



**COMMONWEALTH OF AUSTRALIA**

**JOINT PARLIAMENTARY  
COMMITTEE**

on

**PUBLIC WORKS**

**Reference: New facilities for the National Museum of Australia and the Australian  
Institute of Aboriginal and Torres Strait Islander Studies**

**CANBERRA**

**Wednesday, 17 December 1997**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

**WITNESSES**

**ASHTON, Mr Stephen, Director, Ashton Raggatt McDougall Pty Ltd, Level 11, 522 Flinders Lane, Melbourne, Victoria 3000436**

**BERENTS, Mr Derek, Project Manager, TWCA Pty Ltd, Level 11, 121 Walker Street, North Sydney, New South Wales 2060436**

**CASEY, Ms Dawn, Executive Director, Construction Coordination Task Force, Department of Communications and the Arts, 8 Sydney Avenue, Forrest, Australian Capital Territory 2603436**

**CORKE, Mr Glenn, Director, Donald Cant Watts Corke Pty Ltd, Level 5, 126 Wellington Parade, East Melbourne, Victoria 3002436**

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**PECK, Mr Michael Laurence AM, Chief Executive, Royal Australian Institute of Architects, 2A Mugga Way, Red Hill, Australian Capital Territory 396**

**SANTAMARIA, Ms Cathy, Member of Jury, Deputy Secretary, Department of Communications and the Arts, 8 Sydney Avenue, Forrest, Australian Capital Territory 2603436**

**THOMSON, Mr Graham, Partner, Mallesons Stephen Jacques, Level 28, 525 Collins Street, Melbourne, Victoria 3000436**

**WASON, Mr George, Secretary, ACT Branch, Construction, Forestry, Mining and Energy Union, 2 Badham Street, Dickson, Australian Capital Territory 2602 386**

**JOINT COMMITTEE ON PUBLIC WORKS**

*New facilities for the National Museum of Australia and the Australian Institute of  
Aboriginal and Torres Strait Islander Studies*

**CANBERRA**

Wednesday, 17 December 1997

Present

Mr Tuckey (Chair)

Senator Calvert Mr Richard Evans

Senator Murphy Mr Ted Grace

Mr Hatton

Mr Hollis

The committee met at 9.04 a.m.

Mr Tuckey took the chair.

**CHAIR**—I declare open this resumed public hearing into the proposed development of the new facilities for the National Museum of Australia and the Australian Institute of Aboriginal and Torres Strait Islander Studies at Acton in the ACT. When the committee adjourned last Tuesday, the Department of Communications and the Arts had just presented the committee with a paper which detailed, firstly, cost estimates submitted by five architects short-listed for stage 2 of the competition; secondly, additional costs estimated by Donald Cant Watts Corke Pty Ltd, the quantity surveyors; and, thirdly, the probable order for cost as estimated by the quantity surveyors. These costings were provided to the committee on a commercial-in-confidence basis.

When the committee adjourned, the department was also asked to provide further details of the cost of the project. Some additional information has been provided by the department. The department was also asked to be prepared at this resumed hearing to address the risks associated with alliances, especially risks to the Commonwealth. The purported virtues of project management as a delivery method and the involvement of local project management construction companies in bidding for discrete elements of the overall project were canvassed by the Master Builders Association of the ACT. To address the practicalities of this course of action from the point of view of the construction work force of the ACT, we have invited a representative of the Construction, Forestry, Mining and Energy Union to attend today. The committee also requested the attendance today of Mr John Davidson AM, who was the probity adviser for the design competition, and I understand that Mr Davidson is present this morning.

I wish to add to those formal remarks some thoughts that have occurred to me in the interval between our last date of hearing and today. We are here today at quite considerable expense because people have travelled from all over Australia. We have seen a delay in the resolution of this project as far as the committee is concerned simply because people were not forthcoming in providing all the evidence to the committee at its last hearing.

I am particularly annoyed to think that I had to find myself in conflict with a couple of my colleagues on this committee because I felt they were wasting time when in fact they were being misled by omission. There is no need for that. This is a project which has the support, in general terms, certainly of the government and I think of the opposition.

The reality is that this committee has a very important role, which is to ensure that, once a project of this magnitude is approved by the government, it is delivered in the fashion to which it has been promised, on budget and on time. It is no good people coming in here and telling us half-truths. There is no need for it. We are not and should not have to be Perry Masons. We expect that, if there are circumstances associated with any part of the project, we should be told about them. Once that is on the table, it frequently does not have the magnitude it has when it comes out later through, for instance, cross examination.

I have asked my colleagues to try to keep to the point on these matters, but the amount of time of yours and ours that they consume is directly relevant to the information that witnesses provide. I trust in my time as chairman in the future, I do not have to make this statement again. I was very disappointed. Here I was—and I will repeat this point—arguing with my colleagues because I thought they were repeating questions that had been adequately answered when they had not. I think those points need to be taken into account. As I said, we are all here with goodwill, but it is our responsibility to have all the matters addressed so we can recommend to the government that this project is viable in the way it has been presented. Thank you very much for listening to my thoughts.

[9.08 a.m.]

**WASON, Mr George, Secretary, ACT Branch, Construction, Forestry, Mining and Energy Union, 2 Badham Street, Dickson, Australian Capital Territory 2602**

**CHAIR**—The committee has received a submission from the Construction, Forestry, Mining and Energy Union dated 15 December 1997. Do you wish to make any amendment to that submission?

**Mr Wason**—No.

**CHAIR**—It is proposed that the submission be received, taken as read and incorporated in the transcript of evidence. Do members have any objections? There being no objection, it is so ordered.

*The document read as follows—*

**CHAIR**—Mr Wason, I invite you to make a short statement in support of your submission before we proceed to questions.

**Mr Wason**—First of all I would like to put on record that the CFMEU here in the ACT supports the commencement of the National Museum and the Aboriginal and Torres Strait Islander studies project. We have been a strong advocate of this project over the last 10 years in trying to encourage not just this government but previous governments to expend the necessary capital to finalise it.

I have read some of the other submissions and I note with some interest that they present what I could only describe as a jaundiced view of some of the issues which are involved in this project. Our organisation is basically opposed to a form of alliance-type delivery or some kind of quasi-project management process. We see that as basically being inefficient and ineffective for a project of this significance.

We also oppose the concept which has been advocated of fast tracking. We have had experience of fast tracking; in fact, this building was built under a lot of fast tracking and we would argue—and I am sure if you checked the records you would find this—that the cost blow-out on this project was millions and millions of dollars based on the fast tracking principles. We say that fast tracking is not value for money and is not cost effective. It is certainly our view that it should be a fixed term, hard dollar contract. Whoever is the successful tenderer should be required to deliver the project within time, within costs and within budget.

We also favour this project being opened up as some kind of a national issue because of not just its social but also its cultural importance. We would not favour some kind of weighting towards local contractors. We see that as inefficient, and it also lacks a competitive tendering system. It is our argument that opening it up to contractors throughout Australia would certainly allow market forces to work effectively and efficiently.

We are also of the view that, during the course of the project or prior to the project commencing, there must be a system of security of payments to deal with the issue of the subcontractors and their employees who will be engaged through the head contractor. We are also of the view that a project of such national and cultural significance must have a strong Australian content provision, although we do recognise that on some issues there will be some inhibiting factors, such as quality of material and also availability, which we cannot allow the project to be held up over.

We are also a strong advocate of the employment of local labour. We note in previous submissions an argument saying that if interstate contractors are used local labour will not be engaged. That is untrue. Once again, Parliament House is a classic example; it employed a significant part, if not most, of the labour force in this town. Since the completion of Parliament House we have had interstate contractors coming to this town

and employing local labour. The union has had a policy for many years that local labour be given first preference.

We agree with interstate contractors bringing in their key personnel to run their operations. It is not just in a social sense that contractors will not bring in interstate people if they can avoid it; it is also in an economic sense because of the oncosts of travel and accommodation when the workers get here. So in general we have the support of interstate contractors coming here that they shall employ local labour. We also see it being a good and healthy thing because it brings new ideas into the town and creates a bit of competition with local contractors. I would argue that, if we did not have that competition, the local contractors may get lazy and it may even lead to a climate in which collusive tendering may spring up. So, as I have said, we do not have any objection to interstate contractors coming in because in our experience over the last 10 years or so we have not had a problem with local labour.

**CHAIR**—Do any members wish to ask any questions?

**Mr HOLLIS**—Are you based here in Canberra?

**Mr Wason**—That is correct.

**Mr HOLLIS**—But you are a director of a couple of companies in Melbourne?

**Mr Wason**—That is correct.

**Mr HOLLIS**—You do not think that in any way there is a conflict of interest, do you?

**Mr Wason**—No, we do not have a conflict of interest. I am a director of two development companies which have a relationship with our superannuation fund. Basically, the money comes from our superannuation fund into these development organisations and we are a successful developer.

**Senator MURPHY**—With regard to this project what is proposed is an alliancing arrangement for the construction of the project. It has also been put that the project could be divided up into a set of developments or split the project into separate arrangements. You then allow contractors at a local level the capacity to bid for the jobs. Do you have a view about the splitting up of particular projects in so far as the union is concerned, or from a development point of view?

**CHAIR**—Just adding to that so that the question can be answered as one, there are some separate, discrete buildings and an argument has been put to us that in other areas in more recent times there have been two subcontractors on dry wall fitting or something on the one site. You might address it and add to that the criticism that was put that, if the job



was let other than as one unit, there could be opportunity for industrial dispute on one part of the site taking in the whole state. In fact, someone said there is only one road into this place. Would you like to comment on all those aspects in one answer?

**Mr Wason**—I will try. Taking the last part in regard to having more than one contractor on site, we have not had a real problem in the past. In fact, at the geological centre which we have just completed, better known as AGSO, there were several dry wall contractors working on that job under the controlling conditions of the head contractor, Boulderstone Hornibrook. That is a practice which has been going on for some years.

But we find it somewhat unusual and unorthodox for a project of this size to be carved up into numerous sections to placate a situation were we allow local contractors or builders to tender. In our view that would be quite messy and inefficient. You would be dealing with four or five different project managers. All we can say is that we see it as running into cost overruns. It is a lot easier dealing with a single body than dealing with a multiplicity of bodies.

I must say, putting my other hat on being a director of a couple of development companies, that we avoid that situation like the plague. We are developing a major shopping centre down in Richmond. It is some 10 hectares of land. It is the biggest inner city vacant block of land left in Melbourne and we are using one builder. We are not going to carve up the site and issue all these different contracts. We have done it on the Regent Theatre and we are doing it on the City Square Motel in Melbourne. It is one contract. We see it as duplication and basically an ineffective way to control the project.

It was actually tried on the foreign affairs building where contractor A and then contractor B came in to do stage 2. It is my understanding that there was a major dispute in regard to defects, cost overruns, claims for the extension of time and who was responsible—was it the person who did stage 1 or the person who did stage 2? The good thing about dealing with one body is that they are responsible for delivery of the total project.

**CHAIR**—Any other questions?

**Senator CALVERT**—How many members do you have in the ACT?

**Mr Wason**—At this point in time we have an active membership of about 3,000.

**Senator CALVERT**—You were talking about the AGSO project. How many local contractors were employed on that?

**Mr Wason**—I could not give you an answer off the top of my head.

**Senator CALVERT**—Is it not a fact though that on that particular project, for instance, the union representative was there trying to keep people from outside coming in

because it was to the detriment of local builders and they were not getting enough work?

**Mr Wason**—No. You say ‘people’. We have a position with regard to local labour. We have a strong position where we say that the pool of local labour should be exhausted first before the interstate contractors bring in interstate labour. With regard to where the contractor comes from, it is purely academic.

**Senator CALVERT**—Is it not a fact that with the AGSO building local labour was being ignored and they were bringing labour in from outside and you had to try and stop that?

**Mr Wason**—No. We struck an agreement. There was an argument with regard to the level of what they call ‘key personnel’. In our view they wanted to bring in more than what was necessary. My understanding of the whole argument we had there was that it was in regard to the material handling crew, the crane crews. There were some three cranes on site and initially they wanted to bring in all the crane crews from interstate. We said we were not going to accept that because there were a number of crane crews unemployed here in the ACT. We actually negotiated a compromise deal where they brought in one crane crew.

**Senator CALVERT**—The whole aim of this building with federation funding is to use local businesses and labour. And by supporting and pushing for national contractors, there is a real danger that local companies will miss out. You say you favour local contractors and labour, but how can that be enforced?

**Mr Wason**—It has to be enforced. In our view it is a market out there and they all have to compete and tender in it. They have to go out there and, if they are the best people for the job, they will win the work. That is the way it should be operated. We will run into dangers if we then start favouring local contractors against interstate contractors. As I say in my submission, there is already—and I am quite sure I do not have to tell you people at the top table this—an anti-Canberra sentiment in some states and all we would be doing is actually encouraging and reinforcing that situation by saying that the Commonwealth money which is spent in Canberra is going towards Canberra businesses. I do not think that would be a good message to send out. It is a national project; it is of national significance. I think it should be opened up to people throughout Australia, throughout the Commonwealth.

**Senator CALVERT**—As far as alliancing goes, though, is it not true that about 40 per cent of the tender would be under a services contract? Therefore, there would be no tendering in that part. Whereas the building contractor can tender out and get competitive prices, the services contractor is part of the deal and, therefore, has a monopoly on it. Therefore, there is no tendering. Are you concerned about that?

**Mr Wason**—The services in regard to—

**Senator CALVERT**—Electrical cabling, mechanical, airconditioning—all that stuff.

**CHAIR**—The description given to us of alliancing is that you get a group together who work as a team, including the client, and that together they deliver the project. I think the point that Senator Calvert is making is that, basically, once that group is together, there is no fixed price contract as such. It is agreed as it goes along. Senator Calvert asked whether you wanted to make any further comment outside of your written submission on the concept of alliancing as it affects the circumstances before us.

