

Auditor-General's Report 3 of 2025

# **Proton therapy project:**

SA Government context and insights



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Tabled in the House of Assembly and ordered to be published, 17 June 2025

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First Session, Fifty-Fifth Parliament

By authority: T. Foresto, Government Printer, South Australia

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2025

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ISSN 0815-9157



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6 June 2025

President  
Legislative Council  
Parliament House  
ADELAIDE SA 5000

Speaker  
House of Assembly  
Parliament House  
ADELAIDE SA 5000

Dear President and Speaker

**Auditor-General's Report 3 of 2025**

***Proton therapy project: SA Government context and insights***

Under the *Public Finance and Audit Act 1987*, I present to you this report on the status of the Australian Bragg Centre proton therapy project and how the SA Government is managing its financial commitments and risk exposures on this project. I conducted this review because the project involves a substantial investment of public money and there is significant concern as to whether a proton therapy unit to deliver leading-edge medical technology for treating cancer will be established in South Australia.

**Acknowledgements**

The review team for this report was Salv Bianco, Stephen Gladigau and Grace Lum.

We appreciate the cooperation and assistance given by staff of the Department of the Premier and Cabinet and the Department of Treasury and Finance during our review.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Andrew Blaskett".

Andrew Blaskett  
**Auditor-General**



# Contents

<b>Audit snapshot</b>	<b>1</b>
<b>1 Executive summary</b>	<b>3</b>
1.1 Introduction	3
1.2 Our key observations	4
1.3 Response to our report and observations	9
<b>2 Proton therapy project status</b>	<b>11</b>
2.1 Overview of the proton therapy project	11
2.2 Project status	12
2.3 The SA Government is negotiating with the building owner to restructure the Australian Bragg Centre leases	15
2.4 The SA Government is working on developing an alternative national proton therapy project	15
<b>3 Proton therapy project background</b>	<b>17</b>
3.1 Overview of SAHMRI and ABCPTR	17
3.2 Developing the proton therapy project concept and funding	17
3.3 Australian Bragg Centre	18
3.4 Key parties involved in the proton therapy project	19
3.5 SA Government's involvement in the proton therapy project	20
3.6 Proton therapy project documents	22
3.7 Overview of commercial arrangements	22
3.8 Timeline of key events	24
<b>4 Financial status and SA Government risk exposures</b>	<b>26</b>
4.1 Financial status	26
4.2 The SA Government's financial, legal, commercial and operational risk exposures	28
<b>5 Analysis and rationale for SA Government decisions</b>	<b>31</b>
5.1 Introduction	31
5.2 Audit observations	35
<b>6 Due diligence and procurement risk review on ProTom</b>	<b>38</b>
6.1 Introduction	38
6.2 Audit observations	40

<b>7</b>	<b>Oversight and reporting</b>	<b>43</b>
7.1	Introduction	43
7.2	Audit observations	44
<b>8</b>	<b>Managing project risks</b>	<b>47</b>
8.1	Introduction	47
8.2	Audit observations	47
	<b>Appendix 1 – Review mandate, objective and scope</b>	<b>50</b>
	<b>Appendix 2 – Project documents</b>	<b>52</b>
	<b>Appendix 3 – Proton therapy project chronology of events</b>	<b>54</b>
	<b>Appendix 4 – Response from the Department of the Premier and Cabinet</b>	<b>59</b>
	<b>Appendix 5 – Abbreviations used in this report</b>	<b>60</b>

# Audit snapshot – Proton therapy project: SA Government context and insights

## What we reviewed and why

The Australian Bragg Centre proton therapy project involves a substantial investment of public money and there is significant concern as to whether a proton therapy unit (PTU) to deliver leading-edge medical technology for cancer treatment will be established in South Australia. This report provides a status update on the project and discusses how the SA Government is managing its financial commitments and risk exposures.

## Our key observations

The South Australian Health and Medical Research Institute (SAHMRI):

- terminated its contract with the proton therapy system supplier
- was unable to appoint a private sector operator willing to invest sufficient capital to ensure the financial sustainability of the PTU.

A PTU has not been established. Establishing and operating a PTU in South Australia will require significant additional public (State and/or Commonwealth) funding.

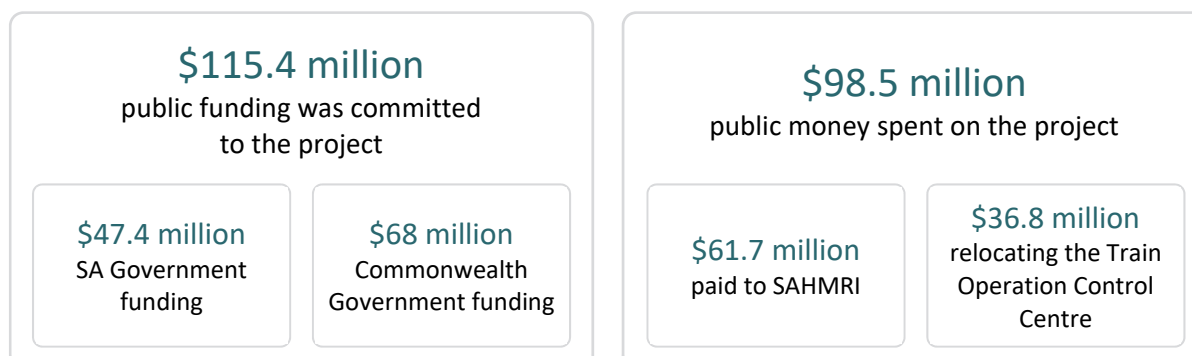
The SA Government has ongoing risk exposures and financial commitments from the project, including:

- funding a proportion of building development cost overruns
- step-in obligations for certain arrangements if SAHMRI becomes insolvent
- leasing five floors in the Australian Bragg Centre at commercial market rates.

We identified gaps in the way the SA Government managed its involvement in the project, including the need for:

- a formal documented evaluation to justify contributing significant public money to a project
- fully documented assessments of significant issues and risks and the analysis and rationale for any responses
- full and complete advice to decision makers on risks and monitoring of risk mitigation strategies
- effective oversight, project management and risk management arrangements, reflecting a project that is high risk, has a significant cost and has national consequences.

## Key facts







# 1 Executive summary

## 1.1 Introduction

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The Australian Bragg Centre proton therapy project (proton therapy project) is managed by the South Australian Health and Medical Research Institute (SAHMRI)<sup>1</sup> to establish Australia's first proton therapy unit (PTU) in Adelaide for treating cancer. The project, which has received Commonwealth and SA Government grant funding, involves:

- the private sector developing a building (the Australian Bragg Centre) with a specifically designed bunker for the proton therapy system
- the design, construction, supply, installation, commissioning and support of a proton therapy system, funded by the Commonwealth Government
- developing and operating a PTU.

The SA Government has provided significant financial support and has a number of ongoing risk exposures and commitments, including:

- overseeing the provision of Commonwealth funding for the project
- providing grant funding
- agreeing to fund a portion of the building development cost overruns
- a contractual obligation for the State to step into certain arrangements if SAHMRI or the Australian Bragg Centre for Proton Therapy and Research (ABCPTR) suffer an uncured insolvency event<sup>2</sup>
- leasing five floors in the Australian Bragg Centre at commercial market rates.

SAHMRI is an independent company limited by guarantee and its operations are overseen by an independent board of directors. As such, SAHMRI is not subject to control or direction by an SA Government minister. SAHMRI does not meet the definition of a public authority under the *Public Finance and Audit Act 1987*. It is therefore not subject to a statutory audit by the Auditor-General and does not have to comply with the SA Government's financial management framework. However, I have reviewed and reported on the SA Government's involvement in the proton therapy project as it is a matter of public interest.

In this report we provide a status update on the project, and discuss how the SA Government is managing its financial commitments and risk exposures. We also provide insights for future projects based on our review of the SA Government's governance and oversight arrangements for the proton therapy project.

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<sup>1</sup> SAHMRI is South Australia's independent, not-for-profit health and medical research institute. Its members include the Minister for Health and Wellbeing, Minister for Industry, Innovation and Science, Treasurer, University of Adelaide, Flinders University and University of South Australia.

<sup>2</sup> ABCPTR is a not-for-profit, wholly-owned subsidiary of SAHMRI established to lead the development of the PTU and associated services.

## 1.2 Our key observations

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To date a PTU has not been established in the Australian Bragg Centre.

A significant setback for the proton therapy project was the failure of ProTom International Holdings (ProTom) to complete the proton therapy system, resulting in SAHMRI terminating its contract with them. SAHMRI advised us that whilst ProTom has completed the majority of the major components required for the proton therapy system, it has failed to complete the proton therapy system on the agreed terms and for the agreed contract price. As a result, the proton therapy project as originally planned will not proceed.

While the failure of ProTom to provide the proton therapy system is the principal reason that the proton therapy project will not proceed, a secondary setback for the project was that SAHMRI has been unable to appoint a private sector PTU operator. The financial parameters for the operation of the PTU have progressively deteriorated from the business case assessment in 2019, such that SAHMRI has been unable to attract a private sector operator for the PTU on a financially sustainable basis. As a result, SAHMRI has requested additional public funding for the project.

SAHMRI contracted ProTom to provide the proton therapy system after it had commissioned an independent review that identified significant risks in procuring from ProTom. While the report identifying the significant risks in procuring from ProTom was provided to the SA Government by SAHMRI, we found no evidence that key information about these risks was reported to the then Premier, who was the lead Minister for the project at the time.

PwC, engaged by the SA Government to review SAHMRI's business case, raised concerns about key assumptions in the business case supporting the financial viability of the PTU operating model. The State–SAHMRI grant agreement required SAHMRI to meet key conditions demonstrating that the PTU was viable and sustainable before it was provided with any funding. While the then Treasurer approved that SAHMRI had met these conditions, the SA Government could not demonstrate that it had assessed the issues and risks PwC raised before this approval was given.

When governments make financial commitments in complex arrangements where they are exposed to operational, financial and legal risks, there must be structured and comprehensive oversight of their involvement.

### Project status (chapter 2)

The SA Government is actively working with the Commonwealth Government to develop an alternative national proton therapy project. The SA Government engaged a consultant, independent of SAHMRI, that identified that there are alternative options to complete a proton therapy system in the Australian Bragg Centre, including via the use of existing components or alternative suppliers' components (which would require some building modifications).

An external review of the PTU's operating and funding model for the Commonwealth and SA Governments delivered in February 2024 identified that there was a significant funding gap and recommended that SA Health manage and operate the PTU. It also recommended a funding model for an SA Health managed and operated service, noting that there would be significant costs to governments.<sup>3</sup>

The SA Government is working with the Commonwealth Government to secure funding for a new national proton therapy project and the project will not proceed without Commonwealth funding because it will be a national service.

The SA Government is also negotiating with Dexus<sup>4</sup> in a bid to restructure the lease obligations that SAHMRI and ABCPTR have in the Australian Bragg Centre. The Department of Treasury and Finance (DTF) advised that the SA Government is seeking to reduce the potential commercial exposures and litigation risk to all parties.

## Financial status and SA Government risk exposures (chapter 4)

The Commonwealth Government provided funding of \$68 million to the SA Government for onward payment to SAHMRI to purchase a proton therapy system. \$52 million had been transferred to SAHMRI as at 3 April 2025.

The SA Government itself committed \$47.4 million in funding to facilitate the proton therapy project, comprising:

- \$36.8 million to relocate the Train Operation Control Centre to make way for the Australian Bragg Centre<sup>5</sup>
- a \$10.6 million grant to SAHMRI (Premier's grant agreement).

\$9.6 million of the Premier's grant had been transferred to SAHMRI as at 3 April 2025.

Figure 1.1 shows known SA Government's risk exposures and financial commitments from the proton therapy project at the time of our review.

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<sup>3</sup> Under this funding model, most of the costs would be borne by the Commonwealth Government with a small proportion of the costs of operating the PTU borne by the SA Government.

<sup>4</sup> Dexus is the current owner of the Australian Bragg Centre.

<sup>5</sup> Evidence to the Public Works Committee indicated that, in addition to making land available to build the Australian Bragg Centre, the relocation of the Train Operation Control Centre to the Dry Creek Rail Car Depot would provide an integrated operations and control environment to support more efficient public transport service delivery and incident management.

