



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
13th Assembly

PUBLIC ACCOUNTS COMMITTEE

Public Briefing Transcript
Berrimah Farm Redevelopment

12.00 PM, Tuesday, 3 May 2018
Litchfield Room, Parliament House

Members: Mrs Kate Worden, MLA, Chair, Member for Sanderson
Mr Tony Sievers, MLA, Member for Brennan
Mr Gerry Wood, MLA, Member for Nelson
Mr Paul Kirby, MLA, Member for Port Darwin
Mrs Lia Finocchiaro, MLA, Member for Spillett
Mr Terry Mills, MLA, Deputy Chair, Member for Blain

Witnesses: Department of Primary Industry and Resources

- Mr Alister Trier, Chief Executive Officer
- Ms Lorraine Corowa, Director Market and Enterprise Development
- Ms Karen Timms, Berrimah Farm Project Manager

Department of Infrastructure, Planning and Logistics

- Mr Andrew Kirkman, Chief Executive
- Mr Bruce Michael, Executive Director Transport Planning
- Ms Karen White, Senior Manager Land Transactions

The committee commenced at 12.00 pm.

Madam CHAIR: On behalf of the committee I welcome everyone to the public briefing on the Berrimah Farm redevelopment.

I welcome to the table Mr Alister Trier, the Chief Executive Officer of the Department of Primary Industry and Resources; Mr Lorraine Corowa, Director Market and Enterprise Development of the Department of Primary Industry and Resources; Ms Karen Timms, also from the Department of Primary Industry and Resources, the Berrimah Farm Project Manager; Mr Andrew Kirkman, Chief Executive of the Department of Infrastructure, Planning and Logistics; and also from the Department of Infrastructure, Planning and Logistics, Mr Bruce Michael, the Executive Director Transport Planning; and Ms Karen White, Senior Manager Land Transactions.

Thank you for coming before the committee today. We appreciate you taking the time to speak to us. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee does apply. This is a public session and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

Before you have something to say, could you each make sure you state your name so that we know the capacity and it is good for the audio. I invite Mr Andrew Kirkman to make an opening statement.

Mr KIRKMAN: Thank you Madam Chair and thank you committee for the opportunity to provide information on the land release process undertaken for Berrimah Farm and to respond to any questions that the committee has in relation to your general support on the Berrimah Farm redevelopment.

As you mentioned, I am joined here by Alister Trier, Lorraine Corowa and Karen Timms from the Department of Primary Industry and Resources. Alister will respond to questions regarding the area of Berrimah Farm that remains a responsibility of his department, the department's ongoing research capability including the exciting redevelopment that is happening now and the new facilities that are going into Alister's area of Berrimah Farm.

The Department of Infrastructure, Planning and Logistics will respond to the committee's questions relating to land release processes, the commercial arrangements for the project and the Auditor-General's performance management system, represented—as you have noted—by Bruce Michael, who was lead and Chair of the assessment, and Karen White, the Senior Manager Land Transactions, who was a project manager of this land release project.

If I can start by providing a brief overview of the project timeline. As part of budget 2014, the release of 168 hectares of Crown land at Berrimah Farm was a key element of the then Northern Territory Government's program to release land to accommodate 6500 new homes over 10 years, improving the affordability of housing and supporting economic growth. The land release program aimed to boost the number of new lots developed each year from greenfield sites from around 500 per annum to 700. The policy objective was to increase the supply of land in order to maintain downward pressure on the price of housing.

The Berrimah Farm project is a \$300m redevelopment project that will provide for housing over the next 13 years, delivering land for 2200 residential dwellings and a mixed use secondary activity centre in 11 stages by the 2031.

In late 2014, government endorsed the release of the Berrimah Farm site with the developer to be responsible for delivering all district level headworks for the site. The fiscal situation in the Territory at that time was tight and the decision to release the site in this way was aimed at attracting private sector investment into the delivery of district level headworks, usually funded in the Territory budget by the department's Capital Works Program—an important point and I will go further into this point.

A two stage process, expression of interest and request for detailed proposals was undertaken to identify the preferred proponent for the Berrimah Farm redevelopment project. An independent probity auditor was appointed to oversee the release process and provided a formal report confirming the assessment process was undertaken with due probity.

On 3 November 2015, the local company Halikos was announced as the preferred proponent for the Berrimah Farm project. In May 2016, Halikos entered into a project development agreement with the Northern Territory for the redevelopment of Berrimah Farm.

The Auditor-General, as part of their audit assurance program, undertook an audit on the Berrimah Farm redevelopment project that commenced in October 2017 and concluded in December of that year. In summary, the Auditor-General found that the department has systems and processes in place to manage land development and that the department had complied with these systems and processes for the granting of a Crown land lease over the Berrimah Farm site.

Notwithstanding this overall finding, some areas for improvement were identified. The audit found that the Territory's objectives, as stated in the initial expression of interest, were not fully realised and that some of the objectives were subsequently retracted and amended by the Territory, including some of those relating to, for example, the international grammar school, the area designated for the sentinel heard of cattle and the bus interchange.

The government at the time, considered these changes were peripheral to the key land release objective and did not have material impact on the project outcomes, as the project still met its key objectives of delivering a mixed use residential subdivision including sites for educational facilities, a research precinct, diversity of housing, secondary activity centre, preservation enhancement of World War II heritage, and provision of headworks and aged care facilities.

All changes to the project requirements were undertaken either at the request of or approval of the government of the day. The department sought advice on probity and legal risks throughout the release process and considered that the risk was effectively mitigated by proceeding to negotiations with the proponent that did expose the Territory to excessive probity risk.

The Auditor-General was unable to conclude the release of Berrimah Farm was undertaken with economy as there was no cost-benefit analysis demonstrating the impacts of proceeding or not proceeding with the project. The reality is that government land release decisions hinge on the need to meet market demand and population growth and while a technical cost-benefit analysis is not part of the department's documented land release process, the department undertook a range of other financial analysis to inform its advice to government, including a residual land analysis.

The analysis was undertaken prior and during the release process including immediately prior to approval of commercial terms on the agreement with Halikos. It is also pertinent to note that the agency conducts ongoing analysis regarding land release and ongoing advice about where and when to best release parts of Crown land for residential development. This includes looking at all the estimated costs of servicing for that land.