**Senator CALVERT**—I could not have asked the question better myself.

**Mr Wason**—Alliancing is very much an unknown quantity in the ACT. We would have concerns with going down the track of alliancing because it is an untried method; it is unproven. With a project as important as this, this is the last place where we want to have experimentation. In regard to the services, it is true that about four or five contractors deal in the mechanical, electrical and service sector of our industry in Australia. That is not through choice, in our position; it is more a fact of the market position. These five major service, mechanical and electrical contractors have secured the market. You do have a limited group to call to tender.

**Senator CALVERT**—What about industrial unrest? What is the track record of the local contractors here? Have there ever been any problems with delays, strikes and the like? It has been brought to my attention that the last major building here was the hospital. The only delays were caused by national problems rather than problems within the ACT. The ACT has a very good track record of no industrial unrest. It is only when the national bodies become involved that it becomes a problem.

**Mr Wason**—No, that is not true. I agree that we have a pretty good industrial track record. There are several reasons for that. Basically, because of our geographical size, it is very easy to know what is happening around town. It is very easy to build up contacts with the key contractors and so on. Therefore, it is quite easy to pick up the telephone and resolve many problems over the phone before there is any potential conflict. We work very effectively. We build relationships with the contractors around town—both the principal contractors and the key subcontractors.

We also have a good relationship with the national builders. We are very proactive. We are of the view that we try to reach agreements prior to the project commencing. Therefore, we minimise industrial unrest. That is a positive and civil census. It is good to encourage investment in time because we have a good track record of low industrial disputation. The contractors are happy because they finish their jobs on time. The workers are happy because they have minimal down time. Therefore, they do not lose much money. All in all, we have a fairly effective relationship with the national contractors, the local builders and the local subcontractors.

**CHAIR**—The current time scale for the completion of this project is 1 January 2001 to line up with the commencement of Federation. There have been questions about how this could be achieved if, for instance, your recommendation for the completion of design work, preparation of tender documents and a fixed price tender process were followed. Are you prepared to make a comment on that time scale if that proposition were accepted as the best? How much faith have you got in your members to deliver?

**Mr Wason**—We have faith in our members to deliver. That is not a problem. I suppose the problem would be the other side of the scale: the design work, project documentation, the signing of contracts—all these variables that we have no control over. In regard to our membership and the construction workers, we have every confidence in their ability to deliver.

**CHAIR**—Thank you, Mr Wason. It is very good of you to come in. We appreciate your coming in at short notice.

[9.29 a.m.]

**PECK, Mr Michael Laurence AM, Chief Executive, Royal Australian Institute of Architects, 2A Mugga Way, Red Hill, Australian Capital Territory**

**CHAIR**—Welcome, Mr Peck, and thank you for attending also at short notice. The committee has received a letter dated 12 December and attachments from the Royal Australian Institute of Architects. Do you wish to propose any amendment to that letter?

**Mr Peck**—No, Mr Chairman. That is a record of what has been on the public record for some time.

**CHAIR**—It is proposed that the letter and the attached correspondence be received, taken as read and incorporated in the transcript of evidence. Do members of the committee have any objection to that process? There being no objection, it is so ordered.

*The documents read as follows—*

**CHAIR**—I now invite you, Mr Peck, to make a short statement before we proceed to questions.

**Mr Peck**—Thank you, Mr Chairman. As I stated in the letter to the committee, it was not the intention of the RAIA to appear before this hearing. But, following a conversation with the secretary to the committee, I decided to send the information that we had already been sending to the Prime Minister and to the Minister for Communications and the Arts. That is intended to go on to the record of the committee just as a public record.

The RAIA, as the committee members may know, is a professional association. Our members are people from the private sector, the public sector, employers and employees. We do not represent any particular industrial position with regard to our policies and attitudes to matters to do with architecture. I should declare an interest. My brother is part of the consulting team, so I would like to declare that now.

The main problem that the institute sees with this project is the fact you mentioned earlier, and that is the intention of the government to finish this building on 1 January 2001. We think that many of the problems and criticisms of the process stem from that objective. Had the objective been to design and construct a world-class national museum, we believe the time scale would have been different, the process that the department has been forced to undertake would have been different and the outcome would have been a lot better.

I think there are pressures being placed on everyone concerned with this project due to that time scale. In the interests of a nation that is going to create a public utility which will last for at least 100 or more years, it is better to undertake the project in a timely manner and produce an appropriate result rather than try to achieve the time scale of 1 January 2001.

We have in our submissions to the Prime Minister and to the minister concerned outlined this problem over a number of months now. To date, that political decision has not been reviewed. The department, to their credit, and the people associated with this project have, to their credit, attempted to try to achieve that objective. We feel it compromises the project.

**CHAIR**—Thank you, Mr Peck.

**Senator MURPHY**—There has been some criticism from your organisation and from the international organisation with regard to architects about the conduct of the competition that preceded the appointment of a consultant for this project. I would like to ask you a question with regard to not so much the criticism that you had of the conduct of the competition but something that has come to light since. It relates to the amount of

money that was contained in the brief for the design competitors, the five finalists—the amount of money that they were told would be the budget for the project. We subsequently found out that the department had been advised prior to the issuing of the second stage brief that the criteria, or the guidelines or the requirements set out in the stage 2 brief could not be achieved for the amount of money that they had put in that stage 2 brief. In fact it was substantially higher. In your view, do you think that the competitors ought to have been told that that was the case?

**Mr Peck**—The institute has done no detailed analysis of the estimates of the costs of this project, so I would not want to imply that we have done that sort of analysis. However, from our experience in projects of this type, it appeared to us that the budget was exceedingly tight. It appeared to us that the amount of money allocated to the competition process and to the work that the competitors would have to do was tight. In fact it was on our representation that the amount of money provided for the finalists was increased from the originally intended amount. As to the budget for the project, I think you would probably be hearing more expert witnesses on that matter than me.

**Senator MURPHY**—I guess I am asking a question of probity in so far as the conduct of the competition is concerned. Competitors were told, ‘You have to deliver X within a \$68 million budget,’ but in fact the people telling them that were aware that that simply could not be achieved. Indeed, they were aware that it would cost in the order of \$82 million. I am asking whether in your view and in your organisation’s view the competitors in that competition ought to have been made aware of that.

**Mr Peck**—If they are the facts as you state them, obviously they should have been made aware of that.

**Senator MURPHY**—Why would that be the case?

**Mr Peck**—It goes back to one of the fundamental reasons that we were critical of the competition process. In a normal architectural competition process you have a properly prepared brief. This is a brief that covers the total aspect of the intention of the project. It goes to issues of the accommodation that is needed to be required and the works that are required on the site. It also looks at the establishment of a proper budgetary provision for the project. I think this is again, if what you say is true, a demonstration of the haste with which this has been undertaken. I think it is the sort of thing that falls out of having to condense a very complex process into a very short time.

**Senator MURPHY**—If there were costings—one was contained in the brief at \$68 million and another was an independent costing that the department who conducted this competition had been made aware of which was \$82 million—would you think it would be the responsibility of the probity officer conducting the competition, if the probity officer knew of those facts, to tell the competitors?

**Mr Peck**—It depends on what the probity officer's brief is. If his brief is to ensure that the conduct of the competition is run in accordance with the conditions that have been published and one of the conditions is that the design must be completed for a certain amount of money and he is formally advised that the money is now different then, obviously, he should have required that the competitors knew of that. I cannot speculate as to whether he did have that information or not.

**Senator MURPHY**—We will find that out in due course.

**Mr HATTON**—Mr Peck, you made a fairly significant point about the tightness of the time frame and the fact that you think that totally compromises the project. Now that this has reached this point of public hearing, do you think we should go back to taws on this and look at it from somewhere near the beginning or do you think this project is capable of being carried forward with the constraints that are obviously there in terms of the initial process and what we have before us now?

**Mr Peck**—A process has been conducted to select architects. It is our view that the consultant team has the capacity to deliver a very good project. As you will know, the design process for its success depends on that team having the appropriate time to research all the issues, to test options and to come to an optimum solution. If the project team is forced to work to a delivery method that does not enable all that research and design development to be done, no matter how talented they are, the process is compromised.

The institute is still of the view that there is insufficient time for this project to be conducted as well as it might and it would be in the interests of the nation to look at that whole question. In fact, in our submissions to the Prime Minister and to the minister concerned we suggested that rather than achieve a completion, open the doors date of 1 January 2001 there may be some other symbolic event that could take place at that time and run the project in accordance with a properly scheduled development.

What we suggested in our submission was that you might open the Aboriginal and Torres Strait Islander section of the complex at that time because the museum itself is a much larger project. When people think about building a development like this they think just build the museum. The museum construction is one aspect. The actual fitting out and commissioning of a museum of this size takes an enormous amount of time. I understand that with the Victorian one it is going to take nine months from when the building is completed to when it is actually fitted out, commissioned and ready for the public.

**Mr HATTON**—What response have you had from the Prime Minister?

**Mr Peck**—I am sorry, I do not have those in front of me. We have had letters of acknowledgment. I must say that our early submissions to the department, to the minister and the Prime Minister resulted in the appointment of the probity officer and resulted in the appointment of Michael Keniger from Queensland to advise in the process. I think that



advice was well taken and that the process was vastly improved as a result of that advice being taken.

**Mr HATTON**—But we still have the whips cracking for an on time, on budget delivery for 1 January 2001—the first day of the new millennium—because that coincides with 100 years of federation. From the Prime Minister or the Prime Minister’s office have you had any substantive reply with regard to a variation of that timetable?

**Mr Peck**—No.

**Mr HATTON**—Any indication that they would be willing to think about it more deeply?

**Mr Peck**—No.

**Mr HATTON**—And from Senator Alston’s office?

**Mr Peck**—No.

**Mr HATTON**—Or from the good senator himself?

**Mr Peck**—No.

**Senator MURPHY**—There has been no response to your criticism.

**Mr Peck**—No, there have been responses to our criticism, but the question was with regard to the moving of the target date.

**Senator MURPHY**—One of your criticisms was that and there were other criticisms. Have you had any response in a general sense to the criticisms other than the Prime Minister’s response that you have a probity officer and Mr Keniger.

**Mr Peck**—Yes, as I mentioned earlier in my evidence the amount of money paid to the finalists was increased to enable them to do their work. So there were some notes taken of our submissions and there were some changes to conditions of the competition as it was first envisaged. However, the fundamental point of sufficient time to do an appropriate national project like this has not been responded to positively in any way.

**Mr HATTON**—Given that there has been no response to that therefore it is still locked in. I take it from—

**CHAIR**—I do not think it is Mr Peck’s responsibility to say whether it is locked in. I think you have to address that to the department.

**Mr HATTON**—I am sorry, Chairman, I am not asking him that. Given that he has had no response to vary that from the Prime Minister or the relevant minister and given that it looks as though that is locked in and the department is bearing under that kind of pressure, because that was what was outlined to them and there has been no variation of that, do you think considerable damage to this project could be and probably would be done, in terms of what could be turned out, because of that constraint of time on them?

**Mr Peck**—Yes, I do. I think you heard from the previous witness the problems that occur on major projects of this type with contracting and industrial relations when those pressures are on. This is another aspect that we raised in our submission with the Prime Minister—that when there are deadlines like that set it tends to create tensions on the site which lead to cost overruns and that sort of thing that you heard earlier.

**Mr HATTON**—So, in your view and in the institute's view, it should be a stage development. The federation year is a year long and opening one part on the first day of the year would be appropriate. But time to do the rest of the development and opening that some time later in the year should alleviate most of the critical problems in regard to this project?

**Mr Peck**—We believe that with the consultants the department has on hand and a review of the schedule the quality of the end product could be substantially improved.

**CHAIR**—Just before you leave that. This is a very difficult question, and you may find it too difficult. Mr Hatton just talked about months—in other words, a longer time scale but still within that year of importance. I am just checking—and I suppose I should know—when the parliament actually first sat and whether this has some significance in all of this. Is months the answer or do you feel a year or more is the answer?

**Mr Peck**—I would not want to speculate on that.

**CHAIR**—That is fair enough. I just thought we should clarify that while we were at it.

**Mr HATTON**—Unfortunately, we do not have the big blow-ups today, but no doubt you will have seen these conceptual drawings. What concerned me, as the evidence came out, is that we were not dealing with a \$68 million budget but one where that \$68 million cost was \$82 million. We have a total project cost of \$133 million. But when Mr Service indicated that all of that did not matter, that there was a variation to what the possible costs were and that this would be delivered on time and on budget—\$133 million, thank you very much—by 1 January 2001, a lot of things seemed to be, in prospect, knocked out.

But these conceptual drawings may bear zero relationship to what we may actually end up with. The fittings and fit-outs in that building may be enormously scaled back

when there is so much variation in cost. Do you have any comment in relation to that? I do not know whether you have had a chance to hear any of the evidence that was given at the last hearing.

**Mr Peck**—No, I have not.

**Mr HATTON**—It concerns me and other members of the committee greatly that, at this point, particularly given that evidence, we do not know what we are dealing with. We do not know how real this is and what we might end up with, in terms of bank for the buck, out of that \$133 million.

**Mr Peck**—I used to, when I was in practice, draw a triangle for my clients. At one point was dollars, at another point area and another point quality. I used to tell them that they could fix any two points of the triangle and I would tell them what the third was. It is a similar sort of situation here. The government is fixing a couple of points and the other point must be variable. So the design team has that problem. They have been told that they have to finish it by a certain date and they probably by now have a detailed schedule of accommodation that needs to be fitted in to the project, in to the budget, so it is a matter of compromise and adjustment and so forth.

You are quite right. These are early conceptual drawings and the design process really moves on from here and you might not get what is shown there. In fact, it would be surprising if, on the information with which those were presented and the further information that will be given to the consultants, that is in fact the final result.

**Mr HATTON**—As a committee member, one of the problems I have is that, with normal processes, we end up looking at a final picture which is pretty close to what the situation will be. If we approve a project, take that approval and put it to the parliament and recommend that approval we know what the outcome will be. But, right at this point, I think we have zero idea of what the outcome of this would be and that if this is currently approved as is we are dealing with simply an initial conceptual design and not much more than that.

**Mr Peck**—I must say that you are obviously in a better position than me to make that judgment because you have more evidence in front of you.

**Mr HATTON**—But, from your point of view and from the RAIA's point of view, this is a long way yet from being a substantial end product where you can clearly see where the money is going to go and what type of building or sets of buildings we would get.

