



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

**(Reference: Auditor-General's report No 7 of 2008:
Proposal for a gas-fired power station and data centre—site selection)**

Members:

**MS C LE COUTEUR (The Chair)
MR B SMYTH (The Deputy Chair)
MS J BURCH**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 5 AUGUST 2009

**Secretary to the committee:
Ms A Cullen (Ph: 6205 0142)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

GALLAGHER, MS KATY, Treasurer, Minister for Health, Minister for
Community Services and Minister for Women**21**

GUEST, DR CHARLES, Chief Health Officer**21**

THOMPSON, MR IAN, Acting Chief Executive, ACT Health**21**

WOOLLARD, MR JOHN, Director, Health Protection Service, ACT Health**21**

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Amended 21 January 2009

The committee met at 2 pm.

GALLAGHER, MS KATY, Treasurer, Minister for Health, Minister for Community Services and Minister for Women

GUEST, DR CHARLES, Chief Health Officer

THOMPSON, MR IAN, Acting Chief Executive, ACT Health

WOOLLARD, MR JOHN, Director, Health Protection Service, ACT Health

THE CHAIR: Good afternoon and welcome everybody. I now formally declare open this public hearing of the Standing Committee on Public Accounts inquiry into Auditor-General's report No 7 of 2008. Whilst the terms of reference for the inquiry are the information contained in the Auditor-General's report, the committee's inquiry is focusing specifically on the administrative processes used for the consideration and facilitation of strategic projects.

On behalf of the committee I would like to welcome the Minister for Health, officials from the Department of Education, my colleagues and members of the public.

Ms Gallagher: From ACT Health.

MR SMYTH: No, there is a member of the public.

THE CHAIR: No, there is a member of the public. It is very nice to see a member of the public.

I imagine that all of you have already seen the privilege card many times before, so I will not bother reading it to you. And you all know about switching off your phones and speaking into the mics et cetera.

So first of all, Minister, did you have an opening statement? I gather not, probably.

Ms Gallagher: No, Madam Chair. I am really pretty much in the dark as to the line of the committee's inquiry but I am ready to assist as much as I can.

THE CHAIR: Okay, thank you very much, minister. I will start off because the line of the committee's inquiry—certainly that I am interested in—is the health impact assessment process which was going to be run. As you know, minister, a health impact assessment process was initiated. There was a steering group for it to look at the possible health impacts of the possible gas-fired power station in Tuggeranong.

I understand that we have not had many health impact assessments in the ACT to date and we do not currently have a legislative requirement asking for HIAs definitively as part of the process. But nevertheless one was asked for as part of this process. Also, under the Public Health Act 1997, I understand that the Chief Health Officer can conduct an investigation into any aspect concerning public health, except where the issue would be subject to an environmental impact statement or an inquiry under the Planning and Development Act, and the format of such an investigation is at the discretion of the Chief Health Officer.

So I am interested in the role of the Chief Health Officer in the initial health impact

assessment, the format the assessment was expected to be in and the format of the investigation—was it all up to the discretion of the Chief Health Officer?

Dr Guest: For me to answer?

THE CHAIR: Yes, or the minister. Look, whichever of you feels you want to answer—

Ms Gallagher: I am not sure what—

Dr Guest: What is the question?

Ms Gallagher: Yes, what is the question? What is the role of the Chief Health Officer, or what is the—

THE CHAIR: Well, there was going to be a health impact assessment—

Ms Gallagher: There was a health impact assessment done.

THE CHAIR: What was the role of the Chief Health Officer in that?

Ms Gallagher: The Chief Health Officer sat on the health impact assessment steering committee.

THE CHAIR: And it was not directed by the Chief Health Officer, it was—

Ms Gallagher: Well, no—

THE CHAIR: Because the Chief Health Officer does have discretion, as I understand it, to conduct them.

Ms Gallagher: The health impact assessment was actually done by a consultant. The Chief Health Officer sat on the health impact assessment steering group which I appointed to oversight the work that was being done by the consultant. The health impact assessment steering committee were never the people that were actually going to undertake the health impact assessment.