**Figure 1.1: SA Government risk exposures and financial commitments**

Exposure/Commitment	Description
Development cost overruns	<p>The Treasurer is liable to fund a portion of cost overruns in developing the Australia Bragg Centre.</p> <p>Risk exposure:  <b>\$3 million</b> – SA Government’s estimated share of cost overruns, subject to contract audit</p>
Treasurer’s step-in obligations	<p>The Treasurer may be liable to pay a licence fee to the building owner if required to step in to certain arrangements if an uncured insolvency event impacts SAHMRI or ABCPTR.</p> <p>Risk exposure:  <b>\$14 million</b> – licence fee payable over a 21-month period</p>
Lease of five floors	<p>The Minister for Infrastructure and Transport entered into a lease for five floors in the Australian Bragg Centre at commercial market rates.</p> <p>Financial commitment:  <b>\$91.7 million</b> – lease commitments over 12-year lease term</p>

The Treasurer also requested that SAHMRI explore options to enable maximum recovery of public money and/or realisation of value from completed components that SAHMRI owns. The extent of any recovery of public money and/or realisation of value cannot be quantified at this time.

## Analysis and rationale for SA Government decisions (chapter 5)

### *SA Government evaluation of its involvement in the project*

SAHMRI engaged Ernst and Young to prepare for it a business case to support the proton therapy project (SAHMRI’s 2019 business case). It addressed project benefits, financial viability and risks from SAHMRI’s perspective. SAHMRI’s 2019 business case followed the Commonwealth Government’s \$68 million funding commitment announced in May 2017.

We found that although the SA Government commissioned PwC to review SAHMRI’s 2019 business case it did not prepare its own formal documented evaluation to support its decision to participate in and provide funding for the proton therapy project to demonstrate it has:

- assessed the potential benefits, costs and risks from its involvement in the project
- established that the proposed investment of public money has sufficient value and can be delivered.

### Audit insight

A formal documented evaluation should be prepared to support the decision to proceed with a project, scheme or initiative that will incur the expenditure of significant public money, or where there are potential consequential risks to government.

### *Assessment of SAHMRI's business case*

The State–SAHMRI grant agreement included two conditions to be met to demonstrate the commercial and financial viability and sustainability of the PTU. They were designed to ensure that the SA Government did not provide grant funding if the project was not viable and sustainable.

A PwC review of SAHMRI's business case to support the then Treasurer's approval of these two conditions raised concerns about a lack of evidence for the operating model to engage a private sector PTU operator. Engaging a private sector operator who would provide capital investment was crucial to the financial viability and sustainability of the PTU operating model in SAHMRI's business case.

We could not see any analysis that:

- assessed the significant issues and risks raised by PwC
- provided the rationale for approving that the two conditions were met without verifying the PTU operator market assumptions in SAHMRI's business case.

### Audit insight

Where significant issues and risks are identified that impact or may impact the success of a project:

- analysis, including risk analysis, should be performed to understand and assess the impact on project success. This analysis should be documented and provided to decision makers to inform their decisions about whether to proceed with the project
- the rationale for any decision taken in response to identified risks or significant matters should be fully documented.

### Due diligence and procurement risk review on ProTom (chapter 6)

SAHMRI engaged KPMG in 2017 to review the due diligence and procurement risks of purchasing a proton therapy system from ProTom. KPMG identified significant procurement risks and outlined mitigation strategies and actions to reduce them.

We found that:

- minutes from the Department of the Premier and Cabinet (DPC) to the then Premier (the then lead Minister for the project) on the outcomes of KPMG's review lacked information on the risk exposures
- the SA Government did not monitor and report on SAHMRI's implementation of the recommended mitigation strategies to address the risks raised in the review.

### Audit insight

When significant risks that may impact the success of a project are identified, there should be:

- full and complete advice provided to decision makers on these risks and their mitigation strategies
- regular monitoring and reporting to ensure that mitigation strategies to address these risks are effectively implemented.

## Gaps in project oversight and management (chapter 7)

We found that DTF implemented project oversight and management arrangements, including:

- establishing an SA Government cross-agency steering committee to provide high-level governance, guidance and leadership for the SA Government's project role
- establishing a project management team to monitor and analyse project risks and advise the steering committee, Treasurer and SA Government
- regularly reporting to the Treasurer and the SA Government.

However, we also found gaps in these arrangements:

- The SA Government did not have a documented project management plan that defined how it would manage and deliver its project role. This plan is essential for projects like the proton therapy project where the SA Government is extensively involved.
- The SA Government cross-agency steering committee established in 2018 has not met since late 2021. DTF advised us that there has been regular engagement between SAHMRI, DTF, the Department for Health and Wellbeing (DHW) and the Crown Solicitor's Office (CSO) in managing project issues. However we note that, over this period, the project has experienced several challenges and increasing risk exposures, and it would have been beneficial for the steering committee to continue to operate and meet.
- SAHMRI had not submitted project status reports since August 2022 as required by the Premier's grant agreement, which would have helped DTF to identify and understand issues impacting project delivery. SAHMRI also did not submit annual compliance certificates confirming grant funding was used for its intended purposes and grant conditions were complied with (as required by the State-SAHMRI grant agreement).

### Audit insight

It is important that the SA Government has processes to effectively oversee and manage any future major projects and initiatives it funds. This should include key elements like project management plans, a functioning steering committee or other project governance group and regular project reporting.

## Gaps in risk management arrangements (chapter 8)

We found that DTF implemented some processes to manage the SA Government's risk exposures, including:

- reporting to the Treasurer on specific risks and issues impacting the project
- reporting project risks to the steering committee when it met
- implementing specific actions to mitigate risks related to ProTom's solvency and financial capacity, and building development cost overruns.

However, we also found gaps in DTF's risk management processes for the proton therapy project:

- There was no documented risk management plan outlining the SA Government's approach to managing its risk exposures.
- An updated register of project risks with the potential to adversely impact the SA Government's exposures was not maintained.
- SAHMRI had not provided risk reports to the Treasurer since August 2022 as required by the Premier's grant agreement.

### Audit insight

Where the SA Government is involved in complex projects and its exposures are evolving, processes to capture and manage the risks are essential. This should include key elements such as a risk management plan, risk register and regular reporting.

## 1.3 Response to our report and observations

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DTF provided the following response to our report:

*DTF notes that the report recognises the complexity of the project and how events and risks have emerged and been managed over several years, including by SAHMRI and ABCPTR and how the Government and relevant departments have worked with SAHMRI and ABCPTR to try and support the implementation of proton therapy in South Australia.*



*The unique nature of this project has been recognised in the report, specifically, the first of its kind with national significance delivered by an independent entity with an independent board. DTF notes the audit insights and alternative arrangements set out in the report and will consider how these can be incorporated into a future project with similar characteristics that may arise in the future.*

Appendix 4 provides the response letter to this report from DPC.

## 2 Proton therapy project status

### 2.1 Overview of the proton therapy project

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The proton therapy project is managed by SAHMRI to establish Australia's first PTU in Adelaide. The project received Commonwealth and SA Government funding. It involves:

- the private sector developing the Australian Bragg Centre to house the proton therapy system, and provide dry lab research and clinical trial facilities for SAHMRI and other commercial space for dry lab, clinical or office use
- the design, construction, supply, installation, commissioning and support of a proton therapy system in the Australian Bragg Centre, funded by the Commonwealth Government
- developing and operating a proton therapy treatment and research centre in the Australian Bragg Centre. SAHMRI's intention was that a third party from the private sector with proven experience in delivering clinical services would operate the PTU for SAHMRI.

Proton therapy is a type of radiation treatment that uses a beam of protons to deliver radiation directly to the tumour with high precision and minimal side effects.

To support the proton therapy project:

- the Commonwealth Government provided a capital grant of \$68 million to the SA Government to purchase the proton therapy system. The SA Government entered into a grant agreement with SAHMRI to provide the \$68 million to pay the proton therapy system provider (ProTom)
- the SA Government:
  - committed funding of \$47.4 million for the project<sup>6</sup>
  - entered into commercial agreements with the building's developer to help the project's financiers to secure project finance.

The SA Government's financial and legal exposures in the proton therapy project have evolved through the project due to external events and risks occurring.

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<sup>6</sup> Most of the SA Government funding was for relocating the Train Operation Control Centre to Dry Creek (\$36.8 million).

## 2.2 Project status

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### 2.2.1 The proton therapy project will not proceed as originally planned

The original proton therapy project described in SAHMRI's 2019 business case<sup>7</sup> will not proceed. This is mainly because ProTom failed to complete the proton therapy system on the agreed terms and for the agreed contract price, resulting in SAHMRI terminating its contract with ProTom.

SAHMRI was also unable to appoint an experienced private sector PTU operator that was willing to provide sufficient capital investment to ensure the financial sustainability of the PTU. Appointing a private sector operator who would provide capital investment was crucial to the financial viability and sustainability of the operating model in SAHMRI's 2019 business case.

### 2.2.2 SAHMRI terminated the sale and purchase agreement due to ProTom's failure to meet its contractual obligations

In May 2018 SAHMRI entered into a sale and purchase agreement with ProTom to supply, install and commission its Radiance 330 proton therapy system in the PTU bunker of the Australian Bragg Centre for US\$49.5 million.

ProTom claimed that it experienced delays in delivering its proton therapy system. It indicated that the COVID-19 pandemic, the war in Ukraine and high levels of global inflation impacted the project. In early 2024 ProTom requested additional time and funding to complete the proton therapy system.

In response, senior officials from SAHMRI, ABCPTR, DTF and SA Health travelled to ProTom in the United States of America to assess its capacity to deliver its contractual obligations under the sale and purchase agreement. DTF advised us that this visit confirmed that ProTom could not deliver on its contractual obligations.

Consequently, in February 2024 the Commonwealth and SA Governments advised SAHMRI that it would not provide additional funding for the project and requested SAHMRI undertake actions to limit its exposure related to the sale and purchase agreement.

In March 2024 ProTom advised the Treasurer that it could not complete the proton therapy system without additional funding.<sup>8</sup> The Treasurer responded that the SA Government would not provide any additional funding to SAHMRI for its contract with ProTom beyond the current funding commitment.

In October 2024 SAHMRI terminated the sale and purchase agreement due to ProTom's failure to meet its contractual obligations in this agreement.

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<sup>7</sup> SAHMRI provided its 2019 business case to the SA Government to demonstrate that the PTU would be commercially and financially viable and sustainable. This was a condition to receiving the Commonwealth funding to purchase the proton therapy system.

<sup>8</sup> ProTom advised the Treasurer that the additional costs to complete the project were estimated at US\$57 million, while the remaining contract price specified in the sale and purchase agreement is US\$19.3 million.

### 2.2.3 Developing and operating a proton therapy treatment and research centre

#### SAHMRI was unable to appoint a PTU operator

SAHMRI's 2019 business case envisaged that an experienced private sector operator would operate the PTU and:

- provide working capital until the PTU is complete, fully operational and profitable
- carry out all operational responsibilities, including service, maintenance and staffing
- take on all risks related to patient demand and pricing
- lease the proton therapy system from SAHMRI, generating positive cash flows for SAHMRI
- sublease the PTU premises from ABCPTR.

PwC, engaged by DTF to provide commercial advice, noted that appointing an operator was essential to the feasibility of the proton therapy project. In 2021 SAHMRI ran a global expression of interest (EOI) process to identify a preferred PTU operator. The EOI process sought operational capability and a commitment of capital investment from the preferred PTU operator.

The EOI process was unable to identify an operator who would both operate the PTU and provide sufficient capital to ensure the PTU's financial sustainability.

In late 2022 SAHMRI commenced a second market testing process (request for proposal) to select a private sector PTU operator on a fee-for-service or managed service basis. DTF advised us that this process was suspended due to uncertainty at the time about the availability of additional funding for SAHMRI to commission the PTU.

#### Review performed on the PTU operating and funding model

SAHMRI's 2019 business case envisaged that:

- the SA Government's financial contribution to the project would be limited to \$44 million for the relocation of the Train Operation Control Centre and a grant, and making land available for the development
- the PTU would be run as a private facility and therefore there would be no funding needed from the SA Government for the operation of the PTU.

SAHMRI indicated:

- many of the factors and assumptions which underpinned its business case have markedly deteriorated. This included an inability to secure capital investment from a private sector operator
- there were complex changes in assumptions underpinning the business case

- they continued to review and refine the financial model for the PTU, and profitability of the PTU progressively decreased
- after exhausting other funding alternatives, it sought additional public funding from the SA Government initially and then the Commonwealth Government.

In late 2022 SAHMRI revised the financial model for the PTU in its business case. The revised model indicated that SAHMRI required additional public funding of \$61 million to support ABCPTR through its start up.<sup>9</sup> In June 2023 ABCPTR requested additional funding of \$108 million (capital and operating) from the SA Government over the period to July 2029 and an ongoing operating subsidy of \$7.1 million per annum thereafter.

In response to the requests for additional funding, in September 2023 the Commonwealth and SA Governments jointly engaged HealthConsult to review the operating and funding model for the PTU. DTF advised us that this review was in response to concerns raised by SAHMRI over the erosion of its business case, SAHMRI's inability to appoint a private sector PTU operator and its requests for substantial additional public funding for the project.

