EDUCATION AND HEALTH STANDING COMMITTEE

INQUIRY INTO THE DEPARTMENT OF HEALTH'S RESPONSE TO THE CHALLENGES ASSOCIATED WITH COMMISSIONING FIONA STANLEY HOSPITAL

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
THURSDAY, 13 FEBRUARY 2014

Members

Dr G.G. Jacobs (Chair)
Ms R. Saffioti (Deputy Chair)
Mr R.F. Johnson
Mr N.W. Morton
Ms J.M. Freeman

<001> G/4

Hearing commenced at 1.14 pm

Mr TIMOTHY MARNEY
Under Treasurer, examined:

Mr ALISTAIR JONES
Acting Executive Director, Strategic Policy and Evaluation, Department of Treasury, examined:

The CHAIR: Thank you, Tim Marney and Alistair Jones, for appearing before us. We have some cameras here for the opening statement and then we will ask the cameras to leave. This is an open session, however. On behalf of the Education and Health Standing Committee I would like to thank you for your appearance before us today. The purpose of this hearing is to assist the committee as it gathers evidence for its inquiry into the Department of Health's management of the commissioning of the Fiona Stanley Hospital. The Education and Health Standing Committee is a committee of the Legislative Assembly of the Parliament of Western Australia. This hearing is a formal procedure of Parliament and therefore commands the same respect given to proceedings in the house itself. I am sorry, Tim; you have heard this many times before. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any document or documents during your evidence, it would assist Hansard if you could provide the full title for the record. Before we proceed to the questions we have for you today I need to ask you a series of housekeeping questions. Have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIR: Do you understand the notes at the bottom of the form about giving evidence?

Mr Marney: Roughly.

The CHAIR: You have some practice!

Mr Jones: Yes.

The CHAIR: Did you receive and read the information for witnesses briefing sheet provided with the "Details of Witness" form today?

The Witnesses: Yes.

The CHAIR: Do you have any questions for us?

Mr Marney: No. I am happy to launch straight in.

The CHAIR: I will kick off by congratulating you, Tim, on your appointment as the new Mental Health Commissioner.

Mr Marney: Thank you.

The CHAIR: Tim, I may address you to start. Could we ask the cameras to now vacate the room so we can start the inquiry? Tim, realistically, in the whole process of the commissioning of the Fiona Stanley Hospital, did you believe, in all honesty, that this project could be brought into a fully functional, commissioned hospital without significant extra funding?

Mr Marney: I think under the protocols of such hearings I am not supposed to give my views or beliefs on things; however, I think if I can sort of take your question in a slightly different way, I had raised concerns on a number of occasions with the Department of Health and with the Treasurer, both verbally and in written form. I think I raised on a number of occasions, in risk statements, budget papers and the midyear review, that I was concerned, firstly, at the time line for the commissioning of Fiona Stanley Hospital, and associated with that the potential for additional cost. Obviously, if it takes longer to commission because there is more activity to do in preparation, then it is going to cost more. I think I had also raised in a number of forums that I was concerned—and this would go back more than three years ago—that there was inadequate planning and financial provision for the complexity of transitioning the health system to incorporate the shifts in activity required to commission Fiona Stanley Hospital within the context of the broader health system.

[1.20 pm]

The CHAIR: Tim, you were on the task force that was formed—it was actually a resolution of cabinet to form a task force—I suppose to augment, help, advise and get, if you like, some traction in the process of the whole issue of commissioning the hospital. It is on the record that in fact there was more money put into that process—$52.7 million more than envisaged. Of that, an extra $16.7 million was for the delay and an extra $36 million was for the phasing-in process. Then there was what we call a relatively fixed phase-in of $75 million. Then we have also heard about the implementation and procurement of information technology systems at a cost of $120 million. Did you ever raise, as a member of the task force, your concerns that you have explained to us today about not only the phasing in but also the extra costs that were related to that?
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Mr Marney: The task force first met on 25 September 2012. At that point, delay in phase was not part of the consideration. It was only really March 2013 that there started to be consideration in a serious way around phase-in delay. Prior to that, yes, I had concerns about the cost, but it was not related to phase-in delay; it was just about the transition of the system as a whole and the preparedness of Health to commission the hospital. I felt the preparations that were underway at that point—we are talking late 2012—were substantially underdeveloped and, already at that point, probably way behind schedule. To commission a 783-bed hospital should be a three to four-year task, and in terms of systems and processes to transition and commission, you are probably looking at 20 per cent of your build cost. As a rule of thumb, it is 20 per cent of your construction cost for commissioning, because of the complexity of the task. I had raised concerns on numerous occasions prior to and since September 2012 when the task force kicked off. Then when I was raising concerns that I did not think Health was going to meet the April 2014 opening date, I and my officers began to raise concerns about what the consequences of that might be in terms of cost, not only facilities management costs under the contract with Serco, but also just the costs of the extended period of time over which preparations would have to be made.

The CHAIR: Tim, but you were cognisant of that before March 2013?

Mr Marney: Correct; that was my view before March 2013. The view of the director general of health at the time was contrary to that, so I have to say there was a lot of questioning and debate around those issues. Hence, I expressed my view from September 2012 and sought evidence to counter that view; the director general was of the opinion that everything was on track.

The CHAIR: So, Tim, you were saying stuff before then at the task force?

Mr Marney: Yes.

Ms J.M. FREEMAN: In terms of that, are you aware whether your concerns were being taken into consideration in the forming of the facilities management contract and the risk mitigation in that contract?

Mr Marney: I am pretty sure they were not, and that has been borne out by the additional funding that has had to be put in place to deal with that contract in a delay-in-phase environment. Those risks were not adequately mitigated in the formulation of the contract. I have to say that Treasury had extremely limited visibility of that contract.

Ms J.M. FREEMAN: Given that the contract was going to have $4.3 billion in serious consequences for state budgets and the operation of money that is managed through Treasury, what do you mean when you say "extremely limited" access, dealings and negotiations in the facilities management contract?

Mr Marney: Given the magnitude of the contract, both in terms of the importance of the services to be delivered, financial implications of the contract and even the duration of the contract, it would normally be the case that Treasury would be involved over a six to 12-month period as part of a working group or steering group to formulate the procurement process, assist with the evaluation and so on. My recollection is that in June or July, prior to the contract going to cabinet for approval, we were given our first look at the contract. So our first serious engagement was two weeks before government was asked to take a decision.