THE CHAIR: No, I appreciate that. And the health impact assessment was not initiated by the Chief Health Officer. You were merely involved as part of the steering committee?

Ms Gallagher: That's right.

Dr Guest: The minister appointed an independent steering group for the health impact assessment and she appointed me as a member of that group.

THE CHAIR: Okay. The health impact assessment steering group was later disbanded because, as I understand it, the health impact assessment was incorporated within the EIS, but would you be able to tell us how far along the health impact assessment process you went? Did you identify any potential health impacts or assess

the potential public health impacts of this?

Ms Gallagher: The work was ongoing and the consultant was doing the work, so that had not been completed at that point in time. What happened was I took a decision that that work should be rolled into the environmental impact assessment that was announced after the health impact assessment work had been undertaken. In terms of the stage where the steering committee had got to, they held a number of public forums and held a number of meetings within their group, but I had not received any formal advice from those meetings.

THE CHAIR: Any informal advice?

Ms Gallagher: I had one discussion—I think with the chair, Professor Capon—and of course I meet regularly with the Chief Health Officer. But I am sure we did discuss it.

THE CHAIR: And can you give us any idea as to what these findings would have been?

Ms Gallagher: I have no findings. I was not given anything. I had a discussion with Professor Capon about an extension to the reporting time that the steering committee requested and I asked that he put that in writing to me, which I think he did and, from memory, I accepted and agreed to the extension of time.

THE CHAIR: You touched upon community meetings as part of this. Can you tell us more about what is the community engagement process as part of the health assessment?

Ms Gallagher: I can't recall the specifics of it, but a number of community meetings were held by the steering committee. Charles, I do not know whether you can add anything as a member of that.

Dr Guest: I would add, as a member of the steering group, that the health impact assessment was to include a number of public consultations. These were conducted with the support of the secretariat for the steering group, of which Mr Woollard was the director. There were several meetings held and the issues were scoped. The consultant gathered information about the range of community concerns. This work was ongoing at the time the steering group was disbanded and the consultant then completed the report on issues that had arisen during community consultation, and elsewhere, and rolled that into the EIS.

MR SMYTH: Sorry, just for clarity, the health impact assessment was completed?

Ms Gallagher: Yes.

MR SMYTH: And it was given to the EIS?

Ms Gallagher: Yes.

MR SMYTH: And included. Did you want a copy of the health impact assessment?

THE CHAIR: I think we would, yes.

THE CHAIR: Is it possible that the committee could have a copy of the health impact assessment?

Dr Guest: Yes.

Ms Gallagher: I would have presumed it was all available.

MR SMYTH: I notice—and it is great that Mr Woollard is here—that the department through, Dr Eddie O’Brien, the Acting Chief Health Officer, wrote to the president of the CPR group about the effects of the particulate. The particulate that you did the modelling on was PM10, the 10 microns?

Mr Woollard: Yes; that is correct. The initial modelling that was done, which was picked up through the HIA, was on PM10.

MR SMYTH: Yes.

Mr Woollard: We fed the HIA back into the EIS, and when we gave that into the EIS we asked that the EIS then do modelling on PM2.5 because we recognised that it was a deficiency and we felt that that modelling was important for the complete picture to be provided.

MR SMYTH: All right. I note that Dr O’Brien’s letter of 6 March, the second paragraph, states: “I agree the effects of particulate matter 2.5 microns in diameter, PM2.5, are unquestionable.” What are the particular effects of PM2.5?

Ms Gallagher: I think just for clarification, we have turned up here for an inquiry into the site selection and administrative processes.

MR SMYTH: Yes.

Ms Gallagher: We have not turned up here for a technical briefing on every aspect of the health impact assessment. If that is what the committee was after it would have been useful to have been able to prepare officials for that line of questioning. I think it is a very technical discussion requiring experts to answer. I just would have thought a bit of advice that this is actually going to be an inquiry into the actual health impact assessment would have been useful, rather than calling us before an Auditor-General’s inquiry which was inquiring into the site selection process.