**Mr Peck**—The previous witness referred to this building (Parliament House). The brief for this building was one of the best briefs that has ever been produced for an international competition; it was very precise. The design competition was run according

to international standards, the design was produced and architects appointed. Criticism has been made about the cost overruns.

I should say two things about that in regard to this project: one, the floor area of this building, as given by the brief to which the architects originally designed, was increased by 60 per cent by the client from the time that they won the competition until the building was completed. So it just shows the strength of the design idea—that the client could change the brief that much and still the building be manifestly similar to or almost, according to laymen, identical to the original design.

In the case of this, the National Museum competition, our early criticism was that the first stage of the competition was going to be concluded before a brief was written. In fact, when we were first asked to comment no-one had been appointed to write the brief. People were struggling to try to deal with the target date. You cannot criticise them. We were very critical, but we were not criticising the individuals, we were criticising the constraint put upon them by their political masters.

**Mr HATTON**—And it is a very severe constraint. Could I just finish with this. As it stands at the moment, not knowing what we might get, if the time actually sticks, then the probability is that the quality will suffer—both time and the money constraint that is there in relation to it. The probability is that, where this building is to be built for 100 years, we will get an inferior product in terms of quality and fit-out.

**Mr Peck**—I am not going to say inferior; I am going to say not as good a product as you could get out of the people that you have engaged because they can do their work better if they have appropriate time.

**CHAIR**—I think we have to come back to your three points of the triangle. At the moment, the suggestion is that the cost and the date of completion are fixtures, which only leaves the size of. Quality might not be the point. It might be a smaller building, but those options have to be adjusted if something goes wrong. That is what you are telling us, isn't it?

**Mr Peck**—Yes.

**Mr HATTON**—There is greater flexibility if you open up the time. You have a different situation in relation to costs then because those pressures do not—

**Mr Peck**—You can be more precise in the definition of a design before you commit to contractual construction arrangements.

**Mr HATTON**—If what we have now, given that it is so schematic and that the prices are supposedly fixed, is proved at this point in time, what probability do you think there is in actual cost overrun? We do not really know what the core of this project is at

the moment in terms of building project, do we?

**Mr Peck**—I cannot speculate on that. We are unfamiliar with the alliancing process. We would not want to speculate on a question.

**CHAIR**—I think we have rotated that enough.

**Mr RICHARD EVANS**—Mr Hatton has asked most of my questions, but I want to extend that a bit further. On your experience, in other building projects that do run to time, there must be a cost blow-out to be able to do that, given the considerations you said before about IR and other issues. In other projects, what sort of contingency plan do they allow for that? Is it five per cent, 10 per cent, 20 per cent?

**Mr Peck**—The trouble with the building and construction industry is that each project is unique. You cannot make those generalisations. That is the problem. We do know that, when you put those time constraints on and everyone associated with delivering the services and the product onto that site know there is a deadline, they know there is an imperative on those people to deliver on that deadline, they can take advantage of the situation.

**Mr RICHARD EVANS**—But on previous projects is there some sort of nominal percentage figure that there has been in the past?

**Mr Peck**—I am afraid it is not that easy. We just cannot say, ‘We’ll put a budget of 20 per cent on it and then we’ll cover all those contingencies.’ It does not work that way.

**Senator MURPHY**—This committee, in dealing with all other projects of a Commonwealth taxpayer-funded nature, has normally been dealing with a 10 per cent contingency because we have had more specific contractual arrangements. Therefore, there is a greater capacity, maybe not with a fixed timetable, to determine what sort of contingency you need.

**Mr Peck**—That is true. If you are using a more standard project delivery methodology, there is evidence that you could. If you were using one of the industry standard forms of contract on the basis of a properly prepared design and properly prepared documentation, you could make some generalisations, but this is not the situation here.

**CHAIR**—Mr Peck, at the moment, various parties with various levels of support have suggested to us project management, the alliancing concept and, of course, design, tender and construct. In terms of your experience to date—and if we took the time constraint out of it—in your view, which is more likely to deliver the Commonwealth with the best outcome?

**Mr Peck**—I have to say that if we could wipe the sheet clean, and we were giving advice to the government as to how they should undertake a project of this type, we would go back to the position that we held right at the beginning. You would run an international design competition based on a very specific brief which would produce a design that could be built. You would commission the consultant team to undertake that design, and they would document it in great detail. You would go out to the industry and get them to competitively tender prices to construct it. The process would ensure that everyone was committed to an outcome that they understood because the design is defined, the documentation is specific, the contractors are tendering on specifically defined scope of works. That is the best way to go, in my view.

**CHAIR**—At this point in time, considering whether you are happy with the process of the appointment of the architectural team, is there any reason why the other half of that project could not continue if that was the government's final decision?

**Mr Peck**—Along the lines that I suggested. Why this team—

**CHAIR**—If we had to draw the line, let us assume all those things had happened and we now have a design team.

**Mr Peck**—You have a design team now that could do that.

**CHAIR**—Fine. Just for the record, if it is any help, the parliament first met on 9 May 1901. So there is five months for you, Mr Peck.

**Senator CALVERT**—You said you are unfamiliar with project alliancing. Does that mean you have no knowledge of it at all or you just do not want to comment on it?

**Mr Peck**—My knowledge of it is limited to what I have seen in one brief reading of some of the documentation that has been put out to the consultants. So I cannot comment on it because I just do not have enough information.

**Senator CALVERT**—From the limited amount you have seen, there is nothing there that hits you in the eye that you would have concerns about?

**Mr Peck**—Over the last two or three decades in the Australian construction industry there have been numbers of methodologies put forward for delivering projects on time and on budget—some of them more successful than others. It could be this is a system that is eminently successful, but I do not know. One of the things that we as designers are absolutely adamant about, though, is that you never get a satisfactory solution from an ill-defined problem. Unless the design problem is properly stated at the beginning, you do not get a good solution.

Really, this goes back to the client. I keep being reminded of Michael Heseltine's

comment in talking about the UK government's attitude to architecture and construction where he said that you never get a good project from a poor client, no matter how good your consultant team is or how good your contract team is. The problem with this project, as we see it, is being driven by the client.

**CHAIR**—If there are no further questions, thank you, Mr Peck, and thank you again for coming at such short notice.

[10.01 a.m.]

**DAVIDSON, Mr John AM, Director, Catalyst Design Group Pty Ltd, 252 Church Street, Richmond, Victoria 3121**

**CHAIR**—Mr Davidson, we have no formal submission from you, and it was anticipated you would appear today along with the Department of Communications and the Arts, but we feel that, as there are some special questions we wish to ask, it is probably easier to deal with your evidence now. As such, we will not be putting any of the correspondence that has been presented to us by the department as your specific evidence, although it is probable it could be included, if it has not been already, with other evidence provided by the department. At this stage, I would just ask you to make a short statement relative to some of the matters you have addressed in correspondence with the department and other information you think we should know and then I will open for questions.

**Mr Davidson**—Thank you. In November this year I prepared and presented to the Department of Communications and the Arts a report on the conduct of the Acton Peninsula design competition. At this stage, I would like to make a couple of comments about the nature of the competition, and I think I must declare my position fairly clearly on this. As a senior member of the profession and a former national president of the Institute of Architects and previous vice-president of the international union of architects, I have been involved in the architectural political scene for many years and have both at the international and the national level been a member of competition committees and been involved in writing drafts of competition conditions.

I was in communication with Michael Peck at the beginning of this competition announcement, and we discussed a number of the issues which formed the basis of the RAIA's submissions to the government and to the Prime Minister. I have made it clear all along both to the institute and to the Department of Communications and the Arts that I support the institute's stand on the matter of the competition in principle. There were a number of issues in relation to the way the competition and the program for construction were intended that I found difficult to agree with. However, it was suggested or recommended to the Minister for Communications, the Information Economy and the Arts and accepted by him that I be involved as the professional adviser of the competition and, with the institute's support, I took that position.

This competition has not strictly been an international architectural competition. It was a local competition which advertised to international firms that they were invited to compete. An international architectural competition can only be given that name and run that way if it subscribes totally to the rules and conditions of the UIA, the Union Internationale des Architectes, which operates under the set of guidelines laid down by UNESCO for international design competitions.



If that route had been followed—and we talk now of the program—it probably would have added somewhere between 12 and 18 months to the time scale for this project. It would certainly have added many millions of dollars to the cost of the competition because a properly organised and approved UIA international design competition is a very expensive exercise. It requires, for instance, a majority of international architects from outside the country to visit the country for one to two weeks on two occasions with first-class airfares paid and five-star hotel accommodation provided. It is a wonderful junket, and I have been lucky to be involved.

But, in effect, it does mean that the competition receives international recognition, receives the imprimatur of total acceptance by the international architectural community. There are very few such competitions held which are available to Australian architects, some of them in fact become regional competitions. The European Economic Union runs a number of competitions. The last one that I am aware of in this part of the world which was truly international was the competition for the national museum of Korea. In that case there were over 500 entries from all around the world, and it is interesting that the competition was actually won by a Korean, selected by an international jury.

I just want to make the point that I do not believe that we can criticise any of the process here as being inappropriate because it is not an international competition. The competition, as it was run, and I have said this in the November report which I prepared, was managed by the staff of the heritage division of the Department of Communications and the Arts. It was run with the utmost probity with absolute fairness. I could not find any basis at all on which to criticise the activities or the process.

I think it is important that I touch on the issue of the budget, because this has been a point of cross-examination. Stage one of the competition, which, as Michael Peck indicated, did not have a detailed brief—the brief was not prepared until just prior to the commencement of stage two by the short-listed candidates—did not have any indication of cost. It was simply a concept stage to select a short list from the most potentially exciting and appropriate solutions. I believe very firmly that the right decision and the right selection was made at that time. It was not an easy process but it was carried out extremely well. The five firms that were selected I believe were the appropriate five out of that first stage entry. That, by the way, was absolutely and totally anonymous. There was no indication of authorship in any way in any of those entries.

Stage two is different because you know who the five short-listed firms are. There were intermediate briefings with those firms. The budget stated at that time of \$68 million was prepared on the basis of the department's quantity surveying consultant who had a very limited opportunity to examine the brief which was only finished shortly prior to the start of stage two. The revised estimate, which I understood was \$79 million and not \$82 million, but the figures may have built up from other sources, was not clarified and known until after the end of stage two. There was no way in which I as the competition adviser could have made that figure known to any of the short-listed candidates because it simply

was not available.

One of the normal tasks of the competition professional adviser in a standard competition, where time allows, is to persuade and convince himself that the budget and the brief are compatible. In other words, if a competition professional adviser is able to do his job properly, he should effectively design the building and prove that the information given to the candidates is fair. This obviously could not be done within the time constraints we had. The budget was prepared by a consultant quantity surveyor. I considered it to be a fair assessment, but I do not believe that the detailed items in the brief were necessarily included in that figure. In fact, evidence showed that they were not and the budget came in at a higher figure later.

Even had that figure been made available, and I differ here with my colleague Michael Peck, I would very seriously consider whether that information should be given. The point is that, at the stage that had been reached, five firms had spent a considerable amount of time and effort working on data which was common to all of them and in a situation where to give them a change of the budget at a later stage in stage two could have disadvantaged the entire process.

I like Michael's triangle. It is one that I have used many times. It is very true that, at the time you are working on a competition entry, you have three things that concern you. Obviously the first is the concept—the nature of the design, the approach, the appearance, the way it is going to work, its functionality. In other words, the project design and workability. The second is the time that you have to complete. One of the things which the institute was able to do in early discussions with the department was to change the time program between stage one and stage two to a more realistic separation into those two time spans without changing the end date for closing. You are considering the time and the deadline by which time you have to get all the drawings finished.

The third area of concern is: are we going to meet the budget? One assumes that, if you produce the areas in the scheme that you have designed to conform to the brief requirements that are spelt out for you, but in the last few days—I mean it literally—after you finish the layouts and finish the design and finish the drawings and you get them to your own quantity surveyor, not the sponsor's quantity surveyor, to check that price, you are going to be pretty close to the budget. If he measures up your drawings and finds that they are 10 per cent over the scheduled areas, you breathe a great big sigh and say, 'Look, we'll put it in anyway because we'll be able to adjust it if we win. We can just drop the areas back a little.'

What I am really trying to get across is that there is a degree of flying by the seat of the pants in the competition process at this stage. I do not believe that the issue of whether budgets and areas are within five per cent, 10 per cent or 15 per cent is crucial. There is no architect in my experience who, even if he is appointed directly by a client, when he comes up with a first set of concept designs and sketches and it is costed, is able

to hit the spot right exactly where the client thinks he is going to hit it financially. Almost inevitably there has to be a review.

The other diagram which I like to present is this constant method which happens after you are appointed when you are working with the client working parties and the groups who are the consultant team. You are presenting the design, you are reviewing and assessing the design. You are going through a costing exercise. You realise adjustments have to be made and you go back to design again. That cycle continues so that in effect the brief is not complete until the design is complete. That certainly is not at the stage of completion of a competition. It is a continuing progressive exercise. I think this must be understood in terms of budget, areas, functionality and design.

The other point, briefly, is that the question was asked: if we have to cut the cost, are we going to get this building? My answer to that is absolutely yes. There is no doubt at all in my mind that a competent, professional team involved in a project of this nature can maintain the integrity of the design, the concept of the design, while still doing that progressive exercise that I described in order to bring the project back to the acceptable budget figure.

**CHAIR**—To summarise the situation regarding concerns about probity, the concern that has arisen in the committee is that a budget figure and a specification were sent out which, at a later date, in the opinion of the government's quantity surveyor, differentiated by close to \$20 million. Would you comment on whether or not any of the last five leaned one way or the other in terms of putting their presentation up? Could any of them have been disadvantaged by trying to stick too closely to the \$68 million rather than the specifications?

**Mr Davidson**—I do not believe that that would be the case. If I were one of the entrants in the short list for stage 2 of a competition, I would certainly maintain the design in conformity with the brief. There are two other competitions which I can quote to the committee, in both of which cases I was in the same role as I was with this one: the Federation Square competition in Melbourne recently for the state government, and the Museum of Victoria. Both those cases were two-stage competitions. In both they were given a budget and a very detailed brief, and in both cases all of the final five short-listed firms came in over the budget figure. Their own quantity surveyors' estimates were over.

