



**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)  
MR J HARGREAVES**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 27 NOVEMBER 2009**

**Secretary to the committee:  
Mr G Ryall (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**

**COSTELLO, MR MICHAEL**, Chief Executive Officer, ActewAGL ..... **105**  
**MACKAY, MR JOHN**, Chairman, ActewAGL..... **105**  
**O’HARA, MRS DIANNE**, General Manager, Business Development and  
Strategy, ActewAGL..... **105**

## **Privilege statement**

The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings.

All witnesses making submissions or giving evidence to an Assembly committee are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution. Witnesses must tell the truth, and giving false or misleading evidence will be treated as a serious matter.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 21 January 2009*

**The committee met at 10 am.**

**COSTELLO, MR MICHAEL**, Chief Executive Officer, ActewAGL

**MACKAY, MR JOHN**, Chairman, ActewAGL

**O'HARA, MRS DIANNE**, General Manager, Business Development and Strategy, ActewAGL

**THE CHAIR:** Good morning everybody, and welcome to this public hearing of the public accounts committee inquiry into Auditor-General's report No 7 of 2008: proposal for a gas-fired power station and data centre—site selection process. You should have copies of the privilege statement in front of you. Would you like me to read it?

**Mr Costello:** No, we have read it, thanks.

**THE CHAIR:** Thank you very much for coming today, and I thank members of the public for coming. It always makes it seem a lot more worth while having a public hearing if there actually are some public involved in the hearing. Do you wish to make an opening statement?

**Mr Costello:** No, Madam Chair. As we said in our response to the committee in writing, we are very happy to cooperate in any we can. Perhaps the most efficient way is for us simply to answer questions.

**THE CHAIR:** Thank you. Mr Smyth, would you like to start?

**MR SMYTH:** How did ActewAGL come to be involved in the proposal?

**Mr Costello:** Perhaps I will begin and my chairman, Mr Mackay, who was more intimately involved in that at the time, as CEO of ActewAGL, will clarify, add to or indeed correct what I have to say.

When ActewAGL was formed, in the partnership between Actew and AGL, part of the documentation and public statements at the time was a commitment by AGL, which was regarded by the then government and by Actew as important, to see if we could build a gas-fired power generation plant in Canberra. For several years—and I was Managing Director of Actew from 2003 through to the middle of last year—we looked at various ways and had various studies as to how this could be done in a way that made economic sense, because they are very large investments and you do not do it unless they make economic sense. We simply had not been able to find a way. We had done a study, I think in late 2006 or early 2007, which confirmed that. As a stand-alone, at that time, in the absence of a CPRS, it just did not work.

Thought was then given to how we could do it in conjunction with some other project. The idea of a data centre with a dedicated gas generator was developed within ActewAGL as an idea. The argumentation and the theory was that if we could build such a data centre, for which demand from around the world was growing, we could have a dedicated gas-fired power station using green energy, renewable energy, rather than coal-fired energy—

**THE CHAIR:** Using renewable? I thought it was a gas-fired power station,

**Mr Costello:** Sorry, a gas-fired power station which had more green energy than it would be with brown coal—about 30 to 40 per cent, I think, of what black coal would have been.

**THE CHAIR:** CO<sub>2</sub> emissions?

**Mr Costello:** Yes. So in that sense it seemed to us to be very positive, and some of the infrastructure for building that could be shared with a separate peaking plant. Would the economics then stack up? The preliminary early stages of that showed that it would. Of course, they were early studies, and during the course of 2007 we got together with TRE and worked up some broad proposals and then we approached the government to see if the government, in principle, would support such a project and would consider a deed of land.

As you will know from the documentation, we searched for a site. As Mr Mackay will be able to tell you, and as he has stated in this place on oath, after examining four possible sites, we identified a site in Tuggeranong next to the tip, and we chose it, even though we knew that all three other sites were available. That was because it was closest to the network, it met all the criteria and it was the most economically sensible.