From that perspective, there is an ongoing cost-benefit analysis in the work and advice we provide to government. Perhaps we did not go through that enough with the Auditor-General at the time.

The department considers that all financial risks to government were identified and provided in departmental briefings on the project. In order to understand the structure of this land release, it is important that the committee understands how various types of infrastructure are typically funded in the Territory. To assist the committee in understanding, I would like them to understand how the land releases are traditionally done. We have provided a high level table, I think it has been tabled with you. We have pulled this from our 10 year infrastructure plan that we released last year and it depicts the integrated land use and infrastructure planning processes in the Territory.

Infrastructure to enable development is provided at four levels: regional; subregional; district; and subdivision. Each level is funded through different financial models and delivered by different entities generally as follows: regional infrastructure such as power stations and dams; subdivisional infrastructure such as water tanks and zone stations are funded through government investment and consumer tariffs—i.e. power and water bills—and delivered by asset owners such as Power and Water Corporation.

Typically this department, the Department of Infrastructure, Planning and Logistics, funds the construction of district level headworks for greenfield land sites through its Capital Works Program. Your table sets out those four levels of investment.

For example, the Department of Infrastructure, Planning and Logistics funded the new pump stations in Johnston, Zuccoli and the spine roads, such as Farrar Boulevard and Zuccoli Parade, as part of this department and government's Capital Works Program. This is an important point in terms of describing the

deal that was undertaken with the Berrimah Farm redevelopment. Subdivision infrastructure, as you are probably aware, such as local streets, reticulated water and sewer mains, are delivered by subdivision developers and is funded through the sale of private lots.

When Crown land sites are sold, the Territory traditionally seeks to recover the cost of district level headworks through the sale of Crown land. The return to government is generally through a cash royalty on the first sale of developed lots and through provision to government of serviced sites; for example, schools and public housing. This was the structure of previous releases of Crown land in Palmerston east.

These sorts of release may or may not provide a positive return for government, that is, the government return exceeds the cost of district level headworks. Given that development typically occurs over a long period of time and royalties are subject to market conditions, if houses sell slowly the government will get its royalties back slowly and may end up spending more in those district level headworks than they get back in royalties. Sometimes it works the other way.

Overall, assessment of return includes cash returns, provision of serviced sites and other infrastructure in consideration of government's objectives to the site. As explained earlier, in 2014 the former government decided to structure the release of Berrimah Farm so that developer was responsible for delivering all of the district level headworks—not government through its Capital Works Program, but the developer.

A cash payment of \$4m was to be made available to the successful proponent to cater for oversize infrastructure in adjoining sites. The \$4m Territory contribution was clearly identified in the expression of interest documentation.

While some previous Crown land releases have involved the developer delivering individual elements of district level headworks, Berrimah Farm is the first instance where the developer will deliver all the district level headworks. In making the decision for the developer to deliver all the district level headworks, the government recognised that its cash royalty from the sale of land was likely to be negligible or potentially nil. This was based on valuation advice, residential land value analysis and market assessment through the release process.

Instead, its return for the land would compromise the district level headworks and site remediation, usually funded in the Territory budget through this department's Capital Works Program, and achievement of the key objectives outlined in the expression of interest and request for detail proposal documents. In assessing the agreement, the Territory will receive \$28m of district level external headworks that we would have normally funded. An estimated \$3m of site remediation that we would have traditionally funded and we also get back a 5 hectare service government school site valued at \$6m.

The returns for those three elements actually exceed the valuation of \$20m for the site with costing—district level headworks and clearances of environmental matters. The Territory also paid \$4.9m for a four hectare serviced community purpose site independently valued at \$5m. This was a new requirement added by the Territory during negotiations.

Effectively, you can either get a return in cash or with infrastructure in the ground. In this case, the Territory is getting a return of infrastructure in the ground as opposed to cash royalties. This is a really important point in terms of what is out there in the general public about Halikos being given this site for nothing. That is completely inaccurate. They are paying for the site through provision of district headworks, site remediation and provision of a school site.

Madam CHAIR: Mr Kirkman, I know this is an opening statement but you mentioned an amount of \$4.9m. Could you outline that more please? Is that a payment that the government has now made?

Mr KIRKMAN: That is right. During the negotiation there was an agreement that there would also be a community purpose site—also set aside for government—that was valued at \$5m and there was an agreement in the deed to pay \$4.9m for that. That is another payment that has gone out. It is effectively a net for net benefit.

Works are well under way for the 168 hectare redevelopment of Berrimah Farm, named Northcrest. Stage 1 is now complete, well ahead of the milestone of June 2019 contained in the project development agreements. Titles for the lots in Stage 1A were granted on February 5, 2018 and title for the lots in Stage 1B were issued this week. Forty-six of the 145 lots in Stage 1, we understand are sold and there are six new homes already under construction.

The development permit for the second development stage was issued on April 4 this year. Once completed as a developed suburb with residential, commercial and community facilities, Northcrest will be worth in excess of \$1bn.

In rounding off, Alister Trier, Bruce Michael, Karen White, Lorraine Corowa and I are happy to take any questions and provide any clarification or information that may assist the committee with its inquiries. Of course, none of us are able to provide opinion on government policy and hence will answer questions on a factual basis where we can.

Thank you again for your invitation to respond and answer and questions of the committee.

Madam CHAIR: Thank you, Mr Kirkman. Some of your opening statement has affected some of the questions we have prepared so I need a moment. I will kick off the questioning if that is okay.

Could you explain what revenue that the Territory would typically have received from such a project? Have we forgone in the agreement? I think you outlined that broadly, but can you be very specific? The ups and downs in your opening statement—you have named the two options and we have obviously gone for a royalty type arrangement versus a cash payment option in doing the headworks. If you looked at it overall, has the Territory lost out on something that we would typically have gained from such a project had it been done the other way?

Mr KIRKMAN: No, I will probably get Bruce Michael to explain more about this. In effect, as you have said there are a couple main options. One is you get royalty payments and a return on your Crown land through cash payments—the previous government chose to not have to fund the headworks upfront, out of its capital works budget and save that money for other things. Instead get district level headworks provided by the developer instead of having to do it themselves.

Effectively the competitive process meant that the department was able to get the best value for the Territory in the deal. I will get Bruce Michael to explain more about that. What you will find is that regardless of the mechanism in which you get a return on that Crown land, whether it is infrastructure in the ground or cash in the hand, you get to the same outcome in terms of the best bid as you go through a negotiation process.