HealthConsult recommended that the optimal operating model is that SA Health manage and operate the PTU and identified that there is a significant financial cost to Governments for this operating model. The majority of the cost would be borne by the Commonwealth Government during the commissioning and ramp up period, as well as an ongoing operating subsidy. A small portion of the costs of operating the PTU would be borne by the SA Government.

Figure 2.1 shows the key differences between the operating and funding model for the PTU in SAHMRI's 2019 business case and the model recommended by HealthConsult.

**Figure 2.1: PTU operating and funding model comparison**

	Operator	Patient mix assumptions	Revenue	Lease costs	PTU first patient and full capacity
<b>SAHMRI's business case (2019)</b>	Private sector operator	Public: 75% Private: 20% International: 5%	Medicare Benefits Schedule funded (Public)* Self-payer (Private)	Private sector operator to make bunker and proton therapy system lease payments	2024: First patient 2027: Full capacity
<b>HealthConsult's recommended operating model (2024)</b>	SA Health	Public: 100% No private or international patients	National Health Reform Agreement and State/Territory funded Commonwealth funds 45% State/Territory funds 55%	Bunker lease payments	2027: First patient 2032: Full capacity

\* The Medical Services Advisory Committee supported proton beam therapy for paediatric and rare cancers being added to the Medicare Benefits Schedule in November 2020.

<sup>9</sup> SAHMRI's request for additional public funding followed a request in March 2022 for a minimum \$30 million investment (15-year loan) from the SA Government to fund the early-stage operations of the PTU until its operations were steady.

## 2.3 The SA Government is negotiating with the building owner to restructure the Australian Bragg Centre leases

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Despite the proton therapy project not proceeding as planned, SAHMRI and ABCPTR are contractually committed to lease part of the Australian Bragg Centre subject to certain conditions in the project deed being met.

The project deed requires SAHMRI (subject to certain conditions) to enter into a lease of three floors in the Australian Bragg Centre and ABCPTR to enter into a lease of the PTU premises including the PTU bunker. The leases have 30-year terms and the lease payments are significant. In addition, SAHMRI provided a parent company guarantee to Dexu for ABCPTR's PTU premises lease obligations.

The project deed is a multi-party agreement between SAHMRI, ABCPTR and Commercial and General. It records the rights and obligations of the parties in the development stage of the proton therapy project.

SAHMRI's 2019 business case for the proton therapy project envisaged that the PTU operator would:

- lease the proton therapy system from SAHMRI with the PTU operator's lease payments used by SAHMRI to support its lease of three floors in the Australian Bragg Centre
- sublease the PTU premises from ABCPTR.

With the erosion of SAHMRI's 2019 business case, SAHMRI indicated that alternative funding sources to support the SAHMRI and ABCPTR leases in the Australian Bragg Centre would need to be secured.

DTF advised us that to ensure SAHMRI's ongoing financial viability and the continued delivery of its research program, the SA Government is exploring a settlement deal with Dexu to restructure the Australian Bragg Centre leases, which could include the SA Government leasing additional office accommodation in the Australian Bragg Centre.

In March 2025 Dexu commenced proceedings in the Supreme Court of South Australia seeking an order requiring SAHMRI and ABCPTR to execute, certify and deliver the SAHMRI and PTU lease documents.

## 2.4 The SA Government is working on developing an alternative national proton therapy project

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### 2.4.1 Feasibility study on installing an alternative proton therapy system within the Australian Bragg Centre completed

The PTU bunker where the proton therapy system will be located was specifically designed and built for ProTom's proton therapy system. DTF engaged an independent consultant to identify options to complete the installation, including alternative proton therapy systems

that could potentially fit in the Australian Bragg Centre's PTU bunker given the building and engineering constraints. DTF advised us that the independent consultant's review confirmed that there are viable alternative systems that could be accommodated in the bunker, subject to some building modifications.

#### 2.4.2 The SA Government is advocating to the Commonwealth Government to fund a new national proton therapy project

In August 2024 the Treasurer advised the Commonwealth Minister for Health and Aged Care that the SA Government cannot proceed with a proton therapy service at the Australian Bragg Centre without Commonwealth Government funding.

DTF advised us that the SA Government is continuing to advocate to the Commonwealth Government on funding arrangements for a new national proton therapy project in the Australian Bragg Centre.

## 3 Proton therapy project background

### 3.1 Overview of SAHMRI and ABCPTR

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SAHMRI is an independent health and medical research institute that operates as an incorporated company limited by guarantee. Its members are the:

- Minister for Health and Wellbeing
- Minister for Industry, Innovation and Science
- Treasurer
- University of Adelaide
- Flinders University
- University of South Australia.

SAHMRI is established under the *Corporations Act 2001* (Cth) as a company limited by guarantee, with each member's liability limited to \$100. SAHMRI is managed by an independent board of directors who have obligations under the *Corporations Act 2001* (Cth) to oversee the company's business, including the proton therapy project.

SAHMRI does not meet the definition of a public authority under the *Public Finance and Audit Act 1987*. It is:

- not subject to a statutory audit by the Auditor-General, including the audit of its annual financial statements
- not required to comply with the SA Government's financial management framework, such as the Treasurer's Instructions
- not subject to control and direction by an SA Government minister.

SAHMRI was established with the assistance of significant public money and continues to receive public funding for its operations.<sup>10</sup>

ABCPTR is a not-for-profit, wholly-owned subsidiary of SAHMRI. It was established in March 2020 to lead the development of Australia's first PTU and associated services.

### 3.2 Developing the proton therapy project concept and funding

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SAHMRI's 2019 business case stated that the original objective for developing the Australian Bragg Centre was to provide additional space for its researchers.

Several business cases and other consultant reports on establishing a PTU in the Australian Bragg Centre were prepared between 2012 and 2019. Notably:

- A business case prepared by Ernst and Young for SA Health and the SA Government in 2014 indicated that SA Health was seeking funding for a PTU to be accommodated in the Australian Bragg Centre.

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<sup>10</sup> SAHMRI received a \$200 million grant from the Commonwealth Government to build its headquarters (the 'SAHMRI 1' building). It also receives an annual operating grant from the SA Government (\$5.5 million in 2023-24).



- A procurement and probity review looking into the selection of ProTom was undertaken by a consultant to SAHMRI in 2017. Their report indicated that the establishment of Australia's first PTU was an integral part of the Australian Bragg Centre to attract SA Government and private sector funding for the development.

As a not-for-profit health and medical research institute, SAHMRI did not have the financial capacity to fund the development and therefore funding was sought from the Commonwealth and SA Governments.

The Commonwealth Government committed \$68 million in its 2017-18 budget to purchase the proton therapy system. The SA Government also supported the proton therapy project, and has committed funding of \$47.4 million, comprising:

- \$36.8 million to relocate the Train Operation Control Centre from the site of the proposed Australian Bragg Centre
- a \$10.6 million grant to SAHMRI.

In 2016 SAHMRI sought expressions of interest from potential private sector investors and partners, and appointed Commercial and General to develop and finance the construction of the Australian Bragg Centre. In 2017 SAHMRI conducted a procurement process for a proton therapy system and selected ProTom as the preferred supplier.

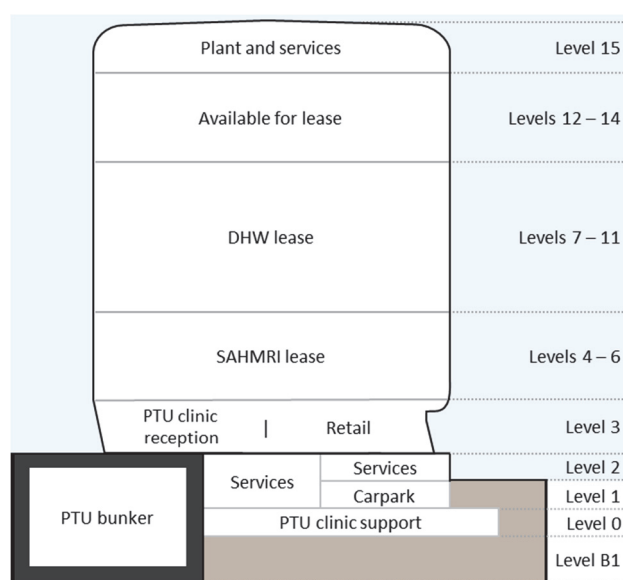
### 3.3 Australian Bragg Centre

The Australian Bragg Centre is a commercial development of around 33,000 m<sup>2</sup>. It includes:

- three below ground floors that contain the PTU bunker
- a main entry floor containing the PTU clinic reception and retail spaces
- 11 above ground floors of office and dry lab space. Three floors are leased to SAHMRI and five floors to DHW.

Figure 3.1 shows the layout of the Australian Bragg Centre.

**Figure 3.1: Australian Bragg Centre layout (east-west view)**



The PTU bunker was specifically designed and built for ProTom’s proton therapy system. If an alternative system had to be installed, the bunker would probably have to be modified.

DTF advised us that although the PTU bunker could theoretically be used for other purposes, no usage options were identified at this time that can generate the revenue needed by SAHMRI and ABCPTR to meet the cost of their lease obligations in the Australian Bragg Centre (section 3.7.1 provides further information about these lease commitments).

### 3.4 Key parties involved in the proton therapy project

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Figure 3.2 shows the key parties involved in the proton therapy project and their roles.

Figure 3.2: Proton therapy project key parties

Commonwealth Government	Provide capital grant to purchase the proton therapy system
SA Government	Lessor of the land on which the Australian Bragg Centre is built (Minister for Transport and Infrastructure) Transfer the Commonwealth capital grant to SAHMRI (Treasurer) Provide grant funding to SAHMRI to support the development and operation of a proton therapy treatment and research centre (Treasurer) Enter into commercial arrangements with the building developer to help it to secure private finance for the project (Treasurer) Lessee in the Australian Bragg Centre (DHW)
SAHMRI	Funding recipient Lessee in the Australian Bragg Centre Owner and parent guarantor (to Dexu) of ABCPTR Contracted ProTom to supply, install and commission the proton therapy system
ABCPTR	Wholly-owned subsidiary of SAHMRI Lessee in the Australian Bragg Centre (PTU premises) Contracted ProTom to supply, install and commission the proton therapy system

Commercial and General	Project manager Developer Finance arranger Former owner of the Australian Bragg Centre
Dexus	Current owner of the Australian Bragg Centre through the Dexus Healthcare Property Fund (unlisted property fund) Lessee of land on which the Australian Bragg Centre is built
Lendlease	Builder contracted by Commercial and General to build the Australian Bragg Centre
ProTom <sup>11</sup>	Vendor contracted by SAHMRI and ABCPTR to supply, install and commission the proton therapy system
PTU Operator <sup>12</sup>	Operator of the proton therapy treatment unit

## 3.5 SA Government's involvement in the proton therapy project

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### 3.5.1 Context for the SA Government's involvement in the proton therapy project

DTF advised us that previous SA Governments have variously communicated their support for the proton therapy project based on:

- improving the availability of advanced cancer treatment in Australia
- building the local health and medical research industry
- helping SAHMRI to become more self-sufficient through commercially positive initiatives as envisaged in the initial business case for the project.

In 2016, the then Premier wrote to SAHMRI confirming the SA Government's support for the proton therapy project.<sup>13</sup> The letter noted:

*The SA Government's first priority in contributing to SAHMRI 2 is to ensure that South Australia is home to Australia's first proton therapy facility. In addition to improved cancer treatment, such a facility will further enhance the biomedical precinct in the north western corner of the city and has the potential to provide wider economic, research and medical tourism benefits.*

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<sup>11</sup> On 31 October 2024 SAHMRI terminated the sale and purchase agreement with ProTom.

<sup>12</sup> SAHMRI was unable to appoint a private sector PTU operator to operate the PTU – see section 2.2.3.

<sup>13</sup> Development of the Australian Bragg Centre and PTU was also referred to as the SAHMRI 2 project.

### 3.5.2 Financial support provided by the SA Government for the proton therapy project

In addition to committing funding of \$47.4 million (see section 4.1.2), the SA Government provided the following financial support to enable the proton therapy project to proceed:

- agreement to fund a portion of any building development cost overruns (see section 5.1.3.1)
- commitment to lease five floors of office accommodation in the Australian Bragg Centre at commercial market rates (see section 5.1.3.2)
- a contractual obligation to step into certain arrangements if an uncured insolvency event impacts SAHMRI or ABCPTR (see section 5.1.3.3).