We knew, of course, that we would have to go through two processes. One was the formal requirements laid down for a deed of grant of land, which are quite extensive. We also knew we would have to go through a development application and, for a project of this size, an environmental impact statement; that it would require ACTPLA approval, which would consider the social and economic consequences, the heritage consequences and so on. At all times we knew that was the process that was required and there was never any doubt that that is what would happen. The documentation shows that quite clearly; that is, we would have to follow the normal processes laid down in the law and the regulations and we would have to meet everything that was required. It was by no means certain that that would happen for such a large project.

The government made this very clear in what it did. It gave us only an option for a grant of land. So it was reserved for a period. In that option the government made absolutely clear that we would have to meet all these processes. I can go through that in some detail, if you like, later on. We thought that, if it would meet all those requirements, it would be a tremendous thing for the city and the ACT—a great economic project, significant benefits, exactly the sort of industry you would have wanted. The gas-fired power station that would be powering the power station, because of its model, would be significantly less in greenhouse emissions than if it was fired from the grid from a coal-fired power station. So we thought this was a very good project and we proceeded with it.

That was our motivation. For ActewAGL, of course, a significant motivation was that we would be able to sell the gas, which was a good commercial motivation. Also, as they built each bank of computers, they would pay us a success fee. Finally, of course, it would be a great thing for the city. I think ActewAGL and Actew have a long history of being a very strong supporter of the community and of the city. So for all

those reasons we felt very positive about it, and that is why we got engaged. John, is that about right?

**Mr Mackay:** Yes. In specific relation to TRE, we went out for expressions of interest. I do not think it was a formal tender process. We went out in early 2007. In fact, it was in July 2007 that we sought proposals from a number of entities to do something with us in relation to a gas-fired generator, and TRE was selected out of that process.

**MR SMYTH:** So TRE approached you after you had put the word out that you were interested in doing something?

**Mr Mackay:** Yes. I am just not absolutely clear on how that came about, but my briefing indicates that we did have discussions with a number of other parties, not just TRE.

**MR SMYTH:** Can you confirm when this happened?

**Mrs O'Hara:** Yes, we put out a document asking for proposals, and a number of entities—we have never made the parties public before but there were a number of entities that were invited to submit proposals. From those proposals, the TRE proposal was selected as the partner for ActewAGL in this venture.

**MR SMYTH:** Is it possible to have a copy of the package you put out?

**Mrs O'Hara:** I would have to—

**Mr Costello:** I do not think there is any problem; it would just be a question of finding it.

**MR SMYTH:** Is it possible to have a list of the other people who put forward proposals?

**Mr Costello:** No.

**MR SMYTH:** Why not?

**Mr Costello:** It is commercial-in-confidence to them.

**MR SMYTH:** That is all right; committees can have things in confidence.

**THE CHAIR:** I do not think that is particularly relevant.

**Mr Costello:** I am not sure what this has to do with the Auditor-General's report, honestly.

**MR SMYTH:** It is about the process and how you select.

**THE CHAIR:** Mr Smyth, I do not think it is within our terms of reference. So if they wish to say that it is commercial-in-confidence, I do not think—

**MR SMYTH:** The Auditor-General, on page 7 of her report, in the third of her key findings on that page, says:

A better process of site selection was carried out in 2002 as part of ActewAGL's first attempt to construct an ACT power station. This involved consideration of various sites and a cost-benefit analysis.

What was different in the two processes, in 2002 and 2007?

**Mr Costello:** That is a separate matter to putting an RFP for expressions of interest in the first place—the site selection process.

**MR SMYTH:** That is okay. You have indicated you will try and find the package. That is fine.

**Mr Costello:** We thought the site selection process—we had been through the one in 2002; we knew quite a lot about it. We hired an outstanding consultant who was very experienced in Canberra. We looked at a number of sites, as is known. When we identified this site—I think, John, when it was put to you—it met our criteria so strongly and it so clearly was the best of the four that there was not much hesitation at all.

**THE CHAIR:** Why do you think the Auditor-General would have thought the 2002 process was better? That is really the key question.

**Mrs O'Hara:** Perhaps I can respond to that. The 2002 process was just for a gas-fired peaking power station. The subsequent process was for the data centre and initially a small peaking power station. Subsequently that was altered to be just the gas co-gen for the data centre. We were looking at two slightly different developments.