Mr R.F. JOHNSON: That is very, very unusual in my experience as well. Tim, I have always been aware that any major contract, and this is probably one of the most major contracts we have seen in WA, would have normally had months of Treasury input and observance rather than two weeks. Did you not think it was strange and perhaps very concerning that all you were given were two weeks before it went to cabinet for approval?

Mr Marney: I can honestly say on behalf of the public interest we were pissed off, because the magnitude of that consideration is such, and the complexity of the financial arrangements within the contract are such, that it should have had much more exposure within Treasury and indeed across government procurement than what it actually had. We were forced into a situation of, "Give us your comments within two weeks or you're going to hold up the opening of the hospital."

Mr R.F. JOHNSON: I find that absolutely extraordinary, because I know from past experience when I have been involved to some extent with contracts within government in portfolios that I have held, Treasury has always had months to be able to scrutinise those contracts. With a contract worth $4.3 billion over 20 years, for you to only have two weeks' observance to scrutinise that contract, is there a reason why you were being kept away from that contract, really diving and delving into the nuts and bolts of that contract? It is absolutely extraordinary that you were only given that amount of time when you have been given months and months on piddling little contracts, quite frankly, Tim, compared with a contract like this.

Mr Marney: Although we also do a very good job on the piddling little contracts!

Mr R.F. JOHNSON: Tim, you did too good a job very often! But I am saying, you know, the difference is that.

Mr Marney: I do not know why it was the case. We had a sense of where the negotiations were headed with the contract and we were trying to get ourselves into the process to address some concerns. But I think, in part, the fact that it was coming quite late in, if you like, the commissioning time frame meant that it was kind of rushed.

Ms R. SAFFIOTI: Just to clarify that we are talking about 2011.

Mr Marney: Yes.

Ms R. SAFFIOTI: The media statement came out on 30 July 2011 announcing the Serco contract, so you are saying that, basically, you were not involved in any working group or any process prior to the normal 10-day working rule for seeing cabinet submissions.
<003> L/K 1:29:16 PM

[1.30 pm]

Mr Marney: I do not recall us being involved in a steering group or working group to the extent that we normally would be. Whether or not we were consulted, or my officers were consulted, on elements of the contract, I cannot say for sure, but from a holistic perspective we were not involved in those processes.

Mr R.F. JOHNSON: Is it not most unusual that you would not be involved —

Mr Marney: It is quite —

Mr R.F. JOHNSON: — enormously? It is quite unusual—well, it is more than quite; it is extremely unusual.

Ms R. SAFFIOTI: Can I just follow up on this train of sort of thought in respect to the contract? One of the key things we are looking at in relation to the cost exposures of the lateness of Fiona Stanley is the increase in ICT costs. The Public Accounts Committee two years ago did a report about risk transfer through the Serco contract. At the time both Health and the private sector consultant appointed to develop the public sector comparator stated that the entire ICT risk is being transferred to Serco. Would you agree that is not the case now?

Mr Marney: That was never the case. One of our key concerns at the time was that Serco's ability to deliver on its contractual requirements were critically dependent on Health delivering the ICT platform for the hospital, and my concern was that the track record for Health delivering on ICT projects was extremely poor. Put the two together, that meant we were going to be up for some form of compensation to Serco because we could not give them the ICT platform that the contract promised them.

Ms R. SAFFIOTI: The whole basis for the contracting out was that there was going to be supposed savings, and a big portion of those savings were this value given to supposed risk transfer. Given that a key risk was not transferred, it is pretty easy to conclude that those savings will not be delivered.

Mr Marney: There are elements of systems that Serco will have responsibility for and risk that is transferred with that, but I think the difficulty is that the state retains most of the systems risk and Serco's systems cannot work unless ours work.

Ms R. SAFFIOTI: In relation to the public sector comparator—this is going back a few years now; I think back in 2009 when it was being developed, at the same time the decision was to privatise facilities management—was Treasury heavily involved in developing that private sector comparator?

Mr Marney: I cannot recall; I would have to take that on notice, as supplementary information.

The CHAIR: We will take that on supplementary, thank you.

Mr Marney: It would normally be the case that we would be involved. I think at the time of development of the public sector comparator the whole point of entering into these arrangements is really to transfer risk, and so it would have been assumed as part of the public sector comparator that the contract that would eventually be entered into would transfer risk.

Ms R. SAFFIOTI: And that has not been case?

Mr Marney: That has not been the case to the extent anticipated.

Ms J.M. FREEMAN: You are talking about systems and the interplay between the Serco systems and the Department of Health for Fiona Stanley, are you aware whether there is a clear understanding between Serco and the Department of Health as to the ownership of those two systems and the operation of the different elements of the ICT system, or whether there is a clear delineation of who owns what and how they will operate at this point in time?

Mr Marney: There is a clear delineation of who is responsible for what systems and a clear assignment of ownership of systems. In some cases systems are being procured through Serco but

will be owned by the state. But it is clear, in my view, as to who has eventual ownership and who has responsibility for the successful deployment, operation and maintenance of those systems.

Ms J.M. FREEMAN: That is in terms of it is clear when Serco has that responsibility and it is clear when the Department of Health has that responsibility?

Mr Marney: Correct.

Ms J.M. FREEMAN: In that, where is the assurance that the community has that a large multinational company like Serco does not get their personal health information?

Mr Marney: You would probably have to direct that question to the system's architects in Health, but, in broad response, Serco's responsibilities are largely around flows of clinicians, security—the actual functioning of the building as opposed to patient records. But there may be some electronic patient record elements that Serco are involved in. I have at the back of my mind an inclination that that might be the case. I think that is a question for the Department of Health in terms of how those security and privacy issues are dealt with.

Ms J.M. FREEMAN: Just to finish this questioning about that and in terms of that separation, are you aware what role British Telecom plays in the development of and delivery of the ICT at Fiona Stanley?

Mr Marney: I understand that they may be a subcontractor to Serco to develop some of the systems that the state is procuring through Serco. I am not sure if Serco themselves are using BT for their own systems.