Mr MICHAEL: In assessing the return, a lot was dependent on the risk profile the government was prepared to take at the time. As Andrew Kirkman mentioned earlier, the fiscal position of government was that it did not want to put cash into the development. Having said that, the typical royalty model where you put cash into a development and receive returns over a period of time was not considered appropriate in this particular case.

In a normal instance, the royalty rates that would come from a development would vary according to the nature of the development that had been undertaken, how much the government in terms of serviced sites or community purpose sites and alike, what the market conditions are at the time and whether there are any price objectives of the government of the day.

Each land release has a different set of circumstances that determine how much royalty is paid on any particular development. In this case, we were following the instructions in relation to no cash payment upfront, and so then it becomes a financial equation or the role of the department to get best value for money that we can get with that constraint. Through the market process, we obtained the best deal that we could for the government given that constraint.

Madam CHAIR: I will pick up on something that you just said. You said the government of the day did not want to put cash up front and that it was considered not appropriate in this circumstance. Can you explain to me on what basis 'not appropriate in this case' is based upon and how that decision would come about?

Mr MICHAEL: That is simply related to the fiscal position of the government at the time and so that was the decision they took.

Madam CHAIR: So you are saying that was a government decision and was not a recommendation of the department that it not be appropriate?

Mr MICHAEL: No.

Madam CHAIR: Just using your words, sorry.

Mr MILLS: I understand the logic as described, Mr Michael, but we are assuming that the alternative model would be that the bidder would pay for the land and that receipt would then be used for the infrastructure? So does not one cancel the other out and why was that model chosen rather than receiving a payment for the land and using that for the infrastructure?

Mr MICHAEL: There is a difference in the risk profile that is adopted for government in taking different approaches. In the instance where we have done the englobo land release and we have determined what our return from the development is up front. Andrew Kirkman has articulated that, that is in the return of the district level headworks, the environmental remediation of the site, the return of the serviced school site and all the objectives that were associated with the Crown land release.

In the instance that you were to do it the other way, government would have had to use its cash to fund the district level headworks and then it would have done an EOI process on, effectively, a serviced lot of land and the return on any royalty model would be uncertain.

Whilst you may establish a royalty rate, it is dependent on market conditions of the day and what level of return you might get. It may be positive or negative and you cannot determine that in advance. In Berrimah Farm the expected life of the project—under the project development agreement—is around 15 years. You have the time value of money that comes into the equation as well and the time value of money, in terms of when your returns might be, means that there is substantial risk to government. The other impact on government in terms of paying for infrastructure upfront is that it wears all the risk associated to the cost estimates of that infrastructure upfront.

In this particular case, government does not have the risk of anything that might happen in relation to the estimates of costs of provision of headworks—that risk is worn by the developer and so that risk element is removed this methodology.

Mr MILLS: It still raises a number of questions that I am having difficulty settling. Were all proponents, all potential developers and bidders, aware of the approach that government was wanting to take in this?

Mr MICHAEL: Yes.

Mr KIRBY: Could you briefly explain the difference between the model that was used for this land and something like a luxury hotel, as far as headworks and juggling of opportunities of assets and costs go?

Mr KIRKMAN: Two very different projects, obviously. The provision of additional support from government is looked at on a case-by-case basis. Clearly with a luxury hotel it meets a demand or supply that we currently do not have in that quality of accommodation. Government has seen fit to provide support for that, as governments have done for just about all the waterfront development.

Where you can draw some parallels is the provision of district infrastructure. Some of the developments in Palmerston east, where government has dipped into its own capital works wallet and spent money on district works. It is doing the same thing at the waterfront, effectively. So you can draw parallels in that regard.

Mr WOOD: In the project deliverables under the EOI, it said that the following components are expected to be delivered by the successful proponent: delivery of all headworks and subdivision infrastructure to facilitate the delivery of the project. When you got down to the three final proponents, under the request for detail proposals it said, 'Below are the details of the minimum project requirements of the successful proponent is required to deliver to achieve the project objectives; design and construction of headworks'. That is not the same as what the final project had, so where did it change?

Mr MICHAEL: I do not think there any change, it may be what appears to be the wording. But that is what the effect of the project development gets, is delivery of the headworks. The word construction in that instance implies delivery.

Mr WOOD: So the concept of a land swap versus headworks, was that available to any proponent?

Mr MICHAEL: It was not considered in this instance.

Mr WOOD: Were the final three proponents given the option to do that? I presume that most people would say the normal process is for government to put in the headworks, as you said. I would have thought that the option for the government is to sell the Crown land to recover the cost. You talked about royalties but of the other options is simple to put that land up for tender, as I think happened in parts of Palmerston, and get its

money back from that process? Am I looking at it the way you would normally doing a land development, as happened in Palmerston?

Mr MICHAEL: That was the way that Palmerston east would have worked. The serviced land was provided out to the market through a market bidding process and the Territory got a return from that which was related to royalty returns and provision of sites according to the particular development—that does not necessarily indicate what your financial outcome will be from that site.

This is a different approach where the government is not providing cash up front, but is receiving a good through the development of headworks, removal of environmental risks, provision of the serviced site as well as the objectives that were attached to the land release through the EOI and requests for detailed proposals.

Mrs FINOCCHIARO: Just to clarify, when the expressions of interests went out it was understood by everyone wishing to participate in that expression at that time that the risk would be with the developer? Headworks and all those things you have described—everyone was on an equal playing field in knowing that if they were to participate in the expression of interests of what was going to be expected? It was not that each tender, for lack of a better word, could propose a different role to carve up?

Mr MICHAEL: Tenderers could propose what they like, but the position of government was that that was a mandatory objective of the development.

Mrs FINOCCHIARO: Everyone knew that at the time?

Mr MICHAEL: Yes, it was clearly spelled in the EOI and RDFP documentation.

Madam CHAIR: In your testament today you said that following entry into a sole negotiation with the successful proponent, none of the scope was changed after that in agreement with that proponent, it was a completely level playing field for everybody going in and none of the scope was changed after the sole negotiation. That is my key point today.

Mr MILLS: Either after or during the course of the negotiation was the scope changed?

Madam CHAIR: Yes, that is what we would like to get to the bottom of today. Obviously there is some discussion around at which point different things occurred and for us—were there any changes to the scope that perhaps at any point it should have gone back out to the market?