**Mr Costello:** Furthermore, if I may say, this is a commercial judgement. It is not a matter of process. We are not a government body following the government processes. We follow commercial judgements and commercial processes and we decided that this was the site for us. There was a certain element of wanting to get this business done reasonably quickly and the reason for that was the market was there. People were calling for this. We did not want to miss out. We did not want to spend a year wavering about where we should go and meanwhile people go somewhere else.

**Mr Mackay:** My clear recollection of when we met with the LDA—and I was at the meeting—was that we basically went back to say: “Here we are. We’ve moved on. We’ve got a new idea and we’d like to move forward with this site that we identified some years earlier.” They basically said: “That’s all very interesting, but things have moved on. It’s some considerable period of time and we’ve been doing some other studies and we’ve got in mind something else.” They were not ruling that site out, but they did indicate that they would prefer us at least, before it went too far, to look at the site across the road. Very early in the piece it became clear that that had some Aboriginal artefacts and other issues. I think there might have been a drainage issue as well. We still thought that was not a bad site. Then our planning consultants—it was not LDA; it was us—came to us and said, “You know, there’s another site opposite the tip which would do the same thing and we should have a look at that.” We fairly

quickly, I think, formed the judgement that it was the pick of all of them and we thought, “Let’s go.”

**MR SMYTH:** The Auditor-General in that paragraph says that in 2002 a cost-benefit analysis was done. Nobody has been able to produce a cost-benefit analysis of the various sites.

**Mr Mackay:** I think that is the point. When the government offered us that site it was subject to a whole range of things. It was not an unconditional offer of that site. We were required over the period of time—

**Mr Costello:** Let me read it out to you. This is what would have been required. This was in a letter to Mr Mackay of 19 July: “Finalisation of the direct sale will be dependent on cabinet approval. The government will require the submission of a detailed economic cost and benefit analysis of the proposal addressing in particular the following: the rationale for a gas-fired power station in the ACT; the manner in which the government can be confident the arrangements for gas purchase are reasonable; the rationale for why the ACT is well located for a data centre; why the ACT is best planned to build and operate such a centre; the nature of the proposed relationship between ActewAGL and the owners and operators of the data centre. Furthermore, the conditions precedent of the option are development approval being obtained from the relevant agency.”

Of course, development approval requires extensive public consultation, a PA at the minimum, and certainly for this we knew there would be an EIS. There was never any question really, certainly in my mind. It needed the buyer providing documentary evidence of a commercial arrangement between the buyer and third parties to facilitate the proposed development, the buyer undertaking a preliminary assessment and any other relevant planning studies in respect of the land required by the seller, the buyer providing documents to demonstrate material required in disallowance had been complied with. What does a disallowable instrument require? I am going to read all these out because I do not think it should be imagined that this was just done off the top of people’s heads: “The Planning and Land Authority must be satisfied it is in the public interest to grant the lease. The applicant must complete and sign a preliminary application”—et cetera—“demonstrate the long-term economic viability of the proposal; demonstrate that a grant of lease will benefit the economy in the territory or region; contribute to the environmental, social and cultural features of the territory; introduce new skills, technology or services”—et cetera.

So you can see there was a requirement for us to do very extensive work. Indeed, we have made no final decision to proceed with this at this stage. We had asked the government: “Can you preserve this land? Can we buy an option for this land so that if in 12 months time we are able to convince ourselves this is a good economic proposition and if in 12 months time we are able to get through the planning process and all the other requirements we will then exercise that option?” That is all that was done at that time. We did not get a grant of land and we were not absolutely committed to the full detail of the proposal. Is that correct, John?

**Mr Mackay:** Yes, that is right. The bottom line is we always intended to do, and the government always required us to do, a full cost-benefit analysis.

**THE CHAIR:** But you never actually did one that was given to the government; is that correct?

**Mr Mackay:** I do not think we ever got to that point, no. I think that is the bottom line. And nor did the government ever get to the point of granting disallowance.

