

REPORT OF PROCEEDINGS BEFORE

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO SUSTAINABLE PROCUREMENT

At Sydney on Wednesday 12 August 2009

The Committee met at 10.00 a.m.

PRESENT

Mr P. E. McLeay (Chair)

Mr G. A. McBride

Mr P. R. Draper

Mr N. Khoshaba

Mr A. J. Roberts

Mr J. H. Turner

RICHARD DAVID TIMBS, Deputy Secretary, Office of Infrastructure Management, New South Wales Treasury, Level 27, Governor Macquarie Tower, Sydney, sworn and examined:

CHAIR: I welcome representatives from New South Wales Treasury. Thank you for appearing today to provide evidence on the Public Accounts Committee's inquiry on sustainable procurement. I draw your attention to the fact that your evidence is given under parliamentary privilege and that you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would you like to make an opening statement?

Mr TIMBS: Yes please, Mr Chairman. Mr Chairman, New South Wales Treasury is responsible for the New South Wales Government procurement policy and the State fiscal strategy. New South Wales Treasury's mission is to promote State resource management to achieve better public services and a stronger New South Wales economy. Procurement policy is the key component of resource management. New South Wales procurement policy provides the overarching policy for all government procurement in New South Wales. It is based on best value for money, which is defined as the benefits achieved compared to whole-of-life costs.

The overall objectives of the policy can best be summarised as value for money, efficiency and effectiveness, probity and equity, and effective competition in government procurement. The key policy document for procurement is the New South Wales Government procurement policy. The policy assists agencies to make appropriate and informed procurement decisions that ensure best value for money and support the efficient and effective delivery of government services. Procurement policy applies to all government departments, statutory authorities, trusts and other government entities. The exception is those entities subject to the State-owned Corporations Act. While not bound by the policy, however, such agencies are encouraged to adopt those aspects of the reforms consistent with their corporate intent.

The policy emphasises proper planning, including rigorous business case assessments, in making procurement decisions. It requires agencies to undertake whole-of-life costing as part of procurement decision-making and to use sustainable products where it is cost and performance effective to do so. Sustainable procurement is an example of using procurement policy as the vehicle to achieve broader objectives. It provides for agencies to pursue environmental benefits in service delivery where this is cost and performance effective.

These benefits include less adverse environmental impacts and more efficient use of public resources. The procurement policy framework outlines a six-step procurement process, which guides agencies through each step of the procurement process, from evaluation through to implementation. As well as identifying policy requirements, the framework makes reference to a range of guidelines, which provide assistance to agencies in implementing policy objectives. The documents, which underpin the broader procurement policy, include the sustainability policy, which is the responsibility of the Department of Environment, Climate Change and Water and the procurement guidelines on environmental management, which is the responsibility of the Department of Services, Technology and Administration.

Treasury's procurement policy includes an overarching code of practice for procurement, which establishes the standards of behaviour expected from government agencies, tenderers, service providers, employers, industry associations and unions in respect of government procurement. The code's requirements for environmental management require agencies to identify environmental opportunities and adopt measures to minimise risks and impacts. Responsibility for procurement policy was transferred to New South Wales Treasury from the then Department of Commerce in 2003 as part of achieving value from the approximately current \$13 billion spent annually by the public sector on procurement.

Responsibility for the operation of the gateway review system was transferred from the then Department of Commerce to Treasury in 2007. Gateway is a series of structured reviews held at key decision points during the procurement process by procurement practitioners independent of the procurement project. The system of gateway reviews provides an assessment of critical success factors for the project, including its sustainability criteria. Specifically, the sustainability factor seeks to confirm that the project is expected to have social, economic and environmental benefits, includes a strategy for procurement that will maximise the benefits and minimise negative impacts, includes a plan as to how the benefits will be achieved and how they will be measured.

The Department of Services, Technology and Administration is responsible for procurement practice, including the procurement guidelines on environmental management and other guidelines, procurement systems and whole-of-government contracts. One of the key policies supporting sustainable procurement is the New South Wales Government's sustainability policy, which was released last year by the Department of Environment, Climate Change and Water. This document includes targets for using public sector purchasing power to drive efficiency and environmental sustainability. For example, it requires agencies to give priority to buying materials with recycled content where they are cost and performance effective. Agencies are responsible for procurement implementation and outcomes. The Public Finance and Audit Act 1983 requires agencies to be accountable and to use moneys efficiently and effectively.

In conclusion, I would like to ask the Committee to note that I am new in this particular role that I am fulfilling and new to the Government, having been in this role for about eight weeks now, so I may need to refer to colleagues or notes when attempting to answer some of your questions to the best of my ability.

CHAIR: I hope you have been well briefed in those eight weeks. Feel free if you need to ask your colleagues for assistance and the Committee will then hear the advice through you.

Mr ANTHONY ROBERTS: Welcome Mr Timbs. I hope those eight weeks have been enjoyable to date for you. They would have been a steep learning curve. I commence by saying that there is a lot of talk about sustainability and a lot of brochures on sustainability go out. It appears that a number of suppliers within New South Wales claim there are few incentives for them to provide sustainable products as part of the, did you say \$13 billion that we spend each year?

Mr TIMBS: That is right, approximately. That includes the construction sector, yes.

Mr ANTHONY ROBERTS: Based on those comments by suppliers, what incentives does the procurement policy contain to encourage suppliers to provide more sustainable products and, second, when suppliers want further guidance on supplying sustainable products to the public sector, what agency should they actually go to?

Mr TIMBS: In answer to your first question about incentives for suppliers, I think the incentives are effectively contained through the procurement process itself, starting with the guidelines and expectations that Treasury sets for agencies. It is made very clear in those guidelines, and reaffirmed through the gateway review process, that sustainability is an integral component in procurement. Then, when the agencies actually go through the procurement process, they would be making it clear to bidders and tenderers that there would be a sustainability component or element of the decision-making process.

Provided that that is spelt out sufficiently and made clear, I would believe that it would be in the best self-interest of bidders and tenderers to actually provide sustainable goods and services as part of their bids in the attempt to win the business. In answer to your second question as to where suppliers might go for guidance, probably the primary port of call would be the Department of Environment, Climate Change and Water, which produces the sustainability policy, but they could also refer some of their questions to the relevant agency in question.

Mr ANTHONY ROBERTS: So you are saying there is no one-stop-shop if I want to come and seek advice from the New South Wales Government. If I produce widgets, there is no one-stop-shop that I can go to, such as Richard Timbs of the sustainability procurement section of a department, and say, "Mr Timbs, this is what I've got. Can I seek your advice on whether or not it is within the guidelines?"

Mr TIMBS: There are various departments that have an interest in the procurement process, which includes the sustainability element of that from Treasury through policy construction, through to the Department of Services, Technology and Administration and also the Department of Environment, Climate Change and Water. However, the primary responsibility for sustainability components and sustainability elements does rest with the Department of Environment, Climate Change and Water.

Mr ANTHONY ROBERTS: So I could go to someone within that department to find out further information with respect to the sustainability policies?

Mr TIMBS: That is correct, yes.

CHAIR: But the decision on purchasing is left with the purchasing agency?

Mr TIMBS: It is with the agencies, yes.

Mr ANTHONY ROBERTS: What percentage do we have of procurement across the board—I am not expecting you to have read it this morning? Do we keep any figures on that? The Auditor-General always says, "If you can't measure, you can't manage". Is there any record, figures or statistics kept with respect to the level of goods and services that we purchase that meet those sustainability elements?

Mr TIMBS: The sustainability components and criteria, as I have said, are an integral component of the procurement decision-making process so from policy right through to review through the gateway process we do ensure that sustainability is an element of the evaluation and decision-making process. With respect to the relative weighting of sustainability into decision making on any particular bid on goods and services, it very much comes down to being case-specific and it depends on the industry, the agency and what the nature of the good and service is. For example, in construction the weighting sustainability in a decision making criteria matrix may be more or less than it could be in goods and services, clothing, ICT et cetera.

By way of example, if I might quote from a recent real life example, with the Chair's permission, looking at the press release yesterday from the Barangaroo Delivery Authority in relation to short-listing of consortia for the Barangaroo city waterfront development I note that it has actually disclosed in its public release the selection criteria that we use to determine who the short-listed proponents would be. They have short-listed the criteria and their weightings. With regard to that particular project sustainability has been given a 10 per cent weighting. I think from that example—this is a real life, current and practical example of the way that sustainability is, in fact, considered in the procurement process.

CHAIR: The fact that you have highlighted it suggests it is best practice to publish weightings.

Mr TIMBS: I am not sure that it is really appropriate to comment on the desirability of different agencies publishing their weightings.

CHAIR: The fact that you have highlighted raises an interesting case that if there were to be a shift towards transparency of these things it would go a long way to agencies responding to the policy.

Mr TIMBS: If I could pick up that point, I think it actually does bear out that sustainability criteria are, in fact, a real life component of bids through the procurement process at the moment. So for people that are uncertain about whether sustainability is considered and, in fact, how it is considered this is potentially a good example to point to.