The SA Government also leased the land on which the Australian Bragg Centre was built to Commercial and General<sup>14</sup> for 99 years for \$2.6 million, payable up front (ground lease).<sup>15</sup> The SA Government subsequently paid SAHMRI the \$2.6 million that it received from Commercial and General under the ground lease pursuant to an amendment to the Premier's grant agreement.<sup>16</sup>

The Premier's grant is a grant provided from the SA Government to SAHMRI to support the development and operation of a proton therapy treatment and research centre.

### 3.5.3 SA Government agencies involved in the proton therapy project

Several SA Government agencies are involved in the proton therapy project, as shown in figure 3.3.

**Figure 3.3: SA Government agencies involved in the proton therapy project and their roles**

<b>DPC</b> before October 2018	Manage the SA Government's role in the proton therapy project Oversee and support advancing the proton therapy project Administer the Premier's grant agreement
<b>DTF</b> since October 2018	Manage the SA Government's role in the proton therapy project Oversee and support advancing the proton therapy project Administer the Premier's grant and State–SAHMRI grant agreements

<sup>14</sup> In October 2020 the trust created by Commercial and General to hold the ground lease was sold to Dexu.

<sup>15</sup> The SA Government obtained a valuation of the land as if it was sold to Commercial and General for the purpose of commercial development. The valuation provided an indicative land purchase price of \$2.6 million.

<sup>16</sup> SAHMRI's 2019 business case for the proton therapy project had SAHMRI assigning the ground lease to Commercial and General for \$20 million. To maintain transparency, the SA Government required Commercial and General to pay \$2.6 million for the land directly to the SA Government, which then transferred this payment to SAHMRI. Commercial and General paid SAHMRI \$17.4 million, so that SAHMRI received the \$20 million specified in its business case.

CSO	<p>Oversee the SA Government's contractual risk and provide legal advice</p> <p>Liaise with external parties' legal counsel</p> <p>Coordinate specialist legal advice and related risk management activities</p>
SA Health	<p>Provide input into the proton therapy project from a clinical operations perspective</p> <p>Oversee the development of the PTU's operating plan by SAHMRI</p> <p>Manage relations with the Commonwealth Government for the provision of funding under the National Partnership Agreement for the Proton Beam Facility</p>
DIT	<p>Manage relocating the Train Operation Control Centre</p> <p>Provide DTF with construction, commercial and technical support associated with the building construction contract</p> <p>Administer leasing arrangements in the Australian Bragg Centre on behalf of the Minister for Infrastructure and Transport</p>

## 3.6 Proton therapy project documents

The Treasurer entered into a number of project documents to support the proton therapy project and ensure that SAHMRI performs all its obligations to the SA Government under the State–SAHMRI grant agreement.

Appendix 2 summarises the project documents that the Treasurer is a party to.

The State–SAHMRI grant agreement is the grant funding agreement between the SA Government and SAHMRI to transfer Commonwealth funds of \$68 million to SAHMRI to purchase the proton therapy system.

## 3.7 Overview of commercial arrangements

### 3.7.1 Australian Bragg Centre

Key commercial arrangements for developing, constructing and leasing the Australian Bragg Centre are as follows:

- The SA Government made land available to build the Australian Bragg Centre.
- The SA Government funded the cost of relocating the Train Operation Control Centre, which was on the proposed building site, to Dry Creek.

- Commercial and General financed and developed the Australian Bragg Centre.
- The initial development cost<sup>17</sup> budget for the building was \$372 million.
- The project deed required:
  - SAHMRI to lease three floors in the Australian Bragg Centre (30-year lease term)
  - ABCPTR to lease the PTU premises (30-year lease term).
- The remaining floors in the Australian Bragg Centre were to be commercially leased.

To facilitate the project, the SA Government:

- leased five floors in the Australian Bragg Centre under normal commercial terms (12-year lease term)
- agreed to fund a portion of any development cost overruns from the initial development cost budget as follows:
  - the building owner pays 30% of cost overruns up to \$4 million
  - the SA Government pays 70% of cost overruns until the building owner reaches its payment cap and 100% of cost overruns above this amount
  - the SA Government recoups 70% of any development cost savings
  - the side deed includes an anti-embarrassment clause which provides for the claw back of development cost overruns paid by the SA Government if the building owner sells its interest in the Australian Bragg Centre within 12 months of practical completion for a premium price
- entered into a contractual obligation to step into certain arrangements if an uncured insolvency event impacts SAHMRI or ABCPTR.

Section 5.1.3 explains why the SA Government made these commercial decisions to support the project.

### 3.7.2 Proton therapy system

In 2017 SAHMRI conducted a procurement process and selected ProTom as the preferred vendor to supply the proton therapy system for the Australian Bragg Centre.

Key commercial arrangements to supply, install and commission the proton therapy system were as follows:

- The Commonwealth and SA Governments entered into a partnership agreement where the Commonwealth would provide \$68 million to the SA Government to fund the purchase of a proton therapy system.
- The SA Government entered into a grant funding agreement with SAHMRI (State–SAHMRI grant agreement) to provide Commonwealth funds of \$68 million to SAHMRI to purchase a proton therapy system. The grant was payable to SAHMRI in tranches as project milestones were completed.

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<sup>17</sup> Development costs comprise construction, development, land and finance costs.

- SAHMRI entered into a sale and purchase agreement with ProTom to design, construct, supply, install, commission and support its proton therapy system in the Australian Bragg Centre.
- The purchase price of US\$49.5 million was payable in tranches as certain milestones were completed. The final tranche was payable after the system achieved 30 consecutive patient treatment days.
- The Treasurer's approval was required for material changes to the sale and purchase agreement, including changes to payment milestones.
- In December 2022, the Treasurer approved amendments to the sale and purchase agreement to advance payments to ProTom within the existing contracted amount to provide it with cash flow to procure system components.
- In August 2023, the Treasurer approved further amendments to the sale and purchase agreement to bring forward payments and allow SAHMRI to pay component manufacturers directly under tripartite agreements.

On 31 October 2024 SAHMRI terminated the sale and purchase agreement with ProTom (see section 2.2.2).

## 3.8 Timeline of key events

Figure 3.4 summarises the key proton therapy project events, from when the Commonwealth Government announced funding for the project to when SAHMRI issued ProTom with a notice terminating the sale and purchase agreement.

**Figure 3.4: Timeline of key events**

May 2017	2017-18 Commonwealth Budget included funding of \$68 million to South Australia for the purchase of a proton therapy system
June 2017	2017-18 State Budget included funding of \$44 million for the proton therapy project
February 2018	<p>The then Minister for Transport, Infrastructure and Local Government entered into an Agreement to Lease with SAHMRI for the Australian Bragg Centre site</p> <p>The Premier's grant agreement to support the development and operation of a proton therapy treatment and research centre was executed. The initial amount of the grant was \$8 million</p>
May 2018	SAHMRI entered into a sale and purchase agreement with ProTom to supply, install and commission a proton therapy system in the Australian Bragg Centre

July 2019	The then Minister for Transport, Infrastructure and Local Government granted a ground lease for the Australian Bragg Centre site to SAHMRI
June 2020	<p>SAHMRI surrendered the ground lease, and it was reissued by the then Minister for Transport, Infrastructure and Local Government to a holding trust held by Commercial and General</p> <p>The then Treasurer entered into the following project documents:</p> <ul style="list-style-type: none"> <li>• a multi-party deed</li> <li>• a mandatory step-in deed</li> <li>• a side deed</li> </ul> <p>The then Minister for Transport, Infrastructure and Local Government entered into an agreement to lease five floors of the Australian Bragg Centre</p>
August 2023	The sale and purchase agreement between SAHMRI, ABCPTR and ProTom was amended (third amendment). This amendment provided for SAHMRI to pay major component vendors directly
September 2023	The superintendent issued a certificate of practical completion in respect to the construction of the Australian Bragg Centre
January 2024	ProTom wrote to SAHMRI raising project delays and requesting additional funding to complete the project
February 2024	The Commonwealth and SA Governments advised SAHMRI that they will not provide additional funding for the project
March 2024	ProTom wrote to the Treasurer advising that it could not deliver the proton therapy system without additional funding
October 2024	SAHMRI issued ProTom a notice terminating the sale and purchase agreement

Appendix 3 provides a more detailed timeline of events.



## 4 Financial status and SA Government risk exposures

### 4.1 Financial status

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#### 4.1.1 Commonwealth funding

In 2018 the Commonwealth Government agreed to provide \$68 million to the SA Government to purchase a proton therapy system under a partnership agreement. Under this agreement the SA Government bears the risk, excluding the exchange rate risk, if the cost of the proton therapy system exceeds \$68 million.

The Commonwealth Government paid \$68 million to the SA Government to transfer to SAHMRI under the State–SAHMRI grant agreement to pay ProTom for its proton therapy system.

In September 2024 the Commonwealth Government agreed to repurpose part of its funding to be used for:

- maintaining ABCPTR operations for an interim period
- covering SAHMRI's costs for terminating the sale and purchase agreement and the recovery and storage costs for proton therapy system assets.

Figure 4.1 shows how the Commonwealth Government funding was applied and the balance of uncommitted Commonwealth funding held by DTF.

**Figure 4.1: Acquittal of Commonwealth Government funding at 3 April 2025**

	\$million
<b>Total Commonwealth Government funding paid to the SA Government</b>	<b>68.00</b>
<i>Less Payments to SAHMRI:</i>	
Proton therapy system payments	(45.83)
Operational funding for ABCPTR	(4.84)
Sustain ABCPTR operations	(1.30)
Legal funding for ABCPTR – first instalment	(0.10)
<b>Total payments made to SAHMRI</b>	<b>(52.07)</b>
<b>Balance of unspent Commonwealth Government funding</b>	<b>15.93</b>
<i>Less Commitments funded from repurposing Commonwealth Government funding:</i>	
Payment to SAHMRI – legal funding for ABCPTR	(2.63)
Payment to SAHMRI – operational funding for ABCPTR	(2.12)
<b>Balance of uncommitted Commonwealth funding held by DTF</b>	<b>11.18</b>

Source: DTF (unaudited).

### 4.1.2 SA Government funding

The 2017-18 State Budget included \$44 million for the proton therapy project. Figure 4.2 shows the actual committed expenditure at April 2025 against the 2017-18 budgeted funding.

**Figure 4.2: SA Government funding for the proton therapy project  
– 2017-18 budget versus actual committed expenditure at April 2025**

Description	2017-18 budget \$million	Actual committed \$million
Relocation of Train Operation Control Centre to the Dry Creek Depot	31.40	36.79
Grant to SAHMRI	12.60	10.60
<b>Total</b>	<b>44.00</b>	<b>47.39</b>

Source: DTF (unaudited).

DTF advised us that the 2017-18 budgeted grant funding to SAHMRI was reduced by \$4.6 million to pay for project costs incurred by DPC and DTF. This was partly offset by a \$2.6 million increase in the grant to SAHMRI (see section 4.1.3).

### 4.1.3 Premier's grant agreement

The SA Government provided SAHMRI with grant funding under the Premier's grant agreement. The grant was conditional on SAHMRI being responsible for both establishing a proton therapy treatment and research centre and operating it for 30 years.

The initial amount of the Premier's grant was \$8 million. It was increased to \$13.8 million as follows:

- \$2.6 million – transferring the amount paid by Commercial and General under the ground lease
- \$3.2 million – SAHMRI requested urgent additional funding (both capital and operating) to continue its project establishment activities until December 2023.<sup>18</sup>

The SA Government has paid \$12.8 million of the Premier's grant to SAHMRI.

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<sup>18</sup> The \$3.2 million increase in the Premier's grant was funded from the Commonwealth Government's funding to purchase the proton therapy system.

## 4.2 The SA Government's financial, legal, commercial and operational risk exposures

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### 4.2.1 Building development cost overruns

The SA Government is responsible for funding a portion of any building development cost overruns from the initial development cost budget of \$372 million under the multi-party deed (see section 3.7.1).

The multi-party deed is an agreement between the Treasurer, Commercial and General and the Commonwealth Bank. It outlines the initial development cost budget and the arrangements for:

- funding any development cost overruns
- sharing any development cost savings.

In January 2025, Dexus invoiced DTF \$3 million (GST inclusive) for the SA Government's share of development cost overruns. Under the terms of the multi-party deed, in February 2025 the Treasurer sought an independent audit to reconcile the actual development costs to those set out in the initial development cost budget, including verifying actual funding costs.

#### Side deed

The Treasurer entered into a side deed with Commercial and General that includes an anti-embarrassment clause. This clause allows the SA Government to recover development cost overruns it has paid if Commercial and General sells some or all of its interest in the Australian Bragg Centre for a premium price within 12 months of practical completion based on an independent bank valuation.<sup>19</sup>

In October 2020 Commercial and General sold the Australian Bragg Centre to Dexus for \$446.2 million. PwC, an independent expert, assessed that there was no claw back payable to the SA Government, because the net amount Commercial and General received from the sale was below the independent market valuation benchmark amount agreed in the side deed.