MR SMYTH: The problem for the committee is that the Auditor-General points out that these decisions were made not based on a full array of knowledge and she questions the due diligence that was done in support of the proposal. Due diligence is not just the financial; it is also about the site selection, and surely the—

Ms Gallagher: Well, that is right, but—

MR SMYTH:—health issues on one site are incredibly important to the selection of that site. I am sure you cannot disagree with that.

Ms Gallagher: That is why you have a health impact assessment, isn't it?

MR SMYTH: Well, and we are—

THE CHAIR: Yes, and this is what we are talking about.

MR SMYTH: This is what we are talking about.

Ms Gallagher: All I am saying is that it would have been very useful for my information. I did write to the committee asking them to identify to me what they wanted to talk about. Now if you want a briefing on particulate 2.5 and the reasons outlined in Eddie O'Brien's email to CPR, it would have been useful to know so that we could have made preparations for that. I have had a discussion with Health around this and there are concerns about going into a technical analysis of expert advice—

MR SMYTH: I have no intention of going into a largely technical discussion but—

Ms Gallagher: I just had to put that up because that is where it looked like you were going.

MR SMYTH: But it all feeds into the site selection. The heart of what the Auditor-General says is there was not enough evidence to support the decision your government made on the sites. And part of that decision-making process was having an appropriate, adequate and complete knowledge of the health impacts on this site and on the residents. If you are not prepared to answer that—

Ms Gallagher: I do not think the Auditor-General does say that, Mr Smyth.

MR SMYTH: Well, she does.

Ms Gallagher: If you can point me to the recommendation or the paragraph where she does say that, I will take it on notice.

MR SMYTH: She says, "On site selection there was no specific process to assess and rank sites to ensure benefits for the territory." She says it in due diligence; she says it in a number of different areas. If you do not like it, that is fine, but—

THE CHAIR: Yes. I think, however, the minister has got a point in that we did say that we were going to talk about the process and the health impact assessment steering group—

MR SMYTH: Yes. I am not after a technical dissertation; I just want to know where—

THE CHAIR: I totally see your point. I actually think she, unfortunately—

MR SMYTH: Well I am sure the gentlemen are quite capable. I have got every faith in Dr Guest and Mr Woollard.

Ms Gallagher: Well, so do I, Mr Smyth, but I just think it is a—

MR SMYTH: All right. Well, maybe they can answer the question and we will see where we go.

Ms Gallagher: I actually think that when I write to a committee asking them to assist me because it is unclear to me why I am being called and I do not get a response—certainly requesting a technical analysis of what Eddie O’Brien said in a letter about particulate 2.5—I am happy to hand over but I think then we need to draw a line into what sort of briefing you are going to get. If you read the health impact assessment and you want a briefing on the health impact assessment, we can then organise that, but that was not what was asked for.

THE CHAIR: That is probably a fair comment. If we need a briefing on that afterwards we will consider that and then we will—

MR SMYTH: Perhaps we might go there but, though the minister peaks my interest about that—

THE CHAIR:—if Dr Guest has something to say on that now—

Ms Gallagher: Well, no, it is just about giving us information to assist the committee.

MR SMYTH: The Chief Health Officer is here whose letter—in effect this is the gentleman who is named in the letters here. I do not see what the problem is. Indeed the letter goes on to say: “Health emphasise that this additional modelling—i.e. the 2.5—should be undertaken.”

Ms Gallagher: That is right, they did.

MR SMYTH: It is about process. I am asking how that unfolded.

THE CHAIR: Yes. I think, though, as the minister has effectively quoted back to us a letter which said we were talking about the health impact assessment process and the steering group, if they choose to answer, that is fine, but otherwise—

Ms Gallagher: Yes, I am happy for them to answer. I am just saying that we are not here to give a technical briefing on the health impact assessment.