Mr ANTHONY ROBERTS: It goes back to whether you talk the talk and walk the walk. One can certainly say that sustainability is 10 per cent but if someone comes in with a very much cheaper option for themselves and for the procurement side, with an incredibly non-sustainable product within the overall tendering process that is able to match that 10 per cent and beat it through the other variables, would it not be better to have that level of transparency and to weight that a little bit further? I am saying that it is the role of government to lead. As the chairman said, if you put a weighting on something and advise what the weighting is, does that not send a clear message to providers that it may be in their interest to put more resources into finding more sustainable products or making their product more sustainable?

Mr TIMBS: Again I think it very much comes down to being case-specific and industry-specific. You can imagine the difference between procurement in the construction sector versus procurement in the ICT sector. In ICT, for example, the sustainability elements of procurement are probably less significant than they are in major construction delivery. I think the relative weighting of sustainability across different procurement processes is very much a case-specific matter. In any procurement there are a range of factors that are taken into account in assessing bids and determining which is the best bid. The way that the Government looks at bids is over a whole-of-life cost and also it is looking for value for money, value for money being present value of benefits over whole of life versus costs of whole of life.

To address another point you raised which was in relation to high up-front costs versus low up-front costs in a bid, one can also imagine a situation which is not uncommon where the up-front cost of supplying goods and services could be high but over a long-life project, with trailing benefits from energy savings and

other cost savings, the whole-of-life cost could actually be lower and that is where the whole-of-life consideration comes in and takes precedence over up-front cost.

Mr ANTHONY ROBERTS: In relation to transparency, it is very important if we have policy, guidance and direction from government to have sustainable practises in purchasing and transparency to lead. Whether it is pencils, concrete, road servicing or servicing of computers, one does not need to have 5, 10, 20 or 25 per cent on each one. Would it be better for the Government in procurement to allow people to know exactly what sort of weighting is involved?

Mr TIMBS: Quite often from my experience there are confidentiality reasons why weightings to various criteria cannot actually be made public, not to say they are not potentially made available to bidders and proponents but not necessarily made generally available.

Mr ANTHONY ROBERTS: It is fine to have a 10 per cent weighting, for example, whether or not it is commercial-in-confidence, but do we measure how many products that we purchase that meet that sustainable level? Can you tell me how many products or services we purchase at the back end—not the front end—that actually survive that sustainable test?

Mr TIMBS: I am sure that information is available and could be collated. I am not aware of a central repository of that information but I would be confident that that information could be collated.

Mr ANTHONY ROBERTS: It is not collated or collected?

Mr TIMBS: To my knowledge there is not a central repository of that information.

Mr ANTHONY ROBERTS: While we have a policy, government cannot say whether it is successful?

Mr TIMBS: Those calculations are not done within Treasury.

Mr PETER DRAPER: On a number of occasions both in your introduction and in answers you have mentioned "whole-of-life costs", which can have various meanings such as referring to financial cost to the purchasing agency, the cost to the Government as a whole or the economic costs to New South Wales. What actual costs are meant to be included in that term "whole-of-life costs"?

Mr TIMBS: Treasury has a guideline on economic appraisal, which does spell out the various costs that are considered. I do not have that detail in front of me just at the minute.

Mr PETER DRAPER: Will you provide that to the committee at a later stage?

Mr TIMBS: Yes, I can. The sort of costs that would be included would be wage costs, power and utility costs, general pass-on costs to firms and households and those types of things. There are Treasury guidelines on the costs that would be assessed.

Mr PETER DRAPER: Are you confident that all agencies are very much aware of those guidelines, are utilising them and know exactly what costs they should be considering?

Mr TIMBS: Treasury, in addition to making available this information to agencies through general website and Treasury circulars, does actually work closely with agencies to communicate changes and updates in policy. So it is very much an interactive process where Treasury as the developer of the policy does ensure that it communicates to the agencies and actually makes sure that feedback and questions are taken on board so there could be workshops and forums conducted where that information is checked and corroborated, if you like.

Mr PETER DRAPER: If an agency finds it has two products—one has the lowest whole-of-life cost to the Government and the other has the lowest whole-of-life cost to the agency—how does it determine which one of those it should purchase?

Mr TIMBS: I think that would be very much a question for the agency given its particular business and the product that it is sourcing. I could imagine though that in many instances the cost to the agency would

be almost the same as the cost to the Government, the agency being a subset of government. In many situations the cost analysis would be quite similar, I would expect.

Mr PETER DRAPER: Are there any incentives for an agency to choose a product that has got the lowest whole-of-life cost for the Government rather than for itself? I again refer to those two products, are there incentives for the agency to consider the lower cost for the Government rather than for the individual agency?

Mr TIMBS: There can be. Again, it depends on what the particular matter is and what is the procurement process. Often when major projects are going for approval through budget committee, which is considered by broader government, in the submission reference will be made to environmental considerations. Therefore, if an agency is putting up a proposal for consideration it needs to take into account the fact that that will be assessed by other members of the Government.

Mr GRANT McBRIDE: I refer to the gateway process in relation to which you say you have reviewers in terms of decision making within the agency making the purchase or procurement. What are the qualifications for a reviewer?

Mr TIMBS: The gateway process is structured as an independent peer review process for projects over a particular dollar threshold. There are seven gates in the process, some of which are mandated gates and some of which are not. Typically, the reviewers would be independent experts from both the private and public sectors with qualifications in whatever the relevant part of the process was. In relation to procurement, let me give an example of, say, a major construction project. You would have people on the panel that have been involved in procurement of the major construction works—railways, roads, for example. The gateway process is not an audit and it is not an executive function. It is designed to be an independent review of the work that is being conducted. The way the gateway operates though is quite an in-depth process.

Typically what would happen would be once a panel is established they would spend a number of days, depending upon the size and complexity of the particular project, interviewing management about the particular work at hand, reviewing contracts, they are given access to the people within the agency or the department that have been involved in the works, they would test and ask questions and then come back with a review and a debrief at the end of the review period and deliver their findings to the relevant stakeholders, which would be potentially the agency and Treasury.

Mr GRANT McBRIDE: When we are talking about preference there is an Australian and New Zealand preference as well for contracts for procurement in New South Wales?

Mr TIMBS: So you are talking about procurement policy now?

Mr GRANT McBRIDE: This is part of the process. Later on you do a weighting for the different aspects. You were saying about Bangaroo where there is a weighting associated with that. So there is a weighting associated in this document in terms of purchasing from New Zealand and Australia. Are there other weightings, in terms of procurement as well, when you are talking about the life cycle of a product and things like that? Are their weightings or is it just a qualitative assessment rather than a quantitative assessment?

Mr TIMBS: You referred to a document a minute ago. Would you just let me know which document that is?

Mr GRANT McBRIDE: Yes, this document here. It is a background paper on sustainability et cetera:

Gateway review—Australian and New Zealand Government Procurement Agreement. New South Wales is a signatory to the agreement which seeks to maximise opportunities for Australian and New Zealand suppliers and reduce the cost of doing business for both government and industry.

Mr TIMBS: Mr Chairman, could I have a moment to confer with one of my colleagues?

CHAIR: Yes. It is on page 6 of your procurement policy and guidelines paper. If you would like to take that on notice you can provide that information in writing to the Committee afterwards?

Mr TIMBS: I might have it. Are you referring to section 2.6?

Mr GRANT McBRIDE: It is section 2.5. There it says that we have an agreement. This agreement has been around for a long time, as I understand it. It has been part of the New South Wales Government's procurement policy for quite some time.

Mr TIMBS: If I might, could I take the question on notice?

CHAIR: Yes.

Mr TIMBS: I will attempt to respond to one element of the question. In the 2009 budget a Local Jobs First Plan policy was announced, which does under certain circumstances attempt to enhance the ability for local suppliers—being Australian and New Zealand—to compete for product through certain preferential arrangements like 20 per cent price discounts, with further price discounts for regional suppliers and industry participation plans. That policy is being designed to be implemented such that it ensures that we are in compliance with our obligations under Free Trade agreements; the effect of which is that under certain circumstances for small to medium enterprises it can provide price preference discounts for those small to medium enterprises.

Mr GRANT McBRIDE: When we come to that formula, when we work out whatever the price is and we look at those different factors, is there a qualitative assessment in terms of what value you place on that? So when you are talking about Bangaroo it is 10 percent. Is there a process that it is a definite figure? It is not a quantitative figure but a qualitative figure. If that is the case, is there a process for doing it?

Mr TIMBS: There is not a quantitative guideline set out by Treasury for that particular assessment. Insofar as the agencies are concerned in their decision-making process I am not in a position to speak for how they might do their assessments and their individual weightings, but Treasury does not specify any guidelines.

Mr GRANT McBRIDE: Does Treasury have an algorithm for modelling pricing?

Mr TIMBS: Again Treasury is determining the policy in so far as the factors to be considered and taken into account through the process. It does not specify particular weightings for set criteria.

