was not strictly necessary for competition reasons and to provide comfort for the private participants in the market to implement that on 1 January. A decision was made that we would be a bit more careful with that one because of the financial risk that could result for the business if that was not done properly. For that reason, the commencement of that phase was put off until 1 July this year.

The CHAIR: Was that office involved in any of the development of the business case or was that Synergy's role to develop the business case that identifies the benefits of the merger?

[2.45 pm]

Dr Challen: The merger implementation group, which was the steering committee established by government to implement the mergers, was required to report to the minister on the benefits that are expected of the merger. The actual steering committee still formally exists, although we are not meeting as often, but we expect to report to government within the next month.

The CHAIR: I want to make sure I understand your answer correctly. Are you saying that you still have not reported to the government about the benefits of the merger? Are you still developing that report?

Dr Challen: The merger implementation group is still completing that report. It has progressed beyond the merger day because up until 1 January there were a number of regulatory constraints on what was then the Verve Energy business and the Synergy business on communicating with each

other. It has been only subsequent to the merger that we can undertake the financial modelling using the information of both businesses to complete that assessment.

The CHAIR: Did the merger effectively occur without knowing what the benefits would be?

Dr Challen: At the moment we are refining the estimates now that the two businesses can actually talk to each other and have integrated financial knowledge, if you like.

The CHAIR: This is probably more of a question for the minister; is it the intention of government to make that document public when it is complete?

Hon PETER COLLIER: I am not sure if the minister would want to make that public, but I will check with him and get back to you.

The CHAIR: Probably whether it is good news or bad minister.

Hon PETER COLLIER: I will ask the minister and get back to you.

[Supplementary Information No B14.]

The CHAIR: When do you expect to complete that work?

Dr Challen: The expectation of the merger implementation group is to complete that work in February.

Hon PETER COLLIER: In two days.

The CHAIR: I was about to ask, on Saturday or in 30 days' time?

Dr Challen: The minister is currently on leave until about the middle of February. We would be looking at providing a report at or soon after that time.

The CHAIR: They never let you have that long a leave, do they, minister? You are basically planning having it to give him when he comes back as a nice present in the box that goes to him on his return—some light reading.

Hon RICK MAZZA: I refer to page 17 of the annual report and the building management works. In the first paragraph or so you talk about completing new schools for the 2013 academic year. Where are those schools being built?

Hon PETER COLLIER: I think that 12 new schools have been commenced and are all pretty much on time. I think there are probably three or four that are almost completed. They will be completed in March, give or take a couple of weeks.

Hon RICK MAZZA: Whereabouts are they? Are they city based?

Hon PETER COLLIER: It is a combination of both. There are a couple of secondary schools in the south, a couple of primary schools in the north, and a primary school in the south at Dalyellup. I can get you the list if you like. I think there are 12 in total builds and another couple of annexes.

The CHAIR: We will make that B15 then.

Hon PETER COLLIER: I can provide the information to the minister if you like, in my capacity as the Minister for Education —

The CHAIR: If the member is happy, the simplest thing is just for you to provide the information directly to the member, if the member is happy with that.

Hon RICK MAZZA: Yes.

Hon PETER COLLIER: I will get it to him this afternoon.

Hon RICK MAZZA: This next question goes back a little bit, so let me know if it is outside of what I should be asking. The federal government built a number of buildings at different schools, particularly in the rural areas. Did the federal government provide those funds to the state government and the state government expend them?

Hon PETER COLLIER: Yes, that is part of Building the Education Revolution. They are BER buildings. They are very good and are fundamentally for additions to schools for things like libraries, administration blocks and assembly blocks. In essence, they supplement the facilities at the school as they exist. You see them everywhere. In terms of the process —

Ms Nolan: The commonwealth government provided funding to the state government, and the state was responsible for managing the construction of those new facilities.

Hon RICK MAZZA: Was the state government responsible for assessing which schools should get these particular buildings, or did you have guidelines from the federal government that you had to use to assess those schools?

Hon PETER COLLIER: Essentially the Department of Education made the determination on what schools required in particular areas. The outdoor covering areas were very commonly used.