**Senator MURPHY**—Were they in conformity with the brief?

**Mr Davidson**—They were in conformity with the brief, give or take 10 per cent—we will not argue about that.

**Senator MURPHY**—In what respect?

**Mr Davidson**—Primarily in respect of additional areas for circulation and services.

**Senator MURPHY**—Can you explain what you mean by 10 per cent conformity?

**Mr Davidson**—The areas given are net areas; they are the usable areas of rooms. In other words, if you had a committee room, you would list the area required inside the walls. It is the architects' responsibility in developing the design to get people to this room, to provide toilets for them, to provide part of the airconditioning system for the room, and to provide the wall thickness around it. Within that additional figure, which may vary from an additional 25 to 40 per cent—there is that sort of range—it is dependent to a large extent on efficient design, and on the competence and experience of the design team.

**Senator MURPHY**—Can that vary up and down?

**Mr Davidson**—It very seldom varies down because there is pretty much a minimum. If you look at a very simple office building, you are very lucky to get the efficiency ratio above about 85 per cent. In other words, the percentage of service and corridor space is 15 per cent—and that is for a very simple walk-up office building. When you look at a high-rise building you are lucky to get it at 75 per cent, so it varies depending on whether it is a hospital, a hotel, a parliament house or whatever.

**Senator MURPHY**—Would you expect a brief to contain, as you said, the net minimum requirements?

**Mr Davidson**—The brief would normally describe them as absolute requirements: this is the area that is required to be satisfied for such an activity.

**Senator MURPHY**—Sorry for interrupting, Mr Chairman.

**CHAIR**—That is fine. I had completed the question. I just wanted to have that clear. The answer we have received is that the contestants, in Mr Davidson's view, all focused on the brief. It is a level playing field, which was the area of concern.

**Senator MURPHY**—I have more questions. Mr Davidson, I want to go back to the question of the \$68 million versus \$79 million—it is actually \$79 million plus \$2.5, which was the ACT government money allocated to the construction of the cultural centre. In total, it was \$82 million, which was what Mr Pincott costed the project at, because the cultural centre was included in the brief.

That being the case, you said that that information was not available, at least to you, until the end of the process, but what concerns me is that it was available to the department at least by the middle of August. Would you not have a concern with regard to your position that you were not advised by the department that they had a different costing and, indeed, that they had a different costing that they were aware of prior to issuing the second stage briefs?

The department knew, prior to the second-stage briefing, which I think was on 15 or 16 September, which you were not present at, that the independent costing for the brief that they had was substantially higher. In fact, I think that in evidence to this committee Mr Pincott said that he informed the department that they could not achieve the requirements of their brief for \$68 million. What is your view of your position in that respect? In addition, when you are considering that, could you again think about the question of whether or not the contestants in the competition ought to have been advised?

**Mr Davidson**—I would like to answer the second part of that question first. I think I have already made the comment that I do not believe it would be wise to advise. Perhaps I can illustrate that with a similar situation which arose in the Federation Square project, which I was involved in, and I will tell you the advice I gave to the office of major projects in that case.

During the preparation of stage 2 designs for that project, the Premier and the Premier's department decided to change the brief quite substantially—to exclude part of the media centre and to include a museum of contemporary Australian art on the site. The question was raised, firstly, should the short-listed candidates be informed and a new brief issued during stage 2 so they did a separate design; and, secondly, perhaps even more importantly, should the members of the judging panel be advised, because that was not a departmental jury, it was an independent judging panel. The advice I gave, which was maintained, was that neither should happen. The point was that the candidates should proceed on the basis of the information they had initially been given, they were on a level playing field, it was fair to all parties and that is the way they should go.

The budget subsequently in Federation Square was increased very substantially to account for this change. The work has been redesigned to accommodate the museum, but the concept has been maintained. As for whether the department should have informed me of that change, I do not normally sit in judgment on the methods and morals of others. I was not informed. I was not aware of it. Stage 2 proceeded on the basis of the information that had been given to the candidates. I consider that to be entirely fair and reasonable.

**Senator MURPHY**—You say you do not sit in judgment on others, but you had a fairly responsible position with regard to the circumstances and, as you have just outlined, when you sat in a similar position on another project you were informed. So you were in a position where you were able to make a judgment, and a judgment you did make, because you just outlined that judgment.

**CHAIR**—If you can interrupt, I think the evidence that Mr Davidson gave was that he was asked on that occasion should a policy decision of the government be passed on to the architects who were in the competition, and his advice was no. I do not want this to be pursued too far. We are after the facts, not opinions on whether someone should have told us something or not, because I am not sure how that assists us in coming to our decisions as to what is the appropriate recommendation we make to the parliament. So, if

there are other questions you have, go ahead, but I am not sure how we are improved by knowing that. The answer you have been given is that Mr Davidson was happy, I gather, that had he in fact been informed of this matter he would have said, 'I do not want you to pass it on.' He might want to correct me on that. Do not just sort of try and lead him around.

**Senator MURPHY**—Perhaps I can ask him the question I want to ask him, Mr Chairman.

**CHAIR**—Please do. But do not just try to lead him into criticising someone for no purpose.

**Senator MURPHY**—I certainly would not endeavour to do that; I would not dare. Mr Davidson, I want to ask you about the recommendation you made before that. When the judges made their decision in respect of that competition, they would have made the decision, on the basis of your evidence, on the original proposal with the original budget. But that is not what happened in this competition, is it?

**Mr Davidson**—That is not what happened in this competition, but it may also ease your mind a little if I were to tell you that the five schemes that were submitted in the short list for Federation Square all came in about 10 per cent over the promoter's quantity surveyor's estimate.

**Senator MURPHY**—Mr Davidson, I have some difficulty with this process that we have been going through. We have been told three different stories with regard to this particular matter. We were told by the department, I think by Ms Casey, that four out of the five came in over budget—

**Mr Davidson**—No, I am sorry, I was talking of Federation Square. I thought you referred me back to that competition.

**Senator MURPHY**—I did actually refer you back to that in relation to the point of the jury who sat in judgment of the competition. My question to you was that the jury made its decision based on the original plan, if you like, the original design requirement, and the original budget allocated for that design requirement, because your advice, I assume to the government, who was the client there as well, was that they should not inform either the contestants in the competition or the jury that there were changes proposed.

**Mr Davidson**—Correct.

**Senator MURPHY**—What I said to you then was that, with regard to this competition for the National Museum project, the decision that was made with regard to the appointment of the design team was based on a different budget, not on the original

budget. The decision that was taken finally—certainly that is the evidence that has been presented to this committee—was taken on the basis of the budget provided by Mr Pincott, not on the budget that was allocated, if you like, within the design brief. I have some difficulty with that. At least one member of the jury knew this, from evidence before this committee, and I would assume that all of the jury members had before them independent costings done by Mr Pincott of all five of the contestants' proposals that placed those proposals way over—hugely over, in some cases—the budget that was contained within the brief.

Yet it would appear that not one question was raised with the contestants as to how they were sitting across the table saying, 'Look, jury, our design can be delivered for \$68 million or \$75 million.' We were given a list of costings that they gave, though I have to find out whether they were the final costings or not. Anyway, they were saying, 'We can do it for \$68 to \$76 million,' which is a 10 per cent variation. We were told in evidence to this committee that they all came in within the 10 per cent range of \$68 million. They were there saying, 'We can do it. Uncle Tom Cobleigh and all of us can do it for \$68 million or thereabouts.' But all of them had been independently costed in a range from \$82 to \$100 million. Yet it would appear not one question was asked as to how we had had an independent cost consultant who had costed them at X and they were sitting there trying to tell us they were going to deliver this brilliant project for 30 and sometimes 40 per cent less. Doesn't that raise a question in your mind?

**Mr Davidson**—The only question it raises in my mind at the moment is that the information that you have is not the information that I had at the time.

**Senator MURPHY**—That causes me even greater concern, because you were the probative officer.

**Mr Davidson**—I am sorry but, if I may continue, I was present during most of these; in fact, I was present from the time that the stage 2 entries were received, mounted and viewed by the committee, by the jury. I was present at all meetings of the jury—

**Senator MURPHY**—No, you were not.

**Mr Davidson**—I am sorry, but from the time the stage 2 designs were received and mounted, I was here for their opening, I was here and supervised the receipts of the stage 2 designs and I was here as they were mounted. I came back then for the first day's sitting of the committee in judgment. I attended all the meetings of the jury during the debate, the discussions, the presentations by the finalists.

I was part of that entire process. In fact, I sat in during the meeting of committee in camera as their adviser. The night before that final decision was taken, I was asked by the chairman—because the second envelopes, the fee envelopes, had not been opened, I had been asked to take those away and make a separate assessment and prepare a report

for the jury on the question of fees. I was present all the time. I was not aware, until after the completion of that entire competition process, that there was a revision to the budget.

**CHAIR**—Can I ask you then to comment on your locum? There is a statement about you having a locum present on a couple of occasions. Was that prior to that period of time?

**Mr Davidson**—On 15 and 16 September, which was the second briefing of the five short-listed finalists during their design process, I was on a jury for another competition in another part of Australia and, unfortunately, I could not attend. Mr Stewart Gilfillan, who is a very close associate and a friend of mine who has done locum work for me on many occasions, attended on my behalf those two days. This was not a judgment day; this was not a question of assessment. This was a day when the five short-listed finalists were given the opportunity to meet with the expert panel and the advisers to discuss the progress of the work on their design to bring it into line. It was part of the overall process that was approved and agreed.

**Senator MURPHY**—Were you aware of the independent cost assessments, done by Mr Rory Pincott, of each of the designs submitted? Were you aware of those?

**Mr Davidson**—I was aware that he had examined them. You have to look at the time angle on this one and the time that was available for him to do that. I was aware that Rory Pincott had been involved in doing a cost assessment of all. I did not see his report; it was presented to the project manager and the chairman. The project manager reported at the meeting of the jury, of the committee, as I understand it, that each of them was capable, with one exception I think—four out of the five were capable of being completed within a reasonable percentage of the budget.

**Senator MURPHY**—But my difficulty is that we were told, on more than one occasion—and it has been conveyed to the Senate estimates—that the independent cost analysis, which was required as part of the process, of each of the final five submissions was done and was provided to—indeed, I think the words were ‘on the table for’—the jury during the period of the final assessment.

I am just wondering: this would seem to be a fairly integral part of the process. You had designs submitted to you with a costing, and you had a checker, if you like, in tow who, as I understand it, was sitting there as well—and it must have seemed a curious position to him for his costings not to have been raised with any of the contestants—and you as the probity officer were not being made aware that there were huge differences.

These differences were not of five or 10 per cent; they were somewhere between the range of 20 to 40 per cent. One would have to question at least people who are proposing to you that they can build this facility for X when somebody else, your independent adviser, is telling you, ‘Contestant B has submitted \$75 million, and I have



costed it at \$100 million.' Wouldn't that raise a question in your mind? Wouldn't you want to say, 'Listen, our guy here says yours shows \$100 million.' Wouldn't you want to know why there is a difference? Either your guy has stuffed it right up, or they are telling pork pies.

**Mr Davidson**—You have made it sound very simplistic. I must say that it is a far more complex situation than that.

**Senator MURPHY**—Not in the evidence we have received.

**Mr Davidson**—I have not been here during the previous hearings, so I am not aware of what you have been told. There is a comment I can make in relation to this question of a difference of view and a difference of opinion in terms of cost. I guess one of the things that can be very simply said is that, if you put two experts together on anything, they will disagree violently.

This is in no way a reflection on Rory Pincott or on any of the others but, having been involved on many occasions, prior to my experience in this role, as a competitor in a competition—and I did try to indicate this earlier—you reach a stage with the time pressures to complete the drawings where you may well have finished a set of drawings and discovered, when your quantity surveyor measures them, that they may be quite substantially over the area that was set down. It is just that the time, in a competitive situation like that, is just not sufficient to make all the adjustments that you would normally make.

When your team gets together with your own quantity surveyor and he says, 'Look, you are over a bit on this,' you say, 'Well, we can easily pull that back; go in on the basis that it is all in conformity, because we do not want to say it is \$85 million, we will say it is the right figure and we know we can pull it back if we get the job.' Perhaps this is a little like telling tales out of school. But this sort of thing must happen because of the nature of the process.

When the competition cost adviser looks at these, he is rechecking and he measures the thing as they are drawn. He may well put a figure which is 25 per cent higher than the competitor's quantity surveyor because, in fact, he is reading the drawings differently, he is making a totally different assessment. How would someone at the time of the Opera House competition have been able to judge the cost of the sails? These are the sorts of things where judgments differ dramatically between people who are expert in the same field.

**Senator MURPHY**—Can I ask a question with regard to conformity to the brief. We have now received a further submission from the department which, on page 3, proceeds to say that the costing of the design competition entries included the cost of all items in the brief even if not shown in the entries so that all entries had common inclu-

sions. Then it states, '(e.g. museum quality climate control was costed for each entry because it was a brief requirement even though some teams did not provide for it).' I would have thought climate control was a fairly important part of a museum requirement. Conformity to the brief ought to have been met. I am trying to understand what sorts of questions were asked by the jury in the final assessment and how the decision was actually made. It then goes on to say, 'Measured building areas were shown on some entries to ensure it was the same as nominated in the cost plans. Some entrants cost plans were based on a smaller building than shown on the drawings.'

**Mr Davidson**—This is exactly the point I have just made.

**Senator MURPHY**—I want to understand about conformity to the brief. In information provided to us from the department, I assume, with regard to the design competition conditions, under disqualification it says, 'Any entry may be disqualified and excluded from the competition for the following: if it was received after due dates; if you breach any competition condition or instruction.' One has to wonder how the jury sat there and made a decision with all of this mishmash of inconsistency. Yet it would appear no questions were asked and then a decision was made on the basis of an independent costing which you say that this guy may have measured it up differently. That causes me to say: why were no questions asked? Why was this an accepted practice?

