



STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr JJ McDonald MP
Mr MJ Hart MP
Mr JE Madden MP
Mr TJ Smith MP

Staff present:

Ms S Galbraith—Committee Secretary
Mr B Smith—Assistant Committee Secretary

PUBLIC BRIEFING—CONSIDERATION OF AUDITOR-GENERAL'S REPORT 16: 2021-22— *CONTRACT MANAGEMENT FOR NEW INFRASTRUCTURE*

TRANSCRIPT OF PROCEEDINGS

MONDAY, 10 OCTOBER 2022

Brisbane

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The committee met at 11.07 am.

CHAIR: Good morning. I declare open this public briefing for the committee’s consideration of Auditor-General’s report 16 of 2021-22, *Contract management for new infrastructure*. My name is Chris Whiting; I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. With me here today are: Mr Jim McDonald, the member for Lockyer and deputy chair; Mr Jim Madden, the member for Ipswich West; Mr Michael Hart, the member for Burleigh; and Mr Tom Smith, the member for Bundaberg. Mr Robbie Katter, the member for Traeger, is an apology today.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament’s standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind committee members that the Auditor-General is here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament’s website. Media may be present and are subject to the committee’s media rules and the chair’s direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament’s website or on social media pages. Would you please turn your mobile phones off or to silent mode.

BROWN, Mr Darren, Assistant Auditor-General, Queensland Audit Office

FLEMMING, Mr Patrick, Assistant Auditor-General, Queensland Audit Office

WORRALL, Mr Brendan, Auditor-General, Queensland Audit Office

CHAIR: Welcome. I invite you to brief the committee, after which we will have some questions for you.

Mr Worrall: Thank you for the opportunity to brief the committee on report 16 of 2021-22, *Contract management for new infrastructure*. The Queensland government had planned to spend \$52.2 billion on infrastructure projects over the next four years. With Brisbane being the host city for the 2032 Olympic and Paralympic Games, it expects to spend more.

Managing contracts effectively is fundamental to reducing the risk of cost and time overruns and ensuring public sector entities achieve value for money and the project’s intended benefits. This audit examined how effectively the Department of Energy and Public Works and the Department of Education designed and applied their frameworks in managing contracts for new infrastructure projects.

We examined six projects with a combined value of \$1.4 billion. As of 21 September the contracts we reviewed had over \$127 million in contract variations. In most cases the department had to increase project budgets to cover additional costs. They could have avoided some of the variations by planning better before awarding the contracts. Our analysis identified lessons and opportunities to improve how departments manage contracts for future infrastructure projects.

The government’s key guiding document for managing risks in planning and delivering infrastructure projects is the Capital Works Management Framework. We found that this does not reflect contemporary practice and does not provide a clear and standardised approach for managing infrastructure contracts, and many entities do not use it. The entity responsible for the framework, the Department of Energy and Public Works, has not reviewed the framework since it was introduced in 1999.

The departments have developed some internal guidelines, processes and systems for managing infrastructure contracts; however, they do not adequately align with the framework to the extent that the framework remains relevant. The departments do not comprehensively or consistently apply their own guidelines, processes and systems. They are overlooking important aspects of contract management. We found instances where the two departments had not adequately planned their contract management, undertaken effective stakeholder consultation, and clearly defined and documented roles and responsibilities or project deliverables. In some instances, these limitations reduced the departments' ability to deliver, monitor and report on projects as well as they have done otherwise. They had to change project scope and cost after they had already awarded contracts.

Some contract variations are unavoidable and in some cases they are desirable, especially where they result in enhanced outcomes; however, if departments appropriately define deliverables before they award contracts they can avoid unnecessary variations and promote the effective delivery of projects. We found issues with how the departments approved some of the contract variations. We identified internal control weaknesses and limited oversight and guidance around this. Some project teams did not obtain appropriate approvals before they varied the contracts. In some cases, the departments only approved variations after the works had commenced.

The recommendations made in our audit report should assist entities to improve how they design and implement frameworks for managing future infrastructure contracts. The committee would benefit from hearing from the Department of Education and the Department of Energy and Public Works. We are happy to take questions.