MR SMYTH: And I am saying I am not asking you that. I am asking how it all fed—

Ms Gallagher: Well, I just had to put that on the record before we are 10 questions down a little Smyth foray into—

MR SMYTH: Brilliant, we have now wasted—

Ms Gallagher: and forage into—

MR SMYTH: It is one of your tactics when you are under pressure. You get into these personal attacks. We have now wasted six minutes—

THE CHAIR: Mr Smyth.

Ms Gallagher: I have sat around—

MR SMYTH: You get these personal attacks. We have now wasted six minutes. Well done, minister.

THE CHAIR: Let us—

Ms Gallagher: I have been here long enough to know what you do, and I am saying ahead of where you go that this is where I draw the line in the sand.

MR SMYTH: What, getting to the truth?

Ms Gallagher: Oh for God's sake.

THE CHAIR: Mr Smyth, Ms Gallagher, how about we just leave this and—

Ms Gallagher: Getting to the truth—yes, that will be right.

MR SMYTH: Well, you can roll your eyes all you want, but we are entitled to ask questions.

THE CHAIR: Dr Guest, do you have something to add to this? If not, we will move on to another area.

Dr Guest: Simply to say that small particles, PM2.5, are a controversial area of health exposure and there is concern about it. It was recommended that that be pursued, so that was the process.

MR SMYTH: Thank you. That is all I was after. That leads to the next question: was that done and did that feed into the EIS?

Dr Guest: Yes is the answer.

MR SMYTH: All right, and then what did it determine?

Dr Guest: Well, that is a separate question. That is the results of the HIA as opposed to the process of getting there. But my understanding is that the results found showed no particular hazard.

Ms Gallagher: So again, you are doing—

MR SMYTH: We would have got there seven minutes ago if you had just let the question be asked.

Ms Gallagher: You are doing exactly what I said you would do. You would go into wanting the results which are in the HIA and now you are going down a technical briefing on the health impact assessment and what it has found.

MR SMYTH: Well, it leads to the whole process, minister.

Ms Gallagher: Well, if that has been what the committee was after we could have organised it.

THE CHAIR: Mr Smyth, Ms Gallagher, we have already had that discussion. Let us try and move on a bit.

Ms Gallagher, what strategies were put into place to make sure that the expertise and the things that were discovered as part of the HIA actually became part of the EIS when the EIS process began?

Ms Gallagher: Well, Health forwarded the HIA through to the EIS process.

THE CHAIR: And that was all that happened? You did not have any discussions about it? You were going from one very detailed technical area of Health to a broader process and that was all you did?

Ms Gallagher: It fed into the statutory process. It became a component of another process. It was not Health's role to take it any further. The work that Health had commissioned had been done.

THE CHAIR: Okay, and can you tell us—

Ms Gallagher: And that HIA report was published on the website, I understand, around 18 November 2008.

THE CHAIR: Yes, okay. In fact, I have notes which say that on 17 November the draft HIA/EIS was released and you stated that ACT Health wants further testing done on stricter pollution standards and the government will ensure that happens. Can you please update us on how you ensured that happened and what was the outcome of it?

Ms Gallagher: On?

THE CHAIR: On 17 November 2008, when the draft EIS was released, you stated that ACT Health wants further testing done on a stricter pollution standard and the government will make sure that it happens. Can you tell us how you made sure it happened and what the results were when you made sure?

Mr Woollard: Perhaps if I can have a go at answering that. On that date when the EIS was put out for public consultation we also put out the HIA for a parallel consultation process. Following that we wrote to the proponent with respect to the HIA as a part of the EIS process indicating that we wanted further work done on the PM2.5 modelling, as we discussed, to get clarity about whether there were any health impacts associated with that. I am not sure that that is the same issue. I am not quite familiar with what you are quoting back at us.

Ms Gallagher: I think it is. I think it is the same issue.

THE CHAIR: I would think it probably is the same issue, so given that—

Mr Woollard: So the process that we adopted, as I said, was that we have written on a number of occasions through the EIS development both at the draft EIS stage and once we moved on to the DA stage later on, providing the HIA and talking about the PM2.5 issue.