Ms R. SAFFIOTI: Can I go through some of the numbers now, as in additional funding that has been put in to commission Fiona Stanley? I have broken it up in my mind into three key areas: ICT additional costs, transitioning and commissioning costs, and the payments to Serco in a sense. So three different areas. Can I go through what I understand to be the case as in additional funds that have had to be brought into the budget over the past three years? I will start off with the 2011-12 midyear review, where basically some money was deducted from the asset investment and some was expensed, and that was purely an accounting treatment in relation to the lease signed with Fiona Stanley. Is that right?

Mr Marney: It was an accounting treatment of the expenditures associated with Serco gearing up.

Ms R. SAFFIOTI: Yes.

Mr Marney: So, from memory, some of the items that were previously expensed under the contract were considered part of the capital establishment of the building itself and were capitalised. There were some ins and outs around those figures because the Auditor General subsequently overturned one of those accounting treatments, I think, but in net terms there was no additional funding; it was just the accounting treatment of the funding that was already there.

Ms R. SAFFIOTI: I just wanted to acknowledge that and get that one out of the way. In 2012-13, the midyear review saw—this is additional money above what was originally budgeted—is this right, another $53.6 million for service reconfiguration for Fiona Stanley?

Mr Marney: Correct. That was the first injection of funds to fund the various transition costs associated with commissioning Fiona Stanley. At the same time, I think there was a modest amount in addition for the new children's hospital.

Ms R. SAFFIOTI: If we stick with Fiona Stanley for the moment. So in the 2012-13 budget what I understand to be the case is that there was $53.6 million for service reconfiguration, and then in the 2012-13 midyear review, or budget I think, $151 million for ICT over three years; is that correct?

Mr Marney: $150.7 million in the 2012-13 budget process, yes.

Ms R. SAFFIOTI: So that was broken up between Fiona Stanley and Albany, we understand?

Mr Marney: The decision of government at that point was to utilise those funds to prioritise the commissioning of systems that would enable Albany in the first instance—the new Albany hospital—to open, and secondly Fiona Stanley Hospital.

Ms R. SAFFIOTI: Do you have a breakdown of that $151 million of how much went to Fiona Stanley?

Mr Marney: No, we do not.

Ms R. SAFFIOTI: Okay. We had some advice from Health that for the two financial years, not the three, of the $120 million, about $75 million was for Fiona Stanley. Does that sound right to you?

Mr Marney: It sounds about right. I think the reason it is hard to attribute just to Fiona Stanley is that some of the systems investment was in the patient administration system.

Ms R. SAFFIOTI: Which was statewide, yes.

Mr Marney: Which was statewide and that has been deployed in other sites as well.
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[1.40 pm]

Ms R. SAFFIOTI: Let us just say roughly $151 million for three years.

Mr Marney: Let us go with that!

Ms R. SAFFIOTI: Let us go with that! This, as I understand it, is the last major tranche of additional spending in the 2013–14 midyear review; have I missed out any additional money that you have injected so far?

Mr Marney: No, I think that is right. I do not think there was any in the 2013–14 budget.

Ms R. SAFFIOTI: Yes; 2013–14 is all we have got. There is another $74 million for transitioning and commissioning; is that right, on the recurrent side?

The CHAIR: It is $73.9 million, with $1.1 million for south metropolitan?

Mr Marney: Yes, I think that is —

Ms R. SAFFIOTI: I have $1.1 million capital.

Mr Marney: Yes, $73.9 million.

Ms R. SAFFIOTI: Then we have got the $57.2 million payment to Serco which was above budget.

Mr Marney: Yes, that is correct.

Ms R. SAFFIOTI: That was again for transitioning and commissioning?

Mr Marney: Yes.

Ms R. SAFFIOTI: When you are talking about transitioning and commissioning, what are you actually talking about; what are we actually funding with that money?

Mr Marney: That excludes ICT. It is, for example, the development of the departmental service plans. Each clinical directorate has to actually develop the clinical procedures and processes —

Ms J.M. FREEMAN: Workforce plans, almost, are they not?

Mr Marney: No, that is separate again.

Ms R. SAFFIOTI: Is it those service plans?

Mr Marney: It is really about what the business processes are that will run in a clinical directorate. It is developing those departmental service plans. There are then the workforce plans that need to be developed and the recruitment processes. Once people are brought on board, they then have to be trained in, essentially, those departmental service plans that are going to apply. The way you operate the surgical theatre in Fiona Stanley Hospital is going to be very different to the way they

are at operating Royal Perth Hospital, so people have to be trained for that. When you are talking about a workforce of, I think, in the vicinity of 3 000 to 4 000 and you take 3 000 to 4 000 people offline for two weeks, they have to be backfilled because the system still has to run, and that is an expensive exercise.

Ms R. SAFFIOTI: We will just try to finish off with the numbers. We have got the extra $53 million for the facilities management with Serco contract. All up can we safely say—I have just done the rough numbers —

The CHAIR: A total of $325 million?

Ms R. SAFFIOTI: I have got $330 million of additional funding over the past three years to Fiona Stanley commissioning, including Serco and ICT.

Mr Marney: Yes, that is about right.

Ms R. SAFFIOTI: Okay, a $330 million increase.

Mr Marney: I would be happy to just confirm those figures by supplementary information and that breakdown; I think that would be useful.

Ms R. SAFFIOTI: So there is $330 million of additional funding that has been injected. Just on those three, your midyear review for 2013–14 raised the fact that none of these three have actually been finalised or sorted out for the 2014–15 budget year and beyond.

Mr Marney: Correct.

Ms R. SAFFIOTI: What is the magnitude of the additional exposure on each of those fronts, the ICT, the transitioning and commissioning, and the Serco contract?

Mr Marney: On the Serco contract the only areas of additional exposure—I think there are two areas. There are services that are out of scope from the current negotiations are still to be resolved—that is, from memory, managed equipment services, being the largest item—and there is another smaller item that I cannot remember offhand. I am a little reluctant to state on record what that might be.

Ms R. SAFFIOTI: Sure, but there are additional services outside the existing contract.

Mr Marney: Yes, and that is flagged in the risk statement in the midyear review. I have a rough estimate of what the number is but I would rather not provide it because, obviously, it is subject to negotiations and if I tell you what we are prepared to pay, then away they go.

Ms R. SAFFIOTI: Tell us a bit less; tell us 10 per cent less!