CHAIR: There is some concern by the Committee about getting benchmarks on some figures. In general the policy around procurement for sustainability practices appears to be quite sound, it appears to be well considered and it appears to be pretty good. The Committee has received some evidence from out of government that whilst the policy is sound there does not appear to be as much evidence of the practice being as sound. Your evaluation criteria does say that there is going to be economic, social and environmental development initiatives and that you take into consideration the environmental management practices of the tenders, but the Committee wants to see if there is any evidence of that being the outcome. Have there been examples where there have been two printer suppliers and one got knocked out because their environmental benchmarks were not being met? Has there been a case where a car fleet was changed because they did not have good outcomes? Was there a school not built because of something or were uniforms not ordered because of too much chemical bleaching? As I say, the policy appears sound but the Committee wants to see if it is working in practice. We have little evidence of it actually working in practice so please give us some examples of where it has worked. In that regard you did mention a press release earlier. The Committee is happy for you to table that document if you would like to.

Mr TIMBS: Yes, I will table that document.

(Document tabled)

CHAIR: Thank you.

Mr TIMBS: As I have mentioned earlier, the monitoring and implementation of procurement guidelines is in fact the responsibility of government departments and agencies; it is not the direct responsibility of Treasury. But in answer to your question, I can cite examples of where Treasury can itself speak for seeing the successful implementation of sustainability criteria in projects through major constructions. One area that Treasury gets involved in is PPP projects, in the procurement process, in the assessment process and then in a post-implementation sort of review role as projects are being constructed. It is our experience to date that not only are the guidelines as far as sustainability being adhered to but developers and constructors are also embracing them. Many of the big development companies and construction companies have teams and business units dedicated to sustainable design and sustainable development and in their submissions for construction

projects those elements are brought out very strongly. In projects that are being currently developed we are seeing those sustainability elements being not only borne out but in fact sometimes being improved and enhanced during the construction process.

CHAIR: How do you assist agencies in defining or calculating whole-of-life of the project, as an example?

Mr TIMBS: There are, as I have mentioned earlier, Treasury guidelines on economic appraisal that specify the benefits and costs that should be recognised and included in the evaluation process. They are not exhaustive in so far as they do not specify every single benefit and every single cost that should be taken into account.

CHAIR: What are the types of things included in that term whole-of-life?

Mr TIMBS: On the cost side, again as I have mentioned earlier, we have things like wage costs, energy costs—they are obviously direct costs. You have things such as indirect costs, for example in transport projects where through the building of motorways if you are taking vehicles off free roads and freeing up clogging of the roads you have got lower pollution giving you environmental benefits, and you have got benefits to consumers through lower fuel consumption. They are examples of both direct and indirect costs.

CHAIR: You say it is a policy and you help them cost it in meeting those standards. Do the bidders then have to do that evaluation and you check it or do they put in their costs and then when the agency evaluates it the agency calculates those whole-of-life costs?

Mr TIMBS: The bidders would typically include their costs embodied in typically a price and it would be usual for that to be broken down into relevant component parts. It would then be the responsibility of the relevant agency doing the procurement to assess, check, verify and decide on those components.

CHAIR: The Committee has had an extensive inquiry into PPPs and is confident that through the public-private partnership process that whole-of-life is taken into consideration. I recall a statement made during that inquiry that PPPs add value because for the first time the governments actually look at the whole-of-life of a project and that is something that agencies do not normally do. Would you be surprised by that comment?

Mr TIMBS: I think given my relative lack of experience in the government sector that would be a very difficult question to me to answer.

CHAIR: There is a potential conflict in that whilst the guidelines say you must measure whole-of-life and social, environment and economic initiatives, you balance that on the page before where it says value for money is also imperative. How do you balance the value for money with that? Particularly given that evidence the Committee has received says that whilst people say they have taken into account sustainability at the end of the day all the evidence is based on value for money. Is whole-of-life the only way you can build in those sustainability costs?

Mr TIMBS: Whole-of-life value for money is the key determinant, the key criteria in determining successful procurement decisions. Sustainability is one of the factors and one of the criteria that is considered, along with other social, economic and fiscal considerations as well. So when the various criteria are considered in totality the methodology that is used to combine all of them together and make a decision is over a life cycle or a whole-of-life timeframe.

CHAIR: The Department of Education and Training submission said that "environmentally friendly products process requirements can add significant time to the process and additional cost." The department said it does not want a blanket policy because it adds significant time and cost to the process. It would rather pick environmentally preferable products on a case-by-case basis, as opposed to a policy decision. Is it the case that environmental considerations are separate from and secondary to the standard process in assessing value for money or do you believe it is a fully integrated decision?

Mr TIMBS: Environmental and sustainability considerations are not secondary to but part of the overall decision-making process. Again, the guidelines do not give quantitative determinations or weightings on how sustainability factors should be taken into account compared to other factors because it very much depends

on case-specific circumstances. But it is clear that sustainability considerations are very much an integral part of the decision-making process, not a secondary consideration.

CHAIR: You know they have been followed because of the post-implementation gateway review? Is there another way of measuring it?

Mr TIMBS: Post-implementation gateway reviews are one way in which we can track whether sustainability considerations are being taken into account. The guidelines to agencies are very clear that sustainability elements must be built into processes and taken into account. We would expect that agencies are following those guidelines as laid down.

CHAIR: Under your environmental management guidelines, chapter 3 concludes with cost neutrality, stating:

In order to balance environmental considerations within the value for money, the procurement process should also be based on the concept of cost neutrality—in other words, substituting the use of products with lower environmental impact costs where the overall effect on the agency's business is cost neutral or favourable.

From my reading of that, if you have two products of the same price you should choose the one that has the better environmental outcome or the better environmental one if it is cheaper. Given this is the final statement in that chapter, if one product has better environmental impacts and is 1¢ more expensive, it does not allow agencies to purchase it. Can you clarify that statement?

Mr TIMBS: I should note that this particular policy is in fact a policy of the Department of Services, Technology and Administration.

CHAIR: Which department?

Mr TIMBS: The Department of Services, Technology and Administration, the former commerce department. I am advised that this is a guideline, not an actual policy. It is a guideline as determined by the former Department of Commerce. So, therefore, it is not a Treasury policy or a Treasury guideline. Coming back to my previous point, I would expect that the sustainability element in so far as goods and services and their environmental impact would be part of the overall consideration of a procurement decision, taking into account the various factors that would be considered, including economic factors, applied over a whole of life.

Mr NINOS KHOSHABA: Mr Timbs, in the budget the Treasurer announced that a Better Services and Value Task Force would be established to review whole-of-government expenditure and audit line-by-line expenditure with a view to cutting spending. Can you clarify that this task force has been established? I understand it was to comprise four permanent members, including an independent chair and an independent member from the private sector. Do you know who the members are?

Mr TIMBS: The task force is in the process of being established. Yes, it is intended to have four members, two of whom will be Mr John Lee, Director General, Department of Premier and Cabinet, and Mr Michael Shur, Secretary of Treasury. The other two members are going to be an independent chair and a private sector independent. Those persons have not yet been publicly announced.

Mr ANTHONY ROBERTS: It was announced that the task force was going to be established in July 2009. Do you say that it has not been established and it is still being looked at?

Mr TIMBS: The Government is in the process of finalising the appointment of the two independent members. However, there has been a separate and discrete business unit established in Treasury to run the Better Services and Value Task Force. This unit has been established and the detailed terms of reference are in the process of being finalised. The mandate of the task force is expected to include things such as a series of whole-of-government expenditure reviews, starting with ICT expenditure, asset utilisation, line-by-line expenditure audits of agency activities and also a review of the financial performance of State-owned corporations.

Mr ANTHONY ROBERTS: It was announced that the task force would be established in July 2009. Do you say the task force has not been established?

Mr TIMBS: The two independent members of the task force have not yet been announced.

Mr NINOS KHOSHABA: Once it is established—and I am sure it will be in the not too distant future—the performance targets of the task force are to reduce expenditure in the short term, which can be done most easily by focusing on reducing initial purchase costs. What incentives does the task force have to pursue better services and value rather than simply reduce the current expenditure? Will that be part of their training?

Mr TIMBS: I believe that the mandate of the task force is not only to reduce expenditure but there is a very clear mandate to improve service delivery across government.

Mr NINOS KHOSHABA: Will environmental factors be part of that mandate as well?

Mr NINOS KHOSHABA: I expect that they would be because the task force will take into account existing government policies and frameworks, which would include the current sustainability policy.

Mr JOHN TURNER: In your submission you refer to Greenbuy. You say that various items for purchase can be accessed through smartbuy, which has a Greenbuy sustainable catalogue to assist agencies to purchase sustainable products. You say further in your submission that according to Treasury Greenbuy is the first of its kind in Australia to use visual images to promote greenhouse features. Can you tell us about Greenbuy? Is it a private organisation, a non-government organisation?

Mr TIMBS: Greenbuy and smartbuy are, in fact, administered by the Department of Services, Technology and Administration, the former commerce department. Therefore, I am not really in a position to speak in detail about those. That question would be best addressed to the director general.

Mr JOHN TURNER: They will be here shortly. I will talk to them about that. Did you say in your opening comments that emphasis is placed on recycled products? Did you mention that weight was placed on recycled products?

Mr TIMBS: That is correct. In the Department of Environment, Climate Change and Water sustainability policy there is an emphasis on water recycling.