**Mr Costello:** We did extensive studies, which were done by experts.

**Mrs O'Hara:** An economic impact study was part of the EIS as well.

**MR SMYTH:** In paragraph 2.35 the Auditor-General says:

ActewAGL prepared an economic impact statement for the initial CTC proposal. Treasury indicated its view that that this document was unreliable, and suggested a cost benefit analysis be included ...

Was any additional work done because you changed the proposal to reduce the amount of gas-fired generation? Did you do a new statement after that?

**Mr Costello:** The rationale for that was pretty straightforward. In December the boards decided to proceed with the feasibility study of this because it may be possible that this was a good commercial arrangement and it may be possible that the data centre and its dedicated power station were something we should be supporting. We continued to examine that. AGL was a vital part of this for us, of course. Without AGL's support it could not go ahead. AGL continued to examine it in the context of having quite a number of gas-fired power stations in South Australia and elsewhere—much wind power in South Australia and elsewhere. It decided later on that this power plant, the peaking power plant, was simply not big enough. If it was going to be economic and make commercial sense for them to be involved it had to be three or maybe four times the size. I made that clear at the press conference when I announced the changes. Clearly, such a power plant would be far too big for that site. At that point it became clear that we had to drop that off.

Why did we change from the 100-megawatt-plus dedicated power stations that we had planned? It is worth remembering, as I said at the time, that the original proposal was to build two 14-megawatt generators and then, as we got further customers, to build it up. Our concern was to make sure that we had those 28 megawatts so that we could get the customers whom we were reasonably confident of at the time and not miss out on them. We came to the conclusion that the simple thing to do was to establish the data centre on a smaller scale on that site. If we were going to establish a bigger data centre in the future, a 100-megawatt data centre, that would have to be located elsewhere, not on that site. That was made clear in my press conference at the time. That was the rationale for moving.

Can I go back? It is for ActewAGL to make the commercial judgement about whether it thinks this is in its interests. It is for the government to make its judgement. It is not interested, in a sense, whether it is in ActewAGL's interests; it is interested in whether it meets the processes, the standards, the requirements and the cost-benefit analysis from the territory's point of view—does it meet those? I think that is the important

thing. Those are commercial judgements and that is where they lie—with ActewAGL.

**MR SMYTH:** That may be the view of ActewAGL. But the criticism of the whole process from the Auditor-General is the lack of detail; that no cost-benefit analysis was done on the sites, that it was unclear who was in the consortium. There were a number of criticisms from the Auditor-General of—

**Mr Costello:** It is an interesting point of view, if I may say—

**MR SMYTH:** If I may finish: there were a number of criticisms from the Auditor-General—this may not be a criticism of ActewAGL; it is probably more a criticism of the government—that government was not doing its job and therefore there was a lack of clarity. It is a cloud that extends to ActewAGL.

**Mr Costello:** As I understand it, the Treasury said it was not satisfied with what it got and was asking for more. Presumably if the process had gone ahead it would have received more, but it just got lost in a fog of war, if I could put it that way, and it was aborted later in the year. The government can defend itself. All I can say is that from ActewAGL's point of view we were quite convinced—we never had the slightest doubt—once we saw that site, that, of the four we had seen, that was ideal, perfect, from our point of view, provided it would get through the planning process. Part of the planning process, as we know, and part of the deed of grant if it had proceeded, would have been us providing an economic feasibility study that was satisfactory to the government. That is a matter of us having to do the job at the right time. We never got to do it because the processes laid down, I am afraid, were not acceptable to people.

Our problem is this: as the Auditor-General says in her key conclusion, all the key processes were followed. That is her key finding. She thinks there should have been better processes. She thinks there should have been other processes. That is an interesting point of view. That is a matter for debate by the Assembly and others to decide upon. But the key finding is that all the key processes were followed. What else is a proponent to do other than to follow the proposed processes, the processes that are laid down? We cannot imagine what the Auditor-General might think would be a good process or a better process or what someone else thinks might be a better process. We have to follow what is there. That is what we did.

**MR SMYTH:** Her key findings also say, though:

In response to the commercial needs of, and the urgency communicated by, the consortium, the Government supported the Canberra Technology Centre proposal by committing to an Option over land without sufficient information and key documentation.