CHAIR: Reading through this, a couple of the big issues are obviously, as you said, better planning up-front which includes better consultation. One of the issues here is that consultation seems to be ongoing and then all of a sudden there is a need for a further variation to accommodate something that has just been identified. I am paraphrasing, but one of the issues with both departments seems to have been ongoing input from the public, for example, which has led to further variations. Does that correctly identify one of the issues you have identified?

Mr Worrall: What we are saying about variations is that some could have been avoided if there had been better planning and articulation of deliverables up-front and better management or monitoring of the projects as they unfolded. That is what we have said. Some of the variations probably could have been avoidable.

CHAIR: You have seen the responses from both departments on your report. I notice the Department of Energy and Public Works said, 'We have included this in our contract management framework.' Have you previously heard about them implementing the findings from your report and updating their framework? What is that contract management framework?

Mr Worrall: The report was done at a point in time. I think we tabled this report back in May. A lot of our field work would have probably concluded one or two months prior to that. At that point in time, the framework that they were using and were offering to other agencies as the lead in this space was the 1999 framework, and that is what we called out as needing updating at that point in time. That is what we saw at that point: the framework was not fit for purpose—I think that is what we said at that point—and had not been reviewed since 1999.

CHAIR: That is probably as close as we can get to that one there. We need to digest what the departments have said.

Mr Worrall: You are right: you probably should get the department to talk to this further. We would have finished that audit six months ago or a little bit more. We do not have line of sight in terms of what they may or may not have done since then. That would be something the committee could explore. I notice there is one detailed letter here from the Department of Education. I think they say that two things have already been implemented and the others are in progress, but I also note that the response seems to be the same for each of those. I think you would benefit from hearing from those directors-general.

Mr McDONALD: Thank you very much for the illuminating report. Did the department give any reason the contract processes as managed and based on 1999 were not reviewed?

Mr Worrall: I might let Darren answer that, because Darren was the one doing the audits so he probably had conversations along those lines.

Mr Brown: The department had made some tweaks to some of the underlying guidelines and principles but no substantial changes. The best we could get from the department was that there were just no processes in place to formally require them to regularly update those policies.

Mr McDONALD: Having dealt with a number of government contracts over a period of time, this was a lightbulb for me to see that and to think, ‘Why is this so clunky?’ Sorry, they are my words. This makes sense now. Through those small changes and what have you, they still have not got anywhere near contemporary best practice?

Mr Brown: In terms of their current state, I could not answer that. Again, that would be a question the directors-general of the departments would be able to answer.

Mr McDONALD: I am looking forward to making those inquiries at some stage. I note the cost overruns on the stadium in Townsville—or at least some of the costs—were attributed to the Queensland best practice industrial conditions. Do you see anywhere in private enterprise where those sorts of industrial requirements are required for private contracts?

CHAIR: You are stretching that a fair bit, member for Lockyer.

Mr McDONALD: Who does contract management well? You referred to contemporary best practice management. Is there a particular sector? Is it private sector? Is it local government? What area of the world does contract management well?

Mr SMITH: ‘Of the world’?

CHAIR: You are asking for opinion, but I would be interested to hear any response we might have.

Mr Brown: We did not include the Department of Transport and Main Roads in the audit, but we did consult with them as stakeholders, given that they engage with or are responsible for significant infrastructure projects. In a broad sense, we did look at their framework and did some comparisons to the processes being used by EPW and the Department of Education. We did note that some things were being done differently by TMR and that may in essence enhance what was being done in EPW. We refer in the report to the system that Transport and Main Roads use specifically for contract management, but that is probably the extent to which I could go to answer that question.

Mr Worrall: In terms of the *Best practice principles: quality, safe workplaces*, it is my understanding from doing this audit that if a project had already commenced it was up to the individual minister to determine whether or not those principles should be applied to that project in progress. I think that was the case with what happened at the Townsville stadium. We mention in figure 4C on the report that there were net variations of \$48.4 million on the Townsville stadium of which \$37.5 million were related to the application of the best practice principles.

Mr McDONALD: What was the motivation to commence this audit? Was this part of your normal program or was there a reason?

Mr Worrall: No. It would have been part of our work plan. In my work plan document on the website there are a number of themes. Obviously infrastructure is a theme for the state. We have known for some years now that there was quite an investment in infrastructure—a big spend. That is really what drove our interest in infrastructure—not just this audit but other activity as well.