THE CHAIR: There are differences between an HIA as a stand-alone process as distinct from incorporating it as part of an EIA/EIS. Because we are trying to look at the processes, can you tell us which you think is a better process, a stand-alone or as part of an EIS? You are in the particular situation of having basically done each of them to an extent.

Ms Gallagher: Can I just say from my perspective that when the HIA work was commissioned there was not an environmental impact statement process underway. I was getting representations as health minister from local residents concerned about what they saw as potential negative health impacts of this development going ahead. I spoke with Health about how we address those concerns or inquire into those concerns and analyse those concerns. In the absence of an EIS, Health's advice to me was to commission work along the lines of a health impact assessment.

When we commissioned that work I have to say that I received a fair bit of feedback, particularly from local residents, that that was not a complete enough process, that they were not happy with the HIA, that they actually wanted a full EIS done. But at that point in time there was not an EIS; so we moved along with the HIA. When an EIS was commissioned, I thought that that was a good outcome. That is what the community had been asking for and I thought we could merely roll the work that we had already started from the health impact assessment into that EIS and you would get the benefit of having that work and the EIS work done. I thought they complemented each other in the end and that it was a good outcome.

As to which one is better, I know there are different views around the scope and structure of health impact assessments and a view that you should have a stand-alone process. I think that is all a very worthy discussion to be had but I guess that at the time that we made a decision about a health impact assessment I had not had the benefit of a discussion around the benefits of a stand-alone one or one that is incorporated into an EIS because it was just one that was being done on its own in the absence of an EIS.

When it got rolled in, I first became aware of concerns that it should be a stand-alone process with a broader scope that had more weight. I genuinely think that is a worthy discussion to have. I have not formed a view on that. There are mixed views and I know this has been discussed at world conferences. I am referring to the role of the health impact assessment, what role it should play, the scope that it should have and how much weight it should give each element of health—emotional health versus physical health. I think that is a very worthy discussion. It is not one that we have been able to have and expand on in terms of this proposal.

THE CHAIR: Agreeing with you that it would be a worthy discussion, how do you think is the best way for the ACT to have that discussion? There are going to be other

projects in the future, no doubt, that have significant health impacts and so this will turn up again, I assume.

Ms Gallagher: Yes, I think from my brief reading about it at the time, there is a lot of discussion internationally about how these health impact assessments should be undertaken. If we are going to go down the path of looking at mandatory processes and broad-ranging health impact assessments, I think it is probably something that should be considered nationally. I think it would make sense to discuss at national forums, not just here locally, what we can do in relation to what was a controversial project—just as there are planning discussions on a national level and other discussions around health on a national level.

THE CHAIR: Yes, national level, yes.

MR SMYTH: If, specifically, a power station came back on the agenda for that part of Tuggeranong and Hume, what would be the process you would follow now? Would you immediately go to a HIA or would it be a case of build it and see, and do the assessment afterwards?

Ms Gallagher: No, I think that is a very difficult question to answer because of the history of this project, this particular proposal.

MR SMYTH: So you would not like to see HIAs done before major projects of this kind, particularly ones that emit as much as a power station?

Ms Gallagher: No, I think they are good assessment processes to go through. I think the level of engagement we had from the community was worth while. I think that because of the controversy surrounding this particular proposal—you know, it was a difficult process for anybody who was involved in it.

MR SMYTH: Sure. But as a consequence of what occurred—

Ms Gallagher: Yes, I would not have any problem with a health impact assessment.

MR SMYTH: No, but have you set up a process—are there trigger points now inside the department that say, “This is a project; we know it is going to emit; therefore, we will do a HIA,” or is it just done on a case-by-case basis or on an ad hoc arrangement?

Mr Woollard: Perhaps I can try to answer that. Since the power station in question was put forward, new planning laws have been put in place which have brought forward, I think, different arrangements for EISs. That includes a capacity where an EIS is called for. I think that a power station, from memory, if it is over a certain size automatically activates an EIS. The arrangements now are that the EIS goes out for a scoping input from agencies, including Health. We have had a number of those since that time. At that point, we look at it from a health impact point of view and we effectively build in a requirement for the EIS to look at a variety of health impacts. So I think that under the new legislation we have a good model that seems to be working quite effectively in terms of capturing key health impacts.