Why was sufficient information and key documentation not available?

**Mr Costello:** Because before the process could proceed, or the deed of grant could proceed—I will not read them all out again—it was subject to all those things laid down in the Chief Minister's letter of 19 July. It is quite clear there. It was subject to development approval being obtained. The Auditor-General does acknowledge that

specifically. She says that, because of the conditions imposed, the risk to the government was averted. That is what she says.

**MR SMYTH:** No. She says it was reduced. She does not say it was averted. She said:

The Government reduced key risks to the Territory ...

**Mr Costello:** She said the government reduced key risks to the territory by requiring the consortium to meet a number of conditions. It is not only the government requiring it; the requirements laid down in the law for a deed of grant require all of those things. What we did was to buy an option; that is all. It did not commit the government to anything.

**THE CHAIR:** Did you buy an option? I thought that was one of the things—you paid less than the—

**Mr Costello:** No, the Auditor-General, I am afraid, has made a mistake in her reference to the \$1 million. It is simply wrong.

**MR SMYTH:** What should the figure have been?

**Mr Costello:** We paid \$40,000 for an option.

**THE CHAIR:** But the Auditor-General's report says:

... LDA may also charge a refundable fee up to 10 percent of the value of the land.

Was she wrong?

**Mr Costello:** I am afraid she is mistaken. Nobody ever mentioned a million dollars to ActewAGL, ever. We offered 10 per cent of whatever the valuation was once that valuation was established and when the deed was going to go ahead. But that is a separate issue to the option. The option is not 10 per cent of the valuation, which was to come later. The government practice under LDA is going out and getting three quotes and the government accepting the top quote. If it does not think it is high enough, it will go out and get a fourth or a fifth. That was never put to us, what that figure was, ever. Any suggestion of us offering 10 per cent is out of the question.

**THE CHAIR:** So you never had any idea what the land was worth?

**Mr Costello:** Nobody told us. We had our own internal estimate.

**Mr Mackay:** The other thing is that we always envisaged that it would be Actew that would buy this block of land, which was wholly owned by the government, which was again a risk reduction for the government. We decided it would be better for Actew to own that land than the consortium, for that very reason.

**Mr Costello:** I think we were the nominee actually.

**Mrs O’Hara:** The deed was for ActewAGL but the nominee was Actew under those—

**Mr Costello:** ActewAGL or its nominee, and the nominee was Actew.

**THE CHAIR:** You said that you followed what you believed was the correct procedure and clearly there was a lot of community angst about the project. With hindsight, do you think there was a way it could have been done to avoid or reduce that?

**Mr Mackay:** I think so. We did not foresee the community storm. If we had foreseen the community storm, I guess we would have thought long and hard about how to handle that. I recall very well the day that we finally had access to this site. I was keen to announce it. In fact, I invited a journalist from the *Canberra Times* out to the site and got a picture of me standing on the site. I had the general manager with me. We were kind of almost high-fiving, saying: “What a terrific site this is. How clever we are.” As it turned out, the *Canberra Times* did not publish that picture. It published a great big diagram of the data centre and did not mention where it was. I was a bit disappointed about that, but anyway it did not matter. It was some time after that that it came out that this was where the site was and of course there was a storm. I think we had done some letter-boxing—

**Mrs O’Hara:** There was a press release put out in October—

**Mr Costello:** 2007, which was accurate in its description but it had one important error—accurate in its description that it was next to the tip and 600 metres from the Monaro Highway, but it said Hume rather than Tuggeranong. I must say that everyone I have ever spoken to says, “That’s Tuggeranong?” It is not something that they automatically identify as being there. Most people thought it was part of Hume. We made an error, and for that we are sorry.

**Mr Mackay:** We tried to do the right thing—we held lots and lots of meetings—but people were going ballistic about it, and in our own view we just did not kind of believe that their concerns were rationally based. I do not think we were helped by the paper, because it did beat up a lot of these things—about toxic fumes that were going to poison us all, the noise et cetera. It published some stuff that was outrageously scientifically wrong and 20 times worse than anything it was going to be. One of the maps the paper published on the front page had big red blotches all over Deakin. It was absolute scientific rubbish.