### 4.2.2 Treasurer's step-in obligations if an uncured insolvency event impacts SAHMRI or ABCPTR

The Treasurer is a party to a mandatory step-in deed (MSID). It specifies the Treasurer's role if an uncured insolvency event impacts SAHMRI or ABCPTR. Under the MSID, the Treasurer may be liable to pay a licence fee of \$14 million over a 21-month period if required to step-in to certain arrangements for an uncured insolvency event.

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<sup>19</sup> A premium price is a price above the 'market value as if complete' assessed by the Commonwealth Bank of Australia in its lender's valuation dated March 2020.

The State–SAHMRI grant agreement includes the following condition:

*Clause 2.2 Treasurer's Step in Rights*

*The Treasurer, SAHMRI, Australian Bragg Centre, the Developer, the Owner, and the Owner's financier entering into a side deed granting to the Treasurer the right to step into the lease of the PTU Premises and any equipment leases relating to the Proton Therapy Unit in the event of a relevant insolvency or breach in order to enable and empower the Treasurer to take possession and control of, and if necessary operate, the PTU Premises as well as dealing with all other matters that the Treasurer considers appropriate to facilitate this objective.*

Commercial and General sought a commitment from the SA Government that it would step-in to certain arrangements should SAHMRI suffer an insolvency event before the PTU becomes operational. Commercial and General noted that these step-in obligations were essential to achieving financial close.

DTF advised us that the rationale for the Treasurer's step-in obligations was based on the market's assessment of SAHMRI and ABCPTR's lack of credit quality and managing the insolvency risk for SAHMRI and ABCPTR.

## Overview of the Treasurer's obligations in the MSID to step-in and complete the PTU

The Treasurer is obligated to step into certain specific, time-limited arrangements to complete the PTU if an uncured insolvency event impacts SAHMRI or ABCPTR prior to project completion.<sup>20</sup> Under the MSID the Treasurer may be required to:

- step into the sale and purchase agreement to deliver, pay for and commission the proton therapy system
- take reasonable steps to find a suitable PTU operator.

If the Treasurer is required to step in under the MSID:

- the building owner will grant the Treasurer a licence to use and occupy the PTU premises to install and commission the proton therapy system
- the Treasurer will be liable to pay a licence fee of 70% of the PTU premise's rent to the building owner for a maximum of 21 months.<sup>21</sup> The maximum licence fee payable over 21 months is \$14 million. The Treasurer is not required to pay outgoings such as utilities and other charges.

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<sup>20</sup> Project completion occurs when the proton therapy system has completed 30 consecutive patient treatment days and final payment is made to ProTom under the sale and purchase agreement.

<sup>21</sup> The Treasurer's obligation to pay the licence fee occurs once the PTU lease security is fully drawn down and ceases either when a PTU operator or the Treasurer/Crown enters into a new PTU lease, or at the effective termination date under the MSID.

There is a sunset date that the project must be completed by.<sup>22</sup> The building owner or Treasurer can terminate the MSID if:

- the project is not completed by the sunset date
- the project is complete but the Treasurer has been unable to appoint a PTU operator, or the Treasurer/Crown has not entered into a new Treasurer's PTU lease.

If the MSID is terminated, the Treasurer must remove the proton therapy system and reinstate and return the PTU premises to the building owner. If this does not occur within six months of termination, the Treasurer will be liable for both the licence fee and the building outgoings until the proton therapy system is removed and the PTU premises is reinstated and returned to the building owner.

#### 4.2.3 Financial recovery of value in publicly funded components

Under the sale and purchase agreement SAHMRI retains title to the proton therapy system components. SAHMRI has considered options for dealing with the system components it owns.

The Treasurer requested that SAHMRI explore options to enable the maximum recovery of public money and/or realisation of value from completed proton therapy system components that SAHMRI owns.

#### SAHMRI paid vendors directly for some system components under tripartite agreements

Under the third amended sale and purchase agreement, US\$10 million of the purchase price was allocated to purchase some major proton therapy system components using tripartite agreements between the vendor, SAHMRI and ProTom. Under the tripartite agreements SAHMRI paid the vendor directly for the components and obtained title to the components directly from the vendor.

When the sale and purchase agreement was terminated, US\$4.3 million had been paid to the vendors and US\$3.7 million was owed for completed works in progress.

At the time of our review, SAHMRI had negotiated settlements with vendors for some components and was negotiating a settlement for other components.

#### Other system components

The remaining system components are under ProTom's control. SAHMRI advised that it has instituted steps to take physical control of these components. Funding is available to SAHMRI under the State-SAHMRI grant agreement for the recovery and storage of system components.

#### 4.2.4 Office lease commitments

The Minister for Infrastructure and Transport entered into a lease of five floors in the Australian Bragg Centre that is based on standard government leasing rates and terms. The lease term is 12 years with options for two further five-year terms. Over the 12-year lease term the SA Government's lease commitments are \$91.7 million (GST inclusive).

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<sup>22</sup> The sunset date is 15 months after the Treasurer starts paying the licence fee.

## 5 Analysis and rationale for SA Government decisions

### 5.1 Introduction

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#### 5.1.1 Importance of a formal documented evaluation

Developing a formal documented evaluation (also referred to as a business case) is an important element to justify spending public money on a project, scheme or initiative. It evidences the basis for committing to a particular project, scheme or initiative, including:

- demonstrating the need
- demonstrating the likely net benefits
- identifying the major risks and how they will be addressed.

We have previously recommended that a formal business case be prepared before a decision is made to proceed with spending significant public money on projects, schemes and initiatives.<sup>23</sup>

#### 5.1.2 SAHMRI prepared a business case for the proton therapy project

SAHMRI engaged Ernst and Young to prepare a commercial business case for establishing a second SAHMRI facility and PTU. The business case was finalised in 2018 and addressed:

- project benefits
- commercial terms
- financial viability
- risks.

In 2019 an addendum to the business case was prepared to reflect changes in the project structure.<sup>24</sup>

#### State–SAHMRI grant agreement included conditions addressing business case and commercial arrangements

The State–SAHMRI grant agreement included a range of conditions, including the following:<sup>25</sup>

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<sup>23</sup> Audit Office of South Australia 2018, Auditor-General's Report 5 of 2018 *Annual Report for the year ended 30 June 2018, Part A: Executive summary*, p 68.

<sup>24</sup> Several business cases and other consultant reports on establishing a PTU in South Australia were prepared between 2012 and 2019. SAHMRI's 2018 business case and the 2019 addendum was the business case it provided to the SA Government to demonstrate that the PTU would be commercially and financially viable and sustainable.

<sup>25</sup> The Agreement to Lease between the then Minister for Transport and Infrastructure and SAHMRI included conditions addressing business case and commercial arrangements. DPC advised that at the time the Agreement to Lease was executed (7 February 2018) there was not yet an adequate comprehensive business case from the perspective of SAHMRI. In May 2019 the then Treasurer executed the State–SAHMRI grant agreement. Conditions in the Agreement to Lease that were yet to be satisfied were waived and reinstated in the State–SAHMRI grant agreement.

#### *Clause 2.1.1: Business Case*

*The Treasurer is satisfied (acting reasonably) that the Business Case for the operation of the PTU premises clearly indicates that its long term commercial operations will be commercially and financially viable and sustainable.*

#### *Clause 2.1.3: Commercial Arrangements*

*The Treasurer is satisfied (acting reasonably) with the long term commercial arrangements concerning the operation of the PTU Premises.*

These conditions were for the Treasurer's benefit and designed to ensure that the SA Government does not provide grant funding for a project that is not commercially and financially viable and sustainable.

In December 2019 the then Treasurer approved that conditions 2.1.1 (business case) and 2.1.3 (commercial arrangements) in the State–SAHMRI grant agreement were satisfied. DTF advised us that this occurred after the review of SAHMRI's 2019 business case by PwC, and on the basis that there would be early engagement with potential operators of the PTU by SAHMRI.

### 5.1.3 Other key project decisions

The SA Government agreed to provide the following support to enable the proton therapy project to proceed:

- agreeing to fund a portion of any development cost overruns
- committing to lease five floors in the Australian Bragg Centre
- agreeing to step into certain arrangements to complete the PTU project if an uncured insolvency event impacts SAHMRI or ABCPTR.

#### 5.1.3.1 Agreement to fund a portion of development cost overruns

In April 2020 the SA Government approved the Treasurer entering into a contract with Commercial and General to share the risk of development cost overruns. The SA Government did this on economic stimulus grounds.

DTF advised us that the policy basis for funding development cost overruns was to 'de-risk' construction of the Australian Bragg Centre in a period of market disruption arising from the COVID-19 pandemic.

#### The builder could no longer provide a fixed price contract

In March 2020 Commercial and General advised the Treasurer that the builder could no longer construct the Australian Bragg Centre using a fixed price contract. This was due to the risk of supply chain disruptions, project delays and cost increases from COVID-19's impact on the construction industry. The builder proposed a managing contractor model that transferred COVID-19 market disruption and project delivery risks to Commercial and General. However, neither Commercial and General or its debt providers were willing to assume these risks.

The SA Government agreed to share the risk of development cost overruns so the proton therapy project could proceed

Commercial and General sought a commitment from the SA Government to fund any cost overruns in developing and constructing the Australian Bragg Centre. The SA Government agreed to bear some of the COVID-19 market disruption and project delivery risks by funding a portion of any development costs overruns from the initial costs budget. DTF advised us that this risk sharing arrangement was to align the financial interests of the SA Government and Commercial and General to effectively manage the managing contractor arrangements as much as possible, with all options for value management considered.

The SA Government implemented governance and oversight processes for project costs

To manage potential development cost overrun risks, the Department for Infrastructure and Transport (DIT) participated in governance groups to oversee the construction procurement, including the:

- Project Control Group
- Tender Evaluation Panel
- State Advisory Group.

DTF advised us that DIT participated in these groups to ensure maximum value for money under the managing contractor arrangements between Commercial and General and the builder.

#### 5.1.3.2 Commitment to lease five floors in the Australian Bragg Centre

In December 2019 the SA Government approved the then Minister for Transport, Infrastructure and Local Government entering into a lease of five floors in the Australian Bragg Centre to enable development of the building to achieve financial close. An agreement to lease was executed in June 2020.

Commercial and General was unable to secure non-government tenants

Commercial and General (the then building owner) intended to secure non-government tenants to occupy eight floors in the Australian Bragg Centre.

In late 2018, Commercial and General advised DTF that it was unable to secure any additional tenancy commitment in the Australian Bragg Centre beyond SAHMRI's lease of three floors. To achieve minimum pre-commitments for finance, Commercial and General proposed that the SA Government lease eight floors.

The Government Office Accommodation Committee reviewed the proposal for SA Government to lease floors in the Australian Bragg Centre

The SA Government Office Accommodation Committee (GOAC) reviewed Commercial and General's leasing proposal and compared it to current market accommodation terms. It also considered what uses the SA Government may have for the space offered by Commercial and General. It recommended:



*At present there is no identifiable government use for the 14,227 m<sup>2</sup> of commercial space being offered by Commercial and General that is economically supportable and the terms proposed are above market, so from a purely government office accommodation need, there is no justification for taking this space.*

*From a broader government perspective however, there may be justification for underwriting this development through the long term state benefits of the Proton Therapy and SAHMRI usage and the desire of government to see the SAHMRI 2 site developed to its full potential.*

*It is therefore recommended that GOAC provide this advice paper to the SAHMRI 2 Steering Committee for that Steering Committee to determine the overall economic good from this proposal. If it is determined that there is greater state benefit in pursuing this proposal (which cannot be justified on Government Office Accommodation grounds), then the Steering Committee should seek Cabinet Approval to pursue the proposal, noting that additional budget provision will be required to pay for this accommodation (given that there will need to be additional accommodation budgets irrespective of what use is determined for this space).*

The steering committee considered the assessment of Commercial and General's leasing proposal

GOAC's assessment was presented to the steering committee in May 2019. The steering committee thought it would be commercial and appropriate for the SA Government to consider leasing 8,400 m<sup>2</sup> (equivalent to five floors) of fully fitted out accommodation in the Australian Bragg Centre for use by DHW. It also agreed that the SA Government would seek the same lease terms as GOAC's assessment of current market accommodation terms.