Mr JOHN TURNER: The submission we have received from the Local Government and Shires Association says that none of the State government contracts specify recycled content products. How does that sit with your comments that weight is given to recycled products? They go on to give an example: "Contract 2954, coverings and window furnishings, for example, has 21 suppliers, many of whom supply floor coverings that contain recycled materials. Yet there is nothing in the contract to help the purchasing officer differentiate between the products." Again, is that under your bailiwick or the commerce department?

Mr TIMBS: I think this would really be covered under the relevant agency plus the Department of Environment, Climate Change and Water because it refers to actual implementation and actual decision making for specific procurement decisions.

Mr JOHN TURNER: Do State government contracts come under you or under the commerce department?

Mr TIMBS: Commerce.

Mr GRANT McBRIDE: Do you have a copy of this media release on Barangaroo?

Mr JOHN TURNER: He supplied it to us.

Mr GRANT McBRIDE: In your tabled document it says the six selection criteria and weighting are design, finance and so on and they add up to 100 per cent. Is it the policy that we do have a weighting system?

Mr TIMBS: That does not reflect the policy of Treasury. That would reflect the criteria as determined by the Barangaroo Delivery Authority itself.

Mr GRANT McBRIDE: Are they part of government?

Mr TIMBS: They are, but the delivery authority has its own constitution and governance arrangements and a committee member that would have determined the criteria.

Mr GRANT McBRIDE: This is the same sort of model my local government uses. That is the process it uses in terms of allocation of contracts.

Mr TIMBS: I am sorry, was there a question there?

Mr GRANT McBRIDE: I am saying this is being done at local government level.

Mr JOHN TURNER: It is not rocket science.

Mr GRANT McBRIDE: That is my point. I was trying to make that point as subtly as I could. Local government is doing what Barangaroo is doing. You say it is not a government policy; it is a decision by a local authority that has its own constitution. Would this be a good model, as you do not have one at the moment?

Mr TIMBS: I am not sure I would say that we do not have a model. To repeat an earlier point, the role of Treasury currently is to determine policy on procurement, not decision making. Decision making in most, if not all, circumstances needs to take regard to case-specific matters and therefore rests with the relevant decision-making bodies.

Mr GRANT McBRIDE: Do the Treasury guidelines reflect this methodology?

Mr TIMBS: The guidelines refer to the various components, but not quantitative weightings.

CHAIR: Thank you, Mr Timbs, for your time. We appreciate your frankness. We will send you a transcript of your evidence in about a week. The Committee may have further questions, which we will send to you. We ask that you address those and provide further advice, if required.

Mr TIMBS: Yes, thank you.

CHAIR: Do you want to add anything further now?

Mr TIMBS: No, there is nothing else I would like to say at this time.

(The witness withdrew)

(Short adjournment)

GRAEME HEAD, Director-General, Department of Services, Technology and Administration, McKell Building, Rawson Place, Sydney, affirmed and examined:

CHAIR: I welcome and thank Mr Graeme Head from the Department of Commerce for appearing today to provide evidence to the Public Account Committee inquiry into sustainable procurement. Mr Head, in what capacity are you appearing before the Committee?

Mr HEAD: As Director-General, Department of Services, Technology and Administration, which replaced the former Department of Commerce in the recent round of agency amalgamations, but it includes all the functions that Commerce previously had and a number of additional functions.

CHAIR: What is the department called?

Mr HEAD: The Department of Services, Technology and Administration. There is no short way of saying it.

CHAIR: What else is in that department?

Mr HEAD: That department includes Public Works, New South Wales Procurement, Fair Trading, whole-of-government information and communications technology [ICT], State Fleet, government advertising, the Office of Industrial Relations, the Internal Audit Bureau and the Teacher Housing Authority. Those are recent additions to the department's retail tenancies from the Department of State and Regional Development. It includes most of the old functions of the Department of Commerce, plus three additional functions.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and that you are protected from legal and/or administrative action that might otherwise result in relation to the information you provide. I also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would you like to make an opening statement?

Mr HEAD: Only briefly, Mr Chairman. I thought it would be useful to remind Committee members that while my department manages the tendering processes and all the associated activities, the procurement of goods and services for the New South Wales public sector service is the purview of the State Contracts Control Board, which is a statutory entity established under the Public Sector Employment Management Act. In effect, it operates the Treasury procurement policy and my department operates its tendering processes on its behalf. It is a separate statutory entity chaired by Dr Kerry Schott, the Managing Director of Sydney Water, and the other board members generally are chief executives of New South Wales government agencies.

Until recently, when the board was re-formed, the Director-General of Commerce chaired the board. The new arrangements provide for a better and more transparent set of arrangements between the board's functions and the department's functions in operating the board systems. When I am speaking about processes I am referring to the State Contracts Control Board processes and not to the department's processes.

CHAIR: But you have a full understanding of its processes?

Mr HEAD: That is right.

CHAIR: Thank you.

Mr JOHN TURNER: I think you were sitting in the back of the Committee room when I asked Treasury about greenbuy?

Mr HEAD: Yes.

Mr JOHN TURNER: I referred also to the fact that the contracts did not specify "recycled". I will restate my question. Could you give us some information about greenbuy? Does it fall under your purview?

Mr HEAD: There is a fair bit of information on greenbuy on page 12 of the submission of what was then the Department of Commerce. Smartbuy, which is the proprietary system operated by my department,

which is an electronic marketplace, has a component called greenbuy. Greenbuy allows for people to determine, in an online environment, the green or environmental features of products available on State Contracts Control Board contracts. It displays visual images of various environmental criteria of products, including things such as energy and water efficiency ratings. It is modelled on similar systems that operate in Scandinavia and in the United States. My understanding is that it is unique in the public sector environment in this country.

Mr JOHN TURNER: And it is run specifically by your department?

Mr HEAD: It is run by my department as part of the smartbuy system. Again, it relates to the features of products that are available under State Contracts Control Board contracts. Just to clarify for Committee members, the State Contracts Control Board is charged with entering into contracts for the purchase of goods and services when it has a period contract in place. Public sector service agencies are obliged to purchase from those contracts unless they are subject to an exemption.

Mr JOHN TURNER: Who would grant that exemption?

Mr HEAD: The board grants that exemption under certain circumstances and guidelines.

Mr JOHN TURNER: My other question relates to the submission of the Local Government and Shires Associations [LGSA], which states:

None of the State Government contracts specify recycled content products.

As I said earlier, it gave as an example contract 295—floor coverings and window furnishings. For example, there are 21 suppliers, many of whom supply floor coverings that contain recycled material. However, there is nothing in the contract to indicate that to help the purchasing officer differentiate between the products.

Mr HEAD: I would think that across the range of contracts that are currently in place through the State Contracts Control Board the more recently developed contracts would have more refined requirements in that area. That would not be true for some of the older contracts. I think it is a sweeping and inaccurate suggestion by the LGSA that this is not something that is present in any State Contracts Control Board contracts. In fact, in the tender processes that were underway recently there were specific mandatory environmental requirements in a range of different elements in the contract. It may be that one of the areas of work that the board and the department, in operating the board system, need to look at is the promotion of these features of new contracts when they are entered into.

CHAIR: Would you consider something along the lines of the transparency that was alluded to earlier? You might not have seen the document that was tabled by Barangaroo Australia entitled, "Two consortia to compete for Barangaroo." The media statement reads:

"We are also now publishing the selection criteria and their weightings which have, and will continue to be used, to assess the developers' proposals", Mr Tabart said.

The six criteria and the weightings are:

- Design (35%)
- Financial return and risk (35%)
- Sustainability (10%)
- Delivery and planning (10%)
- Marketing and promotions (5%)
- Capability (5%)

The press release makes a virtue of the sustainability of the product and the positive ecological footprint, including water-positive zero waste and carbon neutral. Do you agree that the weightings given to sustainability are a transparent process and should that be benchmarked?

Mr HEAD: I will approach that by commenting, at least initially, on my department's role. Essentially it is an operational role in operating and not setting policy. We enter into two quite distinct types of procurement processes. One is for goods and services across the sector where the State Contracts Control Board goes to market on the basis of a commonly used product that would be used by most agencies. The other is where we develop what we call client-specific contracts where the goods that are being purchased have a highly specialised use. So, they may be types of medical equipment used only in the hospital system or such like. The

process for developing those contracts in the case of the whole-of-sector contracts involves bringing together a client reference group from across the sector to really work through all of the relevant factors that need to be considered in specifying to the market place what is required and then the tender evaluation committee determines the relative weightings that are used in evaluating those specifications. The focus on weightings in that example you are using needs to be understood in the context of quite an exhaustive process of bringing the right people together to specify to the market what is required in the first instance.

Sometimes that results in very specific mandatory requirements around environmentally friendly products, depending on what is being purchased. Equally, with client-specific contracts where the nature of the products are often highly specialised, it is the client agency that really develops the specifications in that instance, but we provide guidance on other broader government policy initiatives that ought to be considered if appropriate in that context. Again, the establishment of weightings in the operation of a tender process is usually the responsibility of the tender evaluation committee. It is done before tenders are evaluated and there is a range of different considerations that a specific tender evaluation committee might bring to determining those weightings.

CHAIR: I am not suggesting that the items and the weightings given to the Barangaroo project should be benchmarked. You are suggesting that every procurement decision does have a matrix, a balance forecast or something that has weightings in it. Should that weighting be published for each one? If it was a highly specialised piece of surgical equipment it may have operational demands at 100 per cent, and everything else is zero. I doubt that purchasing a scalpel would need marketing and promotions?