THE CHAIR: Do you think it would have worked better had we had the new

legislation when this was proposed? You see this as a good model now?

Mr Woollard: I think what I am saying is that there is a clear trigger point for EISs in the new legislation. I think it is just clearer; that is all. What I am saying is that when an EIS is triggered there is capacity for agencies such as ACT Health to look at the scoping documentation and put forward our views on health impacts. So I am saying there is a structure now that was not there in the past in the old legislation.

MR SMYTH: Should there be or has the department had a decision about their own process? You were talking about an EIS that is triggered through the planning process. If it perhaps did not trigger under the planning process, have you set up your own system inside Health where you might initiate your own health impact assessment?

Mr Woollard: I could not say that we have set up a system as such. At the moment planning referrals come through to the department, whether it be a PA, EIS or whatever the case might be. We look at all of those very carefully. They are assessed by relevant people in my area. Then if we think there is some aspect of that development that would require some sort of health impact assessment, we will put that forward through the planning process. But they are all thoroughly looked at.

Ms Gallagher: There is still the capacity under the Public Health Act to initiate a health impact assessment separate to the planning process if the public health authority wishes to do that. I think it is good that it remains as a power available to health protection services.

THE CHAIR: Talking a bit more about the whole process, this has been particularly an example of where you have multiple agencies trying to work together. I am interested in your views about specifically how well that worked and how we develop a culture that supports working together. This was clearly a major part of this process. There are questions that sort of talk about broader discussions on this. Do you think it makes a difference whether people see themselves identified primarily as Health or primarily as part of the whole ACT government? Do you see either of those making a difference as to how the process would have worked?

Ms Gallagher: I think on this issue I know that ACT Health enjoys close relationships with the planning authority and, indeed, with a lot of private industry in the ACT. I encourage this and they have to do this through the work they do through Health Protection. I think it is very important that ACT Health remain very focused on health matters alone. So in a way Health needs to stand slightly outside because its aims and objectives are not necessarily the same as the rest of the ACT government and particularly through the role that the Chief Health Officer plays.

The Health Protection Service also has some very clear responsibilities that are very much at arm's length and need to remain so. So in that sense I do not see ACT Health's role in the data centre necessarily taking any different rollout or different involvement than it has taken over this. It is very much just focused on the health impacts of the proposal, which I think is the role that it was set up to do.

THE CHAIR: Right, yes. I think to some extent you have already answered this, but

do you have any other ideas about what more generally the successful things were, looking at it from the ACT government's point of view, that make cross-agencies work like this worked? I mean, you have talked very much about ACT Health, but you were part of the whole government process in this. You may not have any thoughts on this but do you have any more thoughts on it? It is an interesting subject which we would have got onto with the Chief Minister yesterday but we ran out of time, I am afraid; so his will have to be on notice.

Ms Gallagher: Again, we are reflecting on a particular proposal here but as I am appearing as the Minister for Health, I think the relationships between the ACT government in terms of communications around major proposals are pretty good. I think obviously there is always room for improvement but from my point of view, for ACT Health, they work quite well. But ACT Health has a very specific job to do and it needs to remain focused on that and not necessarily become part of putting the views of ACT government ahead of ACT Health or the health of the ACT community if those two are in conflict. I do not think they necessarily were, but it is important that they remain focused on the job that they have to do.

MR SMYTH: I have a different line of questioning. In terms of when you first knew about it, were you acquainted with it as the health minister or did you learn about it as Deputy Chief Minister or as a shareholder of Actew? How did it come to you? Did it go up through the department—"we have been asked to do this"—or were you approached in a different way?

Mr Gallagher: I would have to check on that, Mr Smyth. I know I probably answered this question in a previous committee, and I will check the record because I do not want to mislead the committee. I believe it came to my attention not through being the health minister but through a briefing to cabinet.