**Mr Costello:** It was actually something that we put out, headlined “toxic fumes”. What it actually showed, if you read the table, was that the emissions were one-twentieth of World Health Organisation standards, in the worst position. That is what it actually showed, but that was not the headline. Could I go back to the consultation process?

**THE CHAIR:** Yes. I am very interested in that.

**Mr Costello:** Paragraph 4.46 of the Auditor-General’s report, page 46, states:

Audit concludes that the community consultation that occurred as a result of the DA process to date complied with the legal requirements of the Land Act and the minimum requirements ...

It then goes on to say, however, that it thinks they should have done more. Once again, what is a proponent supposed to do? It is supposed to look at the act, it is supposed to look at the requirements and it may well be that the government, the Assembly or others come to a conclusion that these should be more or earlier or different. That is fine. But all we can do is comply with what there was. In fact, we did quite a bit more.

Apart from saying right through 2007 that this was happening, we asked to brief members of parliament later that year—one or two, I think—and we tried again in February and we got a few. There was no secret about what we were doing. We were proud of it. We were very happy to talk about it. We thought it was great. We had media releases about aspects of the proposed development, beginning in October 2007. The initial community consultation period was extended for an additional 21 days. Public sessions were conducted by the proponents in May and June. Material was available at these meetings, including site plans, noise and emission information, pictures and 3D modelling of the visual impact, and information regarding the function of the data centre.

We attended a community meeting of the Tuggeranong Community Council on 28 April 2008 at which the community liaison officer asked that our case be listened to, to which she was shouted down with the words, “We don’t care what they’ve got to say; no matter what, this is not going ahead.” That is exactly what was said to me in a radio debate with a key player in this matter: “We don’t care. It’s not going ahead, whether you comply with the processes or not.”

**MR SMYTH:** Do I remember you saying that it was going to go ahead anyway?

**Mr Costello:** What is that?

**MR SMYTH:** Do I remember you returning fire and making comments that it would go ahead anyway?

**Mr Costello:** If it got approval, of course. Sorry, would it not go ahead if it got approval, after following proper process?

**MR SMYTH:** I don’t know; that is up to you.

**Mr Costello:** I would think that if we went to the trouble of following all the laid-down processes, that we met every environmental requirement, every social requirement, every health requirement, every heritage requirement, every economic requirement, if we met everything and then we said, “Well, we’ve got approval but we’re not going ahead,” it would look a bit strange.

**MR SMYTH:** Paragraph 4.43, a couple of paragraphs before the paragraph you have quoted, the last sentence on the reason for the changes, says:

ActewAGL also stated that it was financial considerations that led to its proposal for a reduction in scale.

**Mr Costello:** That was one of the matters, yes.

**MR SMYTH:** What was the financial consideration?

**Mr Costello:** As I said, AGL felt that it was too small, that if it was going to build a gas-fired power station in the ACT it had to be much bigger to be an economic proposition, to fit into their plans.

**MR SMYTH:** So was 110 megawatts financially viable?

**Mr Costello:** It was financially viable but it did not make commercial sense as something that was supplying the grid. They said, “If you want to build a peaking power plant, 110 megawatts is too small.”

**MR SMYTH:** Wouldn’t you have had that discussion before you started this process? If you knew that it was financially—sorry, what were the words you used? It was financially viable—

**Mr Costello:** We could have funded it, yes. In that sense, we could have funded it. We had the money to fund it. We have zero debt at the moment, so we were very financially strong. We could have funded it, but, as I said, in December the board said, “Let’s go ahead with this beyond the early consideration we’ve been giving, and let’s consider whether both projects make sense.” AGL finally came to the conclusion that in their view it did not. It was a bit disappointing to us, but that is where they ended up. They said, “We’ve looked at it again, and as far as we’re concerned it’s too small.”

**THE CHAIR:** So from your point of view the community’s views did not change the proposal?

**Mr Costello:** It had a very important impact. I guess in a way I was semi-relieved because it meant we did not have to argue about that. But the community’s view had a big impact on something else. We had originally planned over 100 megawatts on that site—110, I think, for the dedicated power plant for the data centre. We had asked for approval for that, even though we were only planning to build 28 megawatts to start with. We withdrew that and said we would only ever build 28 megawatts on that site. So that was listening to the community, yes.