Mr Marney: Look, the figure is about $2.75!

Ms R. SAFFIOTI: ICT: now this is the big one. Given that there are still massive issues in the ICT area, and we know that you have injected—we might talk about this later—significant money into the new children's hospital commissioning, what is the ICT exposure left on Fiona Stanley?

Mr Marney: It is difficult to know exactly because we are still in the throes of trying to finalise 48 separate systems. I suspect the exposure is anywhere between $25 million and $50 million.

Ms R. SAFFIOTI: Just for Fiona Stanley?

Mr Marney: Correct. If things go really well, it will be $25 million.

Ms R. SAFFIOTI: Just on Serco, the one thing I do not quite understand is the additional money of $52 million paid in this year. Given that you would have budgeted for a fully operational hospital and a Serco contract operating with a full hospital, why are you paying more for a hospital with less patients or no patients?

Mr Marney: The original contract envisaged a ramping up of service pretty much on 1 April in the current year, so, essentially, as you have suggested, there are no patients coming in. Can I point out

that the hospital was finished ahead of schedule, on budget and with enhanced scope? Congratulations to strategic projects that resides within the Department of Treasury!

Ms R. SAFFIOTI: Do you want us to say that on the record? Congratulations to the office of strategic projects!

Mr Marney: Richard Mann and his people. Look, I would have to pick through the logic.

Ms R. SAFFIOTI: Can you understand my question here? We are paying more and it should have been budgeted. You should have budgeted for the fact that a fully operational hospital was going to be there from 1 April, so that Serco contract should have been fully budgeted. My question is: have you actually fully budgeted for the Serco contract and for the full delivery of services through the south metro region?

Mr Marney: For the forward estimates, the life of the contract?

Ms R. SAFFIOTI: Yes.

Mr Marney: My understanding is yes. There are some peculiarities as to why additional funds are required in the current year and I am happy to clarify those by way of supplementary information.

Ms R. SAFFIOTI: Because you would expect a saving; you can see what I am getting at.

Mr Marney: I see what you are getting at; however, the nature of Serco's responsibilities is to run the facility. A range of their services they provide, I think it is a schedule of 28 services, are determined by volume of patients, in terms of the cost, and a range of them are not.

Ms R. SAFFIOTI: Yes, I know, but how much gardening and maintenance can you do?

Mr Marney: They could be very pretty gardens! I will take that on for supplementary information. I think there are some timing issues and cash flow issues. It is mainly a Department of Health finance question, but I am happy to source that information or commit to do so in the next 32 hours and get that through to you.

Ms R. SAFFIOTI: Just the last area; there were three areas. With Serco we are talking that there are going to be further payments, including additional services that are being negotiated now. With ICT we are looking at a further exposure of $25 million to $50 million next year or this year? What was it; was it this financial year, 2013–14?

Mr Marney: It could overlap partly into 2013–14.

Ms R. SAFFIOTI: Over the next two years?

Mr Marney: Yes.

Ms R. SAFFIOTI: The other key thing is commissioning and transitioning. Given that you have injected quite a bit in this midyear review, about $74 million just on service reconfiguration, is there additional funding required on that front?

Mr Marney: I would hope not. At this point I cannot point to any issues in that space that would cause concern. Probably the only issue in that space is that there is a lot of work to undertake to identify what activity is going to be delivered in what facility. Once that service delivery planning is done, then we will have a better sense of what is the impact on the whole-of-health-system cost, and we do not have a good feel for that at the moment.

Ms J.M. FREEMAN: Should that service delivery plan not have been done before the building was ready? Do you actually need a physical building with no patients in it to be able to do the service delivery plans or could that have been well and truly done in the process of getting the building ready and it be finished by this point in time so you have certainty in terms of cost?
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[1.50 pm]

Mr Marney: Yes. It is actually a top-down and bottom-up iterative process. So you start with a clinical services framework at the top, and that determines what services are to be delivered and where. The health department then goes through purchasing plans for the various facilities. What is happening at the moment is the bottom-up build of what are the workforce requirements and so on that go with the departmental service plans, and how does that then match the purchasing plans of the health department? So it is being built from the ground up, and being placed into the context of a top-down funding framework, which is going to make sure those two things match.

Ms J.M. FREEMAN: But you did not need a physical building with no patients in to do that. You should have been able to do that in the process of the building being built so that even if you phase it in, you would have certainty of that phasing in from the time that the building is ready—you know, finished. You should not have a situation where you had not done that pre-work.

Mr Marney: That is one of the reasons for the delay.

Ms J.M. FREEMAN: Because they did not do the pre-work?

Mr Marney: Yes, because you needed to start that work four years ago.

Ms J.M. FREEMAN: And they were not starting that work four years ago, and you were making them aware that you were concerned that they had not started that work four years ago.

Mr Marney: Correct, but I am just an economist—so!

Ms R. SAFFIOTI: Just on that, in relation to the warning signs, did the Treasurer take it seriously? Did anyone in government take it seriously?

Mr Marney: A number of Treasurers took it seriously, I could say with confidence.

Ms R. SAFFIOTI: What is the word for a number of Treasurers?

Mr Marney: The collective noun?

Ms R. SAFFIOTI: Yes.

Mr Marney: Maybe I will answer that one next week! Yes. Part of the problem is, as many of you are aware, that part of Treasury's role is to identify risks to government and to point out where things might go wrong. I think it is sometimes practice for people to dismiss the advice of Treasury on the basis of a predisposition to bad news.

Ms R. SAFFIOTI: Can I just ask about the way Health operated under the former DG? There are some clear signs here that there were major issues happening both within the department and across government and major concerns being raised about what was happening in relation Fiona Stanley. Was that very much a closed shop in a sense that advice was not being sought externally or taken very easily externally, and any advice from inside that was contrary to what was being said by the DG was being dismissed? Was it very much a closed shop for a number of years?

Mr Marney: I think it is fair to say that at DG level, Treasury was probably kept back a little bit from what was going on with the justification that everything was under control. Whether or not there was some sort of conspiracy around that or they genuinely actually thought they had it under control, I do not know. But the health system is a very large and complex beast, and there are always different views from different quarters on various issues. So, we were aware of various views within the system. That is not unusual, but I think towards the pointy end of 2012 to early 2013 those disparate views were quite stark, and they are on the record. I was aware of those views and raised those with the director general, and he did not agree with the advice that he was getting internally that things were in trouble.