**Mr Davidson**—It would take me a lot longer than I am sure you are prepared to allow me to go right through the process. With all due respect to the senator, it is a question which cannot be simply answered. We are dealing here with judgments made by a committee of jurists on a number of factors.

**Senator MURPHY**—I understand that.

**Mr Davidson**—The two major factors under consideration were the design and the functionality. There is no doubt in my mind that these are the important major factors. After 50 years in the profession I can tell you that if you come up with a design which is the right solution, a design which works and your cost is 15, 20 or 25 per cent above the budget you can adjust the project down to meet the budget without losing the concept or the functionality. This is what the skill of architecture is about. It is about resolving problems. We analyse, synthesise and resolve issues.

Time is required. As I said earlier, we have this constantly progressive process of review, design, costing, review, design, costing, which goes on for the whole process of design development and documentation until tenders are called. We cannot get these things resolved in a six week competition. Architects know when they enter a competition that the process will be fair and reasonable if their entry is judged on its merits as a good design which works. If they happen to be over in area or under or the cost is over or under these are the adjustables. Michael said earlier that you have the three points—area, cost and quality. If you vary one you have to make an adjustment to the others. If the cost

has to stay the same then you have to drop the quality or drop the area and that is where an architect's skill comes in in being able to do that and maintain the integrity of the project.

**Senator MURPHY**—You say drop the area.

**CHAIR**—We did have Mr Davidson here in his responsibility regarding the probity aspects. We got some excellent advice from Mr Peck in terms of the some of the practicalities. I think we have probably gone about as far as we can on that issue. I do not know that we should ask Mr Davidson what we have already asked Mr Peck. Maybe Mr Davidson just wants to repeat his views announced at the beginning that he felt that everybody was on a level playing field in terms of the probity. You have asked the question whether or not he has certain information. He has told us no. It is up to us to judge that at some time, not him. We are getting to the stage where we are asking him to cast judgments rather than give us information. Unless there is some specific information you want from Mr Davidson, I would like to let him go. I am starting to get concerned about the time we have to complete this today. We are really starting to ask him to make judgments.

**Senator MURPHY**—There is only one question I would like to ask and Mr Davidson has answered it once. I would like to make sure he answered it in a way that he wants to. It relates to the requirement of the brief that goes to floor space. What is in the brief you would say is the minimum requirement. Is that correct?

**Mr Davidson**—I would rather use the word optimum or absolute. The spaces are set down by the user groups. They say, 'We need a room of such and such a size.' It is normal to produce a room of such and such a size. If in the complex business of planning and fitting the jigsaw puzzle together on the floor the room is 15 per cent bigger than requirement, to hell with it—you leave it there.

**Senator MURPHY**—I understand what you are saying. If the brief says that they want a building that is 16,000 square metres as per the requirements—there are individual room sizes, et cetera—then 16,000 metres is what should be delivered as a minimum. It may change things around in the process. But are you saying that if the brief says 16,000 metres 16,000 metres is what should be delivered?

**Mr Davidson**—If 16,000 square metres has been requested then that is what should be delivered. There may be solutions in the planning which require multiple use. It cannot be simply answered. We are getting into the philosophy of design.

**Senator MURPHY**—You have answered my question.

**CHAIR**—Thank you, Mr Davidson, and thank you for your tolerance and for coming at short notice.



[11.03 a.m.]

**ASHTON, Mr Stephen, Director, Ashton Raggatt McDougall Pty Ltd, Level 11, 522 Flinders Lane, Melbourne, Victoria 3000**

**BERENTS, Mr Derek, Project Manager, TWCA Pty Ltd, Level 11, 121 Walker Street, North Sydney, New South Wales 2060**

**CASEY, Ms Dawn, Executive Director, Construction Coordination Task Force, Department of Communications and the Arts, 8 Sydney Avenue, Forrest, Australian Capital Territory 2603**

**CORKE, Mr Glenn, Director, Donald Cant Watts Corke Pty Ltd, Level 5, 126 Wellington Parade, East Melbourne, Victoria 3002**

**DAVIDSON, Mr John AM, Director, Catalyst Design Group Pty Ltd, 252 Church Street, Richmond, Victoria 3121**

**SANTAMARIA, Ms Cathy, Member of Jury, Deputy Secretary, Department of Communications and the Arts, 8 Sydney Avenue, Forrest, Australian Capital Territory 2603**

**THOMSON, Mr Graham, Partner, Mallesons Stephen Jacques, Level 28, 525 Collins Street, Melbourne, Victoria 3000**

**CHAIR**—Welcome, ladies and gentlemen. The committee has received a supplementary submission from the Department of Communications and the Arts. It is proposed that the submission and attachments without the confidential cost estimates be received, taken as read and incorporated in the transcript of evidence. Do members of the committee have any objection? There being no objection, it is so ordered.

*The document read as follows—*

**CHAIR**—I wish to make a comment to members of the committee. Firstly, Mr Corke has indicated that he has to depart at 11.45, so I would suggest that any questions delivered to him when we get to question time be given priority. Secondly, for the information of all, I would like to think we could conclude this session by midday in the interests of those who wish to get away to flights and things of that nature, so we will be seeking to be as concise as possible. I understand there is to be a short introductory statement to the committee before we proceed to questions. If that is the case, would you please proceed?

**Ms Santamaria**—Thank you. The first thing I would like to do, if I may, is correct a couple of suggestions that have been made today. The first is that correspondence from the cost analyst which arrived in August included new costings. Let me tell you that that is not the case. The second suggestion was that one member of the jury may have had information that was not common to all members of the jury. Rest assured that no member of the jury had information that was not common to every member.

The department has always said that it would meet the project on time and on budget—with a bottom line of \$133 million, and the construction component of \$68 million. That was the figure the jury had.

The report of the probity adviser confirms that the design competition was run with total regard for equity and probity and that the jury gave full and fair consideration to all competitors and their entries. All of the teams in the design competition received the same information. All entrants were provided with an indicative budget to be used as a guide.

Turning to the jury, the jury was informed at its three meetings to decide on the design team that four of the five designs met the brief. With that information, the chairman of the jury decided that, nonetheless, all five should be considered. All five were considered and the jury of course had in mind that at least four of them met the indicative budget or would be able to conform to it. When the jury met in camera, the matters which were differentiated between the five related to design and functionality. When it came to the final two, the chairman asked the project manager whether there were any other issues which should be borne in mind. The project manager, with the benefit of other advice, said that in his view both of the final two designs could be brought to conform to the budget. The budget then was not an issue for the jury. They had the benefit of advice at the beginning of the competition and at the end of the competition that the designs, with the exception of one, could be brought down to the budget.

At some point in time, I would like to table a report which we have received from competition adviser Michael Keniger referring to that process and, as well as that, asking that a couple of matters relating to himself be clarified on the record.

**CHAIR**—Do you want to read from it?

**Ms Santamaria**—Could I read from it?

**CHAIR**—Yes. However, before you do so we will incorporate the document. Is it the wish of the committee that the document be incorporated? There being no objection, it is so ordered.

*The document read as follows—*

**Ms Santamaria**—The letter states:

I confirm that I have read the draft of the supplementary statement from your department to the Parliamentary Standing Committee on Public Works of today's date—that is, yesterday's date—and I confirm that I am fully in support of the statement from my position as the architectural adviser to the Construction Coordination Committee (the CCC).

I was nominated by the President of the Royal Australian Institute of Architects, Mr Ric Butt, to assist as an architectural adviser to the Construction Coordination Committee because of my considerable experience with assisting client groups and government agencies to appoint architects through a variety of competition types and through direct appointment. These include the appointment of the architect for the Berlin Embassy for the Overseas Property Group; chairing the Competition Advisory Committee and jury for the Princess Alexander Hospital in Brisbane; selecting the Masterplan architect and planner for the Southbank Masterplan in Brisbane; selecting the architect for the Cairns Convention Centre; selecting architects for several of the Olympics buildings at Homebush Bay and for a range of buildings for the University of Queensland. Full details of these and other projects can be supplied if required.

In the light of this experience I would like to offer the following statements which may be of assistance:

1. In all the competitions I have judged or assisted with it has been extremely unusual for any architect to have been able to meet the guide budget provided especially when the schedules submitted by competing teams have been moderated by separate assessment of an independent quantity surveyor or cost planner. I cannot recall a single instance where the architect has been selected on the sole criteria of cost in any design competition.

2. In my opinion, no competitor was disadvantaged by the lack of fit between the detailed requirements of the functional brief and the guide construction budget of \$68,000,000. Each of the selected competitors was an experienced architect supported by major architectural practices experienced in competition submissions. Each was supported by an experienced cost planner well able to judge any relevant discrepancies and to plan and advise accordingly. All teams attended two briefings which gave sufficient opportunity to raise questions of the budget and of the functional brief. This is in excess of what is usual for major architectural competitions. Each of the competitors would have expected to work with other members of the project team, if selected, to optimise their design proposal within firm budgetary constraints as part of the design development process.

3. In my opinion all selection processes for the stage one selection and for the selection of the winning architectural team were undertaken with the utmost probity and each competitor was treated equally fairly. In addition, the facilities made available for the judging of the competition were excellent and have been equalled by only one other competition of the many I have assisted with.

On a separate matter, I am concerned following the Hansard draft of the first two days of proceedings that my reply to Senator Murphy concerning my employment was less than full because I had not understood that he sought to imply that I was employed by the winning team. For this reason I would be grateful if the following statement could be placed on record:



'I confirm that I have no interest in the project for the National Museum and related facilities as a designer, investor or employee or an association with any of the competing teams. I further confirm that no member of any team was in communication with me concerning the project during either stage of the competition and that no member of the Construction Coordination Committee communicated with me separately from the scheduled meetings during either stage of the selection process.'

**CHAIR**—Thank you. We have already agreed that that will be included in the evidence. Is that the completion of the statement?

**Ms Santamaria**—It is, but at some point I would like to turn to Derek Berents on the question of costs.

**CHAIR**—Mr Berents may as well address us at this point so that we can get all the statements over and then go to questions.

**Mr Berents**—As the project manager of this project, I have been involved in all of the briefings and have been closely working with the department since May this year. So I have a fairly detailed understanding of the requirements of the department. I will focus my points on the selection process of the architects and the information that was provided.

The role of the project manager in this particular selection process was to determine the capability of the various teams to undertake the works and have the works completed on the project. I reviewed a report prepared by Donald Cant Watts Corke Pty Ltd. In looking at that report and the buildability issues of each of the projects, I and my colleague, Tom Crow, were able to form a view as to whether or not these projects, firstly, could be built within the indicative cost estimates that have been provided and, secondly, whether or not they would be able to be provided within the time frame.

Looking at the various designs when the jury was meeting in general, the comment was made by Mr Crow that, with the exception of one scheme, all of those projects could be brought back to the budget. I concurred with that view. When the jury went in camera, the chairman then asked me whether or not of the remaining two schemes I felt comfortable, firstly, with the capability of the teams to provide the service to ensure that the project would be completed to a satisfactory quality and to a time frame, which is 1 January 2001. Looking at my assessment in terms of capability, I said that both were ranked at the identical capability. Secondly, with respect to the cost issues, I looked at the breakup of the costs that related to those particular two schemes. They were exactly identical.

The issues that had been raised by the cost consultant were split into three or four issues as basically the additional brief requirements. I looked at the additional brief requirements and discussed them with the department. In my view, at that stage they were more ambit claims rather than specific brief requirements. I looked at the area analysis of the site. The site had actually increased when we looked at the section 20 amendment

done by the NCA.

I then assessed the assumptions. Let me say that they are assumptions in terms of measuring the building area, looking at if additional area was required for plant rooms and toilets and whether or not additional rates needed to apply to some of the cost elements, bearing in mind that the costs that had been prepared by the independent cost consultant were based on a generic building. There was no building. All he had was a section of areas. He had to build up a price to do that and he had to build up circulation space to do that.

We are now in the process of having a schematic design—the design that you saw held up there—which is 50 per cent into a schematic stage of design. There had been no contact with any stakeholders. There had been no contact with any services consultants. That design was completed in isolation. The next stage in the process is to get the stakeholders, the consultants and the department together to look at where they are with the budget and how we can reduce the budget down to an acceptable level. We are in that process right now and I am still of the view that we can bring this project in on budget.

May I also say, looking at that very unique design, that the changes that we are talking about at the moment are internal type management changes. I cannot show you, but what you see in that design is basically what you are going to get. We have a very good architectural team. They will ensure that I do not break the exhibition halls in half and add two levels. There is an integrity in that design which will be maintained.

**CHAIR**—Thank you. Ms Santamaria, are there any other statements that should be made at this stage?

**Ms Santamaria**—I would like to ask Graham Thomson to address the issue of alliancing.

**Mr Thomson**—I will skip my statement brief because it is probably better that I answer any questions that exist in due course. I think all the evidence to date favours agreement on a number of areas. Firstly, there is a very tight time frame. To achieve the 1 January 2001 date is a difficult task. Secondly, from all the questions on budgeting and the like, it is clear that there is a lot of pressure on budget to produce a quality result. There is only a given amount of money, and the terminology that is formulated is the bang for buck. As I said in the previous session, that is a fundamental objective of the department. It wants to deliver the project on time, it wants to deliver a maximum bang for buck and it wants to produce a national monument that is fitting for this country for the next 100 years. They are all tall, hard to achieve objectives.

Looking at the contracting strategy, the department has considered many strategies. Today evidence from the union representative was that a lump sum hard nosed contract would be a good way to go. The evidence from Michael Peck was that, if you had more

time available, you could do the design and then go out for a hard nosed lump sum contract. In many building projects, hard nosed lump sum projects are the way to go. I advise on many building projects that use that form of contract, and it is the most appropriate for those particular contracts in those particular circumstances. There are factors in this project that lead me and a number of other advisers to form the view that a hard nosed lump sum contract would be to the Commonwealth's serious detriment.