**Mr Mackay:** That had an impact right across the board. If their concerns were about the fumes—

**Mr Costello:** And emissions.

**Mr Mackay:** then it was going to reduce that. Concerns about the noise—it was going to reduce that. Certainly, it had a major impact on the visual impact. So from up on the top level there—

**Mr Costello:** It went from 210 megawatts to 28.

**THE CHAIR:** Given that part of the justification, as I understand it, for the direct sale of land was the gas-fired power station, how did you anticipate this would change the direct grant of land considerations?

**Mr Costello:** We would then have to argue solely the benefit of a data centre and the gas-fired power station.

**THE CHAIR:** Did you end up doing that?

**Mr Costello:** By that time the whole thing, over the next several months—it still made sense in our view and we still would argue strongly with those who are making the judgement that it made sense to build this site, to build the dedicated power plant, to have this work in Canberra. According to the economic analysis we got done by KPMG, it would still have employed 250 or 270 people, which was valuable employment. So it was still a very worthwhile project, yes.

**MR SMYTH:** Was that new employment or was that just jobs transferred from other areas?

**Mr Costello:** No, new employment as far as I am aware.

**Mrs O’Hara:** KPMG Econtech, as I said before, did an economic impact study, which was included in the EIS documentation. They had a list there of what they considered to be the job and other economic impacts of the development.

**MR SMYTH:** Can we go back to your statement that you could afford to pay for it but it was not commercially viable. Why wasn’t that known before the DA was put in, the original DA?

**Mr Costello:** We wanted to put the DA in to get the thing going. I must say, to be fair, AGL seemed to be more interested and later on they came to the view that it was a commercial thing: “We’ve looked at this again and we’ve finally come to the conclusion we don’t think it’ll work.” As I say, it was disappointing from one point of view because we had always wanted a peaking power plant. Let us be honest. Depending on what the energy policy is that comes out of the Assembly, we still would like to build one because we think it fits into our interests and into the transition to a completely carbon-free energy system, and clearly it does. We were disappointed in that sense. But, as I said, I suppose I felt a sense of relief that the size of this would come down and that should make it a bit easier for us to get more community support. I must say that, when it was reduced to 28 megawatts and the only impact of that seemed to be to accelerate concern, I was a bit disappointed.

**THE CHAIR:** One of the items that the Auditor-General comments on is that many people seem to regard ActewAGL as being Actew and part of the government and were cc-ing lots of emails to you. What did you do with things that were sent to you? Is there anything that you will be able to put in place to reduce that happening in future?

**Mrs O'Hara:** Perhaps I can answer that one. The matters that the Auditor-General was referring to were things like the Hume industrial study. We made it quite clear throughout the consultations to that report that the proponents did not receive the Hume industrial study. We employed a planner. The planner certainly had knowledge of the Hume industrial study, and presumably that informed his judgements about the sites.

**Mr Costello:** He had worked on it before.

**Mrs O'Hara:** In terms of having an actual copy, the proponents did not receive a copy.

**MR SMYTH:** So paragraph 4.49 is wrong where the auditor says that a copy of this report was provided to a consultant.

**Mrs O'Hara:** To the proponents, yes. We made it quite clear that the proponents did not receive a copy of the Hume industrial study.

**MR SMYTH:** Isn't that arguing, "We did actually get it but our consultant had it"?

**Mrs O'Hara:** I suppose—

**Mr Costello:** I don't know if he had it, but he had been involved in working on it, as I understand it.

**MR SMYTH:** No. According to this:

A key document available to assist in the identification ... of potential sites for the proposal was the Hume Industrial Planning Study, commissioned by ACTPLA. LDA provided a copy of this report to a consultant of the consortium.