Ms J.M. FREEMAN: Just in terms of dismissing your concerns, you were raising them with the director general and you were also raising those concerns, you have told us before, at the EERC and with the Treasurer. I am just interested to know, in terms of dismissing your concerns, do you think that is the reason why they did not follow usual practice in terms of having Treasury involved in the

facilities management contract, that they basically did not want to hear or have any sort of analysis from Treasury and that fiscal analysis of risk because your concerns were being dismissed?

Mr Marney: I guess that is a possibility. I think time frames were the other issue. I got the impression that there was a fear that we would want to go right through it—and rightly so—and identify those risks and be able to provide cabinet with assurance that those risks were being effectively mitigated. I think there was a fear that that—us doing our job in that way—would hold it up.

Ms J.M. FREEMAN: Was that fear because you are Treasury and Treasury does that; but was that fear also because they wanted to negate your concerns because you had raised concerns and that they were actively trying to negate your concerns?

Mr Marney: Yes.

Ms J.M. FREEMAN: Given that what was said, it is the usual practice that you get it and are part of the negotiations, and given that this is such a large contract and you had been raising concerns, was it machinated to do that?

Mr Marney: I do not know.

The CHAIR: Tim, in phasing in of hospitals, can I just put to you two issues; one about the cost of phasing, and not necessarily related to how many patients you have in the hospital, and whether this has validity in your view? The payment of these moneys to a facilities manager during the phased period relates to the fact that the facilities management services in their nature are relatively fixed, and not directly proportionate to the volume of services provided, and presumably not directly related to the number of patients, whether you have 10 in there or 100. What it says to me is that you have got to have a basic structure, whether you have one patient or 100.

Mr Marney: I think it depends on the service area in question. Let us say there are 28 service areas; 27 of those will need to be delivered during the period of delay and then during the phasing period. Child care, I think, is the service that is not going to be delivered, for obvious reasons. I guess at the two extremes, take security—security of the site, of the building—it does not really matter how many patients are there, securing the building itself, not security within the hospital but just the built form, having perimeter security, whether you have patients or not, the perimeter is the same length. Hotel services, in the other extreme—that is, your meals and so on—crucially depend on volume of patients, obviously. So the services vary from those two extremes. For further detail in terms of the sensitivity, if you like, of the cost of those services and the extent to which they are being provided relative to the ramp-up in patients during the phasing stage, I would have to refer you to Health for that; I do not have visibility of that. But I do know that during the delay and phase period the percentages of those 27 services that are being delivered is highly variable and changes throughout that period.

Ms R. SAFFIOTI: This goes back to the risk issue, does it not? Again just referring to the PAC report, you identified there was $300 million worth of risks transferred from the public sector as part of the public sector comparator. It is clear that that has not occurred, so any benefits that were proclaimed were based primarily on risk transferred to the private sector. If those risks were not transferred, those benefits simply are not there. In fact, one could argue that the Serco contract has complicated things to such an extent that it has increased the risks and increased costs to government.

Mr Marney: One could argue that. Whether or not one is correct, you would have to actually go back and I think re-run the public sector comparator on the actual contract that is now in place. But it would be fair to say that the extent of risk transfer and therefore the extent of benefit of going down this path has changed relative to the original public sector comparator.
<006> B/3 1:59:16 PM

[2.00 pm]

Ms J.M. FREEMAN: Changed in a negative way?

Mr Marney: Correct.

The CHAIR: In relation to exposure—I think this is probably where Rita is going with this—we got an argument from the Department of Health, irrespective of whether the facilities management services are provided by the state or a contracted party such as Serco, that such exposure exists when hospitals are operating in a ramp-up state.

Mr Marney: I think, on the costs associated with delay and phase, there would be costs whether or not Serco was the provider or there was a traditional government in-house provision of those services. Either way, you are up for those costs. The question is the magnitude of those costs which is, I think, the member for West Swan's point in terms of what is the ramping up and extent of those services.

Mr R.F. JOHNSON: Tim, to bring you back to the time when you were given only two weeks to scrutinise this massive contract—I am not sure when that was before it went to EERC and cabinet—when was it and in particular who was the Treasurer at that time when you were given only two weeks to scrutinise that contract? Whoever that Treasurer was—I am sure you will tell us—what was his view at the time; was he happy for it to go forward without you properly scrutinising it?

Mr Marney: The time was late June, early July 2011—there have been a lot of them; I cannot remember which one.

Mr R.F. JOHNSON: I was hoping you might know which particular Treasurer was Treasurer at that time.

Ms J.M. FREEMAN: We can google it?

Mr Marney: Anyone?

Mr R.F. JOHNSON: I am sure the media can tell us in five seconds.

The CHAIR: They are not allowed to comment.

Mr R.F. JOHNSON: I know.

Ms R. SAFFIOTI: It was one of those transition phases, as I recall. I think it was Barnett.

Mr Marney: I honestly cannot remember.

Mr R.F. JOHNSON: I am asking because I have a serious concern—I am sure the committee would—that whoever was Treasurer at that time must take some of the responsibility for, not you personally, but Treasury, not being able to scrutinise what is probably one of the biggest contracts the state has ever had.

Mr Marney: Obviously, the Treasurer has a responsibility in that regard. The matter went to cabinet, so cabinet has a responsibility also to ensure due process.

Mr R.F. JOHNSON: Of course it does, Tim, but I know; I have been around the cabinet table on numerous occasions in the past 20 years.

Mr Marney: I think you might have been there!

Mr R.F. JOHNSON: I may have been. Yes, I was, I was still flavour of the month then. Let me just say that, quite frankly, I find it extraordinary that—I probably was—I certainly would not have been aware that Treasury would have had only two weeks to scrutinise that contract. As you quite rightly say, I cannot remember who was Treasurer at the time. Was it Troy Buswell or Christian Porter or was it —

Ms R. SAFFIOTI: I think it was Porter; I think we are coming to Porter.

Mr Marney: Yes, I think it was —

Mr R.F. JOHNSON: You think it was Christian Porter. I find it extraordinary that the Treasurer did not relay to cabinet that Treasury had not had long enough. You obviously would have given your concerns to the Treasurer that you had not had the appropriate amount of time.