Mr KIRKMAN: I will pass to Bruce Michael to give more detail on this. Clearly there was a probity advisor throughout this process—I understand the team worked closely with the probity advisor and that ensured that the process was appropriate and no other tenderer would have been disadvantaged by whatever occurred post shortlisting down from three to two to one. That is the role of the probity advisor, to make sure the team is doing the right thing in terms of not putting any of those previous tenderers at a disadvantage.

I will pass to Bruce Michael in terms of this specific example.

Madam CHAIR: Is that documented? When the probity advisor makes that advice, there would be documents that this sort of thing would be tested, and the probity advisor's advice will be documented and available?

Mr MICHAEL: Yes. Once the assessment process has been to its conclusion and selected a proponent, there were two requirements which were removed. They were for the delivery of a site for the sentinel herd of cattle and for the provision for the serviced site for the international grammar school—they were both withdrawn at the instruction of government.

Madam CHAIR: At which point?

Mr MICHAEL: Through the negotiation phase.

Madam CHAIR: With the sole proponent?

Mr MICHAEL: With the sole proponent.

The provision of the five hectare serviced site, which was mentioned by Andrew Kirkman in the opening statement, was added through the negotiation period.

Mr WOOD: And the bus interchange?

Mr MICHAEL: The bus interchange—it is an understanding of what the bus interchange actually meant. The bus interchange can be achieved through either an on-road or off-road facility. The EOI said that it was a design that distributed traffic evenly and makes provision for a bus interchange. The RFDP project requirements were altered, the RFDP states that ‘an on-road solution is proposed rather than a bus interchange.’ That was done in conjunction with the then department of transport at the time and the knowledge we got through the EOI process.

Madam CHAIR: At which point was that, during the sole negotiation point or before that?

Mr MICHAEL: That was before that, it was prior to the RFDP.

Madam CHAIR: All tenderers were aware of that?

Mr MICHAEL: All RFDP tenderers, yes.

Mr MILLS: What is RFDP?

Mr KIRKMAN: Request for detailed proposal.

Mr WOOD: I have little bit of trouble—both the EOI and the RFDP said design and construction of headworks. If I were the person going to put my tender out for that, I would have thought that I was going to be doing two things. One thing that was not normal in a subdivision—I was going to provide the headworks as distinct from subdivision infrastructure, which I normally would have had to do. But I also—there is nowhere in here to say it—would have had to pay for the land.

The way I read it, you want to develop this at no cost to the government so you are requiring a developer to put in the headworks and from the public’s perspective I would have thought you are going to ask for payment for the land, which was the Berrimah Farm. But you have not done that, you have basically said we will have nil cost by providing headworks as payment for the cost of the land.

Mr KIRKMAN: That is exactly right. Government could have chosen to say, we want \$10m out of this deal. What they would have ended up doing is then having to do some capital works themselves, or ourselves. It is really an offset process, either you get the cash or works in the ground.

Mr WOOD: Did proponents know that?

Mr KIRKMAN: That was clear in the request for detailed proposal.

Mr WOOD: But not all proponents had a request for detailed proposal. The nine proponents under the EOI, did they understand that?

Mr MICHAEL: Whether or not the government would get a return upfront additional to the provision of headworks and the other requirements of the land release, would depend on the residual land value analysis undertaken by the developer. We had done a number of residual land value analyses through the process of the development internally to the department. We had advised the government of the day that the return was likely to be nil based on that residual land value analysis. The cost and risk associated with the development was such that we did not expect to get a cash return on the basis that the land release was undertaken.

Mr WOOD: One more question on that—others might ask about the valuation. When you asked for expressions of interest, how much land was up for development against when the development was finally signed off on? Obviously there were things taken out.

What was the total package at the beginning—in hectares or acres—compared to what was finally signed off?

Mr MICHAEL: One hundred and sixty-eight hectares through the process. There were changes to the requirements in terms to some of the composition of that. For instance, the land allocated to the sentinel did change through the course of the development but the overall development was based on 168 hectares.

Mr WOOD: If that included the sentinel herd, would not there have been 158 hectares at the end?

Mr MICHAEL: It is still 168 hectares. You have to take that into account because there was some infrastructure required for the sentinel herd if that was to proceed.

Mr WOOD: I presume the valuer—which others might want to ask questions on, which the Auditor-General has raised. How much land was the valuer required to look at and was it different from when the original applications for the land went in, compared to what was finally signed off on?

Ms WHITE: The land valued was 168 hectares. The amount of land was 168 hectares—the whole time the developer, through the whole process, was responsible for developing all of that land. The thing that changed was that they did not have to develop that part of the land for an international grammar school, or that part of the land for a sentinel herd. The actual amount of land they had to develop did not change, just whether they were required to develop those specific things on it.

Mr WOOD: Or did the value of the land then change?

Ms WHITE: We started the process in 2014, so over that time the value of land changes.

Mr WOOD: I am only asking that because some of the land did not have to be serviced—it was the sentinel herd ...

Ms WHITE: Still required. There was five hectares of the 168 hectares for the sentinel herd and another five outside the property boundary. But it still required servicing. They still had to provide a water service to it, fence it. They still had to provide services to it even though it was for a sentinel herd.

Mr WOOD: You did not have to subdivide it.

Ms WHITE: They still had to subdivide it from the balance of the parcel.

Mr WOOD: Oh, yes.

Mr SIEVERS: I am wondering—you got to the sole proponent and then the changes happened. Did the probity adviser at any stage come back and say, 'Shall we go out to an expression of interest again to all the others who have put in a bid?'

Mr KIRKMAN: I will get Bruce, who was there at the time, to talk a bit more about the detail. The probity adviser's advice is always taken. You need to seriously consider what you can and cannot do, obviously, after you go through each short listing process. There were a few processes in this deal.

What you need to make sure—and what the probity adviser will need to be assured of—is that you have an even playing field at each step of the process so when you have all the bidders there, you are not disadvantaging any of those. On a short list of three, all three are on an even footing. When you go to two, the remaining two are on an even footing. When you go to one, obviously you need to get the deal across the line and things will move in the agreement.

But the probity auditor will ensure that you have not diverged so far from the initial process. If you diverge too much from the initial process, they will come back to you with advice to say you either do not accept that as a change to the deal, or in fact you need to go back through the process again. That advice is very carefully followed by the department. Bruce, is there anything more in this ...