The main factors are, firstly, that, in the time frame available and taking into account the budget constraints, it is absolutely important that we get true value management into the exercise. True value management is obtained by bringing on board the builders and the services people early in the process rather than later in the process. As you can envisage, if we do our design before we get those people involved, and then they get involved, they could have helped you do your design in a better way. You have lost the benefit of that exercise. Secondly, we want to remove all the usual problems that arise in a project with a tight time frame, which are defensive mechanisms associated with delays in the project, cost over-runs and the like.

As I mentioned at the outset, the nature of this project is that it will be a monument that will last for 100 years. Because of the nature of changing technology—and we have already heard that, to an extent, it is a technologically driven project—the Commonwealth wants to ensure that it can have an involvement in the design in the period between now and the opening of the museum. Under a hard nosed lump sum contract, that option is not available without suffering serious consequences. To avoid that, in the department's view project alliancing is the way to satisfy those objectives in that it brings the key players on board together; it puts in place a commercial structure which does not allow for claims from the builders or the services consultants against the Commonwealth for delay in providing design or for any other fault on behalf of the Commonwealth other than acts of wilful default; and it does not allow for claims for extensions of time for latent conditions and all the usual sorts of things that one encounters on a project.

As I said in my earlier evidence, the focus is on total project objectives. The whole concept of alliancing is that it removes man marking so that you have a single integrated team. It removes adversarial behaviour because you have preordained the commercial outcome on the project. You have decided up front on what the risk-reward regime is going to be. From the Commonwealth's point of view, the outcome of alliancing and the results of alliancing in general to date have been to come in under budget. The Commonwealth shares, to a larger extent, on that coming in under budget. That saving is then reinvested into the project, which improves the quality so it maximises the bang for buck.

There are competing alternatives for projects. This is not a decision that has been lightly taken. As the department have often said, the easiest decision for them to take would be to adopt one of the other strategies that has been mentioned. They are all tried; they are all proven. It is the safe course of action. The department's view is that it will produce an inferior result. As the department keep saying, 'Why are we going down this

path? All we will do is get criticised for it.' The safe course of action would be to go down the path of lump sum contracting, construction management and project management. We could go down the design innovation path. All those courses of action are open to the department. Having analysed them, the department's view is that they will lead to an inferior result.

The benefit from the department's point of view is that you can always blame the contractor at the end of the day because he was the guy that really messed you around. But, after a cold examination of all the facts and all the different strategies for contractual delivery available to the department, it was decided that the most appropriate one is the least tried and proven one: project alliancing.

**CHAIR**—Thank you. Does that complete the statements that you wish to make?

**Ms Santamaria**—Yes, Mr Chairman.

**Senator MURPHY**—I would like some clarification in regard to evidence previously put before this committee by Mr Pincott that seems to be being refuted by the department. It relates to the time and the notice of the cost of the brief that went from \$68 million to \$82 million—or \$79 million plus \$2.49 million. In evidence to this committee on Tuesday 9 December on page 128, Mr Pincott, in response to a question from me as to when he advised the department, said, 'Probably mid-August.'

But further on, on page 296, I asked when the department was advised that the requirements of the brief could not be met within a \$68 million costing. The response was, 'We advised the department.' Then I said, 'When you say "you advised" could you tell me whom you advised there?' The response was, 'I believe it was Dawn Casey. We advised them that the brief, as it stood at that stage, would put severe pressure on the budget.' As you know, Mr Chairman, we have to take at face value things that we are told in this committee. If there is a contrary view to that and there is evidence to the contrary, I am more than happy to accept that. But I would like some response with regard to that because it does appear that there is some conflict of position.

**Mr Corke**—We provided in mid-August a letter to the department indicating that we had reviewed the preliminary draft brief and there were a number of issues that concerned us in relation to what the requirements of the brief now contained with regard to the original budget that we set. That letter had no costings attached to it. It raised a number of points—eight to 10 points—but had no costings attached to it. We provided as part of our report to the project manager, and that report was issued on 22 October, the revised costings based on the final brief. The final brief was issued on 15 September. We then costed the final brief in a generic way, because of course we were just costing a brief and not a design. We indicated to the project manager as part of our report that the budget, in our opinion, due to the revised brief requirements, had increased by approxi-

mately \$11.6 million.

**Senator MURPHY**—How did we get the figure of \$82 million?

**Mr Corke**—That excludes the cultural centre. We were not commissioned to look at the cultural centre.

**CHAIR**—That is your \$2.49 million that you just mentioned. The advice you are getting at the moment excludes that amount of money.

**Senator MURPHY**—That again somewhat conflicts, I think, with evidence that we were given before.

**Mr Corke**—Mr Chairman, we have no brief to look at the cultural centre.

**CHAIR**—Fair enough. Anyhow, the figure of \$79 million has been mentioned a number of times; and I think that is the figure, isn't it—

**Senator MURPHY**—Mr Chairman, this committee was told previously—and it is in the bloody *Hansard*—a figure of \$82 million. It was broken down such that there was \$79.6 million, and \$2.49 million for the cultural centre. In the evidence we heard before—whether it was in the brief I do not know, and frankly I do not care—a figure was submitted to this committee of a total cost of \$82 million for the brief. The thing is, Mr Chairman, that the brief required the design teams to include the cultural centre. It is in here in black and white. If you look at the costing for this—

**CHAIR**—We are not arguing that point. The realities are that, whichever way—

**Senator MURPHY**—I have no reality about anything, with the greatest respect to you.

**CHAIR**—The realities are that you have two sums of money that add up to the same sum of money. Where is the problem?

**Senator MURPHY**—Either we get evidence that comes before this committee that is accurate and correct or we do not. What I am saying is that the committee was previously told \$82 million. I do not know whether the consultant had a brief to cost it. I understood some of the other witnesses before the committee to say that that was the case. The thing has been costed. I understand the ACT government, according to Ms Ford, has allocated \$1.7 million to it; but that is another issue. It is in the brief. If the consultants costed the brief, why did they exclude the cultural centre?

**Mr Corke**—We were commissioned by DoCA to look at the museum component and AIATSIS, not to look at any other component of the project.

**CHAIR**—Senator Murphy, in terms of the information that this committee needs, we have to be leading somewhere. I think your criticism that there has been conflicting evidence on this is valid, and that has been made. We are now being told that the quantity surveyors of the Commonwealth only costed those buildings for which the Commonwealth was going to have to pay. We have sustained that. Are we now in a position to go on from that point in terms of getting the information we need? I think we have established the point that there has been conflicting evidence; that is the point I am trying to make.

**Senator MURPHY**—At some point in time did the cost consultant provide to the project manager a revised cost of this?

**Mr Corke**—On 22 October, I said.

**Senator MURPHY**—Can you tell me what the figure for it was?

**Mr Corke**—It indicated an increase of \$11.6 million.

**CHAIR**—Over \$68 million?

**Mr Corke**—Correct.

**Senator MURPHY**—So the \$79.6 million figure was provided?

**Mr Corke**—Correct.

**Senator MURPHY**—That was on 22 October?

**Mr Corke**—Correct.

**Senator MURPHY**—Was the project manager the only person that was provided with that?

**Mr Corke**—We issued it to the department and the project manager.

**Senator MURPHY**—Who in the department?

**Mr Corke**—It was addressed to our client Ms Casey.

**Senator MURPHY**—The final assessment began on 23 October. Ms Casey, did you have that advice on 23 October?

**Ms Casey**—I do not recall having that advice on 23 October in terms of the fully costed functional brief. I recall having it a few days later. I thought I had received it on 29 October, the fully revised costed functional brief.

**Senator MURPHY**—I do not want to be difficult. I am just trying to understand some of the things that have been said with regard to the time frames and, in particular, when, I think, you said before—it could have been Ms Santamaria—that the jury had before them two things. One was the independent cost consultants costing of the brief and the other thing was the independent cost consultant's costing of the five submissions. Can you explain to me then what was before the jury?

**Ms Casey**—What was before the jury was the cost consultant's assessment of the five designs. When I say it was before them, they did not look at it. They did not have it on all three days. They were provided with the cost consultant's assessment of all five designs at the end of the process when they went in camera. It was before them, but they did not open it up and read it because they were advised by experienced project managers that there was no issue in relation to the costings of the designs. They were advised that four of the five were manageable. They were most concerned about the architectural approach and design and functional issues and they had been assured at the beginning of the process by one of the project managers that there was no issue of costings of the design for the last two.

**Senator MURPHY**—What costings are you talking about?

**Ms Casey**—I am talking about the costings of the designs submitted by the architectural teams which were assessed by our cost consultants.

**Senator MURPHY**—With regard to the assessment process, what did you consider? Did you only consider the costings submitted by the five competing teams, is that right?

**Ms Casey**—What was considered by our cost consultant—

**Senator MURPHY**—I know what was considered by the cost consultant. When the jury sat down to deliberate, what did it consider in terms of costings? Did it consider only the costings submitted by the five teams?

**Ms Santamaria**—As a member of the jury, I point out that the jury was advised at the beginning of the judging process that four of the five designs met the functional brief in terms of budget. The chairman of the jury proposed that all of the five be considered. At that point, we were not aware which design did not meet the brief.

**Senator MURPHY**—You are only talking about cost here, are you not?

**Ms Santamaria**—Yes, cost. I am sorry, I should have made that clear. At the completion of the in camera process it was decided not to proceed with three of the designs, but to look at the final two. Now your question is: what information did the jury have in front of it?

**Senator MURPHY**—No, my question is: when you were considering the five submissions on the basis of cost alone, what were you considering? Were you only considering the costs submitted with the proposals by those teams?

**Ms Santamaria**—We did not consider them on cost alone.

**Senator MURPHY**—I understand that. You would have considered a whole range of other things such as their ability to deliver the project and so on. I understand that. I just want to understand when we talk about the budgetary issues, what you considered with regard to the costs you had before you. I understood Ms Casey to say that you did not consider the independent cost analysis of the five submissions.

**Ms Casey**—That is not what I said.

**Senator MURPHY**—You can correct me.

**Ms Casey**—What I said was that when they went in to in camera session there was an assessment done by the cost consultant, which included looking at the architectural teams' costings, and that assessment was on the table in front of the jury in a folder. They did not look at that folder. They asked the project manager whether there were any material issues that would impact on the last two designs and that included cost. The project manager then informed them—

**Senator MURPHY**—What?

**Ms Casey**—He informed them that they were both within the same range and that they were both manageable. The project manager is here. He could advise you exactly what he said during that in camera session.

**CHAIR**—I think he has told us that.

**Ms Casey**—Yes.

**Senator MURPHY**—In the information you provided to us you say, for example, that the cost submitted by the Ashton Raggatt McDougall cost consultant was \$75.1 million. It was indicated to the committee that the independent cost consultant's analysis of the Ashton Raggatt McDougall proposal was 88 to 92. I am trying to understand what the jury considered when you say that they did not open the envelope which had this information in it, but the project manager was asked whether there were any issues that may need to be considered, including cost. If we say \$90 million, which is mid range, that is a difference in cost of some \$16 million.

**Ms Casey**—No, because—



**Senator MURPHY**—Well, he is saying yes and you are saying no.

**Mr Berents**—Yes, there was a \$16 million difference in the order. It is not a tender; we are looking at orders of cost. Yes, there is a range of about \$16 million that we are looking for. But, as I said before, the design process had not started. There was no discussion with stakeholders; there was no testing of some of the issues in the functional brief; there was no input by any of the specialist consultants. The actual design process needed to occur and I felt, in my professional judgment—and I still feel—that we could take that money out of the project without materially affecting the integrity of the project. I stand by that.

**Senator MURPHY**—I am not questioning your ability to do that. In so far as this committee's role has been in the past, with most projects that I have been involved with that have come before this committee, we get told of a budget. We have had a reference to us for \$133 million. You say that, as part of that budget, or at least the department says, that there was some \$71.5 million allocated to construction. A brief is issued with a budget of \$68 million.

The jury, as best as I can see through the fog at the moment, was considering the merits and the submissions before them on the basis of the costs submitted with those submissions. You had an independent cost consultant's assessment, which were substantially higher. You have just said that you were looking at a range within \$16 million, and I do not understand that. Is that \$16 million—

**Mr Berents**—I was just using your figure.

**Senator MURPHY**—We have here—and this is an example used in the department's paperwork—that the figure from Ashton Raggatt McDougall—and I do not want to be unfair to them—is \$71.5 million.

**Mr Berents**—Could I just say that we are not talking about hard money dollars here—

**Senator MURPHY**—But we are.

**CHAIR**—Wait a minute. Let Mr Berents finish, please.

**Mr Berents**—We are talking about orders of cost; we are talking about a project that is worth, at the moment—and this is what you are talking about—\$71.5 million. At this stage of the project, when there has been very preliminary design—let us say 50 per cent the way through schematic design—you cannot put a final dollar figure on a project. We probably have another six months, in terms of design, to manage the process and continually manage the process with input from the stakeholders and the other consultants and, should the committee see fit, through a building contractor and services contractor, to get the design back to the budget.

**CHAIR**—We are starting to go around in circles in the hope that somebody is going to say something different to what someone else just said. What I want to get down is that from the evidence before us—and at the danger of being accused of leading you, which I am not—have you told us this: one, at the time of selecting the winners—and this is on the probity issue—those present with that responsibility did not study the final figures provided by the costing consultant but, in fact, relied on the advice of Mr Berents that they could be considered on the basis of being able to meet a budget, whatever they were. Is that a true summation?

**Ms Casey**—To add to that, they relied on Mr Tom Crow and Mr Berents for the cost, who are experts—

**CHAIR**—But they did not quote the cost.

**Ms Casey**—They did not quote the cost. They relied on Michael Keniger, an expert architect, for the architecture. So they relied on a range of experts.

**CHAIR**—So they had that advice and made their decision.

**Ms Casey**—They also relied on Mr Service, who has had 30 years experience in project management.

**CHAIR**—We have some idea of their qualifications from evidence already given. Based on that advice, Senator Murphy, what other advice do you want on the probity issue?