**Mr Costello:** No.

**MR SMYTH:** Not true?

**Mr Costello:** We are talking about in the past he had worked on it, before he came to be our consultant.

**MR SMYTH:** According to this, and you cannot answer for the LDA—

**Mr Costello:** I am just saying it is not correct and we did point out to the Auditor-General that it is not correct.

**Mrs O'Hara:** The planner may well have had access to the study. The proponents did not. In terms of the closeness of the relationship between the proponents and government agencies—

**Mr Costello:** We weren't aware that he had—

**Mrs O'Hara:** Similarly, the other issue mentioned, I think, was a confidential

valuation that was apparently given to ActewAGL.

**MR SMYTH:** Paragraph 4.53.

**Mr Costello:** It's just not so.

**Mrs O'Hara:** Again, we were not aware that LDA or any of the other agencies had valued the land. As the CEO said, we had our own initial valuations of the land, but we were not aware that we were being told any confidential information.

**THE CHAIR:** That you were told the value. You are not disputing 4.53—

**Mr Costello:** As we understand it, at a meeting someone said, “Look, if the value of the land were to be, say—

**Mrs O'Hara:** I think it was \$5 million—

**Mr Costello:** We had it valued, to be honest, at a great deal more than that. We knew it was not a formal valuation. It was just an indicative thing. We did not take it as a formal valuation and we never saw an evaluation. I do not know if it is actually the valuation. I do not know what their valuation was.

**MR SMYTH:** When did ActewAGL or Actew first make an approach to the government about the project and how was that raised?

**Mr Mackay:** I think I wrote to the Chief Minister shortly after we had had the meeting with the LDA where they had said—they were very helpful, in fact; it was a terrific meeting—“Look, this sounds like something that would be very good and the way to move forward, to get hold of a piece of land, is for you to get the Chief Minister to give us an instruction.” So I wrote to the Chief Minister on 9 May basically saying, “We've got this terrific project in mind.” To my reasonably clear recollection, that would be the first time the Chief Minister would have known about it. He may have known through some other way—

**Mr Costello:** From us.

**Mr Mackay:** That is the first time he ever heard it from us, that's for sure.

**MR SMYTH:** When the power station was not going ahead—paragraph 2.10 states:

ActewAGL's role changed to land holder.

Was there an advantage in that for ActewAGL to be the landholder?

**Mr Mackay:** I think we were trying to keep the project alive because we had gone down this path with these partners in good faith. I guess it would have been possible for us to ditch them at that point and just say, “We're sorry about all of that.” But I think we had some sort of moral obligation and we also still believed that this was a fantastic thing for Canberra, even if we were not going to make the kind of commercial killing that we thought we were going to make earlier in the piece.

**Mr Costello:** Also, there were two commercial reasons. Firstly, we wanted to sell them the gas and, secondly, there was an arrangement that for each data pod they got in there a fee was paid to ActewAGL. That was an arrangement we reached with them as part of our supporting it. So it was commercial with two motivations—both the gas and that fee. We still had an important commercial interest.

**MR SMYTH:** That fee was because you were providing the service of facilitating the project?

**Mr Costello:** Yes, and supporting it generally. Of course they wanted us to be very eager to connect power as quickly as we could and give them priority and all the rest of it.

**Mrs O’Hara:** Again, it was the initiation of the idea and the bringing of the partners on board. That was all part of the consideration.

**Mr Costello:** They agreed to keep that provision in there, yes.

**MR SMYTH:** Paragraph 2.12 states:

The current draft of the Deed of Option allows the ownership of the land to be transferred to any ActewAGL-related partner.

What is an ActewAGL-related partner?

**Mr Costello:** Either AGL or Actew.

**MR SMYTH:** So it could have gone to TRE?

**Mr Costello:** No.

**Mrs O’Hara:** There were two nominees that it could go to. One was Actew Corporation. The second one was to any ActewAGL-related party.

**Mr Costello:** Which I suppose could have been Jemena or AGL.

**Mrs O’Hara:** Yes.

**THE CHAIR:** Thank you very much for attending, Mr Mackay, Mr Costello and Mrs O’Hara. That finishes the hearing of the public accounts committee for the day. Thank you very much for your attendance.

**Mr Mackay:** Could I thank you very much indeed for the very full hearing.

**Mr Costello:** Thank you very much.

**The committee adjourned at 10.43 am.**