Mr Marney: Yes; quite strongly. We also would have raised our concerns in our cabinet comment and, from memory, it was probably one of the longest cabinet comments I have provided in the past 10 years.

Ms R. SAFFIOTI: It had to be $4.3 billion worth!

Mr Marney: Yes; I had to fill up a few pages, but it was to raise those concerns that (a) we had not had enough time to assess it, and (b) we could see substantial risks at just a desk-top review of the contract. I think at the time the offsetting argument to allowing Treasury time to do due diligence on the contract, was, "We need to get this done because we are already behind schedule and the hospital won't open on time unless this goes through." It was rushed through on a time prerogative.

Mr R.F. JOHNSON: Is it fair to say in hindsight that the decision to ignore the fact that you should have had longer to scrutinise the contract is now costing us $120 million extra for the hospital and it has not solved the problem of not opening on the anticipated time that was put down originally?

The CHAIR: You do not have to answer that necessarily; it is an opinion.

Mr R.F. JOHNSON: Why not?

The CHAIR: It is an opinion.

Mr R.F. JOHNSON: No; it is a fair comment

Mr Marney: I do not think one could draw that conclusion that decisively. It may well have been the case, and my sense is that the negotiations had progressed to such an extent that it was too late for us to intervene anyway.

Ms R. SAFFIOTI: I have gone through, I think, most of the questions I have but I want to go back to 2012. To us that seems to be a bit of a crunch here where, internally, there were signs within Health that the hospital needed to be pushed back. We have heard evidence from you today that Treasury was advising that the time frame advertised was just not going to be delivered. Again, one of the key issues with the Serco contract is the earlier Serco was informed of a delayed delivery date, the reduced cost it would have been for the state and the taxpayers. In hindsight, would it not have been much cheaper for taxpayers, if government had recognised the later time frame and saved state taxpayers possibly tens of millions of dollars?

Mr Marney: The costs that we have had to cover for Serco relate to employees it has on board that it cannot get rid of and who were commissioned in anticipation of providing services from 1 April. Had Serco not employed those people, the costs we would have to mitigate would be less.

Ms R. SAFFIOTI: This goes back to the key point that I believe in strongly—the failure of government process; that is, there was no strong governance around this project, and that failure in process and the failure for Health to be properly overseen at, frankly, a ministerial level has left the state exposed to the tune of tens of millions of dollars. If there had been a proper process in place and an earlier decision been made—let us face it, the warning signs were there a year before; I think June 2013 in which Serco was informed that the hospital would be delayed—that six-month delay has cost tens of millions of dollars. That is a statement I suppose; you do not need to comment.

Did the Treasurer or the Minister for Health take it seriously through the EERC process?

Mr Marney: The Treasurer definitely took it seriously and I believe the Minister for Health took our concerns seriously as well, but his director general was advising him that everything was okay.

Ms R. SAFFIOTI: It was also a lead-up to an election when the "on-time, on-budget" signs were up. That is my statement.

Mr Marney: I take the opportunity to point out that the building itself was delivered slightly ahead of time, on budget and with enhanced scope.

Ms J.M. FREEMAN: When you talk about the delivery of that contract, which was contracted out, you are saying that was done primarily through Treasury working with the Department of Health?

Mr Marney: Yes; the building itself was delivered by Treasury's strategic projects division, headed up by Richard Mann.

Ms J.M. FREEMAN: One of the issues we are faced with is the whole idea of something being delegated to a director general and the concerns we have that you are expressing concerns and at the end of 2012 a whole bunch of people are expressing concerns, but the director general is still giving assurances, which you have just given in evidence, in terms of scrutiny that goes to contracts—I am going back to the contract for delivering the building. What is your understanding of the responsibility of the Treasurer in terms of that scrutiny, given you have a delegated authority as the director general of his department?
<007> M/2 2:09:35 PM

[2.10 pm]

Mr Marney: In terms of the contracts for the construction of the building?

Ms J.M. FREEMAN: Yes.

Mr Marney: Those contracts, from memory, are signed off jointly by, I am pretty sure, the Treasurer under delegated authority from the minister for housing and works so he has full visibility of those construction contracts, and the construction agreements are signed by the Treasurer.

Ms J.M. FREEMAN: Because he signs those contracts, my question is: does he have prime responsibility to see that those contracts are operating in the manner undertaken in the contracts to deliver those contracts?

Mr Marney: To deliver the building itself?

Ms J.M. FREEMAN: Yes.

Mr Marney: Yes, he has principal accountability to complete the facility through to what is referred to as practical completion, so basically the point at which the keys are handed over. There might be some defects work still underway but for all intents and purposes his responsibility is to hand the keys over to the recipient agency for a finished building.

Ms J.M. FREEMAN: Can he delegate that responsibility away to you as the Under Treasurer, as the director of his department?

Mr Marney: He cannot build it himself, so —

Ms J.M. FREEMAN: He obviously delegates those things and those contracts go, but his final responsibility to be able to bring it to fruition, to ensure the integrity of that contract is maintained, to ensure that what he signed is going to come to fruition, can he delegate that away to you?

Mr Marney: No, he does not delegate it away. He essentially points at me and says, "Deliver the contract that I just signed."

Ms J.M. FREEMAN: But in saying, "Deliver the contract I have just signed", how does he assure himself that that —

Mr Marney: That that is happening?

Ms J.M. FREEMAN: Yes.

Mr Marney: We provide the Treasurer with all "strategic projects" projects and indeed we, I think, still coordinate a reporting process across general government agencies. We provide a quarterly report of the status of all major projects. That report is also then provided to the expenditure review

committee to ensure that there is appropriate scrutiny not only by the Treasurer but by the expenditure review committee of the status of progress of the 17 or 18 major projects that we have under construction, plus major works across the rest of government. It is a quarterly reporting on cost versus budget, time versus original schedule, and scope.

Ms J.M. FREEMAN: If there is that sort of precision in terms of being able to make a minister exercise their authority properly, to ensure the contract they have signed can be met, how is it that could not have been the case? The feeling I get in this process is that the Minister for Health delegated away—it is questionable whether he had the authority to delegate away—his authority to his DG to deliver the facilities management contract and the opening of Fiona Stanley Hospital and then simply relied on that occurring because he delegated it away without getting those quarterly reports, without intense scrutiny of the process. Is it possible that that could have happened if those checks and procedures that you have were not in place?