Mr McDONALD: I really appreciate the timeliness of this audit coming out now and getting these things right for the delivery of the massive infrastructure projects for the upcoming Olympics and other major projects. Do any of private industry require their contracts to have or mirror the Queensland government’s *Best practice principles: quality, safe workplaces*?

CHAIR: You might be asking for an opinion there.

Mr Worrall: That was not really part of the audit. I cannot really answer that. I do not know.

Mr McDONALD: In my experience, private contracts that are let look for best value for the dollar and they do not actually put industry issues like the Queensland government best practice principles in their contracts.

CHAIR: We will take that as a comment. Certainly I direct the member to what was found about what TMR have done.

Mr MADDEN: Thank you very much for coming in today, gentlemen. It is always enlightening when you join us. I am just wondering about trends. In your study, did you see a trend whereby it is more difficult to get tenders for state government projects in rural and isolated areas? Are we drifting into a situation where there are fewer tenderers for projects? Did you see any trends? If you did not see any trend, that is fine.

Mr Worrall: I do not think we did—unless Darren wants to comment. Some of those projects were in regional Queensland, so they were not all here in the south-east. There were three, I think, that were outside the south-east.

Mr Brown: Tendering was outside the scope of the audit. The audit essentially started from the point where a contract was in place and had been awarded for a project. The only aspects of the audit—and we detailed this in the methodology—where we may have gone pre tendering was where we found significant variations and we identified that some of those variations may be an issue with the planning processes from the outset related to contracts, design and so forth.

Mr HART: The \$1.2 billion that you looked at—\$127 million in blowouts, 10 per cent—

CHAIR: Variations?

Mr HART: The government is going to have \$52 billion worth of infrastructure, and another \$60 billion was announced last week or the week before. How concerned is the Auditor-General about these cost blowouts, especially best practice industrial conditions and the effect that may be having on these cost blowouts?

Mr SMITH: Point of order, Chair.

Mr MADDEN: There is an inference there, Chair.

CHAIR: On the point of order, member for Burleigh, you are definitely asking for an opinion on government policy. Do you want to rephrase it?

Mr HART: The report itself identifies with the North Queensland stadium a 21 per cent cost increase. Some of that directly related to best practice industrial conditions. The Capricorn correctional centre I understand had a similar sort of increase because of those conditions. Those conditions were imposed on those projects after the project started but are now part of the original contract. It is going to be harder for the Auditor-General to actually find those blowouts in the future. Is the Auditor-General considering looking at best practice industrial conditions and the effects that is having on infrastructure in the Queensland government?

Mr Worrall: Not at the moment.

CHAIR: Member for Burleigh, I think we talked on TMR.

Mr HART: I think I have written to the Auditor-General and suggested that that should be something they look at.

CHAIR: In that case, certainly the Auditor-General may or may not do that.

Mr HART: I would like to see this committee suggest to the Auditor-General that this is something they need to look at. I think that is an important thing because they have identified something here that is causing the people of Queensland to not get best value for their buck.

CHAIR: We have strayed away.

Mr HART: You are not going to let me ask that question? I understand that.

CHAIR: No, you have just asked the question. We have given you a good go.

Mr HART: The government produced a procurement plan. The Minister for Public Works presented a whole new procurement plan about two or three years ago. We have heard that the contract management process is 20 years old. Was that not part of the procurement process the government put in place? Did the Auditor-General look at that?

CHAIR: Member for Burleigh, these are questions best left to debate on the floor of the House.

Mr HART: Sorry, I am asking the Auditor-General if they looked at the procurement plan to see whether the contract—

CHAIR: I suggest this be asked on the floor of the House.

Mr HART: It is in the report, Chair.

CHAIR: Exactly. I am just about to ask the Auditor-General if he would like to make any other comment on that.

Mr Worrall: I think that procurement plan would have outlined broadly intended procurement activity and spends on different projects but would not necessarily have talked about frameworks.

Mr HART: What is wrong with the framework? Why is it not contemporary? What sorts of changes would the government need to make to bring it up to speed? What are the things that are missing?