Ms Nolan: There were general guidelines as to what the commonwealth was prepared to fund, then it was up to the state government to do a more detailed assessment and allocation it to the schools.

Hon RICK MAZZA: Did the schools themselves have any input or consultation?

Hon PETER COLLIER: Yes, they did.

The CHAIR: But they were limited in terms of having either a X, a Y or a Z. There were art rooms, libraries and certain categories —

Hon PETER COLLIER: Some had administration blocks and some of them used early learning centres.

Hon ALANNA CLOHESY: And different rounds of funding were for different things.

Hon RICK MAZZA: I know that at one school, Frankland, quite an extensive building was built, but it would appear that it is barely utilised. The number of pupils at the school is dropping.

Hon PETER COLLIER: Sorry, where is Frankland?

Hon RICK MAZZA: Frankland River. It is a fair way down. It was just an observation.

Hon PETER COLLIER: It would be one of the few schools in the state where the numbers are declining at the moment, but that happens around the traps. It is a shame if that is the case.

Hon RICK MAZZA: It is quite a facility there. It was a good program.

The CHAIR: On the issue of Building the Education Revolution, have all the works been completed?

Ms Nolan: There is some last minute tying up of loose ends, but basically it has been finalised.

The CHAIR: Do you have a reconciled account of exactly how much was received and spent on buildings and how much was retained by the department for fees and services et cetera?

Ms Nolan: Yes.

The CHAIR: Are you able to give that to us now?

Ms Nolan: Not off the top of my head sorry.

[Supplementary Information No B15.]

Hon MARTIN ALDRIDGE: It is a lot of homework.

Ms Nolan: Yes, it is a lot of homework. I thought the focus was going to be on public utilities.

The CHAIR: I have asked a few questions around that area.

Ms Nolan: We apologise but some of the questions asked have been very detailed in nature and we have not had that information at our fingertips, but we will certainly provide it.

The CHAIR: I will talk about the transfer of the Office of Strategic Projects and the regulatory gatekeeping unit from Treasury to the Department of Finance. I think you mentioned earlier that they have not been transferred over yet, is that correct?

Ms Nolan: The regulatory gatekeeping unit came over on 1 July last year.

The CHAIR: When is the Office of Strategic Projects expected to come across?

Ms Nolan: The intent was for it to have already been transferred over to the Department of Finance. However, some legal issues associated with delegations and the Public Works Act had to be worked through in a legal sense and we are yet to come to a resolution of those issues.

The CHAIR: Can you give us any more detail about those issues?

Ms Nolan: It had to do with the delegations. The intent was for the Office of Strategic Projects to be part of the Department of Finance but continue to report to the Treasurer. That dual responsibility with part of a department reporting to another minister is reasonable, but under the delegations can only be done through particular channels, and that created some difficulties for us.

The CHAIR: What was the purpose of transferring it to your agency if it still reported to the Treasurer?

Ms Nolan: As we mentioned before about the projects, the differentiation between the projects that have gone into Strategic Projects and the projects that go to the Department of Finance's Building Management and Works is largely size, but many of the skills and capabilities of the staff are common. We felt that there was a great opportunity to learn from each other and enhance overall skills and capability. Notwithstanding, we still need to keep a Strategic Projects unit as a Strategic Projects unit so it does not get weighed down with a raft of smaller projects, and conversely those smaller projects still have a focus, so we still continue to maintain separate areas but the intent was for systems, processes, people and procedures to work far more closely together. As a consequence, we have stepped up the collaboration between the two areas and we are working very well together to the extent that we are not sure if there are further synergies to be gained, but that is a matter for government to make a decision on. At the moment, we have certainly worked more closely with the Office of Strategic Projects and them with us. As a consequence, we believe that we are able to work well together. We have seconded staff to the Office of Strategic Projects and vice versa as and when workload pressures require it or particular skill sets are required, and we are currently working on using the same systems and procedures where that is appropriate depending on the nature and size of the project. It is about synergies and efficiencies.

The CHAIR: Were you consulted on that change prior to it being announced?