Mr HEAD: Again, this is a policy question so it is not one principally for my agency. We would operationalise the policies issued by Treasury and other agencies on these things. You would need to be mindful that while publishing weightings may appear to be increasing transparency, it could also produce perverse outcomes. Weightings are used to ensure that the people evaluating the tender have decided up front what the relative considerations are to be and that in assessing the tenders they do so fairly, using pre-established weightings. Conceivably you could get distorted outcomes by publishing the weightings for some tenders prior to people putting in their bids.

CHAIR: Are you suggesting that the weightings are not known to the bidders?

Mr HEAD: The criteria against which tenders are evaluated are published as part of the request for tender. Weightings are sometimes published and sometimes not. I guess it is taken on a case-by-case basis, dependent on the nature of the engagement with the marketplace.

Mr GRANT McBRIDE: Does Commerce service the State Contract Control Board?

Mr HEAD: That is correct.

Mr GRANT McBRIDE: It has a board of directors?

Mr HEAD: They are a statutory entity, not the board of directors of a corporation or an agency. They are a statutory entity charged very specifically with entering into arrangements on behalf of the public sector for the purchase of goods and services and the disposal of goods as well.

Mr GRANT McBRIDE: Are you the secretariat for that?

Mr HEAD: New South Wales Procurement, which is part of my department, operate that tendering systems and we provide the secretariat to the board.

Mr GRANT McBRIDE: You are in effect the secretariat?

Mr HEAD: That is correct.

Mr GRANT McBRIDE: You process everything?

Mr HEAD: That is correct.

Mr GRANT McBRIDE: Who is the tender evaluation committee and where do they fit into this?

Mr HEAD: The board would release a request for tender and prior to it doing that it considers a procurement strategy for a particular set of goods and services.

Mr GRANT McBRIDE: Is the tender evaluation committee your secretariat?

Mr HEAD: The tender evaluation committee depends on whether it is a client-specific contract or a State contract. Usually it will be made up of people from a range of different government agencies, who are all subject to the tendering code of conduct.

Mr GRANT McBRIDE: You organise all of that as part of the secretariat?

Mr HEAD: That is correct.

Mr GRANT McBRIDE: Returning to the point made by the Chair and other members, whatever evaluation criteria may be used, is that produced or recommended by the secretariat that is servicing the board?

Mr HEAD: Generally, yes. The curriculum and strategy and the particular elements should be given emphasis, essentially the department is the principal resource for the board. But as I indicated earlier, the department does establish reference groups with users.

Mr GRANT McBRIDE: I understand all of that.

Mr HEAD: When going to the marketplace prior to the board setting a procurement strategy, we would have consulted heavily with agencies as part of that client reference group and we would communicate to the board the issues, priorities, concerns of agencies and how we have taken account of those in recommending a procurement strategy, but then it is the board that deliberates and determines what that strategy is. We are obliged to issue a request for tender that is in line with the strategy agreed by the board.

Mr GRANT McBRIDE: The board then could do the sort of thing that has been done with Barangaroo, in terms of what they are doing here?

Mr HEAD: Yes, the board could determine that as part of the request.

Mr GRANT McBRIDE: Has the board ever done that?

Mr HEAD: I do not know, I can take that on notice. The board has been operating for some considerable time.

Mr GRANT McBRIDE: To your knowledge has the board done that?

Mr HEAD: The board has certainly issued or instructed the department to issue requests for tender. We have mandatory environmental requirements as part of the tender. So, where they are mandatory the board is saying: to win this business, environmental requirements are mandatory and must be established—which is a significant action on the part of the board.

Mr PETER DRAPER: I refer to the local government submission to which you seem to give little credibility regarding its allegation that it is difficult to make purchasing decisions based on government contracts. Are you aware of any council purchasing officers complaining, or putting a complaint to the department, about this?

Mr HEAD: I am not aware of that happening. As I indicated, while I think that things have been improving over time, it certainly would have been more difficult several years ago to access this kind of information. The fact that Greenbuy is available as part of Smartbuy suggests that quite an effort has been made to provide information for users of State contracts about the environmental credentials associated with some of those contracts. I am prepared to accept that we may need to do more work in promoting the usefulness of that. I was not being dismissive of the submission by the LGSA, but it seemed to me to be a sweeping generalisation and one that is certainly not borne out by my recent experience in this process.

Mr PETER DRAPER: Are you aware of any assistance or guidance available to purchasing officers so that they can properly weigh environmental considerations against other criteria, including safety, quality, price and other factors?

Mr HEAD: I guess there are two aspects to the response; firstly, in many contracts environmental considerations have been an explicit component of the tendering process and the contract that will have been taken into account in the awarding of the contract. Secondly, Greenbuy and some of the promotional material that we have produced do address some of those elements. Where a contract has specific environmental considerations as part of it, people would be able to interrogate Greenbuy for that information.

Mr ANTHONY ROBERTS: The Committee notes that the Good Environmental Choice Australia's [GECA] submission included a letter written to the Minister for Commerce, and Minister for Climate Change and the Environment in October 2008. In the letter that the Committee sent you, Good Environmental Choice Australia requests that the Minister urgently amend a tender for office equipment that failed to include environmental criteria. The letter to the Minister is marked "Urgent" and it states:

As you would know, the Queensland and Victorian Government have recognised sustainable procurement.

Prior to that it said:

The urgency factor is that if the RFT—

that is the request for tender—

0701189 (1006) which closes on 6 November goes ahead as is, New South Wales will lose the opportunity to promote sustainable trade in the office equipment sector for another five years.

Were you aware of that document, Mr Head?

Mr HEAD: I am aware of that letter, yes.

Mr ANTHONY ROBERTS: With respect to that, what were the environmental criteria in the original tender, if any? What was the response to that letter?

Mr HEAD: The request for tender on that included a specific category for environmentally friendly products and also an environmentally friendly option for applicable product categories. That tender dealt with a lot of different lots related to office supplies, furniture, a whole range of things. As I said there was a specific category dealing with environmentally friendly products and an environmentally friendly option provided for each of the other lots. It is not clear to me what the original correspondence was really concerned about in respect of that, because there were a number of mandatory environmental components associated with that RFT.

Mr ANTHONY ROBERTS: That is the request for tender?

Mr HEAD: Yes, I am sorry. The request for tender documentation required tenderers to demonstrate support for environmentally friendly products and environmental sustainability including their company's environmental practices and procedures.

Mr ANTHONY ROBERTS: I will allow you to rest your voice before you conclude.

Mr HEAD: That is all right, it comes and goes. The tender was already in the market place when that correspondence was received. Of course, we tender according to a tendering code of conduct where the appropriate thing is to allow the tender to run its course, particularly given that the tender did specify a range of environmentally friendly requirements. That really concludes my response.

Mr ANTHONY ROBERTS: Do you have a response that you could table or provide the Committee with, together with correspondence?

Mr HEAD: I will take that on notice. I have not seen the response to that original correspondence.

Mr NINOS KHOSHABA: Mr Head, given your experience across a number of departments and agencies, if I may say so, is the tendering process the same across all departments and agencies? I understand that there may be some small differences, but is the tendering process uniform? Having said that, does the

tendering process indicate across all departments and agencies that preference will be given to people who comply with the Government's procurement policies?

Mr HEAD: It is important to distinguish between procurement practices for things like construction-related activity and capital works programs and procurement of goods and services. The board alone is charged with the purchase of goods and services for the sector. Individual agencies purchase goods and services, but that is as a result of approval for them to do so by the board. When there is a board contract in place, a period contract, agencies are compelled to purchase from the contract. There is a high degree of consistency because a very considerable proportion of the goods and services that are purchased for public sector agencies are purchased through processes run by the board and that is serviced by the department.

Mr NINOS KHOSHABA: Apart from being responsible for choosing the successful applicants, if we can call them that, the board does not determine how the tendering process goes out initially?

Mr HEAD: They do. As I said, the board agrees to the procurement strategy. The department, in operating the tendering processes on behalf of the board, really is required to issue requests for tender that give effect to whatever decision the board has made about a procurement strategy. The board was newly appointed as of 1 July this year. Members of this Committee would probably recall that there were some amendments made to the Public Sector Employment and Management Act in the spring session last year. They were to create better separation between the board and the department as board's service provider.

One of the things that the new board will do is determine or undertake an assessment of all of those procedural mechanisms that the department operates on its behalf, including those things that usually are on a risk basis where the board would want to formally sight all the request for tender documentation as well as the procurement strategy. So the board can determine to be involved at a very considerable level of detail, depending on the risk or value of an exercise, or it can delegate some of those functions to the department.

Mr NINOS KHOSHABA: The board looks after only departments that fall under your agency, the SPA?

Mr HEAD: The Act defines the public sector service, which is all of the agencies excluding state-owned corporations, as Mr Timbs indicated in his evidence earlier. When the board enters into a contract, all agencies that are captured by that definition are required to use that contract unless they have been exempted from doing so.