Madam CHAIR: The question, though, to be clear, was were there red flags put up by the probity, not the role they undertook because we have been hearing this ...

Mr SIEVERS: To say they asked the question, yes.

Mr KIRKMAN: I will get Bruce to respond to that.

Mr MICHAEL: The probity adviser is involved through the EOI process, the RFDP process. They request detailed proposals. We had a subcomponent of that called the Best and Final Detail Proposals component. Then, after that process, there was a situation where you had to select a proponent. That is where the probity adviser's involvement stops, as you get into the direct negotiations with the project development agreement.

Up until that point where you enter into negotiations with a final proponent, the probity adviser ensures that the process is undertaken fairly and provides advice on the methodology and recommendations to the various panels as to how to proceed. Those recommendations will follow.

Mr SIEVERS: The probity adviser did not ask any question about whether it should go back out?

Mr MICHAEL: The probity adviser would be asked questions—and asked questions—about the process of going to from the request for detail process, which was three proponents down to two, which was the best and final detail proposals, then the final selection of the preferred proponent. That advice was taken on board.

Madam CHAIR: At which point did the probity adviser cease to act? Were there any decisions or change of scope after the probity adviser had ceased giving you that advice?

Mr MICHAEL: Through the negotiation process, the probity adviser was not involved in the final negotiations.

Madam CHAIR: They were not involved?

Mr MICHAEL: No.

Mr MILLS: I have a question.

Madam CHAIR: Yes.

Mr MILLS: It appears to me, Mr Kirkman and Mr Michael, that this whole process rests heavily upon the valuation. In order for this to stack up, we have to have a solid valuation in order to proceed from that point. But the Auditor-General noted that the valuer of the land was only allowed two days to complete his valuation and consequently reported that he was unable to undertake all the research that would normally be required for such a valuation, and to undertake a hypothetical cash-flow analysis of the proposed development, which would normally produce a significantly different valuation. Why was the valuer not provided sufficient time to conduct such an important valuation?

Mr KIRKMAN: Again, I will start with this response. Effectively, we acknowledge in best practice we would like to give valuers and professionals more time in any advice they give us. We are factoring that into our work going forward. We have noted that from the Auditor-General. What is important—and I tried to make this point in the opening statement—is government had a need to release residential land. It viewed this land as the best, least-cost risk opportunity for them to get a good quality product out to the market to fill a gap.

In essence, it does not really matter what the valuation says, because you then get the bidding parties together and go through competitive bid process with those tenderers to get the best value you can. Regardless of whether a valuer says, 'You will get X value for this property—and by the way, we do not think you are getting that value', the government's objective was to get residential land into the market. That was the direction to Bruce and the team, 'Get residential out into the market. It needs to go and it needs to go now—and by the way, we are not paying up front for it'.

Regardless of the valuation, the negotiation process ensures that you get from those bidders in the market who are willing to risk finance to take on a massive englobo construction site under a development agreement that says, 'You will get this land out in this time', which is key risk because you never know where the market is going. Let us face it, the market has not gone up in that time. They need to assess that risk and give their best bids. The department is then in a position to analyse those bids to get the best value to meet the objective. That objective is to release land, not to meet a valuation.

So, in the end, I accept that we, as a department, need to do better in our planning for getting professional advice—whether it is probity, valuation, engineering, design, whatever it is. The more time we can give professionals, obviously the better advice we have, and we totally accept that.

Mr MILLS: I would think it was pretty dangerous to go into a competitive negotiation process not being certain about the value of the asset that you hold, because it is a competitive process. Those who are bidding would have a sense that you are not quite sure what the value of this is because you have not gone through that process and there was some rush in the process. It leaves the government exposed, and ultimately the winning tenderer is exposed because these questions have not been satisfactorily answered. Would you concede that?

Mr KIRKMAN: No, I do not agree because there was an objective set for the department to deliver residential land, and that is what it did, regardless of the valuation. We value Crown land from time to time. We had a good sense of what this land was worth in the current market. We have professionals in our team who work with planners who release Crown land regularly. We had a really good sense about what that was worth. Valuations are done over time. It was not that we went in blind in understanding where the market was at and what that piece of land was worth, regardless of not going out formally to get professional advice at the outset.

Mr WOOD: Madam Chair ...

Madam CHAIR: I have a question on my right to take it back to the probity for a moment before, because that started somewhere there. Member for Port Darwin.

Mr KIRBY: You explained that probity were involved up to a certain point in the process. Is that a standard part of this process—that they will be involved up to a point and then not involved beyond that? Is that standard?

Mr KIRKMAN: Yes, it is. As I said, you need to make sure the players at any point in time in the process, are on a level playing field. Obviously, when you get to the last one and you need to strike a deal, then that is who you deal with.

Madam CHAIR: Thank you, you have answered that question. Mr Wood.

Mr WOOD: Yes. I am not an expert in this area, so I understand there may be people with much more knowledge about this. The way I understood it is you did a land swap, you might say, for the headworks. So, the headworks were valued as this much and the land valued that much. That was where you say nil valuation. Am I right in saying that you replaced the cost of the land with the developer putting in the headworks? Is that correct?

Mr KIRKMAN: Yes. We got the best deal we could in the amount of headworks that the developer was prepared to put into that land.

Mr WOOD: That is right. The public understands. They are not saying, necessarily, that it is the wrong way to do things, but I would have thought that if the value of the headworks is X, you would find out whether the value of the land is X plus 10%, because that land belongs to the taxpayer. I understand all the business that you wanted to get land out quickly, but it is still an asset that belongs to the Crown and will be used for a commercial purpose. Therefore, a valuation so you can say to the public, 'This land was valued at X and in this case, instead of the government building the headworks for X, we basically did something that was like for like.'

That is what I am concerned about with that—the value of the land was not done properly as the Auditor-General has said.

Mr KIRKMAN: Again, I will probably pass to Bruce to talk about the detail at the time. We do value our Crown land. We have Crown land sitting in our balance sheet and we know what it is worth at a point in time. Obviously, markets shift and change, but we have a really good sense of what our land is worth.

Bruce, did you have anything more to add?