MR SMYTH: How did the department find out about it? Did that come then down from you to the department?

Ms Gallagher: They would have been aware of it through—

MR SMYTH: Or did they become aware of it through—

Ms Gallagher: the cabinet process.

MR SMYTH: That was before you were approached by ACTPLA?

Mr Thompson: We will need to confirm that because I am sorry we do not have the exact dates of the timing but, yes, the cabinet process through which the minister became aware of it, we would have been made aware of it.

MR SMYTH: Right, and then in terms of the processes that the Department of Health followed—well, in fact, perhaps you can tell us what process then occurred. Does it go straight to the public health area and they start the process?

Ms Gallagher: Yes.

MR SMYTH: So that initiated the movement of Rose Cottage House?

Ms Gallagher: That was a concern I think that had been raised through the coordination process, not through ACT Health. I think it was by Disability Housing, from memory, because it was the intensive treatment and support service and it was really not necessarily moving but a question around the close proximity, yes. Again I am dusting off—

MR SMYTH: Okay, so what—

Ms Gallagher: I am dusting off; this is—

MR SMYTH: Yes, that is okay. This is about process. So the public health area looks at it and that ultimately led to the HIA and then the EIS?

Ms Gallagher: From my understanding the Health Protection Service was involved in the preliminary assessment that was being done during April. They were involved in that. They provided their comments in May to ACTPLA and in that requested the independent HIA be done as part of that work.

MR SMYTH: Is Rose Cottage your department? Was it at the time?

Ms Gallagher: No—well, it was at the time.

MR SMYTH: It was at the time but it is not now?

Ms Gallagher: It was when I was Minister for Disability as well; so, yes, as part of that, Disability were going through another process around raising their concerns around ITAS.

MR SMYTH: Do you perchance remember when the decision was taken that you would move Rose Cottage House?

Ms Gallagher: Look, I do not even think we did make a decision about that. There were concerns raised by the department about the close proximity and I think that that—I am just trying to recall; it was either that further testing was being done as part of the analysis that was being done around the proposal—I can check on a lot of that.

Certainly I received a piece of advice from Disability Housing that said that if the proposal goes as it was originally planned, which was prior to the revised proposal, we would need to look at moving ITAS and that that may well have to be considered as a cost to the proponent. But I do not actually from memory believe we made a formal decision to move it because then the project got revised. More analysis was done around whether or not that had an impact. Then events overtook from there, as we know. So I do not think a formal decision was made, but I did receive advice under the original proposal that it would be impossible to have ITAS that close.

MR SMYTH: That was determined by Disability or that was determined by Health?

Ms Gallagher: It was by Disability and it was not on health-related grounds—well, it

was in a sense. I believe it was around noise to the residents of ITAS. But I am sure Health were involved in some discussions at one level, but it was driven very much by Disability.

MR SMYTH: So in terms of the process, Disability basically did that on their own—they consulted with Health or they got advice from Health?

Mr Woollard: We had some discussion with them certainly during the course of the process and about the HIA. We did not specifically provide advice around that facility with regard to health impacts. We were looking at the broader population health impacts. Obviously this was one facility that was going to be potentially impacted and that is what the HIA was to determine.

MR SMYTH: So if Disability did not get that advice from Health would they have gone independently and found their own advice on the impacts of the noise?

Ms Gallagher: I cannot recall where exactly the origins of the advice from them to me came from but I know that this was a matter that was analysed through the health impact assessment, and I believe that the health impact assessment may have confirmed that view on one level that it was the proximity. Again, I am just trying to recall what I remembered at the time.

MR SMYTH: Is it possible you could check as to where they got that advice from—

Ms Gallagher: Yes.

MR SMYTH: because it is just interesting in the process if you have got a unit that is able to provide that advice but government is getting its advice from somewhere else.

Ms Gallagher: It may have been through the health impact assessment, but we can certainly check.

THE CHAIR: I am pretty well finished on my process questions.