Mr Worrall: In the report we have called out that it is not fit for purpose. It goes back to 1999. Obviously lots of things have changed since 1999. Even contracting arrangements would have changed. There are a lot more iterative type arrangements with contractors and alliances and things like that, some of which are probably not contemplated in those original guidelines. We are also

indicating that not just the framework but also some of the application of the framework is not as good as it could be, particularly around variations but also around specifications, which would indicate that some of the planning is probably not as good as it could have been in the first place, so you actually know what you are getting to minimise variations on the way.

Mr HART: Does each government department do their own thing with regard to contracts, or does Public Works monitor everybody?

Mr Worrall: That is a good question. The intention of the framework issued by the Department of Energy and Public Works, the lead agency for infrastructure, is that other agencies who are doing infrastructure projects need to use that framework and apply that framework to their circumstances. What we found is that very few agencies actually apply that. That is what we found. Having said that, I tried to hone in on the big spenders in this space, but there would be other agencies that would not be big spenders but may still do infrastructure that probably do not apply the framework.

Mr HART: You looked at the Department of Education and the Department of Energy and Public Works. Does the Department of Education follow the Public Works framework?

Mr Worrall: Darren can talk more about this. I think they apply the framework to their circumstances, but Darren might have more to add to that.

Mr Brown: The Department of Education apply their own framework but have attempted to align that framework with the whole-of-government framework.

Mr HART: In the Department of Education, did you see any examples where they had put contracts together in order for them to reach a certain precipice where they could apply things like best practice industrial conditions?

Mr Brown: I am not aware of any particular example of that.

Mr HART: As far as the framework is concerned, is it a problem that they are using a piece of paper instead of a computer or their reporting system is not going up to the department of public works for them to give feedback on it? Does the department of public works actually care about what is going on in other areas? What is the issue here?

CHAIR: Member for Burleigh, you are going to have to rephrase that question.

Mr HART: What is the reporting process for the Department of Education to report to the Department of Energy and Public Works as far as their capital expenditure is concerned?

Mr Brown: The Department of Education works with the Department of Energy and Public Works and they do consult. In terms of reporting requirements, I am not aware of any.

Mr Worrall: All the reporting requirements would be back through the budget process in terms of spend and budget allocation. That would be back through Treasury.

Mr HART: So there is a procurement process in place, but it just does not work.

Mr Worrall: There is a procurement framework in place. Some agencies choose not to apply it. There would appear to be no compliance requirements around that.

Mr HART: There are no compliance requirements and no penalties if you do not comply, by the sound of it.

Mr Worrall: I think that is fair to say.

Mr Brown: I think the important thing to keep in context, though, is that the scope of this particular audit was around contract management rather than procurement. There are some other processes outside contract management and project management that relate specifically to procurement which we did not audit in any detail.

Mr HART: It sounds like you need to.

CHAIR: Thank you for your opinion on that, member for Burleigh.

Mr HART: It is my opinion.

CHAIR: It is indeed. I remind members that we are looking at how these contracts are managed. Procurement is related but it is a different beast.

Mr HART: I can understand why you want to defend the government. Yes, that is right.

CHAIR: Member for Bundaberg, do you have some questions?

Mr SMITH: Thank you, Chair. I do not have a question about how surprised I am that again there is a pseudo attack on unions by the LNP and keeping workers safe, but we will move on to the next question.

CHAIR: Thank you, member for Bundaberg. Thank you for your comment.

Mr SMITH: With regard to choosing these six projects, obviously they are major infrastructure projects. Was the selection of these six projects because it is a percentage of the number of builds—\$100 million at that time—or what was the selection criteria for these six projects in particular?

Mr Brown: We used a range of criteria. I am trying to find where we talk about that in the report. We do detail what the criteria was. We looked at a range of things. The first was the cost of the projects, but we also looked at the geographical location and spread of the projects. We looked at the distribution of the projects across Education and the two different units within Energy and Public Works. There was a whole range of factors. We looked at risk factors as well.

Mr SMITH: I refer to the different variations and so forth. These variations can be contracts, cost variations. Were there any physical design changes of the projects that were a variation as well during the planning?

Mr Worrall: There probably would have been, but I come back to the point that if things had been better specified some of that may have been minimised. I think there will always be some things like that, but what we were trying to say as well was that if you had done your detailed planning and your detailed specification you would probably reduce the risk of those sort of things. You probably will not eliminate it, because sometimes things unforeseen can happen and you have to respond to them. There would have been some of those.