Mr Marney: I think it is possible that that could have happened. In fact I know that appropriate governance was not in place. I had sought to see and interrogate the project plans for the opening of Fiona Stanley Hospital in late 2010. I was provided a presentation by the DG and the head of one of the area health services in early 2011, January 2011, because I wanted to see the integrated program for commissioning of the hospital. I was presented with a small number of A3 sheets of Gantt charts which were fundamentally flawed, so the sequencing and critical independencies of the program were non-existent. That tells me that there could not have been appropriate reporting in place.

Ms J.M. FREEMAN: In terms of delivering the actual physical building, you were giving your minister quarterly updates and quarterly updates to the ERC which was giving your minister surety, clarity and capacity to know that it was going to be delivered. Is that not the responsibility of a DG when you are dealing with the commissioning of such a large hospital?

Mr Marney: It is the responsibility of any head of agency to keep their minister appropriately informed on any major aspects of activity in their agency.

Ms J.M. FREEMAN: You would expect, having worked in the public sector for a long time, that that would be an expectation that the minister would have of his DG?

Mr Marney: It is a necessary part of sound governance.

Mr R.F. JOHNSON: I have one last question; it relates to the two-week period that you had to look at that massive contract. My memory does not go back as far as to be able to say what was said at that cabinet meeting—it would not be appropriate for me to say what was said anyway, obviously—but the system as you well know is there is a liaison person in Premier and Cabinet that liaises with every single minister, including the Treasurer, in relation to anything that goes before cabinet and they normally recommend to the Premier what should be happening in relation to cabinet submissions. In the cabinet file, you have got the cabinet decision sheet that the Premier signs off on and, if you like, the confidential notes from his DG and his advisers as to what the Premier should agree to and what he should not agree to. I think anybody would know that if the Premier does not agree with something in cabinet or he has serious concerns, he simply will not sign off on it. The Premier must have been advised that this was okay to sign off on even in the knowledge that Treasury had only had two weeks to look at this huge contract that would have massive ramifications. Do you know the person who was in Premier and Cabinet who would be responsible for recommending this to the Premier?

Mr Marney: No, I do not

The CHAIR: You obviously know who the liaison person is between Treasury and Premier and Cabinet, within Premier and Cabinet?

Mr Marney: No. I tend not to get involved in that area. I am not sure that the Premier would have been made aware that we had concerns about the rushing through of the contract before it went to cabinet. I am certain that we made cabinet aware as part of our cabinet comment. Again, I think the

justification at the time for progressing this submission urgently was that if it did not get through and this did not get signed urgently, then the hospital would be at risk of not opening in April 2014.

Mr R.F. JOHNSON: It is not opening in April 2014 anyway, but what I am saying is that obviously somebody in Premier and Cabinet either was not giving the Premier good advice—the Premier has done stints as Treasurer as well—he would normally not sign off on anything where there is some huge risk attached. I would say this is a huge risk that cabinet was looking at and the Premier was looking at.

Mr Marney: I was not in cabinet so I do not know what the discussion was or the decision-making process or the thinking at the time.

The CHAIR: Tim, what the committee has been anguishing with over some time is the old issue in the hospital going from a fully digitalised hospital to a partially digitalised hospital. We talked about the decision to go to option 2. You would know about this having been in the task force meetings. Firstly, do you agree that the decision to go with option 2 would have had significant implications to the facilities management contract?

Mr Marney: Option 2 being partial paper based?

The CHAIR: That is right.

Ms J.M. FREEMAN: Basically Royal Perth Hospital plus.

Mr Marney: Obviously in going to manualised processes there are inefficiencies associated with those processes that would have cost implications, I would presume, for Serco but also for the state in terms of what was assumed to be the business processes operating.

[2.20 pm]

The CHAIR: My second part was: would there have been funding implications for government?

Mr Marney: For government in terms of the operation of the hospital, yes, and for government in terms of potentially the compensation to Serco.

The CHAIR: There is a third part: would you consider that this decision to go with option 2 was of such importance that that decision could not have been delegated to the director general?

Mr Marney: The decision to go partially paper based?

The CHAIR: Yes.

Mr Marney: I actually do not think there was a decision; it was the only option. It was very clear that the automated and electronic systems that were envisaged were not going to be in place; therefore the default became option 2 because option 1 was not feasible.

The CHAIR: Did you believe that the re-scoping or de-baselining, or other bureaucratic words that are used—for a simple person like me, basically we jettison some of these programs because we cannot bring it in on time—if we jettison some of this stuff we actually might be able to bring the hospital in on time with its opening date of April 2014? Do you believe that perhaps jettisoning some of these programs could have brought the hospital in on time?

Mr Marney: In that environment, really the only option you have to is to trim the scope of what you envisaged in terms of systems. Systems have been a major component of the reasons for delay; not the only reason but a major reason. Trimming the scope of systems is the only way to deal with that really.

Ms R. SAFFIOTI: Just to follow up on that. I think what the Chair was getting to: given that de-scoping was creating a different hospital to what cabinet had previously agreed—the original Fiona Stanley was going to be a paperless, fully digitalised hospital—then came this decision that was forced, because to do a paperless hospital would have taken another five to 10 years, so the decision was to go back to a Royal Perth plus model; that is, a lot of manual processes. Given that

in a sense there was a reversal of a previous cabinet decision, given that there were cost implications like you said, both from the state and from the facilities management contract because that contract was based on a paperless hospital, should this decision not have gone back to cabinet—was that the Chair's question?

The CHAIR: It was about the importance of the decision and where that decision was made. It seems, from what we can glean, it was a decision that was made. You say that option 2 was a natural one, but I think it was of significance that it was more than just a decision by the DG.

Mr Marney: I think it was actually a component of the decision around delay and phase. That cabinet submission, from memory, articulated the scope optimisation that was required to deliver the hospital on even the revised time frame.

Ms J.M. FREEMAN: But the decision to go with the Royal Perth plus option would have been made prior to the announcement —

Ms R. SAFFIOTI: As we understand the time frame—correct me if I am wrong, anybody—the final submission, as we understand, to delay, was about June 2013. I thought the decision to go Royal Perth plus was earlier than that, February–March.