Ms Nolan: There was conversation.

The CHAIR: Why were those complexities not identified at the time of the consultation or the conversation, however you want to determine it?

Ms Nolan: It was a very detailed issue that was thrown up when we investigated further.

The CHAIR: I ask because it strikes me that those are fairly stock standard things. If you were doing a due diligence before making a decision about those things, you would go through and look at all the potential complexities of it to scope the problem before you made the announcement. My concern is that ideas are thought of as a great idea and then announcements are made and then people go away and do the work and find out there are all these difficulties with it.

Ms Nolan: It is just a matter of overcoming those difficulties and working through them, and it has taken a bit more time than initially anticipated.

The CHAIR: Were those complexities identified before the decision was made to proceed?

Ms Nolan: The detail of them may not have been there but there was certainly the conversation about the ability to make that transition.

Hon ALANNA CLOHESY: I understand that the Public Utilities Office had some responsibilities in relation to the merger of Synergy and Verve, the board and some company structure issues as well, is that right?

Dr Challen: I was a member of the merger implementation group, which was the steering committee that implemented the merger. As I previously mentioned, the Public Utilities Office provided some staff to the project team and through the Department of Finance we provided the premises in which that project team worked.

Hon ALANNA CLOHESY: Feverishly.

Dr Challen: It was a busy time. We were also the procurement entity for the consultants that were used on the project.

Hon ALANNA CLOHESY: So there was some allocated funding to set up the board structure. How was that used? What sorts of things were involved in that?

Dr Challen: Sorry, the board structure for implementing the merger or —

Hon ALANNA CLOHESY: Yes, that is what I understood it to be.

Dr Challen: The merger implementation group was the steering committee in charge of making the merger happen, and I was a member of that committee. Then there was a separate board of the merged entity or the business itself.

[3.00 pm]

Hon ALANNA CLOHESY: In the budget papers it talks about costs associated with setting up the board of the entity.

Hon PETER COLLIER: I think that is the combined board you are talking about; the Verve–Synergy board.

Hon ALANNA CLOHESY: That is right.

Dr Challen: Okay. We actually did do some work. You may recall the first stage in undertaking the merger was to establish a common board across the two entities. The two businesses still had their own boards but they were the same people on both of those two boards. That actually was established, I think, in the first week of July last year. To establish that board we had to make sure that we operated within commonwealth competition law requirements. We actually had to put some regulatory constraints around what that board and what that business could do in the six months before the merger proper actually happened. There were a number of —

Hon ALANNA CLOHESY: That is all that ring-fencing.

Dr Challen: That was more a case of there were regulations along matters like the two businesses have to continue operating independently on major parts of their business; things like their electricity trading and the like, so there were still two electricity trading desks between the two businesses. There were costs involved on legal advice in actually putting those regulations in place which constrained those two businesses and the way they operated pending the merger on 1 January. I think there were costs, from memory, in the order of about \$300 000 incurred on the legal advice and the drafting of regulations to put those in place. That occurred mainly in May and June last year.

Hon ALANNA CLOHESY: In terms of the now newly merged entity, are there any more costs associated or remaining, and responsibilities remaining, with your office?

Dr Challen: Yes. As I mentioned earlier there is a reduced project team which is putting in place the final elements of the regulatory framework for the merged entity. Again it relates to the standard wholesale product regimes of wholesale energy products that the business will be required to offer. There are also the final reporting requirements around the expected benefits of the merger. Most of

the costs that we are going to incur are in that final element of the regulatory framework—the standard products regime. We are expecting costs in the order of about \$300 000 for the financial, commercial and legal advice to put that in place.

The CHAIR: Do we have an idea of what the total cost of the merger is to your organisation?

Dr Challen: The total cost of the merger for the actual merger implementation group, the costs that actually came through the Department of Finance, will fall within the \$2.5 million budget that was set for us by government.

The CHAIR: That is from the announcement last year through to the completion?

Dr Challen: That is correct.

The CHAIR: Are you able to provide us with a break-up of how much that was on internal resources and how much was for outside consultants, and how much was legal and how much was accounting and how much was other consultants?