Mr GRANT McBRIDE: We should bear in mind that the board is at the apex and they make the decision. Then we have the tender evaluation committee that reviews the contracts. Then there is your department which services those two entities. Going back to the point I was making to Treasury—and bearing in mind that Treasury always insists that you have to have the numbers and all that sort of stuff, just like in politics—they do all this Treasury financial modelling. In terms of tenders, has Treasury developed a model whereby you just put in the numbers and it gives you an answer? In terms of that model and all the different factors that we spoke about, such as sustainability, it gives them a weighting and then you can actually crunch a number, so to speak. It would give you an indicative idea in terms of the relative value of the different tenders rather than a prescriptive idea, and it will monitor the process that you are using at the moment.

Mr HEAD: All tender evaluation committees are put together specifically. There is no overall tender evaluation committee. Each time we go to the marketplace, a tender evaluation committee is established for that tender.

Mr GRANT McBRIDE: Individually? For each tender?

Mr HEAD: Yes. That would include subject experts and it would include people from agencies that heavily utilise some of the products. So it would include a mix of people from my department and other agencies as well. They would develop the tools that we have, but also refine those so that they uniformly or consistently applied the same scoring technique to the scoring of individual tenders, and they are scored against those predetermined weightings.

Mr GRANT McBRIDE: What I am coming to is this: You are saying that you have got these tools. What are the tools that you use?

Mr HEAD: I guess what is probably more sensible for me, rather than trying to run through a range of technical staff, is to take that on notice and provide the Committee with detailed examples of how various inputs are used in different types of tendering.

Mr GRANT McBRIDE: Sure. If you could give us a working example, that would be good.

Mr HEAD: For example, given that the Committee is concerned with the issue of sustainability today, there are some areas of going to the marketplace for goods and services in which it would be relatively straightforward to establish the environmental credentials of a product. There would be some when the nature of the activity is less well understood, and there might need to be recourse to various environmental evaluation techniques, some of which are quite mature and some of which are not. Part of the reason that we have subject experts from both agencies that use products but also for the purposes of sustainability, we often use people from the Department of Environment, Climate Change and Water to make sure that the relevant technical expertise is brought to bear in determining those things.

CHAIR: One of the challenges for this Committee is to get our head around that. Some of those documents would be very beneficial. Our concern is that conflicting documentation says on the one hand that you must have environmental sustainability and that environmental considerations are a factor, but on the other hand procurement guidelines also say that you have to balance that with cost neutrality and value for money.

Mr HEAD: Yes.

CHAIR: Is there capacity for a contract relating to a product that has potentially better environmental outcomes yet costs significantly more money compared to a traditional product that would win a successful bid, or do you have to put it on your greenbuy page and say, "This meets certain criteria and you can purchase it if you want, but the other one is cheaper"?

Mr HEAD: You have to remember that to be on a website for a State contracts control board, you have to have successfully won a tender.

CHAIR: Perhaps as you go on, you could explain the process of that contract. That means that you simply offer a shopping list that people can go and purchase from, not actually a specific product. Is that right?

Mr HEAD: Well, it is a catalogue, really. If you were seeking to purchase a particular product where there was a State contract in place for that product, unless you are exempt you are obliged to use the State contract. What many of those contracts include is environmentally friendly options for agencies to consider. Greenbuy articulates the environmental characteristics of those products, and agencies are able to make those choices.

CHAIR: For example, let us say we need to buy office chairs for this room. The Parliament, being an agency, would go to smartbuy and there may be a range of office furniture available, of which some will qualify on the greenbuy page. Is that right?

Mr HEAD: I do not know that particular example, but there may well be a range of furniture, including some which specifically meets environmental requirements.

CHAIR: The question then is: How does the Parliament, as the agency—or any agency, such as agency X—go about buying 50 chairs when the standard chair is \$300 each but they could buy a green chair for \$350? That is their choice and you do not monitor it, but do you just make the green chair available if they want to purchase it?

Mr HEAD: They are not compelled to purchase it, but it is available for them to purchase and they may make that choice. It might be useful to give the Committee a couple of examples of contracts that specify environmental requirements that are in place and where there is quite a high degree of measured performance under those contracts. Contract 366, which is the fuel and associated products contract, specifically supports the Premier's memorandum relating to ethanol-blended petrol.

Usage of that has increased threefold in the last two years, and the number of stations selling ethanol under the agreement has grown substantially to the point at which there are approximately 600 service stations supplying E10. We have very good data on the volumes of fuel that are being purchased under that contract.

Another issue that has been quite topical in recent years is contract ITS 2007, which is for personal computers, notebook computers and servers. That has a specific facility for customers to return unwanted computers on a one-for-one basis when purchasing new computers.

That facility requires vendors to offer collection from the office and to assess the item for disposal. The first preference is to reuse; the second is to recycle; and lastly, the option is disposal, if the first two options are impracticable. That contract started in May 2007. Vendors have reported take-back of close to 20,000 units with 85 per cent of those units being recycled. That compares to an average of about 4 per cent of our computers used in the general community being recycled. That is an example of a specific requirement of contract that directs a particular behaviour and quite robust performance data on what is happening in respect of that contract.

CHAIR: As you update contracts, is it the case that you learn from experience, or as you update contracts, do you always look for the possibility of enhancing? For example, I imagine that when computers first came in, there would not have been a criterion that it would go to sleep after five minutes to save energy or that you could build into printers that the default is double-sided printing as opposed to single-sided printing. Do those things go into the contract, or is that left up to the bidders to say, "Our technique is to default it to double-sided printing"?

Mr HEAD: A very, very important part of the formulation of the request for tender [RFT] is, in fact, that the development of the specifications and environmental considerations, along with other considerations, can all be looked at in the specification component of the process. What we try and do is bring together the right mix of people who understand both all of the broad policy objectives that government has established around a range of different issues as well as the people who understand the technical aspects of the use of these products to make sure that the specifications are developed, taking a comprehensive account of the board's obligations to meet government policy and everyone's obligations to produce value for money for citizens. We think it is a fairly rigorous process but it is true that everybody is learning about these things. The factoring in of environmental considerations is something that has been undertaken increasingly over the last 25 years at least, but everybody is learning along the way.

CHAIR: That is good. Does that mean that if a contract says there are five computers you can purchase from the New South Wales State Contract Board, for example, five laptops, does an agency then have to pick the cheapest or can it just pick anything on that and it has then met its criteria? I am concerned how you balance the cost neutrality? If you have a bunch of, shall we say, greener products on Greenbuy but they cost more money, how are agencies justifying that purchase? You have also allowed other products on that panel.

Mr HEAD: They could make a choice. For instance, there are some types of lighting devices which cost more up-front but which do not need to be replaced nearly as frequently, so an agency can undertake the assessment based on the volume of these things it requires and how frequently it would normally have to replace these items and choose the more expensive item on the basis that it meets other important considerations in terms of value for money, which is the other policy objective associated with the environment and energy efficiency—all of those things—and also on the basis that there are other benefits from undertaking that. If the product is available on the State contract, then the agency is able to purchase it.

CHAIR: Thank you for your time today. We appreciate the input that no doubt you provided to the whole-of-government response.

Mr HEAD: And my apologies to Hansard for the voice dropping out.

CHAIR: I hope your throat gets better.

(The witness withdrew)

(Short adjournment)

BERNARD PATRICK CARLON, Divisional Director of Sustainability Programs, Department of Environment, Climate Change and Water, New South Wales, 59 Goulburn Street, Sydney, and

TIMOTHY JAMES ROGERS, Executive Director for Departmental Performance Management and Communication, Department of Environment, Climate Change and Water, New South Wales, 59 Goulburn Street, Sydney, affirmed and examined:

CHAIR: I welcome representatives of the Department of Environment, Climate Change and Water. Thank you for appearing today to provide evidence on the Public Accounts Committee's inquiry into sustainable procurement. I draw your attention to the fact that your evidence is given under parliamentary privilege and that you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. I invite you to make a brief opening statement?

Mr ROGERS: The Department of Environment, Climate Change and Water has several roles in the procurement process. We are the lead agency for the Government's sustainability policy, and that includes managing the waste reduction and purchasing policy. We work with the Department of Commerce, the department formerly known as Commerce, now Science, Technology and Administration, to assist it to integrate sustainable purchasing into contracts. We manage the Sustainability Advantage Program, which works with industry and government to improve the sustainability and performance of organisations. We work with government and industry to increase the use of recycled and recovered materials, and we work with local governments to assist them with sustainable procurement. In terms of sustainability policy, we think it is important to lead by example, and part of the Government's sustainability policy is to put government in a position where it does provide an example to others in terms of its purchasing arrangements.

The waste reduction and purchasing policy is a longstanding policy of government, having been introduced in 1997, and requires all government agencies and State-owned corporations to develop and implement plans to reduce waste and increase recycling. We also look to facilitate sustainable outcomes through the State Government contract system. In that role we provide expert advice and sit as part of—perhaps if we call it commerce for simplicity—commerce's committee arrangements for actually developing contract arrangements and assisting assessment as part of that process. As I said, we manage the Sustainability Advantage Program. That is a wide-ranging program and I am sure we will come to that in some questions as we go through, but we are the initiators of sustainability advantage for both the public and private sectors.