**Senator MURPHY**—I am not asking about the probity issue.

**CHAIR**—Okay, so can we put that aside and deal with the cost issue?

**Senator MURPHY**—Can I say, in so far as this committee is concerned, I think—and you may want to check and correct me if I am wrong—with regard to our role, is that we have had a reference to us of \$133 million for the construction of the National Museum, the AIATSIS building and part contribution to the cultural centre—or maybe not. That is the reference we have. What I am trying to establish is: how are we going to get it built for that? Mr Berents says that they have not got to the stage yet where they have a final cost on anything. How is this committee supposed to function? I have never seen before, in my time on this committee, where we have had a reference where a department comes before us with a proposal that says, ‘Look, trust us.’ And we have Mr Service who says, hand on heart, ‘We will get it for \$133 million.’ What a load of rot. I have never seen anything come before this committee like it.

**CHAIR**—I say to you that we are now having a discussion we need to have in camera, and it is not adding to the evidence. What I am trying to say to you is that if there is evidence that we have not previously received let us get it. These people are not

here for that purpose; they are here to advise us of what has gone on. They are giving us evidence of their confidence. We will have to judge that at a later time—and I have some comments to make about that in due course. What I am asking you to do in these proceedings today is to elicit additional evidence, which we are not really doing. We have some figures put before us, which the witnesses are confirming. Unless those figures are wrong, there is plenty of argument as to what the outcome of the price should be, but we have to discuss that on the basis of our evidence here today, not on a to and fro with the witnesses.

**Senator MURPHY**—With regard to what we have before us, we have been provided with additional evidence that says, in part, that the consideration—and I understood what we were told here this morning—of the submissions for the construction of the National Museum and the AIATSIS centre was \$68 million, and within a range of that. That is the judgment that was made. Is that right?

**Ms Casey**—Yes.

**CHAIR**—We have all that.

**Senator MURPHY**—I know we have all that, but what I—

**CHAIR**—Shayne, with due respect, I am not trying to prevent you from asking questions; I am pleading with you not to repeat the same thing time and time again. I, amongst others, have some questions I want to ask before the time is up that relate to some of the things that they are suggesting they are not going to do. I think that is more important than going 68, 71, 83 because it has just been said time and time again. What other questions do you have? Otherwise I want to move on because I want to ask a couple of questions before I go home.

**Senator MURPHY**—I will not ask any more questions about price. I will leave that for another time. I would like to establish: is TWCA the project manager for the whole project?

**Ms Casey**—They were selected on a three-stage process for the project, but all contracts were subject to the outcome of the public works hearing. We could not commit the Commonwealth to the full project until the approval of the public works committee has been given.

**Senator MURPHY**—If the approval is given, they would be—

**Ms Casey**—They have been selected on that basis.

**Senator MURPHY**—Mr Berents, can you explain to me how the alliance arrangement will work?

**Mr Berents**—I do not think I am the appropriate person to speak about alliances. I fully support the alliance. I think the alliance concept for this project is absolutely ideal, but I would ask Mr Thomson to—

**CHAIR**—Mr Thomson has done that. Let me say, because I am going to say it later, that we are not convinced about the alliance argument, so I think we can pass on from that. There is not a member of this committee who is convinced about that. I am going to make some remarks on that. So I do not think we need waste a lot of time on that. What else do we want to do?

**Senator MURPHY**—I would have thought the project manager would have some idea about the alliance arrangement.

**CHAIR**—Shayne, we do not want to have an argument with people here, please. What we are here to do is elicit information. I just advise everybody present that—on going around the table and in comments you made to me in a private meeting a few minutes ago—none of us think alliancing is a good idea. I am going to make that statement at the conclusion of the meeting. I have passed a sheet around, which you have not seen, but it says that. So there is no point in us going any further with alliancing, which Mr Thomson has addressed.

**Senator MURPHY**—I will go as far as I want to go with alliancing, thank you, Mr Chairman, with the greatest of respect.

**CHAIR**—With due respect, as chairman—

**Senator MURPHY**—I suggest that we have a break and we have a private meeting.

**CHAIR**—No, you can stop asking questions about—

**Senator MURPHY**—No, I suggest that is exactly what we do.

**CHAIR**—You go and have your meeting. I will put some other questions.

**Senator MURPHY**—We might go and have a meeting.

**CHAIR**—Does anyone else have further questions?

**Senator MURPHY**—Mr Chairman, I think we will have a private meeting.

**CHAIR**—You can go and have one on your own. It is being silly now.

**Senator MURPHY**—It is not being silly.

**CHAIR**—All right. We do not want any caucusing on that because that is being very silly too. We have a time limit, and I want to know now if there are other questions. It is no good asking about alliancing when we have been told about it five or six times, and we have taken a view on it. If there are other matters that you want to raise, Senator Murphy, please raise them. Otherwise, let us get on with it. We are running out of time again.

**Senator MURPHY**—We will go and have our meeting.

**Senator CALVERT**—In the event of alliancing not proceeding, can I ask the project manager whether, in fact, construction management would be feasible.

**Mr Berents**—It depends on what you mean by construction management. There are two types of project management. There is a construction management type, and there is a managing contractor type. Both are feasible. Within the time frame that we have and the information that we would have to provide to get a tender, it puts a lot of pressure on the project. As we have heard about this little triangle, two of the points are very well fixed. Time is fixed and cost is fixed.

**CHAIR**—That is a decision we will have to make about that. Let me add that this is a case we recommend. We are not the final decision maker in all of this, but I think the committee will have a view that it wants to deal with more than one dot of the three on the triangle.

**Senator CALVERT**—I was going to say that I do not think this committee has any intention of stopping design work and the like in the meantime. So whichever system you had, that would still be continuing. So even if we were to agree to alliancing, that would not be approved until March. I think what we are intending to do is to allow design costings to go on.

So if you are that far down the track, surely construction management is an option and there are ways that it could be done. I am not going to get into the business of knocking the alliancing side of it, but I did allude to it earlier about how it works and the involvement of some of the players in the business. I think what we are all about is getting this job finished on time, on budget. I am asking you whether, if the will is there and you have the right people in place, in fact, a construction management system could work.

**Mr Berents**—I think a construction management system can work. Based on the priority of this project in Canberra, in a situation where you have a fixed time for completion—I understand what you are saying, Mr Chairman—and you have a start date, I am not convinced that this system would be the smoothest flowing system for the project. That is only an opinion. I have been involved in these kinds of contracts before. I have to think through this one, and I have not gone through that thought process.

**Senator CALVERT**—Have you been involved in alliancing before?

**Mr Berents**—Not in the form that Mr Thomson was talking about.

**Senator CALVERT**—Mr Thomson did quote three projects to us out of the 10, I believe, that he has been involved in or knows of, but they were all offshore engineering projects.

**Mr Berents**—Major engineering projects.

**Senator CALVERT**—So there are a few question marks, in my mind anyway.

**Mr Berents**—I think the concept is a very real and positive concept in terms of the future of turning out projects in the industry.

**Senator CALVERT**—There is no doubt about that. I think somewhere in the evidence we had the department—in replying to the evidence given by the Master Builders Association—saying that they decided the system was such that outstanding results were worth a try. Really, that does sound a bit iffy to me. I do not think, with sort of money, we should be having a go at it because it is worth a try. I think my colleagues would agree with that.

**Mr RICHARD EVANS**—When will the final figures for the design be available? We are roughly talking about \$68 million, \$71 million or \$79 million. What is the timing for the final figures?

**Mr Berents**—Let us make it very clear. At the moment we have a budget. We are working to that budget. As far as the project team is concerned, the revised budget of \$71.9 million is what we are aiming for. The process now will be refining the design and the function. We are now getting expert advice on how best we can make the museum work. It is about defining that and at all times maintaining that budget amount and aiming to hit the budget. We will not know what the exact dollar is depending on the form of contract until the project is complete. We know what our budget is now: our budget is \$71.9 million and we are all working to achieve that budget.

**CHAIR**—Just adding to that question, in late February, remembering that we would consider it our obligation to put a report to the parliament as close as possible to when it returns, how much more information do you think you would be able to give us at that time?

**Mr Berents**—We will be able to give you significant information because, subject to your ratification of the current documentation, in late February we would have gone very close to completing the schematic design stage of the process, at which time our budgets will be much firmer.

**Mr RICHARD EVANS**—That is about all I need to know. At that time we would also know whether there is any reduction in the original brief, wouldn't we? We would have a broader picture?

**Mr Berents**—Yes, you would.

**CHAIR**—You would be able to tell us much closer to that time what we will get for that amount of money, which is very important to us?

**Mr Berents**—Yes.

**CHAIR**—Some of the questions I wish to raise come from your submission, firstly, indicating items that had been added at some time. Page 4 of the departmental submission refers to some of the savings that might be achieved. It talks of a suspended roof catwalk for services access and the forklift trafficable areas in particular. I would like some comment on that.

Just using my own experience, I would think that in a building of the sort of heights we are talking about, that catwalk access, both from a safety point of view and the ability for people to work in what will probably be a seven day of the week operation, is possibly false economy by removing it. I would like you to talk about that. Secondly, with forklift trafficable areas, is the alternative to that people manhandling things into place, and is that wise?

**Mr Berents**—Firstly, in the brief there is a requirement for a suspended catwalk. Basically the catwalk provides ultimate flexibility at a very high level to suspend lights and other requirements for exhibition space. In discussions with the museum and the department it would seem that these catwalks would only be used very occasionally when they are setting the exhibition up.

**CHAIR**—So you wouldn't use those in servicing electrical works and things that are up there? It is purely a catwalk for the positioning of lights? It is not a service catwalk as you talk about here—services access? It is not for maintenance purposes?

**Mr Berents**—It is not for maintenance. Does that answer that question?

**CHAIR**—Yes, it does.

**Mr Berents**—I turn to the forklift trafficable access floor to the exhibition area. Ultimate flexibility is something that costs money. Ultimate flexibility in exhibition flooring is to have a fully accessible access floor, which means that, say, over a metre it is like a false floor that has been put over the existing concrete floor. That provides ultimate flexibility in terms of the provision of data, telephones and electrical requirements so at any stage within a metre you can plug into what you have got underneath the floor.

To provide that for an exhibition space where you are loading exhibition objects which may weigh over five or six tonnes and you would need a forklift to operate those, increases the cost, as you can see there, quite significantly. We have discussed this with the design team and with our consultants and the department. What we are providing now is a concrete floor with a 1.2 metre grid inserted within the floor where all services will be run. So we don't have an access floor; we actually build it into the floor. It provides the flexibility to plug in for any of these services in a 1.2 metre grid. It also provides the ability of a fully laden forklift to run over those grids.

**CHAIR**—So that is what you are talking about? You are not talking about the thickness of the concrete or anything like that?

**Mr Berents**—No. That is the process that we are going through now. We have not had the opportunity to go through that until now where we have a terrific design team and terrific consultants. We are now talking to operators of museums and testing some of the functional requirements that have been identified.

**CHAIR**—In asking those couple of questions, I wanted to make the point to you that there is no advantage in false economies because it just saves money any more than there is in shrinking the size of the thing if the space becomes inadequate. For all my disagreements with Senator Murphy, what he is getting at in all of this is that he is concerned that the project can be delivered for the cost. You have assured us that it can. We may or may not hold a differing view. The fact is that recycling the same question is not going to change that. We should have enough information to hand to make that decision at a later date. Are there any other questions?

**Senator CALVERT**—On that same matter, two matters in revised costs talk about reducing the area. This is pretty crucial to what we are on about. After all is said and done, it is a national museum. It is being built to house a vast array of objects. If the only way to cut the budget is to cut down the space, does that not defeat the purpose of the whole thing?

**Mr Berents**—The reductions that you see have basically come about by, once again, testing the assumptions that have been made in the preparation of the functional brief. One of the areas that you see there is reducing the area of the main hall. For example, the area of the main hall is 1,500 square metres. Compare that to what is at Parliament House. The main hall at Parliament House is 1,100 square metres.

**Senator CALVERT**—Which main hall are you talking about?

**Mr Berents**—The Great Hall.

**Senator CALVERT**—Right, and that is 1,100 square metres?

**Mr Berents**—Yes. That was just to give some comparison in areas. We have



discussed it with the department and the architect. We are in the process now of looking at that. We think we can probably get away with 1,000 square metres as a main hall, and we are testing that. These reductions are not carved in stone. We are testing those issues. The area to do with the microgallery is something that we are testing also. We think we can take the area of the microgallery and bring it into the general circulation space. That relates to how the exhibitions are going to be carried out.

In terms of other reductions of building area by looking at the efficiency and the deletion of mezzanines, the original scheme of Ashton Raggatt had allowed mezzanines but had not priced them. What we have said in discussions is that we do not need those mezzanines. They were mezzanines in the exhibition space, so they come out. The other thing we are testing at the moment with Ashton Raggatt is the efficiency of the circulation space as it relates to the operation of the museum. We feel comfortable that we can increase the efficiency and therefore reduce the area, but it is not going to have a major effect in the overall appearance of the building. It is just refining the design.

**Senator CALVERT**—One of your major areas is going to be where you have your ongoing changeable exhibitions. Perhaps the department could answer this, but are you satisfied that you will be able to conduct the sorts of things that the people of Australia will want to see in a reduced area? That is one of the crucial areas I think.

**Ms Casey**—We are not actually reducing the area that we put out in the functional brief except the one area, the main hall. We are saying that some of the issues like mezzanine floors that the design team put in are not necessary. We have had several hours discussion with Dr Bob Edwards who has been designing museums and used to be the chair of the National Museum. He is one person. We will talk with a range of people to ensure that. Even in developing the functional brief, we made sure that we put in things that are standard and, in fact, are above standard in a number of areas to the museum. We will not interfere with either the integrity or the design or the integrity of having a national museum.

**Senator CALVERT**—The desirability of using local building contractors and the rest to the project manager was mentioned by some of us. Is it possible or probable that, because some of these buildings are separate, you could end up with letting separate contracts for the different areas?

**Mr Berents**—It is not often that I agree with a CFMEU representative, but on this particular occasion I tend to lean towards what he is suggesting in terms of doing the peninsula in one contract. If we look at one of these forms of construction management or managing contract, we would see a separate trade package possibly for the cultural centre, which would be ideally let to a local contractor. The way that we would structure the trade packages would allow the local subcontractors to competitively tender them.