In June 2019 the then Treasurer approved DTF engaging with Commercial and General on the proposal to lease 8,400 m<sup>2</sup> on terms consistent with GOAC's assessment. DTF advised the then Treasurer that ongoing rental costs at the Australian Bragg Centre would be higher than for DHW's existing accommodation but there were some cost savings in relocating, such as avoiding capital costs to refit DHW's existing premises.

In September 2019, Commercial and General submitted an updated leasing proposal that met the SA Government's proposed terms.

#### 5.1.3.3 Treasurer's step-in obligations

In December 2019 the SA Government approved step-in rights and commitments for the Treasurer to step into certain arrangements if an uncured insolvency event impacts SAHMRI or ABCPTR. Commercial and General sought this commitment to help secure private sector finance to construct the Australian Bragg Centre. On 20 October 2020 Dexu announced that it had purchased the Australian Bragg Centre from Commercial and General.

## 5.2 Audit observations

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### 5.2.1 The SA Government did not prepare a formal documented evaluation to support its decision to participate in and provide funding for the proton therapy project

#### Audit insight

A formal documented evaluation should be prepared to support a decision to proceed with a project, scheme or initiative that will incur the expenditure of significant public money, or where there are potential consequential risks to government.

#### Audit observation

We found that the SA Government did not prepare a formal documented evaluation to support its decision to participate in, and provide funding for, the proton therapy project.

In 2014 Ernst and Young prepared for SA Health and the SA Government a business case for establishing a PTU in the Australian Bragg Centre. The business case addressed:

- the service need for a PTU in South Australia
- the costs and associated benefits of establishing a PTU in the Australian Bragg Centre
- risks and noted the risk allocation assumed all risks for the project are borne by SAHMRI.

This business case recommended the Commonwealth Government fund both the capital cost (ie cost of the proton therapy system and installation and set up costs) and the cost of operating the PTU. It did not contemplate SA Government funding.

In 2016 the then Premier wrote to SAHMRI advising that the SA Government would contribute some funding for the proton therapy project subject to a suitable business case. In 2018 the Commonwealth Government agreed to fund the purchase of the proton therapy system. SAHMRI finalised its business case in 2019, which was a condition to receiving the Commonwealth funding. SAHMRI's 2019 business case envisaged that a private sector operator would provide capital investment until the PTU is complete and fully operational, after which time the PTU was expected to generate positive cash flows.

We have not been provided with an updated business case or a formal documented evaluation that supports the SA Government's final decision to participate in and provide funding for the proton therapy project. Specifically, an evaluation for the proton therapy project from the SA Government's perspective that demonstrates that it has:

- assessed the potential benefits and costs of its project involvement
- identified risks from its involvement in the project and how they will be addressed
- established that the proposed investment of public money has sufficient value and the project can be delivered.

## 5.2.2 Assessment of limitations in SAHMRI's business case not documented as part of approval of grant funding conditions

### Audit insight

Where significant matters and risks that impact or may impact the success of a project are identified:

- an analysis, including formal risk analysis, should be performed to understand and assess the impact on project success. It should be documented and provided to decision makers to inform their decision on whether to proceed with the project
- the rationale for any decision in response to identified risks and significant matters should be fully documented.

### Audit observation

We could not see any analysis that assessed the significant matters and risks raised by the SA Government's commercial advisor (PwC) on SAHMRI's 2019 business case, or that the rationale for approving certain conditions in the State–SAHMRI grant agreement were satisfied. Specifically:

- there was no documented risk assessment of the likelihood and impact to the project if a private sector operator could not be appointed, or the appointed operator was unable/unwilling to provide capital investment
- there was no evidence that the steering committee confirmed the PTU operator's market assumptions in SAHMRI's 2019 business case operating model
- the rationale for approving that the conditions were satisfied before confirming that the PTU operator's market assumptions in SAHMRI's 2019 business case was not documented.

To assess whether the conditions in the State–SAHMRI grant agreement were satisfied, DTF engaged PwC to provide an independent opinion on SAHMRI's 2019 business case. PwC raised concerns with the business case, including:

*The operating model has been developed by the project proponents and is assumed to be attractive to the operator market. There is limited third party operator engagement or other evidence to substantiate this.*

*In the absence of direct PTU operator input it is difficult to understand the reasonableness of the operating and financial assumptions including operating design, major cost items such as salary expense, PTU rental and service and maintenance and importantly target returns aligned with the risk profile of the project.*

PwC recommended that the SA Government immediately engage with the market to develop the assumptions around operator acceptance in SAHMRI's 2019 business case. PwC also observed that:

- establishing a PTU operator was essential for the feasibility of the project
- the ramp up assumptions in the financial model may be aspirational
- a desktop analysis of the ABCPTR feasibility may present an operating model that generates value, but further analysis was needed to validate operator acceptance and patient demand.

DTF prepared a minute to the then Treasurer recommending that he approve that the conditions in the State–SAHMRI grant agreement were satisfied. The minute noted that the steering committee had endorsed early engagement by SAHMRI with a commercial operator and agreement by the operator to be engaged to address the operator acceptance risk raised by PwC.

We note:

- SAHMRI's subsequent market approach found that its business case operating model was not attractive to the operator market. SAHMRI was unable to appoint a private sector PTU operator who would provide capital investment (see section 2.2.3)
- in late 2022 SAHMRI revised its 2019 business case and financial model for the PTU. The revised financial model indicated that an additional \$61 million in public funding was needed to support the PTU operations during installation, commissioning and patient ramp up to full capacity
- in June 2023 ABCPTR wrote to the Treasurer requesting that the SA Government fund an additional \$108 million (capital and operating) over the period to July 2029 and a \$7.1 million per annum operating subsidy thereafter. SAHMRI's 2019 business case envisaged that the SA Government's project funding would be limited to \$44 million
- HealthConsult's review of the PTU's operating and funding model highlighted a significant operating funding gap.

DTF advised us that:

- the project was seen as a SAHMRI commercial project and not a State commercial project
- the risks raised by PwC were satisfactory to the then Treasurer
- the response to PwC's findings was the timely selection of a PTU operator after financial close.

We note that responding to PwC's findings by selecting a PTU operator after financial close did not mitigate the risk of providing funding for a project that is not commercially and financially viable and sustainable.

## 6 Due diligence and procurement risk review on ProTom

### 6.1 Introduction

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SAHMRI conducted a procurement process and selected ProTom as the preferred vendor to supply the proton therapy system for the Australian Bragg Centre. DTF advised us that the SA Government was not involved in the procurement process used to select ProTom.

#### 6.1.1 SAHMRI engaged KPMG to do due diligence and procurement risk review on ProTom

SAHMRI engaged KPMG in 2017 to provide a due diligence and procurement risk assessment for the proposed acquisition of a proton therapy system from ProTom.

KPMG identified risks in procuring a proton therapy system from ProTom, including:

- ProTom's lack of demonstrated financial capacity to deliver its proton therapy system
- ProTom's lack of demonstrated product success
- the lack of alternative service providers if ProTom cannot complete the project
- the need for purpose-built infrastructure which is not likely to be well-suited for an alternative use.

A copy of KPMG's report on its due diligence and procurement risk review on ProTom was provided to DPC and the South Australian Government Financing Authority.

#### 6.1.2 KPMG recommended mitigation strategies and actions that SAHMRI could employ to reduce its risk

KPMG recommended mitigation strategies and actions for SAHMRI to address the risks of procuring a proton therapy system from ProTom, including:

- minimising direct exposure to ProTom
- maximising the value of transferrable work in progress should a risk occur
- minimising any indirect losses should a risk event occur
- monitoring ProTom's financial performance
- minimising any reputation loss should an event occur
- conducting a forensic review of the supplier and related parties
- conducting further due diligence.

KPMG noted:

*None of these strategies will alter the fact that ProTom is not a party of financial substance, with a high risk of delinquency.*

*There is no single feasible protection mechanism that SAHMRI could employ to substantially reduce the risks associated with this transaction. Given the supplier attributes and the nature of the procurement, the proposed transaction will unlikely be categorised as anything less than high risk.*

### 6.1.3 Risk mitigations incorporated into the sale and purchase agreement

Several risk mitigations were included in the sale and purchase agreement. These included:

- payment of the purchase price in tranches upon achievement of milestones
- a substantial security deposit
- transfer to SAHMRI of the title for major system components once they are manufactured and applicable milestone payment made to ProTom.

### 6.1.4 Specific actions taken by the SA Government to mitigate risks

State–SAHMRI grant agreement condition addressed the risk of ProTom’s lack of demonstrated product success

The State–SAHMRI grant agreement included the following condition to address the risk of ProTom’s lack of demonstrated product success:

*Clause 2.7: Clinical Treatment at Massachusetts General Hospital*

*The Treasurer is satisfied that ProTom’s Radiance 330 proton therapy unit achieves clinical treatment at Massachusetts General Hospital in Boston, USA*

When the then Treasurer approved that condition 2.7 was satisfied in July 2019, clinical treatment at Massachusetts General Hospital had not started. However, McLaren Hospital in Flint, Michigan had installed ProTom’s proton therapy system and had been treating patients since late December 2018. This was used as evidence of an objective history of clinical use to support ProTom’s system being fit for purpose.

### ProTom financial monitoring and reporting regime implemented in 2023

KPMG recommended to SAHMRI that it monitor ProTom’s financial performance over the life of the sale and purchase agreement as a risk mitigation strategy.

ProTom gave an express contractual warranty to SAHMRI that it had the financial resources to complete the project under the terms of the sale and purchase agreement.

In August 2023, five years after the sale and purchase agreement was executed, the Treasurer approved an amendment to this agreement to include a financial monitoring and reporting regime for the Treasurer to monitor ProTom’s solvency and financial capacity to deliver the proton therapy system. This regime required ProTom to provide the Treasurer with:

- audited financial statements
- quarterly management accounts
- financial forecasts
- project-specific cash flow projections.

The financial monitoring and reporting regime also allowed the Treasurer to appoint an independent third party to review ProTom’s reports and report to the Treasurer on ProTom’s financial capacity to meet its contractual commitments and any material risks. The Treasurer appointed an independent reviewer in April 2024.

SAHMRI started paying component vendors directly in 2023

KPMG recommended that SAHMRI pay component vendors directly.

In April 2023 SAHMRI wrote to the Treasurer proposing that it would become a party to contracts with major component vendors and ProTom. Under tripartite agreements SAHMRI would pay the component vendor directly and receive title to the component directly from vendors.

In August 2023 the Treasurer approved an amendment to the sale and purchase agreement to allow SAHMRI to directly pay component vendors instead of paying ProTom.

6.2 Audit observations

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6.2.1 Gaps in reporting risk exposures raised in ProTom due diligence review and monitoring of risk mitigation strategies

Audit insight

Where significant risks that impact or may impact the success of a project are identified:

- comprehensive advice on these risks and their mitigation strategies should be given to decision makers
- regular monitoring and reporting should be performed to ensure the mitigation strategies are effectively implemented.

This applies equally to government-run projects and external projects to which the SA Government provides funding and has potential legal and financial exposures.

Audit observations

*Advice to SA Government decision makers on outcomes of ProTom due diligence lacked information on risk exposures*

DPC did not report key information about the risks and issues identified in the KPMG due diligence and procurement risk review to the then Premier.<sup>26</sup>

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<sup>26</sup> At the time of the KPMG due diligence and procurement risk review (August 2017) the Premier was the lead Minister for delivering the proton therapy project.

We found that:

- a minute from DPC to the Premier in September 2017 noted that the KPMG review did not identify any material concerns that could not be mitigated
- a minute from DPC to the Premier in December 2017 noted a need to systematically address the recommendations and concerns from the KPMG review.

Neither minute:

- provided specific details of KPMG's findings and recommended risk mitigation strategies
- outlined potential risk exposures to the SA Government if SAHMRI:
  - proceeded with procuring ProTom to supply the proton therapy system
  - did not proceed with procuring ProTom to supply proton therapy system
- provided recommendations to the SA Government on actions it should take in response to risks and issues identified by KPMG.

DPC advised:

- at the time of execution of the Agreement to Lease and Premier's grant agreement in February 2018, the SAHMRI business case was not finalised and SAHMRI had yet to demonstrate that it had adequately addressed the risks identified by KPMG
- to mitigate risk the Agreement to Lease included a condition requiring SAHMRI to demonstrate the commercial viability of the PTU.

However, we have not been provided with documentation that clearly demonstrates that the Premier, as lead Minister for the SA Government's role in the project at that time, was advised of the specific details of KPMG's findings and the risk exposure to SA Government if the proton therapy system is procured from ProTom.

Providing SA Government decision makers with complete information on risk exposures is important to ensure any decision to proceed with funding a project, scheme or initiative is consistent with the SA Government's risk appetite.