Dr Challen: Yes, we can provide that breakdown.

[Supplementary Information No B16.]

The CHAIR: In terms of the ring-fencing, who is going to be responsible for policing that internal ring-fencing within the new merged Synergy?

Dr Challen: There are two elements to that. The Economic Regulation Authority is required to report annually on the effectiveness of the regulatory regime that is applied to the merged entity. The Auditor General is also required to look at the processes that the entity has put in place and their implementation of those processes as part of an annual audit of the business. That sort of policing responsibility, for want of a better word, is both the Economic Regulation Authority and the Auditor General.

The CHAIR: The issue I have is that in a sense the Auditor General, though, will only be able to look at processes, in a sense, will he not? If I am somebody outside from a private entity and I have concerns because I keep getting undercut by Synergy selling power in the contestable market at below cost and I think there is something going on internally, who do I go to? Who is the person I go to to report that and ask for it to be investigated?

Dr Challen: That could go to either the Auditor General or the Economic Regulation Authority. As you correctly pointed out, the Auditor General deals much more with compliance with policy and procedure. To say rather glibly, in a tick box: did they comply or did they not comply with policy and procedure? If they make an adverse finding against the entity, then that is actually referred to the Economic Regulation Authority to deal with as part of their annual review. The Economic Regulation Authority can either take on board complaints from parties in its own right as also matters referred from the Auditor General to look more at the substance of those matters and the consequences for the actual electricity market. That is why we developed the regulatory framework as part of the merger implementation group that includes the Economic Regulation Authority in that role so that the policing is more than just a compliance issue, it actually deals with the substance of behaviour.

The CHAIR: Does anyone have the power to go in and ask to look at the documents, to question staff or have the power to formally conduct an inquiry into whether or not there has been a breach of the segregation arrangements?

Dr Challen: Both the Auditor General and the Economic Regulation Authority have powers of information collection under their own enabling legislation that would actually enable them to do that.

The CHAIR: They do have powers. The Auditor General has powers to investigate and I think the terminology that is used in the regulations is that they have complied with part 2 divisions 1 and 2

and segregation arrangements. That is from an audit perspective; I am not sure that that is from an investigation perspective. If I recall correctly there are financial penalties incorporated into the act if there is a breach of those segregation arrangements. I am not sure that the Auditor General is an investigative body in that sense.

Dr Challen: No; that role falls to the Economic Regulation Authority.

The CHAIR: They formally have the powers to be able to conduct that investigation?

Dr Challen: They do have certain powers to obtain information. Bearing in mind also that as well as the Auditor General and the Economic Regulation Authority, if there was a substantial complaint dealing with anti-competitive behaviour, then commonwealth legislation has effect as well and the ACCC would have investigative powers if there was a complaint of anticompetitive behaviour.

The CHAIR: The ACCC will be the body that ultimately investigates a breach of anticompetitive behaviour, which is effectively a breach of the ring-fencing, but then they will not have the power to prosecute under the state act, will they?

Dr Challen: No, but they have their own prosecution powers. There are different levels. There are matters of noncompliance with the regulatory regime, so a strict by-the-letter noncompliance, which the Auditor General should be able to pick up. There are issues of: is the regulatory regime effective or not in keeping the merged business acting competitively in the market? If somebody did have a complaint of anticompetitive behaviour, as for any other business that exists anywhere in Australia, that would fall under commonwealth legislation.

The CHAIR: What is the point of the penalties within the merger legislation for breaches of that? Why is it not just left to the ACCC? I do not see how either the ERA or the Auditor General is going to be able to conduct an investigation and prosecute a case for breach of those segregation arrangements rather than ring-fencing.

Dr Challen: A breach of the actual regulations is not necessarily an anticompetitive matter that would go to the ACCC to investigate. The ACCC generally deals with intentional or wilful anticompetitive behaviour by businesses.

The CHAIR: But a breach nonetheless.

Dr Challen: An actual breach of the regulations, such as there was information sharing between one part of the business and another contrary to the regulations. That may not have had an anticompetitive effect, it may have been wilful anticompetitive behaviour but nevertheless was a breach of the regulations and they attract a penalty from the Economic Regulation Authority.