Mr MICHAEL: We undertook residual land value analysis through the course of the process so we understood what the likely return was. As Andrew said, that was validated through the market process in the sense that we had a number of competitive bids that were assigning a value to the proposal we had. So, we had a range of tools available to us.

The methodology that was chosen by the valuer was a direct comparison methodology, which is the most appropriate to use where there is market evidence. That was used to corroborate the fact that we were not getting, I guess, a bid from components that was out of whack with where the market was at, or alternatively, that was inconsistent with our residual land value analysis.

So, those bits of work combined give us a high degree of certainty that we were achieving value for money in the context. The valuation we received was received prior to Cabinet making its final decision. All the information was available before the decision was made to sign off on the agreement.

Madam CHAIR: I have a supplementary to that. I have the Member for Brennan on my right here. Sorry, I did not look your way.

On that, what was the residual land value then at the time you entered into that final agreement? Do you have a figure?

Mr MICHAEL: I do not know the exact figure off the top of my head, but it was negative.

Madam CHAIR: It was negative?

Mr MICHAEL: Yes. In other words, the cost of doing the development was less than zero ...

Madam CHAIR: That was documented?

Mr MICHAEL: ... at the last period.

Madam CHAIR: Will we be able to see that documents that documents that?

Ms WHITE: We prepared it as internal advice. We tested the developer's model in our model and came up with a negative residual land value.

Madam CHAIR: Is it possible for us to see that? Is that okay? Thank you.

Ms SIEVERS: In the Auditor-General's report, the Auditor-General found no documentary evidence that all financial and reputational risks to the Territory were adequately considered and mitigated. Is that unusual? Why was that documentation not available to the Auditor-General?

Mr MICHAEL: That relates to a particular step in the process. This is a sale of a block of land. At the time, it was really a selection process. That advice was provided for a selection process and whether to negotiate with one or two parties. It was not provided as a financial analysis, as such. There is probably a little mismatching in what the intention of the ministerial decision was, versus what the Auditor-General was seeking at that point in time.

With a sale process, we go through negotiation over a long period of time to get a net result for government. It does not mean that at any time in a process we are agreeing to a proposition which has been put before us from a proponent. A proponent will put a figure of X on it and we will negotiate that through in light of what government's objectives are for the site and what we consider to be a reasonable value at the time.

Mr SIEVERS: Are all those processes documented?

Mr MICHAEL: All those processes are clearly documented through the information and decision points that were available for government through the process.

Mr SIEVERS: Are those documents available to the Auditor-General?

Mr MICHAEL: Yes.

Mrs FINOCCHIARO: The model that was adopted—and correct me if my historical summary is wrong. The decisions made to offset the risk—we want no risk to government so we will find a proponent who is prepared to undertake the works. We have a value of land. We have a value of headworks and all those district services you described—obviously, bearing in mind that the district services that are delivered may end up costing more or less.

Now, moving through the entire process, what residual risk, if any, is left with government? In a project, what kind of risk does it present to government, or is all of that risk now with the developer?

Mr MICHAEL: The bulk of the financial arrangements are now settled. There are a number of what can only best be described as 'unknown unknowns' in relation to environmental issues where the government does bear some risk. They are on the unaudited areas of the site—whether there is any environmental risk which could not reasonably be anticipated through the process. There is an exposure of government there.

The remaining risk to government is not so much specific cost risk, it is really a timing risk in relation to some of the Power and Water infrastructure which is required to support the development over time. As Andrew

said in his opening statement, Power and Water has a capital works program and normally achieves its revenue through its tariffs. In the event that some work is required ahead of Power and Water determining the go-ahead, the Territory wears a bit of that timing risk. But there are no cash payments, I guess, that are implicit under the agreement.

Mr WOOD: I am asked a fair number of questions about the school that was added in. I need to try to get it clear in my head. Originally, the government would sell a piece of land and keep a little of the farm—only a little, unfortunately. There was a parcel of land and out of that parcel there was to be taken 15 hectares for the moo-cows and five hectares for a primary school. You then—and I am not talking about you personally—the government then decided to pay \$4.9m for another site, but at the same time relinquished a 15-hectare site.

What I cannot work out is why you would then be paying money because, all of a sudden, the 15-hectare site would be much more valuable as a subdivision than just a school. I am trying to work out in my head how this came to be when you originally just had a piece of land and some parts of that land were not to be developed as residential areas.

Mr MICHAEL: Government made the decision to purchase a serviced site off the developer at valuation. That is part of the overall determination of how the overall financial transaction works. That is really just paying for a site, as it would if it wanted to purchase a site now. In Berrimah Farm it would seek to purchase a site now at market value. It is no different, it was just done in advance of the land being developed.

Mr WOOD: Could they not have retained those parcels of land as Crown land and left this out of the whole discussion?

Mr MICHAEL: That would be a decision for the government at the time. That would have changed the financial arrangements and would have made the overall agreement—given that it was a very late stage of the process—and transaction a little more complex. Administratively, if government had left it out of the equation, it would have had to pay the money and taken the risk on servicing the site. It would have introduced a complexity in provision of a small amount of servicing to an area that was already integrated and been done by a single developer. It would have made it ...

Mr WOOD: So, the money would have been purely for infrastructure, not ...

Mr MICHAEL: It is for a serviced site. They are getting a site that is ready to go from day one.

Mr WOOD: You are not paying for the land?

Mr MICHAEL: They are paying for the land, but it is a serviced site that is suitable for a school or community purpose facility.

Madam CHAIR: I will add to that. I want to be really clear. There must have been some valuation then that the \$4.9m was equivalent or less than the cost of those headworks? Yes?

Ms WHITE: Than the market value for that piece of land.

Madam CHAIR: So, we are foregoing the risk of putting in the headworks. I would think the headworks for a serviced site for a school or community purpose—we should have some understanding about the cost for that. We forewent the risk of putting in the headworks ourselves by paying the proponent \$4.9m for a serviced site back. We are not just taking the land back, or buying the land back that is ideally given?

This is our quandary, I guess. Government owned Crown land. We effectively gave it away for zero, but your testimony today is that is not entirely the playing field. But then we are buying back \$4.9m. We have to do some calculations that that \$4.9m is the value of the headworks.

Mr MICHAEL: The decision to take was based on the market value of the land. If government wants to purchase a site for a school from a developer, it will generally pay market value for the site. So, that was the consideration that was made in this instance. It has paid market value for the site, or just marginally less than market value for the site because the value was the value of the site.