***No reporting and monitoring of implementation of mitigation strategies to address risks raised in ProTom due diligence review***

We found that the SA Government had not established processes for reporting and monitoring strategies to mitigate risks identified with procuring ProTom's proton therapy system.

KPMG noted:

*The procurement risk analysis.... sets out the key reasons why, unmitigated, the likelihood and consequence of a ProTom disruption is high.*



In late 2017 DPC requested SAHMRI outline how the recommendations and issues identified in a range of reviews, including the KPMG due diligence and procurement risk review, had been addressed. DPC advised:

- while SAHMRI replied in early 2018, it was not clear that the recommendations of the KPMG review had been fully actioned
- the business case to be finalised by SAHMRI was the primary mechanism anticipated for crystallising the strategies that SAHMRI would employ to mitigate the risks arising from their use of ProTom as a project partner.

SAHMRI's 2018 business case for the proton therapy system, which was provided to the SA Government, outlined actions taken by SAHMRI to address KPMG's key findings.

DTF advised that the former Commercial and Economics Branch in DTF, which became responsible for leading the coordination the SA Government's role in the project from early October 2018, only became aware of the KPMG due diligence and procurement risk review in early-2024.

We have not been provided with any other documentation that evidences that the SA Government monitored the implementation of strategies by SAHMRI to ensure the risks raised by KPMG were effectively mitigated over the life of the sale and purchase agreement.

While the proton therapy project is a SAHMRI-led project, the SA Government entered into a funding agreement with the Commonwealth Government for funding for SAHMRI to procure the proton therapy system from ProTom. Under that agreement, the SA Government is responsible for achieving the project output, which is to install and operate the proton therapy system. The risks that KPMG identified could impact the delivery of the proton therapy system. Consequently, the SA Government should have actively ensured that these risks had effective mitigation strategies through regular monitoring.

Monitoring mitigation strategies is an important part of managing risk exposures. It provides information to help decision makers:

- understand whether mitigation strategies are being implemented effectively
- confirm whether mitigation strategies remain appropriate or need adjusting.

## 7 Oversight and reporting

### 7.1 Introduction

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Establishing and maintaining robust governance arrangements and effective management oversight is critical to ensure project objectives are achieved.

#### 7.1.1 DTF is responsible for leading the SA Government's role in the proton therapy project

In October 2018, the previous SA Government transferred responsibility for leading the State's role in delivering the proton therapy project from DPC to DTF. At the same time, the Treasurer was nominated as the lead Minister for delivering the project.

#### 7.1.2 Governance arrangements

DTF advised us that a formal cross-government framework and management structure was adopted for the proton therapy project, with a single Minister responsible for overall project implementation and reporting to Cabinet. This structure is used for similar State-managed projects.

##### A steering committee was established

A cross-agency steering committee was established to provide high-level governance, strategic direction and leadership for the SA Government's role in the proton therapy project. It comprised senior executives from:

- DTF
- DPC<sup>27</sup>
- DHW
- DIT
- CSO.<sup>28</sup>

DTF advised us that after the project reached financial close on 5 June 2020, the steering committee was reformed, recognising the change in the SA Government's project risk exposures. Specifically, the committee's focus pivoted to managing:

- risks to the construction and commissioning phase of the project
- the SA Government's financial risk exposures from the Australian Bragg Centre's development.

The steering committee also focused on project completion activities, such as overseeing SAHMRI appointing a PTU operator, establishing the operating model and monitoring ProTom's delivery of the proton therapy system.

The steering committee last met in November 2021.

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<sup>27</sup> A DPC representative ceased to be on the steering committee from November 2020.

<sup>28</sup> CSO had a representative on the steering committee from October 2018 to March 2019.

## Project management team

DTF advised us that:

- it has maintained resources and processes to monitor and analyse project risks and advise the steering committee, Treasurer and SA Government since 2018
- there has been regular collaboration across agencies (including DTF, DHW, DIT and CSO) to manage project risks.

### 7.1.3 Oversight and reporting arrangements

The Premier's grant agreement and State–SAHMRI grant agreement placed several obligations on SAHMRI to support the SA Government's project oversight, including:

- submitting project status reports to the Treasurer
- submitting financial statements and quarterly progress reports if requested by the Treasurer
- providing progress reports on the approved operating plan
- the Treasurer's approval of SAHMRI's proposed PTU operator
- providing an annual certificate to the Treasurer confirming funding provided has been used for the intended purpose
- obtaining the Treasurer's approval prior to making material changes to the sale and purchase agreement.

## 7.2 Audit observations

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### 7.2.1 Gaps in project oversight and management

#### Audit insight

For significant future projects and initiatives funded by the SA Government, it is important that it has effective oversight and management processes, particularly where it is exposed to risks that need to be managed and resolved to progress the delivery of the project or initiative. This should include key elements such as a project management plan, a functioning steering committee or project governance group, and regular and timely project reporting.

#### Audit observations

##### *No project management plan to define how the SA Government would manage and deliver its project role*

We found that the SA Government did not have a documented project management plan that defined how it would manage and deliver its project role. This plan is essential for effectively managing projects like the proton therapy project where the SA Government has risk exposures that need to be actively managed.

Although the proton therapy project is led by SAHMRI, the SA Government is heavily involved in resolving matters to progress the project's delivery through:

- providing financial support, as described in section 3.5.2
- administering the grant funding agreements with SAHMRI
- managing relations with the Commonwealth Government to provide Commonwealth funding for the project
- consulting with SAHMRI to develop and approve a PTU operating plan.

A project management plan documents how a project will be executed, monitored and controlled. It should address:

- project objectives and alignment with government goals
- governance arrangements
- roles and responsibilities
- resource management
- risk assessment and management
- communication and information sharing arrangements with stakeholders.

It is good practice to establish a project management plan as early as possible to provide clear direction and structure across government to deliver the project. For complex and evolving projects involving multiple agencies, like the proton therapy project, a project management plan helps to ensure that:

- roles and responsibilities are clearly understood by agencies and activities are coordinated between agencies to avoid duplication of effort
- goals and priorities are aligned between agencies
- critical information is shared between agencies.

*The SA Government cross-agency steering committee has not met since late 2021*

In 2018 the then Treasurer established a cross-agency steering committee. The committee was to be a key component of the SA Government's project governance framework and management structure. Its key roles included:

- monitoring SAHMRI's financial position and managing the SA Government's step-in obligations and rights to complete the PTU
- overseeing and advising the Treasurer on SAHMRI's proposed appointment of a PTU operator
- monitoring SAHMRI's advice on the construction of the Australian Bragg Centre and the commissioning of the proton therapy system
- advising the Treasurer and the Minister for Health and Wellbeing on risk issues
- monitoring and responding to requests from ProTom
- monitoring the project's financial viability risks, commercial terms and financial arrangements
- overseeing the DTF Project Team's coordination of project activities and providing strategic guidance to the project director and team for delivering the project.

The steering committee stopped meeting in November 2021, after which there was no governance group overseeing the SA Government's involvement in the proton therapy project. DTF advised us that since this time governance has come under the purview of DTF executive reporting to the Treasurer and has involved close liaison with agencies including DHW and CSO.

Since then the project has experienced several challenges and the SA Government's risk exposures have increased, including:

- SAHMRI being unable to appoint a private sector PTU operator and the erosion of its business case
- ongoing contractual and performance issues with ProTom
- requests from SAHMRI for substantial additional project funding.

A functioning steering committee provides several benefits to project oversight including improved decision making, accountability and risk management. Given the increasing challenges and risk exposures to the State, it would have been beneficial for the steering committee to continue operating and meeting.

***SAHMRI did not provide project status reports and annual compliance certificates to the Treasurer***

SAHMRI has not submitted project status reports to the Treasurer required by the Premier's grant agreement since the June 2022 quarter. These reports were to address:

- project scheduling and grant funding
- key milestone tracking.

Timely and accurate reporting on project status by SAHMRI will help DTF identify and understand any issues impacting the project's delivery.

SAHMRI advised us that despite the absence of formal quarterly reports after that date, DTF was in possession of detailed and timely information about the project's progress and arguably with greater project information than the template reports would have provided. This was due to the manner in which the project was conducted, with close involvement of the lead government agency at all material times.

SAHMRI has also failed to submit annual compliance certificates to the Treasurer as required by the State–SAHMRI grant agreement. These certificates state whether:

- the funding provided was used for the intended purpose
- all terms and conditions of the State–SAHMRI grant agreement have been complied with.

## 8 Managing project risks

### 8.1 Introduction

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Sound project management means effectively identifying, recording, assessing and managing project risks. Project risks are uncertain events or conditions that have the potential to adversely impact the achievement of project objectives. They need to be actively managed, monitored and reported to ensure that appropriate risk mitigation strategies are in place to reduce the likelihood of risks adversely impacting project objectives.

#### 8.1.1 Risk management process implemented by DTF to manage SA Government risk exposures

DTF regularly reported on specific risks and issues impacting the proton therapy project to the Treasurer, including:

- the appointment of a PTU operator
- ProTom contract and performance issues
- SAHMRI funding requests.

DTF established a project risk register to support the reporting of project risks to the steering committee. In addition, the SA Government implemented the following actions to mitigate specific risks:

- ProTom financial monitoring and reporting to enable the Treasurer to monitor ProTom's solvency and financial capacity to deliver the proton therapy system (see section 6.1.4)
- DIT's participation in governance groups to oversee construction procurement and management to manage development cost overrun risks (see section 5.1.3.1).

### 8.2 Audit observations

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#### 8.2.1 Gaps in risk management arrangements

##### Audit insight

Where the SA Government is involved in initiatives that are complex and its exposures are evolving, having processes to capture and manage its risk exposures is essential. This should include key elements such as a risk management plan, risk register and regular risk reporting.

This becomes even more important where the project or initiative runs over multiple years, and where responsibility is transferred between government agencies and multiple agencies are involved, as was the case with the proton therapy project.

## Audit observations

### *A risk management plan was not developed*

We found that there was no risk management plan outlining the SA Government's approach to identifying, analysing and managing its risk exposures from the proton therapy project.

A risk management plan is an important project management tool to summarise the risk management approach for the project. It should be developed and approved early in the project's lifecycle to ensure that risks are effectively managed during the project.

### *Project risk register not maintained throughout the life of the project*

We found that DTF had not maintained an up to date register of project risks that could adversely impact the SA Government's involvement in the proton therapy project.

DTF established a risk register to support the management and reporting of project risks to the steering committee.

DTF advised us that once the steering committee stopped meeting in late 2021, there was no formal group to report project risks to and the project risk register was not maintained. DTF did provide us with a range of documents evidencing risk exposure discussions, including update memos to the Treasurer.

The SA Government's involvement in the proton therapy project was complex and its risk exposures evolved. In this situation, a consolidated risk register is a key mechanism for ensuring all risks are identified and appropriately assessed, and reasonable actions are taken to control or mitigate them. Effective risk management requires the risk register to be continually updated and monitored throughout the project.

### *SAHMRI did not provide the risk reports to the Treasurer required by the Premier's grant agreement*

An amendment to the Premier's grant agreement in March 2020 required SAHMRI to:

- prepare and maintain its risk management report
- provide project reports to the Treasurer incorporating major risks.

SAHMRI did not provide reports on major project risks to the Treasurer required by the Premier's grant agreement.

We found that SAHMRI:

- provided the Treasurer with five project reports between November 2020 and August 2022 that included information on major project risks
- has not provided any project reports to the Treasurer since August 2022.

Timely, accurate and useful risk reporting by SAHMRI will help the SA Government understand:

- the risks impacting the proton therapy project, including any emerging risks
- the actions and controls implemented to mitigate or manage risk exposures and their effectiveness.

As noted in section 7.2.1, SAHMRI advised us that due to the manner in which the project was conducted, DTF was in possession of detailed and timely information about the project's progress.



# Appendix 1 – Review mandate, objective and scope

## Our mandate

The Auditor-General has authority to conduct this review under section 36(1)(b) of the *Public Finance and Audit Act 1987*. This section allows the Auditor-General to report on matters that, in his opinion, should be brought to the attention of Parliament and the SA Government.

## Our objective

The objective of our review is to report on the status of the proton therapy project, focusing on how the SA Government identified and managed its risk exposures arising from the project.

## What we reviewed and how

We reviewed:

- the status of the project, including:
  - the proton therapy system
  - funding and commercial arrangements
  - how much public money the SA Government spent on and committed to the project
  - the financial, legal, commercial and operational risk exposures for the SA Government from the project
- whether the SA Government's decision to participate in the project, and subsequent key project decisions, were supported by appropriate analysis and rationale
- arrangements implemented by the SA Government to manage the project, including:
  - oversight and reporting
  - management of key risks
  - actions taken to address concerns raised about the project.