The CHAIR: They have the personnel and the skills to be able to conduct investigations that would allow for a prosecution to occur?

Dr Challen: That is actually a new function of the Economic Regulation Authority. I think the Economic Regulation Authority is having those discussions internally about how they are going to equip themselves to undertake that function.

The CHAIR: That is why I want to be clear: the investigation and prosecution of any breach of the state act, it will ultimately be the ERA that has to do that?

Dr Challen: That is right, with a right of appeal to the courts.

The CHAIR: Minister, this is the question I want to know. I think you have accepted that it is a new function and a new role for the Economic Regulation Authority: what are the resources in terms of financial but also physical in terms of the skills to be able to carry out those new functions? No disrespect, I think there are a lot of fine people down at the ERA, but what we are talking about here would be a very specialised and complex area of investigation. Apart from just needing the technical skills it would also, I would imagine, require investigative skills in terms of the recording

of evidence and all the rest to successfully prosecute someone under the legislation. I am not sure whose job it is to make sure those skills are being upgraded at the ERA.

Dr Challen: All I am aware of at the moment is that the ERA is considering those matters at the moment. But I am not aware of what they have actually decided in terms of how they are going to undertake that function.

Hon PETER COLLIER: It is obviously being considered. I concur with you; I think the ERA has an extraordinary amount of capacity and talent, having worked with them for about four and a half years. They are very active in a number of areas. This is another responsibility that is bestowed upon them. I cannot answer your question, to be honest, in terms of whether or not there has been additional capacity considered for resources et cetera. As Mr Challen just said, they are working through that at the moment in terms of resources. Again, I will speak with the minister and see if that is being considered by him.

[Supplementary Information No B17.]

The CHAIR: We are trying to work out exactly where in the system and who is ultimately responsible for it. The Minister for Finance is not the actual minister for the ERA either. If it is not the ERA, who do we need to go to to get that information? I would have thought as part of the overall implementation of the reforms the Minister for Energy would have a keen interest to ensure that is occurring to ensure the integrity of the structure that should be coming into place as a result of the changes.

Dr Challen: Ultimately the budget of the Economic Regulation Authority is in the Treasurer's portfolio. I imagine those discussions will happen in the near future.

The CHAIR: The Under Treasurer is coming in in a couple of weeks. If your advice is going to be something like, "We cannot answer it", can you make sure you let us know before we bring the Under Treasurer in? It will probably not be you with that one, minister. If it is somewhere else, we would not mind knowing that so we can pursue it. Are there any other members' questions?

[3.15 pm]

Hon RICK MAZZA: I have got one question. It is to do with the red tape reduction report. How many of those recommendations have been implemented?

Dr Challen: I know we have compiled those numbers. I do not actually have them with me, so I am happy to provide the recommendations that have been implemented as a question on notice.

The CHAIR: A bit of red tape to go through to get that!

[Supplementary Information No B18.]

Ms Nolan: We last did it just before Christmas.

Dr Challen: We do actually have the numbers compiled; I just do not have them with me.

The CHAIR: On that issue, do we know where the review of planning and building approval is up to?

Dr Challen: Yes. That was to be undertaken in two stages. The first stage was to be completed in early November and we completed that stage. The second stage is currently scheduled to be completed in the middle of March—17 March, I think—and we are on target to be producing the report at that stage.

The CHAIR: Is that a public report or a report for the minister only at this stage? That will be up to the minister.

Dr Challen: It will ultimately, I think, be a report to the minister.

Ms Nolan: It is to EERC.

The CHAIR: We will go into a quick private session.

[The committee took evidence in private]

[3.23 pm]

The CHAIR: Now I will formally take as supplementary information B20 which government agencies are moving into the government offices at Tassels Place.

[Supplementary Information No B20.]

The CHAIR: 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. Responses to these questions will be requested within 10 working days of receipt of the questions. Should you 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. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of this hearing. Again, on behalf of the committee, I thank you very much for your attendance today.

Hearing concluded at 3.24 pm