Mr MILLS: Was the valuation process as robust for that parcel of land as it was for the whole allocation of the whole site?

Mr MICHAEL: The Valuer-General has signed off on both valuations.

Mr MILLS: Two days, the same valuer?

Ms WHITE: We asked for the valuation to be provided in two days. It was actually provided in 10 days and after the Valuer-General met with the valuer as well. The two days is not the whole story. The whole story is the valuer gave us a report after 10 days, and before the Valuer-General signed off on it he met with the valuer and discussed it with him, and has signed off that the valuation was appropriate.

Mr MILLS: That valuation determined the valuation of this parcel of land?

Ms WHITE: It was in the same report.

Mr MILLS: Same process?

Ms WHITE: Yes.

Mr WOOD: Was that response given to the Auditor-General to put in the response section of the Auditor-General's report? What you just said then, about 10 days.

Ms WHITE: It was not that specific in our response, yes.

Mr WOOD: Can I ask the department of Primary Industry, because I do not want them to fall off ...

Mrs FINOCCHIARO: Come for no reason.

Mr WOOD: That is right. Some of the questions might cross over. Alister, I was wondering if you could let us know where the department fitted into this whole development at the very beginning. Were you involved in this discussion?

Mr TRIER: The short answer is yes. If you stand back and have a—this is a personal opinion. We would never get any significant investment into the research facilities at Berrimah Farm while that real estate value was sitting there. It just did not happen, and in my view it would not happen. So, the principle of realising the real estate value of part of the farm I supported all the way through because I saw that as a mechanism to deal with the reality of the value that would not be invested in while it was a real estate component. From the initial step, yes, we were very supportive.

As the process went through there were different iterations and a range of different things—decisions made by the government of the day. We were involved and responded accordingly through that entire process.

Mr WOOD: I will get the right name for it. The Territory office facilities mentioned in here as one of the requirements. They will go on to your land. Is that correct? Or am I wrong there? If not, where are they going?

Mr TRIER: I am not aware of where the Territory office facilities are going.

Mr WOOD: Down here is the construction of the Territory office facilities.

Ms WHITE: It was a requirement in the initial expression of interest and the request for detailed proposals process that the developer provide a proposal for that. What ended up in the development agreement was an option for the Territory to require a Territory office facility to be constructed as proposed or not. We need to give the developer a notice—it is in May, where we are right now—whether or not we will seek to take up that option.

Mr WOOD: But that was one of the project objectives.

Ms WHITE: Yes.

Mr WOOD: So, you are saying that ...

Ms WHITE: If we still want it by the date we have to give that notice, which is May, then we will ask the developer to provide that.

Mr WOOD: The developer will build a government building and lease it back ...

Ms WHITE: If we give them notice.

Mr WOOD: It will be a lease-back arrangement.

Ms WHITE: If we give them notice that we want to. What is provided for in the agreement is that, depending on what notice we give them, they will either build it and we will lease it back, or they will build it and we will purchase it. That is what is provided for in the agreement.

Mr WOOD: What benefits does the Berrimah Farm itself—what is left of it—get from this development? That is what Alister was saying—he supported the sale of the land. I must admit I would love it if there was more development to the Berrimah Farm. But is there a direct correlation between the sale of this property and any upgrades to the facilities at Berrimah Farm?

Mr TRIER: The short answer is yes. We have seen a \$34m investment by the current government and the Australian government, of which the Australian government contributed \$3.5m, from memory.

Mr WOOD: Is that directly from the sale or the development of the ...

Mr TRIER: That is as a result of the development. The sale is separate to the upgrade of facilities at Berrimah Farm, but logically the two follow each other. It is a quantifiable figure—\$34m. That goes into a range of things. There is a significant amount of infrastructure upgrade as a part of that, new laboratory facilities and some requirements that come with a smaller footprint—supporting services.

Mr WOOD: Does that tender for sewerage, water and electricity for Berrimah Farm your tender?

Mr TRIER: Yes.

Ms TIMMS: Yes, it is.

Mr WOOD: And that is for just the farm? That is an upgrade, is it?

Mr TRIER: That is for the remaining footprint so the land that is the Northern Territory Government's was retained under the deal.

Mr WOOD: Thank you.

Madam CHAIR: Just back to where we were before about the timing of the valuation. Is it unusual for a valuation to be requested after negotiations have been finalised with the preferred tenderer—or practice?

Mr MICHAEL: We would acknowledge that we could have received the valuation earlier. Again, as I said, we had undertaken a number of residual land value analysis and we had the bids on the table from the market, which indicated whether or not they were consistent with the residual land value analysis. We got the valuation to provide a final check as to whether those two bits of work lined up and they did.

But we would accept that it would have been ideal to do it a little earlier. But when you are in a situation where the market is changing rapidly, you need to make sure that it is current to the time that the decision was made. So, a late valuation in this instance was required to be made, rather than one, say at the beginning of the RFDP process, which would have been a year out of date. The market did move substantially over that period of time. Yes, we would accept that you could do some improvement in doing it a little earlier, but you would not want to do it too early so that it was not a current valuation at the time the decision was made by Cabinet.

Madam CHAIR: So, it is not unusual?

Mr MICHAEL: It is not unusual to get a valuation late. Obviously, we would like to have a little more time and not have criticism that the valuation was done with insufficient time.

Madam CHAIR: Okay, thank you. Do any other members have questions? I have just one more. It is just picking up from some of the things you said earlier, Mr Kirkman. I am wondering if there were specific time pressures for the commencement or completion of the project.

Mr KIRKMAN: I will pass to Bruce for that.

Mr MICHAEL: We were given by the government of the day—we were able to work through the processes in the time that was required to get to what we consider to be the best result for the Territory at the time through the process. We did not have any undue pressure or whatever, in getting a result at a particular point in time. It was a quite protracted process and that was the result of the complexity of the process—the fact that we went through a multistage process. But we were not under any undue pressure in relation to finalising it.

Madam CHAIR: Thank you.

Mr WOOD: One last question. I am trying to understand the valuation. The valuer talked about valuing it as an englobo site. Is it basically unimproved capital value this site is valued at? Regardless of what the land will be used for, it is just a straight valuation? What I am trying to get at, and the bit I have trouble understanding is, you had a school of 15 hectares. That school value might have been less than a well-developed small-block subdivision in the residential area. You also had the sentinel herd, knowing it had to have some servicing, but not as much servicing as a subdivision. It has to have a few taps to keep the cows happy.