We have been particularly active in recent years over the use of recycled material and we have had a key role as early as 2003 in getting things like recycled material into pavement works, into asphalt in roads. We have worked on the development of specifications for the use of things like glass fines as pipe embedment material. We have worked with the Roads and Traffic Authority and Fairfield on the use of recycled materials in road building, the use of fly ash in concrete and road stabilisation materials. We brokered the reuse of materials in a whole range of different circumstances. We provide guidance for people on the use of recycled content paper. We look at driving incentives and market change through a range of programs. That includes things like incentives to put in more efficient air conditioning systems in both government and private enterprise places. We can use a long list of examples but the washing machine rebate is probably a good one. We used to give rebates for 4-star washing machines, now it is 4½ stars because the whole market moved to 4 stars. By the use of those sorts of incentive programs we can drive sustainable purchasing.

We also provide support to the local government sector. We are one of the people who support the Sustainable Choice Program in local government and we have made a substantial financial contribution as well as working with the local government sector to make sure that that works. Procurement policy, as I am sure the previous speakers today have said, is managed by Treasury with Commerce responsible for ensuring the procurement process but we do provide a supportive role both directly in the contract process and in the series of activities around it we would support the use of it.

Mr GRANT McBRIDE: You said your department provides incentives for positive things towards the environment, for example, rebates for washing machines. Is your role to drive an agenda for people to become more environmentally sustainable?

Mr ROGERS: We see as ourselves as an organisation which is designed to both help the public and indeed organisations' understanding about sustainability and help them go down the path of more sustainable procurement and usage. The Climate Change Fund has provided the incentives for washing machines as it provides incentives for a number of other rebate programs, water tanks and the like. The rebate for washing machines was not withdrawn but it was fine-tuned to push into the 4½ star rather than the 4 star rating, and drive market change that way.

Mr GRANT McBRIDE: You mentioned building materials, for example, recycling for use in road construction. Did they need incentives to do that or is it just better practices, new machinery, et cetera that made it competitive?

Mr ROGERS: No, it is actually developing the specification for the use of the material so that you actually have a specification for what sort of materials you can substitute for, let us say, the gravel in concrete. For pipe embedment material there are quite specific requirements in terms of how finely the glass is ground so that it is not going to be a danger when you are laying the pipes.

Mr GRANT McBRIDE: You use glass fines?

Mr ROGERS: Yes, it is the bits that break that are not big enough to be recycled. You crush it and turn it until it is no longer a danger and then use it. You can grind as fine as sand or you can have it at a gravel-type consistency.

Mr GRANT McBRIDE: Is that cost-effective? Is it a replacement for an aggregate, for example, sand?

Mr ROGERS: It is cost-effective for a couple of different reasons. One is the material is in relatively large supply. The waste levy on disposing of it to landfill gives you an advantage in terms of using it for alternative purposes. In some areas the supply of raw material is getting tighter, sand is becoming more difficult to get in the right sort of qualities. So it is a mixture of the three. Our incentive has been to actually develop the specification rather than to pay anyone to take it.

Mr GRANT McBRIDE: It is a replacement of an existing product?

Mr TIMBS: Yes.

Mr GRANT McBRIDE: Basically it is also a reuse of a product?

Mr ROGERS: Yes, in place of a virgin material.

Mr GRANT McBRIDE: Do you write the specifications? Is it done by scientific research?

Mr ROGERS: Yes, it is done with both engineering and scientific research. It is done jointly with bodies such as the Roads and Traffic Authority and Sydney Water to make sure that it is acceptable for those bodies to use.

Mr GRANT McBRIDE: Can you provide another example?

Mr CARLON: We have a whole raft of examples including crumb rubber in asphalt where used tyres are being used to bulk up the use of recyclable material into asphalt and, therefore, you are dealing with a problem associated with disposable tyres. We have done trials and research in terms of the appropriateness of using those particulates, and also the quantities and the way in which they get processed into those products—sand replacement for glass, organic material, as well so doing recyclable organics and using that in agricultural purposes or for road building. We are taking those resources and recovering them and reprocessing them to use in those applications but doing trials to ensure that they are fit for purpose.

Mr GRANT McBRIDE: Is tipping fees a major driver in all of this?

Mr ROGERS: It is an economic driver for finding a different use.

Mr GRANT McBRIDE: That is how we are putting pressure on to change?

Mr ROGERS: That is one of the ways we are putting pressure on, yes. There are also some high-end uses. I mean crushed glass instead of gravel around pipes is a relatively low-end use. Very finely ground glass is used as an abrasive replacement for those sorts of things. It costs you more to get to that stage but it is worth a lot more when it gets there. So it depends on developing some of those markets and equipment to do it.

CHAIR: Do you feel it is the role of the Department of Environment and Climate Change to develop markets?

Mr ROGERS: Yes, I do think we have a role in developing markets; it is not our sole role to develop markets. We tend to work with partners where we think there are markets likely to be around. We have done, for instance, some work on glass that is leading to using glass as a replacement in swimming pool filters, water filters and high-grade abrasive type stuff. We were working with the National Packaging Covenant, which has a specific role in developing end-use markets for recovered packaging materials. We were working with WSN too on one of their by-products. So it is not that we are out there actively developing the market solely but we do have a role with some of the players in the system to do it.

CHAIR: You are responding to either customer or market demands and then doing the homework to make sure it meets the quality of standard. Is that part of your role?

Mr ROGERS: That is part of it.

CHAIR: If you had two competing off-the-shelf products, product A and product B, whether it be a printer or an office chair, and one is claimed to have a better environmental outcome than the other, do you then do a quality assurance to qualify their environmental claims?

Mr ROGERS: Not generally.

CHAIR: Or is there already an industry standard?

Mr ROGERS: That is what I was going to say. In that sort of circumstance you would normally be discussing with commerce how that would fit into a contract situation, or if you were looking at partnering in sustainability advantage you would be encouraging people to go down their supply chains and look at those sorts of things. Yes, you would rely on third-party verification. You would be looking to make sure that people at least considered the product. But it is not our role to simply go out and advertise a product or something like that. We do not usually play in that end of the market.

Mr CARLON: We generally do not provide a product-specific endorsement. Generally what we are doing is to attempt to get the best-of-class approach where we are suggesting to people that they should be looking for already established recognition systems like the water-efficiency labelling system for water efficiency or the star ratings for energy efficiency. Where there are known rating systems that operate in the market then we would generally be telling people to use the known rating systems and those industry association systems that actually give some verification but look to the efficacy of those verifications as well.

CHAIR: Let us say that commerce—for ease of purpose—says there are five products that meet the government contract, the agency has a choice of which one they purchase and Treasury policy says that environment outcomes are encouraged as part of the process. If one product is environmentally better than the next product but it costs more money is there anything to measure whether agencies are purchasing the one with the better environmental outcome or are they just purchasing the cheaper one?

Mr ROGERS: I think that depends on the policy settings and the item. For instance the government fleet policy requires that you meet a benchmark in terms of the environmental score of your cars. Whether you do it by buying one Prius and three Commodore's or one Prius and three Camry's or whether you do it by buying three Corolla's is a matter for you to choose, in terms of how you blend your fleet and those sorts of things. There is sufficient flexibility in most of these policies for people to make a choice and get an environmental benefit.

Some time ago buying recycled copy paper was more expensive but the gap has really narrowed to the point where it is not nearly the detriment that it used to be. In some cases it is cheaper to buy recycled paper if you get a good line than not. Every agency needs to make choices about how much they are going to pay for

something and they do it not only about sustainability; they do about life cycles and a whole series of things. Sometimes the sustainable product has a better life cycle. Sometimes people buy something because it is simply the cheapest. I do not think that it is a simple and straightforward: Yes, you must do that. The Government has a policy about the minimum purchase of 6 per cent renewable energy. Some organisations buy more renewable energy than 6 per cent and some do not.

CHAIR: Who measures that 6 per cent renewable energy, for example?

Mr CARLON: The purchase of green power, which is a mandatory 6 per cent other than in Health, is actually reported by our department back to the Government. So there are requirements about us having in place methodologies for gathering that information from government agencies and reporting back to the Government.

CHAIR: What other things are mandatory? We have Ethanol, 6 per cent renewable energy?

Mr CARLON: Green power, yes.

CHAIR: What other mandatory environmental indicators are there?

Mr ROGERS: The Waste Reduction and Purchasing Policy [WRAPP] has a requirement that 85 per cent of copy paper must have a recycled content and that quotes for printing must have at least one quote for recycled paper in the quotes. There is the benchmark for government vehicles. We are aiming for 13.5 on the environmental score within two years.

Mr CARLON: There is a rating for energy efficiency for white goods and also a rating for water and those ratings are conditioned by them being fit for purpose within the organisation.

CHAIR: Are those ratings mandatory?

Mr CARLON: Yes.

Mr ROGERS: It is mandatory to purchase four star where it is fit for purpose and available.

CHAIR: If a hospital, for example, needed a snap-frozen sterilising machine and they were only made in two stars is that what you mean by fit for purpose?

Mr ROGERS: Yes.

CHAIR: Can you clarify that?