**Senator CALVERT**—So it is possible to do all these things?

**Mr Berents**—Yes.

**Senator CALVERT**—It is a bit more work for you if you are the project manager. I think the MBSL building in Symonston was built along those lines, wasn't it? I think that by breaking up the MBSL building they achieved quite significant cost savings.

**Mr Berents**—I cannot make comment on that because I am not aware of that particular project.

**Mr HATTON**—Mr Davidson, when you gave your evidence previously you indicated at the very start of it that you agreed with the basic position put by Mr Peck from the RAIA in terms of concerns they had about this project in terms of the timing and so on and the constraints that were on that. He made the same statement three ways: that you never get a satisfactory solution to an ill-defined problem, that you never get a good project from a poor client and that the project is, in this case, being driven by the client. He argued fundamentally that, with this project being under the time hammer it is, which is a political decision as to when it should be opened on 1 January, everything else is going to suffer.

As we currently stand in terms of looking at the brief that is available to the architects and to the time frame that we have from now until 2001, do you think this project can be delivered as a fully functional building to suit the purposes as outlined or would we be better to add extra time—look at the whole of 2001 if we have to—to delay this process so that what we are looking at is a final product, not where we still are at the moment? We are still in schematics. We still do not have any complete or definite idea of where we are going to go in budgetary terms. Our task is to assess whether or not that projected \$68 million should be spent by the parliament. Do you think that the RAIA's position, as stated by Mr Peck, is still fundamentally strong—that that time constraint really does dig into everything else?

**Mr Davidson**—We have reached a stage, as you said, where the process has delivered up a scheme and a consultant team. I am a very strong supporter of alliancing for this contract as the most likely way of achieving a satisfactory completion by the nominated date. I can see the possibility of problems in relation to completion if the traditional completion of documents and lump-sum tendering and so forth went ahead. That would take a large slice of time out of the construction period, which would be very difficult to catch up with.

Construction management or project management or deferred let or any of the other packaging systems that we have tried over the years have proven a number of things. They have proven that you can finish jobs earlier than anticipated. They have also proven that you do not really get a handle on the cost until very late in the contract because you are progressively tendering for work against lump-sum allowances which are not confirmed until tenders are actually called. So every other system has a degree of risk attached to it in terms of either cost or completion.

I hear what the chairman has said in relation to the view on alliancing. My knowledge of that system—and, in fact, I formed a consultancy in Melbourne to offer consulting advice on this—was not given the name alliancing; it was called partnering at that stage, which was a slightly more American name for the system. The system has worked brilliantly in many construction contracts in North America and in Australia.

**CHAIR**—In considering the position of the government and public moneys, if you have alliancing, how do you satisfy the public that a team is not made up of your mates? How do you achieve any better than anyone else the opportunity to know at an early stage in the contract what it is going to cost if you have not got a tender bid and you have got people sitting around the room? What is the role, in the context of this being a government project, of the client as compared with a private sector resource-based client whose one ambition is to make their first delivery on time and where cost can, therefore, be a secondary consideration? Can you answer those three questions?

**Mr Davidson**—I can answer them with reservations, because I did not hear Mr Thomson's evidence and I have not had an opportunity to read the transcript, so I am not quite certain of exactly what format his alliancing proposal takes. However, talking in terms of the partnering concept which, as I understand it, is very close to it, you are not excluding tendering in that process. You are still selecting everyone who finally makes up the alliance or the partnering team by competitive open tender or selective tender.

**Senator MURPHY**—Is joint venture the same as partnering?

**Mr Davidson**—No. The whole process of partnering or alliancing is based on establishing, firstly, that those who tender are prepared to enter into such an agreement, and so it becomes a condition of tendering that they must do so, so you are only going to get people tendering who know what they are in for. They will tender a figure, a sum of money, and it is then based on the fact that the project is run with mutual trust between the partners rather than in an advocacy situation where everyone is trying to screw everyone else the whole time.

There is a series of procedures and processes that can be brought into this alliancing or partnering concept which determines that matters are settled right at the work face between individuals before it gets to the site architect or the site manager or to the people further up the chain. With a standard contract we had three possibilities. The first was a war zone. I am not kidding, as I have lived through 30-odd years of this. You can go on to a contract where everyone is battling with everyone else in order to win, to make the best for them, and so they are not worrying about anyone else.

So the first is a war zone. The second is a standard contract where it is not too troublesome and you all sort of battle and things get deferred and settled later by negotiation. Or, thirdly, you can go into an alliancing or partnering agreement where you determine that you shall proceed without disputation, other than following a series of settlement procedures at the very early stages.

**Senator MURPHY**—How do you deal with the services side of the thing?

**Mr Davidson**—The servicing contractor tenders, but he tenders on the basis that he is prepared to enter into that alliancing agreement and he becomes one of the stakeholders. Instead of having a series of contractors, a client and stakeholders, and the consultants in the middle trying to arbitrate and sort things out, you are all sitting around the table and working together. The government has the same certainty of a contract sum. I am sorry, Mr Thomson, I may be describing a different system, but that is my understanding of alliancing.

**CHAIR**—If that is the case, in terms of a bid price, if that became a condition of the bid price, where is the difference? The assumption I have had is that these people get together and that they make an agreement about how much it is going to cost, but if you are going to have tendering you are now suggesting that there be a condition of tender that they do not fight.

**Mr Davidson**—Yes. It is very simple.

**Mr Thomson**—One of the problems with alliancing is that it actually takes about two hours to explain the commercial arrangement.

**CHAIR**—Please don't!

**Mr Davidson**—We run a three-day seminar on it.

**CHAIR**—Time is extremely pressing.

**Mr Thomson**—I was not proposing to take two hours, Mr Chairman. The point that I was trying to make is that to select the right form of contractual delivery strategy for this project, if the committee is going to consider that, then to be fully informed on alliancing it would take two hours minimum for the committee to be sufficiently apprised, in my view, to make an informed decision.

Having said that, I want to spend a little time explaining the commercial basis. The commercial basis for this proposed alliance will be that the selected alliance participants would agree to work to a budget that is less than the approved budget for this project. As they spend every dollar over that budget which is less than the approved budget for the project, the alliance participants contribute, say, in the order of 60c in that dollar themselves. If the project cost goes over the approved budget, by that stage the alliance participants are already losing money in terms of, initially, loss of profit, then loss of overhead contributions, so they are in a hard-dollar loss situation. Generally in an alliance that is capped at the bottom end, which is really the overhead contribution or in that order of magnitude. There are no grounds to shift the goalposts and, as I have attempted to emphasise on a number of occasions, during that period the Commonwealth is actively involved in the design. The Commonwealth sets the goalposts for the product that is

delivered at the end of the day to make sure that it is satisfied with the quality of the product.

Under a traditional contract, all that happens in that situation is that during that whole period the Commonwealth will accept that the recipe is here for the parties to posture. Every time the Commonwealth wants to do something with the design, every time there is an interface situation with, say, one of the subpackagers or the like, it is a ground for an extension of time claim. So the parties are posturing to shift the goalposts. An alliance does not allow that to happen. If you run over the budget, the contractors have lost money and they cannot shift the goalposts. That is the nature of alliancing. The parties enter into it accepting those as fundamental objectives; the same as if the date is not met, the parties lose money. And it is not a question of why they missed—it is simply a question of the fact that they missed.

So the point I really want to make is that alliancing is new, it is novel. It is risky, if you like, from that point of view. If you want to say, 'I want tried and proven because we cannot be criticised,' alliancing is not the way to go. But on this project there are very good reasons, in the department's view, to go down the alliancing path. To explain the commercial arrangement in some detail is at least a two-hour exercise. That is all I wanted to say, Mr Chairman.

**CHAIR**—We are going to run out of time. I have a suggestion to make to you, Mr Thomson. I am still going to make my statement on this, but you may choose, in not too many pages, to address more detail and give an actual example, with some fictional numbers in it, as to how all that might work, and address it to our secretary so that it can be circulated to our members and they can consider that further. I am also going to refer to that in a minute.

I think we are also going to need some progress report on all these matters in February. I agree entirely in this regard with the concerns of Senator Murphy there are just too many indefinable issues before us at the moment, and there have been reasons given for that. Are there any other matters coming from the committee?

**Mr HATTON**—Mr Davidson, if I can go back to a sliced-up part of that, do you consider that right now there is a normally and fully prepared brief on which this project can run? Is it advanced enough at this point in time for this committee to be in a position to make a decision about what the end result will be? Do you consider that to be the case?

**Mr Davidson**—Yes.

**Mr HATTON**—Ms Santamaria, Mr Peck indicated that the RAI A wrote to both your minister, Senator Alston, and to the Prime Minister. In the normal course of events, those inquiries are often directed down through the ministerial or prime ministerial office to the department. Mr Peck indicated that he had received acknowledgments to his letters. Did your department issue those acknowledgments? Was it your office or the minister's

office?

**Ms Santamaria**—I will defer to Ms Casey, but it seems to me that there is one further issue that you should be aware of, and that is that Richard Alston certainly met with the institute of architects to discuss their concerns, after receipt of an initial letter. Could I now turn to Ms Casey.

**Ms Casey**—I also then met with the Royal Institute of Architects—which included Mr Davidson at that time before he was appointed probative officer—on about 26 June for about three hours, and we incorporated many of their suggestions in the way the competition was then to run. My understanding is that I thought certainly our minister had responded to the institute and outlined that he had taken on board some of the issues. I do not want to put words into Mr Peck's mouth, but I thought he said that he had not had a response in terms of extending the time for the project.

**Mr HATTON**—Yes, Mr Peck did indicate that, and that is what I am interested in: whether or not there will be a substantive reply to Mr Peck in relation to that point, from Senator Alston's office or your department or the Prime Minister's office. It is a critical issue in terms of the approach that Mr Peck gave to us today, and it is a critical issue in terms of the determinants of this process as to what we get out at the end of it—whether it is just going to be driven to get one particular day, or we get the right process and the right building and the right end for the nation as a whole, if it comes by 31 December on that point. He indicated specifically that he has not had any substantive response whatsoever in relation to that. Acknowledgments, yes; there may have been discussions, but largely about other things. I am not concerned about those—I am concerned about whether he is going to get an answer.

**Ms Casey**—I would need to check, but I thought he had had a response. Certainly one of the issues that was taken on board was to extend some of the time allocated for the design competition.

The other issue that I should point out is that it was in the advisory committee's report—I think it might have been Mr Service who, in advising the government on costings, said that it could be built within that time frame. That was still Mr Service's view in discussions, certainly with our minister: that it could be built within that time frame.

**Mr HATTON**—Yes, that is fine. That is the view of just about everyone—certainly of a number of people who put it that it could be done on time on budget. But what has also become very apparent is that the entire process was done in haste. There are lots of problems with that process because of the tight time frame that has been imposed because one particular day has been chosen. I think throughout the committee there is a great concern that that may in fact be changing this whole process in a way that it should not be, and that we might not get the end result simply because that one point is being stuck to; we may not get the quality of the building that the nation deserves.

**Senator MURPHY**—Ms Santamaria, I asked Mr Keniger a question about his employment. I asked that question simply because the monitor that conveys this proceeding around the parliamentary building had Mr Keniger described as a consultant to Ashton Raggatt McDougall. That was the only reason for my asking the question. I certainly was not trying to imply anything other than asking the question to give him the opportunity to correct that.

Mr Thomson, when providing your written advice to us, taking into account what you have said about alliancing, can you address particularly the question of the provision of services, whether or not the services person or company involved in the alliance is allowed to tender for the work; how you then conduct the checks and balances with regard to the work that is tendered for, how you deal with variations to the work and what checks and balances you ultimately put in place to make sure that what has been tendered for is provided for in, I suppose, hard dollar value?

**Mr Thomson**—Certainly.

**CHAIR**—If that is to proceed anywhere, I think what we are looking for is a little case study that covers all aspects of just how it works.

**Mr HATTON**—Given the evidence that has been put forward by both Mr Thomson and Mr Davidson, can we also get an assurance that there is no conflict in terms of their commercial interests in arguing for an alliance approach to be adopted to this project? Mr Thomson in evidence previously indicated that he had done a series of projects based upon alliancing in other areas; that he is one of the very few people in the country who is really au fait with this. Also, Mr Davidson indicated that he had some involvement in that. That is what has been recommended by the department, and you have been advising the department legally and also advising them in terms of what the best project delivery method is. I would seek those assurances as well.

**Mr Thomson**—In so far as I myself am concerned—through you, Mr Chairman—I can give that assurance now. From the firm's point of view, we make much less money out of putting together an alliance than any other form of contract this committee might consider, and that is without any dispute resolution aspect of the task. So, from a financial point of view, from my partners' position, this is not a profitable exercise compared with any other strategy this committee might select.

**CHAIR**—The point is that Mr Thomson comes to their group as an adviser, who is an adviser because of the experience he has had. But he is a legal adviser and has obviously been involved with other projects of this nature. So you have to look at him for what he is at this stage of the game.

**Mr HATTON**—That is right. This is a project of great significance.

**CHAIR**—I think you have made the point and made sure that those sorts of

assurances will come. I am going to read the closing statement for the day.

As there are no further questions—and I have decreed that—it is proposed that the correspondence received that has been circulated to members of the committee be incorporated in the transcript of evidence. For the record, arising out of evidence given today, we have received a further piece of correspondence from the master builders. That will be included in the transcript of evidence. There being no objections, it is so ordered.

*The documents read as follows—*



**CHAIR**—The committee has received a request from the Minister for Communications, the Information Economy and the Arts, Senator Richard Alston, seeking the committee's agreement with the continuation of design, development and documentation concurrently with the committee's consideration of the project. I have consulted with my colleagues, and that request is approved. However, this is not to include advertisements calling for participants in the alliancing concept—which, I must inform you, has little support with the members of the committee at this point in time.

It is also my intention to call another meeting of the committee in late February to receive a progress report prior to the tabling of the committee's findings to the parliament, which could occur in March but cannot occur earlier than that. Before closing, I would like to thank the witnesses who have appeared before the committee today, and I also thank committee members, Hansard and the secretariat.

Resolved (on motion by Mr Hollis):

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it and the submissions presented at the public hearing this day.

**Committee adjourned at 12.36 p.m.**