Mr Brown: There were some that we detail in the report—things like design of roads around the projects to ensure traffic flow and design to ensure compliance with flood standards, fire processes and those sort of things.

Mr SMITH: Is the critique by the Audit Office of these departments in particular that there was not early enough engagement with other departments that may have been able to foreshadow these variations? Is that the critique of the Audit Office of these two departments? When you mention engagement with stakeholders and planning, your office was not satisfied that they engaged thoroughly with local government or with TMR around roads and so forth?

Mr Brown: I would not necessarily say that in all cases that is the case, but certainly in some cases, in some of the examples that we highlight, we are very clear in saying that earlier and greater stakeholder engagement in the planning process may have avoided in some cases and minimised in other cases the need for variations. In some of those cases some of that work would still have been needed anyway, but it is about whether identifying the need for that work later in the processes resulted in additional costs beyond what would have otherwise been needed.

Mr SMITH: It is probably too narrow of a project, but were there any trends—alluding to what the member for Ipswich West was sort of commenting around—or evidence that there were more contract variations in the regional builds than the metro builds? Was there any evidence to suggest that there were more contract variations in the regions than there were in Brisbane?

Mr Brown: We did not specifically look at that aspect, so I could not really answer one way or another on that.

Mr Flemming: Some of the projects we looked at were at different stages as well. Some were at the early stage of construction; others were towards the end. That, again, makes it difficult to compare.

CHAIR: I have a question on the response that we got from the Department of Education. I know that you have only seen this very briefly, but I thought I might just ask a very general question. They have talked about how they have basically refined their end-to-end business process in managing contracts. Is that one of the things that specifically would address what you have raised in your audit report? It is a very generalised comment, but is refining their end-to-end business process in the general ballpark of what they should be doing in response to your report?

Mr Worrall: I think that would be maybe one of a number of responses that would be consistent with our findings in a way to respond, because we call out different things in the report. If you re-engineered your process, it would in some way go to addressing some of those things. There still might be some other things they may need to do, but that would be a step in the right direction, I would say. Whether they have done that, I cannot comment.

CHAIR: We will be following up with them specifically on what they mean. To me, it is about better planning time up-front and putting boundaries or quite specific guidelines on how you do those variations and who signs off on those variations. All of those would be included in their business processes. I note that they have said that they have an external agency to review their project Brisbane

planning. That is an important part of perhaps addressing all of those outstanding issues—getting external bodies like yourselves, but certainly those planning bodies, to say, 'This is what we need to do. This is best practice.' Would that be correct?

Mr Worrall: I do not know who they were, but potentially that could be expertise within government as well. I am not really sure who they are talking about. Potentially, if they have relevant expertise, I would say that is a step in the right direction.

CHAIR: It is certainly something we want to encourage. For example, in your previous report on dam safety, the operators or the department got BSI in to do some external reviews. Also, I noticed US Army Corps—

Mr MADDEN: US Army Corps of Engineers.

CHAIR: I know, which is great. I think we should encourage that.

Mr McDONALD: What is BSI?

CHAIR: They are a big multinational company. I forget what BSI stands for. The point is getting those very reputable external bodies in to help out the departments to create those frameworks and review what they are doing. That would be an important part of meeting your recommendations, or a very helpful way to do that. Would that be correct?

Mr Worrall: I am not necessarily saying that they need external assistance. I think they just need to find where there is expertise that can help them, and some of that may be within government as well.

Mr HART: Did the Auditor-General have a look at other states and the federal government around this sort of thing?

Mr Worrall: We would have as part of our planning. Yes, we would have. Darren can probably talk about that.

Mr Brown: Specifically, we have a look at what frameworks might be available, but we do not necessarily make an assessment in all cases as to whether one state is doing it better than another. That can be quite difficult because it would require us access to information that is not publicly available.

CHAIR: Are there any further questions?

Mr HART: No. I think we need to talk to the departments now.

Mr McDONALD: Yes, we look forward to talking to the departments as recommended.

CHAIR: That concludes this briefing. Thank you to everyone who has participated today. We have no questions on notice. Thank you to our Hansard reporters. Thank you to our secretariat. The transcript of these proceedings will be available on the committee's webpage in due course. I declare this hearing closed.

The committee adjourned at 11.42 am.