Was there just a straight valuation for the land as if nothing was to happen there, or did it take into account what was there and what was taken away?

Ms WHITE: The valuer valued the land—if we try to think about it conceptually—as if it was serviced in the same way that we have serviced block of land in Zuccoli and Palmerston east. The value he attributed to it was if it had the district level headworks already servicing the site and if the site had been remediated, so that if a developer came in, all they really had to do was the subdivision work and construct the blocks of land. The value that the valuer placed on the land was if it had already had those district level services in place.

Mr WOOD: I imagine government's headworks are what comes into the subdivision, and then major subdivision go to a sewerage pumping station, as in Zuccoli. That would be the government's role normally. Then, from there, the developer would put in the subdivision infrastructure.

Ms WHITE: Yes.

Mr WOOD: So, what was being valued? The headworks that came into the site, or the subdivision infrastructure that would have been the responsibility of the developer to put in?

Ms WHITE: The value the valuer placed on it is if the parcel had been serviced with the district level headworks.

Mr WOOD: Which would normally have been—in the case of Zuccoli ...

Ms WHITE: Work that the government would have done.

Mr WOOD: Yes, okay.

Mr SIEVERS: With all the land available at Zuccoli, Palmerston and so forth, what was the big rush for government to release this land?

Mr WOOD: And not build Weddell.

Mr SIEVERS: Why was it such a ...

Mr MICHAEL: Ultimately, that is matter of a government decision, but it was part of the bringing on Territory land release program that the previous government instituted shortly after its election. It was in part in response to the INPEX decision to proceed and the need to provide a substantial increase in the number of housing lots available for sale.

It was also cognisant of the land that was available and various price markets available across the Territory—from a departmental view, reports that we have in relation to the need to provide about five-years supply of residential land in the market at any point in time to ensure that there is competition between developers and

to provide reasonable price pressure to ensure that we do not have lack-of-supply driven increases in land prices.

Mr WOOD: Thank you.

Madam CHAIR: I will ask one last question and we will make this the last question, thank you very much. You have outlined for us today a range of processes and decision-making points that happened. For me, the one thing that is missing—we are hearing about facilities where there is no prospect of an upgrade, desperately needing an upgrade. The decision was then made that the land would go and as part of the package and negotiations, you get the upgrade and then we lease that. That is how it is now, the same as the school decision or the community purpose area. Those decision points were made.

I am wondering how the department ever applies a public interest test. I know it is a broad question and I will let it completely sit with you if I can, Andrew. The key thing is where is the public interest in the decisions that were made, cumulatively? I can see that you are mapping out for us how cumulative decisions over time are made. It is a key point for me, as a takeaway today.

I am wondering if there is any consideration about the public interest in these decisions over the long term. It is Crown land and it belongs to the people. In the end, it is no longer Crown land and we are in a leasing situation, particularly with the Berrimah Farm.

Mr KIRKMAN: If I can clarify. There is an option in the agreement that we can get the developer to build and then lease back to the Territory, build and we will pay for it outright, or in fact do buildings under their own capital works program. As Bruce and Karen mentioned, we have not got back to the developer yet on our response to that.

But it is clear to everyone that there is considerable money in our capital works program now for us to deliver on significant upgrades and new facilities for Alister's department at the site. From that perspective, I guess you can look at this development as taking out the farm and Alister's and his people's use of that farm and the research facilities, because it is effectively out of the deal. Then it is up to government to how it deals inside Alister's boundary in new buildings, research facilities, our agreements with the Commonwealth Government in new labs et cetera.

Yes, the agreement allows us to get the developer to do some building work. Alternatively, we can do it ourselves, and we have the capital works funding to do that.

Alister, was there anything you would like to add to that?

Mr WOOD: Madam Chair, I know you said one last question, but it just reminded me. What is the land title at the moment? Who owns the land that is being developed?

Ms WHITE: The land that DPIR is still on is vacant Crown land—that bit is vacant Crown land. The balance of the site is a Crown lease term owned by Halikos.

Mr WOOD: And what happens to that Crown lease term?

Ms WHITE: Similar to all of the Crown land developments, including in Palmerston east, once the stage is developed, a freehold title issues in each of the new developed lots. Each of the new housing lots gets a freehold title.

Mr WOOD: The Auditor-General mentioned stamp duty. Is stamp duty involved in the change from one lease to another? Or from lease to freehold?

Ms WHITE: No, not as far as I know.

Mr WOOD: There is no stamp duty?

Ms WHITE: Stamp duty is paid by the developer on the development agreement. This is a generic requirement—this is generically, I am talking about. The stamp duty is assessed on the Crown lease. In this case, because of the nil monetary consideration, stamp duty was nil.

Mr WOOD: Is that taking into account that we would have lost an amount of money that would have been stamp duty under a normal sale of the land?

Ms WHITE: All that was really taken into account in the development agreement—it was assessed for stamp duty in accordance with the act. It was nil.

Madam CHAIR: We might have to leave it there, Mr Wood. But I also note that I do not think you answered my question about the public interest. What public interest test is put on? I am just asking that as more of a broader—because this project has obviously gone on for such a long time and there are decisions you have to make along the way at different points. But at which point are these decisions tested around whether this is of benefit for the public? At the beginning, you have a public asset, which obviously is Crown land.

Mr KIRKMAN: I do not think we are in a position to answer that question. It is up to the government and Cabinet of the day as to what it, with all the facts in front of it, believe is the best outcome on any particular transaction for the public and the community of the Territory. Bruce, anything else from your ...

Madam CHAIR: I will accept that. In the interest of time I might ...

Mr MICHAEL: I will add to that. The government of the day had a range of objectives it wanted to achieve through the land release. The public interest test in relation to the bringing on Territory land release program impacting on the supply and price of new housing lots, and the objectives that were contained within the agreement.

Madam CHAIR: Thank you. I will finish the public hearing today by thanking you very much for your time. I know you have taken time out of your busy schedules. We appreciate it. And thank you to others who have come to see the public hearing. It is nice to see people in the gallery when we do these activities. Thank you very much and that concludes today.

Mr KIRKMAN: Thank you.

Mr WOOD: Thank you.

The committee concluded.