MR SMYTH: I guess the questions would be more about what has changed in the department now. We covered some of this a little earlier. As a consequence of the whole development process and then the change and the modification, what has changed inside the department, if anything, as a consequence of how your part of the process was carried out and what guarantees exist? There is still some angst in the community about whether the health aspects and the health of the community are adequately protected. Following the consultation and all the good things that you said came out it, what has now changed in the department when these processes are triggered?

Mr Woollard: I don't know that anything specifically changed as a result of this particular project. Whilst this project was difficult because of the focus on it, we recognised very early in the planning process that a HIA would be of benefit and we proceeded to undertake the HIA. It was good practice from a public health point of view.

We currently, as we did then, receive planning applications. We engage as early as we possibly can with proponents, particularly of major developers and work with them to identify any particular issues. Where appropriate, as I said earlier, through the EIS processes we inject the health impact assessment needs to make sure they are picked up. If necessary, we would look to do an independent HIA if that was required or, as the minister mentioned earlier, utilising the Chief Health Officer's powers under public health for some form of inquiry. There is a range of options for us. We look very closely at major developments with regard to public health impacts.

THE CHAIR: Can you just tell us a bit more about how you get things referred to you by ACTPLA. You were referring to major developments. Does ACTPLA determine that they are major?

Mr Woollard: The legislation does. The legislation stipulates at what point the EIS is called on, if that is what you are referring to—if you are talking about EISs. Once an EIS is triggered, ACTPLA send out advice to all relevant agencies, of which we are one. As I said earlier, it is a scoping document so that we have an opportunity to look at it and indicate what we think the EIS needs to cover.

We also have planning referrals for a range of other types of planning referrals—development approvals et cetera—where we take a good long hard look at it to see if things require some sort of health impact assessment.

THE CHAIR: And ACTPLA decides whether it would want an EIS or whether it is something else that you should be interested in?

Mr Woollard: The legislation stipulates at what point an EIS—and I am not an expert on that legislation; so I will not go—

THE CHAIR: Yes.

Mr Woollard: The legislation stipulates whether an EIS is required and there are a range of planning processes that get referred in different ways depending on the nature of that particular proposal.

THE CHAIR: But the decision is always made by ACTPLA to refer to you. That is what I was actually just trying to get clear.

Mr Woollard: Through the legislation.

THE CHAIR: Yes, sure.

Mr Woollard: But proponents of major developments do often come to us prior to planning anyway because obviously from their point of view it is good to engage early to iron out any problems that we might envisage. From time to time we do get involved directly with proponents and work very closely with them to assist in getting a good outcome for the community.

Ms Gallagher: Just to add to that, that is not to stop any member of the Canberra community notifying any concern they have around a health-related matter to the

Health Protection Service. It is important that the support and the advice that is offered to major proposals is also provided to individual businesses, individual consumers, householders, people with swimming pools—you name it. So a referral of an issue, a health concern, can really come from anywhere straight to Health Protection and they will follow it up.

MR SMYTH: Did the proponent in this case come to you and seek advice or guidance?

Mr Woollard: Not prior to the planning application.

MR SMYTH: Sorry, prior to the PA or prior to the—

Mr Woollard: Not prior to the PA.

MR SMYTH: Not prior to the PA; thank you.

THE CHAIR: The PA being?

Ms Gallagher: Preliminary assessment.

MR SMYTH: Did Actew come and speak to you?

Mr Woollard: We engaged—I do not know who; I mean, it was a proponent, it was a consortium. I don't know who was who in it. The consortium met with us once the PA was out into the community, yes.

MR SMYTH: Did Chief Minister's have discussions with you about the process and the project?

Mr Woollard: Yes, we did. At what point I could not recall. I can find out. But I mean, yes, we engaged with Chief Minister's at points during that proposal.

THE CHAIR: Thank you very much for attending, minister and officials.

Ms Gallagher: Thank you.

THE CHAIR: It has been a very interesting conversation. I declare the inquiry closed.

Public hearing concluded at 2.44 pm.