Ms J.M. FREEMAN: February. In December, the DG was bringing people in, realising then that unless they de-scoped and put a few filing cabinets in the facility they were not going to be able to open on time. Our understanding is the decision to go Royal Perth plus was about January 2013. The decision was made in January 2013 to go Royal Perth plus. As the member for West Swan has very well outlined, that decision was such a change from what was originally determined at cabinet—should that not have gone to cabinet? Is that something that a DG would have as delegated authority to make such a significant decision or should that have gone to cabinet?

The CHAIR: Tim, before you answer that, you are obviously answering questions —

Mr Marney: I can tell you now I am not going to answer it!

The CHAIR: — that are not within your scope necessarily, so I would understand that as Chair.

Ms R. SAFFIOTI: In relation to the recent negotiations with Serco over additional funding being paid, has Treasury been at the negotiating table with Serco in determining that?

Mr Marney: We have had an officer involved in the negotiation process fairly closely. I cannot say that at every negotiation meeting we have had someone there.

Ms R. SAFFIOTI: Back to the paperless point—not the paperless; paperless, patient-less—in relation to the cost impact of the changed technology in that hospital, was that a factor in these negotiations with Serco, the fact that the operating cost will increase because there will be things—I know it sounds a bit basic—filing cabinets they have got to dust and clean and there will be actual physical stuff that was not going to exist?

Mr Marney: They do have a role in records management, but I do not know the extent to which the change in scope of ICT has impacted on the cost in those negotiations. That is probably a question you would have to ask of David Russell-Weisz. He would know the extent of that. In terms of the impact for the operation of the hospital, essentially the departmental service plans are being iteratively developed, factoring in the changing scope of ICT at the moment. The cost of that, we do not know.

Ms R. SAFFIOTI: That is an outstanding cost pressure.

The midyear review stated, under the risks area, the first part of the paper, on page 40 —

> The operating cost of a fully reconfigured health system in the South Metropolitan Health Service are unknown at this point and remain a significant risk.

This goes back to a point I made earlier: have you fully landed or do you know the long-term costs of running Fiona Stanley in its new mode, Royal Perth and the other hospitals? Is that fully accounted for in the current budget forward estimates or will significant adjustments need to be made?

Mr Marney: We do not know the operating costs of Fiona Stanley Hospital once it is fully commissioned. We will not know that until departmental service plans are finalised and workforce is finalised. Given the fact that we do not know, we also do not know with 100 per cent certainty the extent to which, and the success with which, services will be transitioned to Fiona Stanley Hospital from other sites. With those key elements unknown, I cannot give you an assurance that forward estimates cover the addition of Fiona Stanley Hospital to the health system

Ms R. SAFFIOTI: Will this be one of the major risks to the state of the budget, the fact that you still do not know how much it will cost to fully run Fiona Stanley Hospital?

Mr Marney: It would have to be in the top 10; probably in the top three.

chai: Tim, with the implications of the management of the contract with the facilities manager and the decision to implement a partial digital hospital, those are still being assessed and obviously the negotiations are still ongoing?

Mr Marney: Yes.

The CHAIR: You say you have a representative there at those negotiations. When would you say that these will be finalised?

Mr Marney: The two elements yet to be finalised, I am not sure on the time frames. We were involved in negotiations with the bulk of the services. Given that it is down to one or two services now, we no longer have a substantial involvement in that process.

[2.30 pm]

Ms J.M. FREEMAN: To what extent have the ICT systems and the problems at Fiona Stanley impacted on the development and cost of systems in other parts of the health system such as the new children's hospital? How has that impacted on development and cost? Does it mean they have reduced the amount that can be allocated because of that, or because there have been these difficulties it has increased cost, or we have now decided to outsource and so that will increase costs—have you got any understanding of how they have impacted in other parts of the health system?

Mr Marney: The decision of cabinet, when it allocated the additional funds for ICT for Fiona Stanley and Albany, explicitly prioritised the systems investment for those two sites to ensure that they could open; therefore, if you like, deprioritising the rest of the system. Albeit there was substantial investment and that is a whole-of-system platform, and a number of the Fiona Stanley systems are also repeatable across other sites. In terms of Perth Children's Hospital, the approach taken to ICT for Perth Children's Hospital is taking into consideration the lessons learnt with respect to Fiona Stanley Hospital.

Ms J.M. FREEMAN: What does that mean?

The CHAIR: That was the question I was going to ask you to finish off. Give us the three things that we have learnt from this since we have now got a new children's hospital to complete —

Ms J.M. FREEMAN: Actually, I just meant what does that mean for the new children's hospital? Does that mean —

Mr Marney: Can I answer that one instead?

Ms J.M. FREEMAN: No. You can answer directly: what does that mean? Does that mean that the new children's hospital ICT has been totally outsourced and HIN has no involvement in it?

Mr Marney: It means the strategy for the construction and deployment and training of systems in Perth Children's Hospital is significantly different to that employed with Fiona Stanley Hospital in that the approach will be to seek to source an off-the-shelf product that can be easily adapted to the new children's hospital rather than constructing 48 systems from scratch.

Ms J.M. FREEMAN: Who will adapt it?

Mr Marney: That will have to be done within the project team for Perth Children's Hospital and the product proprietor, but bringing both questions together: what are the lessons learnt? You never build stuff that you can buy off the shelf; you never build bespoke stuff that then has to be integrated with generic products; you change your business processes rather than changing the systems to suit the business processes; and you never do big bang.

Ms R. SAFFIOTI: When you use the word "cutting edge", add 200 per cent!

Mr Marney: Yes, because big bang goes boom! Those are the lessons. That is what has been taken into consideration with Perth Children's Hospital.

The CHAIR: And what considerations for—we have to build another hospital too, called Midland?

Mr Marney: We do not really have to build that one. That one is fine. Ironically, that will probably go very smoothly. There is a lesson in that for all of us.

The CHAIR: We will close with that. Thank you for appearing before us, gentlemen, to provide evidence today. A transcript of this hearing will be forwarded to you for the correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. I thank you for wishing to provide supplementary information and we will receive that; thank you. If the additional information includes particular points, please include that in your supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you, Tim; thank you, Alistair.

Hearing concluded at 2.34 pm