Mr ROGERS: Available and fit for purpose. If it is only available and its power consumption is such that it would only rate two stars then that is all that is available. There is no obligation to buy something which does not exist or which is not available in a reasonable style. It is aimed at getting those big consumption items like fridges and washing machines and the like where you do get four-star material.

CHAIR: Is the list you gave us before exhaustive or are there more? If so, do you need to provide the Committee with the list later or is that it?

Mr CARLON: We can provide the Committee with a copy of the Government's sustainability policy, which outlines all of the set targets for New South Wales, including the targets for water conservation, energy and waste resources.

CHAIR: Do you see your role as helping drive specifications in the tender process or do you see your role as working to find alternative product uses and better environmental outcomes or is it the case that if someone had a fully recyclable computer that did not use electricity that you would showcase that?

Mr ROGERS: Certainly the former two. I would want to have a hard look at the later product to see what we did. Although we might introduce somebody to somebody more in the purchasing line for something like that. We are not generally product experts. We do get people coming to the door and saying they have this great idea and we would normally try and point them to somebody who would be better placed than us to assess it if we thought it was a reasonable thing. But we are not the promoter of individual products.

CHAIR: If there are two similar products, product A and product B, and product A has better environmentally outcomes than product B, but product A is more expensive than product B, does the Department of Environment and Climate Change have any role in an agency making that decision whether on overarching policy or compliance or reporting?

Mr CARLON: I think in that context it is useful to understand our role particularly in the Sustainability Advantage program where we attempt to help agencies figure out whether they should buy product A or product B. That has to be happening in a broader context of how the organisation's existing policy settings actually enable them to make the right choice for their own context. They may actually end up saying the majority of their costs on that particular activity may be in paper purchase and not in the operation of the machine, the printer, and by buying the more expensive double-sided printer that has more energy efficiency they will be able to reduce their paper consumption substantially. These things are connected across the whole operation of an organisation. What we attempt to do is support agencies to make those decisions in a broader sustainability context.

Mr GRANT McBRIDE: Have you been doing a sort of energy or sustainability audit of an organisation? Do you organise that or does that happen?

Mr CARLON: The department actually runs a program called Sustainability Advantage, which is primarily for industry but does have government agencies also involved. It enables organisations at the executive level to sit down and do a diagnostic of their own sustainability performance across the full suite of the operations of the organisation, including staff engagement or supply chain, resource efficiency and climate change. That program then enables us to provide advice about how to then move into either adopting particular policy within the organisation, running resource efficiency—and that may include doing energy, water and other audits in order to get a benchmark—and then to implement programs within the organisation to improve their overall sustainability performance within the organisation.

Mr GRANT McBRIDE: Do you physically do it?

Mr CARLON: We actually provide the framework. We facilitate the diagnostic as part of our service delivery to agencies and industry. Then we have contracting arrangements to match them to the market of accredited service providers that are actually delivering the individual modules at a cost to that organisation. We have a framework around doing that in a cost-effective way. So to find the return on the investment that is cost-effective for an organisation so they can balance the long-term costs and benefits of the environmental improvements they are achieving.

Mr GRANT McBRIDE: The State Contract Control Board talks about a tender evaluation committee. The way I recall it was that horses for courses make up that evaluation committee. Are you a permanent member of that committee?

Mr ROGERS: No, but we have seats on specific tender evaluation committees that we have an interest in. We have one on the waste tender that is being done at the moment. We have been on the car tender. So there are specific ones that, from our point of view, are key that we have been part of. We have engaged not only at the tender evaluation stage but we have been engaged at the tender design stage. The tender evaluation stage is a bit late to come in if the tender has not been designed to capture the information.

Mr GRANT McBRIDE: Would there be a view in your organisation that sustainability should be part of every contract evaluation and that being the case you should have a permanent position on the evaluation committee?

Mr ROGERS: There is a different evaluation committee for every tender.

Mr GRANT McBRIDE: Would you have a permanent position because of a sustainability content in the majority of cases?

Mr ROGERS: Being a permanent member of something like the Petroleum Products Committee or a lot of the health ones is not going to deliver a benefit in terms of our time.

Mr GRANT McBRIDE: In health?

Mr ROGERS: For pharmaceuticals.

Mr PETER DRAPER: You mentioned that New South Wales has clear specifications and policies to encourage sustainable procurement. Has the Department of the Environment and Climate Change any benchmarkings so that we can get an idea of how New South Wales is performing compared to other States or similar jurisdictions?

Mr ROGERS: We have benchmarked the WRAPP program, which is the one for which we have policy responsibility. As part of a review we benchmarked against 12, including some overseas ones. We came out fourth and first in Australia. The three overseas ones all had higher levels of mandatory reporting than we have. There is an issue about how much you invest in the reporting scheme and how much you make everyone report every infinitesimal bit. But we were benchmarked first in Australia and, as I say, in the top third overseas.

CHAIR: When you say the top third, do you mean the top 33 per cent?

Mr ROGERS: We were fourth out of 12, and the three above us were all overseas.

Mr PETER DRAPER: Who were they?

Mr ROGERS: I could let you know, but I do not have it with me. I am happy to provide it.

Mr ANTHONY ROBERTS: Can we find out who is doing better than us overseas? Could you provide that to the Committee?

Mr ROGERS: Yes. You may be aware that the Auditor-General did the review of the WRAPP report and provided quite a comprehensive report last year. But certainly I will get you the information.

Mr GRANT McBRIDE: The evaluation committee basically sets the parameters for final consideration and determination by the board because it writes the document.

Mr ROGERS: The contract management committee writes the document at the beginning and sets the parameters for evaluation.

Mr GRANT McBRIDE: Yes. You would fit in the determination of the criteria.

Mr ROGERS: Yes.

Mr GRANT McBRIDE: So you would be part of setting the criteria. You indicated to me you were nominated only on certain occasions.

Mr ROGERS: That is right.

Mr GRANT McBRIDE: What are the criteria for you being in or out? Is it because they like you or do not like you? Are you popular with the other departments?

Mr ROGERS: Quite often. There are areas in which we have specific expertise. We have a lot of expertise in waste. From our air pollution side we have a lot of expertise in car emissions, transport outcomes and the like.

Mr GRANT McBRIDE: I will give you an example. In Melbourne the council built a building that has the best sustainability rating.

CHAIR: Six stars.

Mr GRANT McBRIDE: I do not know whether you have seen that building but it is unbelievable. It is a government building. Would you be part of that particular contract? In that particular contract you would be the primary group that would be represented.

Mr ROGERS: We should go back to the sustainability policy, which actually has a clause in it about achieving NABERS ratings in terms of setting out minimum government benchmarks for occupation, building of buildings and tenancies. In terms of the Government's sustainability policy, which you already have, there is a benchmark for new buildings and there is a benchmark for leased accommodation. We drive it from the policy end and we actually train and manage the NABERS assessment.

CHAIR: Which assessment?

Mr CARLON: It is the National Australian Built Environment Rating Scheme. That scheme is a star rating scheme, which is administered nationally by our department on behalf of the Commonwealth. It provides a rating for energy, water, waste and indoor amenity. That rating scheme has been designed for both homes and commercial buildings. There are new versions of it coming out for hospitals, schools and retail centres. NABERS is a rating scheme for the operation of a building. The building you mentioned in Victoria, in the design phase of buildings there is a national green building rating scheme, a green star, and that is run by industry. In fact, the New South Wales Government, the Sydney Foreshore Authority, has a recently developed building that is a six green star building as well. Certainly in the Government's sustainability policy for the operation of buildings are targets for achieving NABERS ratings for energy and water. The targets for waste and indoor amenity are being set this year.

CHAIR: I refer you to a document, which you may not be aware of, that was tabled this morning by New South Wales Treasury. It highlights that at Barangaroo Australia on Monday a press release was issued that two consortia will compete for Barangaroo. It states that Brookfield Multiplex and Lend Lease were the two preferred bidders to move ahead with the development of Barangaroo because it is not about 10 years of construction but the 250-year life cycle of the precinct. In the press release the chairman of the Barangaroo Delivery Authority said, "We are also now publishing the selection criteria and their weightings which have and will continue to be used to assess the developer's proposals." Then he listed the criteria and the weightings: design 35 per cent, financial return and risk 35 per cent, sustainability 10 per cent, delivery and planning 10 per cent, marketing and promotion 5 per cent, capability 5 per cent. It then referred to water positive, zero waste, carbon neutrality and ecological footprint of the project. We asked questions of the commerce department and Treasury and they said they are not really policy setters, they are implementers and did not want to answer. Do you think it is a good idea that we put upfront on the record the matrix that shows the weightings for sustainability when governments make decisions?

Mr ROGERS: Mr Chairman, I would respectfully have to say I think this is straying into a policy area where I would prefer not to answer, in terms of the guidelines provided for officers appearing before parliamentary committees.

CHAIR: Thank you for your time this afternoon. The Committee appreciates it. You committed to providing a document, but I believe we already have a copy.

Mr ROGERS: If not, we are happy to provide it.

CHAIR: If we have any further questions we may write to you.

Mr ROGERS: Please do.

Mr ANTHONY ROBERTS: Keep up the good work.

(The witnesses withdrew)

(The Committee adjourned at 4.10 p.m.)