We made inquiries with DTF, DPC and DHW and examined documentation to understand how the SA Government identified and managed its project risk exposures.

Our review covered the project status, including the SA Government's financial commitments and known risk exposures, up to the date of this report.

## What we did not review

We did not review:

- SAHMRI's decision to build the Australian Bragg Centre and establish ABCPTR
- the ongoing financial viability of SAHMRI and ABCPTR
- the procurement of Commercial and General to develop the Australian Bragg Centre

- the process SAHMRI used to procure ProTom to supply, install, commission and support its proton therapy system in the Australian Bragg Centre
- the Commonwealth Government's decision to provide funding for a proton therapy system
- the SA Government's compliance with its reporting requirements in the funding agreement with the Commonwealth Government.

## Appendix 2 – Project documents

The SA Government (Treasurer) is party to the following project documents.

**Figure A2.1: Proton therapy project documents the Treasurer is a party to**

<b>Mandatory step-in deed</b>	<p>Provides the circumstances where, and the extent to which, the Treasurer must observe and perform the rights and obligations of SAHMRI and ABCPTR under the:</p> <ul style="list-style-type: none"><li>• sale and purchase agreement</li><li>• additional works building contract</li><li>• project deed</li></ul>
<b>Multi-party deed</b>	<p>Provides for the SA Government to fund a portion of development cost overruns</p>
<b>Side deed</b>	<p>Provides for the SA Government to receive a refund for all or part of its contribution to development costs overruns if Commercial and General sell its interest in the proton therapy project any time before the first anniversary of practical completion for a premium price</p>
<b>Equipment security deed</b>	<p>Establishes a charge on the proton therapy equipment to secure the performance of all the obligations of SAHMRI to the SA Government under the State-SAHMRI grant agreement</p>
<b>Financier's side deed (mandatory step-in deed)</b>	<p>Provides the Commonwealth Bank with the right to step into the owner and developer rights and obligations under the mandatory step-in deed</p>

The SA Government is not a party to the following project documents:

- sale and purchase agreement
- additional works building contract
- project deed.

However, if the Treasurer is required to step in under the mandatory step-in deed, the Treasurer may be required to perform some of the rights and obligations of SAHMRI and ABCPTR in these project documents.

Figure A2.2 provides an overview of these documents.

**Figure A2.2: Proton therapy project documents where the Treasurer is required to perform rights and obligations of SAHMRI and ABCPTR if required to step in under the mandatory step-in deed**

<b>Project deed</b>	<p>The project deed documents the parties' rights and obligations in the development stage of the proton therapy project and imposes obligations on SAHMRI to enter into leases for three floors in the Australian Bragg Centre and ABCPTR to enter into the PTU premises lease</p> <p>It also acts as an overarching governance document between the key parties to ensure the project is conducted in an integrated, co-operative and collaborative manner</p>
<b>Additional works building contract</b>	<p>The additional works building contract is the design and construct contract to fit out the PTU bunker and adjacent parts of the Australian Bragg Centre during and after installation of the proton therapy system</p> <p>At the time of our review SAHMRI had yet to enter into the additional works building contract with the builder</p>
<b>Sale and purchase agreement</b>	<p>The sale and purchase agreement (as amended) sets out the terms and conditions for ProTom to sell, design, construct, install, test and support its proton therapy equipment in the PTU bunker of the Australian Bragg Centre</p>

## Appendix 3 – Proton therapy project chronology of events

Date	Event
<b>2014</b>	
22 April	Ernst and Young prepared a business case for SA Health and the SA Government to establish a PTU in the SAHMRI 2 building (now known as the Australian Bragg Centre).
<b>2017</b>	
9 May	2017-18 Commonwealth Budget included funding of \$68 million to South Australia for the purchase of a proton therapy system.
22 June	2017-18 State Budget included funding of \$44 million for the proton therapy project.
21 August	KPMG completed a due diligence and procurement risk analysis for SAHMRI in connection with the proposed acquisition by SAHMRI of a proton therapy system from ProTom.
31 October	A consultant to SAHMRI completed a Procurement and Probity Review into SAHMRI's selection of ProTom to supply a proton therapy system.
<b>2018</b>	
7 February	The then Minister for Transport and Infrastructure entered into an Agreement to Lease with SAHMRI for the Australian Bragg Centre site.
16 February	Grant agreement to support the development and operation of a proton therapy treatment and research centre executed by the then Premier and SAHMRI (Premier's grant agreement).
4 May	SAHMRI and ProTom entered into a sale and purchase agreement for a proton therapy system.
18 September	Ernst and Young prepared a business case for SAHMRI to establish a second SAHMRI facility and a PTU.
2 October	Responsibility for managing the SA Government's role in the proton therapy project transferred from DPC to DTF.
18 December	Commonwealth and SA Governments executed the Project Agreement for the Proton Beam Facility (Commonwealth Project Agreement).
<b>2019</b>	
10 May	Grant funding agreement with SAHMRI to transfer Commonwealth Government funding for new proton therapy system executed by the Treasurer and SAHMRI (State-SAHMRI grant agreement).

4 July	The then Minister for Transport, Infrastructure and Local Government granted a ground lease to SAHMRI over the site of the Australian Bragg Centre.
26 September	Ernst and Young updated the 2018 business case for establishing a second SAHMRI facility and a PTU to reflect changes in the project structure.
9 December	PwC provided DTF with its findings and observations from its review of SAHMRI's business case for establishing a second SAHMRI facility and PTU.
19 December	The SA Government endorsed: <ul style="list-style-type: none"> <li>entering into an accommodation lease</li> <li>reissuing the ground lease to Commercial and General</li> <li>reissuing the Treasurer's step-in obligations.</li> </ul>
<b>2020</b>	
6 February	Administration of the Premier's grant agreement was transferred from the Premier to the Treasurer.
9 February	The then Treasurer approved Commercial and General's proposal to amend the ground lease to extend the time frame for practical completion from four to five years.
30 March	Amendment to the Premier's grant agreement to: <ul style="list-style-type: none"> <li>bring forward payments of \$3 million in grant funding from instalment 3 to instalment 2</li> <li>increase the total grant by \$2.6 million.</li> </ul>
14 April	The SA Government endorsed cost sharing arrangements between the State and Commercial and General for construction costs.
5 June	The sale and purchase agreement between SAHMRI and ProTom was amended (first amendment). This amendment: <ul style="list-style-type: none"> <li>added ABCPTR as a party to the agreement</li> <li>updated the terms to reflect the final project deed</li> <li>removed conditions, as they had already been met</li> <li>replaced bank guarantees with a cash security.</li> </ul>
5 June	SAHMRI surrendered the ground lease it had over the site of the Australian Bragg Centre and it was re-issued to a holding trust held by Commercial and General.
5 June	The then Treasurer entered into the following project documents: <ul style="list-style-type: none"> <li>multi-party deed</li> <li>mandatory step-in deed</li> <li>side deed.</li> </ul>

5 June	The then Minister for Transport, Infrastructure and Local Government entered into an agreement to lease five floors of the Australian Bragg Centre.
5 June	The proton therapy project achieved financial close.
10 June	Construction of the Australian Bragg Centre commenced.
1 September	First amendment to the Commonwealth project agreement. This amendment: <ul style="list-style-type: none"> <li>• updated payment dates</li> <li>• provided that the Commonwealth would cover any shortfall in the relevant milestone payment due to exchange rate variance.</li> </ul>
20 October	Dexus announced that it had purchased the Australian Bragg Centre from Commercial and General.
<b>2021</b>	
12 May	The sale and purchase agreement between SAHMRI, ABCPTR and ProTom was amended (second amendment). This amendment: <ul style="list-style-type: none"> <li>• incorporated more detailed factory acceptance testing</li> <li>• provided for the earlier release of security</li> <li>• added payment milestones earlier in the contract period</li> <li>• updated the system timeline and major components schedule.</li> </ul>
16 June	Second amendment to the Commonwealth project agreement. This amendment updated payment milestones and the second payment date.
14 September	State and SAHMRI agreed variation to the State–SAHMRI grant agreement (first variation). The variation: <ul style="list-style-type: none"> <li>• updated schedules 1 and 2 to align with revised milestone conditions in the amended Commonwealth Project Agreement</li> <li>• added a clause requiring the Treasurer’s approval for a material change to the sale and purchase agreement.</li> </ul>
<b>2022</b>	
11 September	Third amendment to the Commonwealth project agreement. This amendment updated payment milestones and payment dates.
22 December	The SA Government and SAHMRI agreed variation to the State–SAHMRI grant agreement (second variation). The variation revised project milestones to bring forward US\$3.5 million (around A\$5.1 million) of payments to ProTom.
<b>2023</b>	
May	DTF began to advise the Treasurer on the emerging risk of ProTom’s capacity to deliver its proton therapy system.

28 June	SAHMRI (via Chair of the ABCPTR) wrote to the Treasurer requesting additional funding (both capital and operating) to enable it to continue its project establishment activities to December 2023.
16 August	The SA Government and SAHMRI agreed variation to the State–SAHMRI grant agreement (third variation). This variation revised project milestones and payments.
17 August	The sale and purchase agreement between SAHMRI, ABCPTR and ProTom was amended (third amendment). This amendment further restructured the payment arrangements, allowing SAHMRI and ProTom to enter into tripartite agreements with component vendors, so that SAHMRI could pay vendors directly and receive title to components directly.
16 September	The superintendent issued a certificate of practical completion in respect to the construction of the Australian Bragg Centre.
6 November	Amendment to the Premier’s grant agreement to provide an additional \$3.2 million in grant funding.
<b>2024</b>	
23 January	ProTom wrote to SAHMRI raising project delays and requesting additional funding to complete the project.
16 February	The Commonwealth and SA Governments advised SAHMRI that they will not provide additional funding for the project.
25 March	ProTom wrote to the Treasurer advising that it cannot deliver its proton therapy system without further funding.
23 April	The Treasurer wrote to ProTom advising that the SA Government will not provide additional funding to SAHMRI for its contract with ProTom beyond the current funding commitment.
30 August	The SA Government and SAHMRI agreed variation to the State–SAHMRI grant agreement (fourth variation). This variation provided funding to SAHMRI to meet a range of costs.
31 October	SAHMRI issued ProTom with notice terminating the sale and purchase agreement.
12 November	The SA Government and SAHMRI agreed variation to the State–SAHMRI grant agreement (fifth variation). This variation provided funding to SAHMRI to meet a range of costs associated with terminating the sale and purchase agreement.
<b>2025</b>	
31 January	Dexus invoiced DTF for the State’s share of development cost overruns.



14 March	The SA Government and SAHMRI agreed variation to the State–SAHMRI grant agreement (sixth variation). The variation provided funding to SAHMRI to meet a range of operating costs to maintain the operations of ABCPTR.
21 March	Dexus commenced proceedings in the Supreme Court of South Australia seeking an order requiring SAHMRI and ABCPTR to execute, certify and deliver the SAHMRI and PTU lease documents.

# Appendix 4 – Response from the Department of the Premier and Cabinet

B2186926



**Government of South Australia**

Department of the Premier  
and Cabinet

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*Hand delivered*

Dear Mr Blaskett

Thank you for providing a copy of the audit snapshot report on the proton therapy project: SA Government context and insights. I appreciate the collaborative nature in which the report has been prepared by you and the Audit Office team and the opportunity to review and provide a response to the report.

The Department of the Premier and Cabinet (DPC) notes the considerable effort to review and distil relevant insights from this complex project with activity spanning over a decade. This includes how the State Government has worked with SAHMRI and ABCPTR in their efforts to establish a proton therapy service in South Australia and the risks that have emerged and evolved through its various phases

Recognising the unique nature of this project, being delivered by SAHMRI as an independent entity, DPC notes the audit insights and the opportunities presented in the report for managing projects of this nature in future.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'RP' followed by a long horizontal stroke.

Rick Persse  
**Chief Executive**

21/5/2025

The Department of the Premier and Cabinet acknowledges and respects Aboriginal people as South Australia's first people and nations. The department recognises Aboriginal people as the traditional owners and custodians of South Australian land and waters.

## Appendix 5 – Abbreviations used in this report

Abbreviation	Description
ABCPTR	Australian Bragg Centre for Proton Therapy and Research
CSO	Crown Solicitor's Office
DHW	Department for Health and Wellbeing
DIT	Department for Infrastructure and Transport
DPC	Department of the Premier and Cabinet
DTF	Department of Treasury and Finance
EOI	Expression of interest
GOAC	Government Office Accommodation Committee
MSID	Mandatory step-in deed
ProTom	ProTom International Holdings
PTU	Proton therapy unit
SAHMRI	South Australian Health and Medical Research Institute



