



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Annual and financial reports 2008-09)

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 2 DECEMBER 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).

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Amended 21 January 2009

The committee met at 1.35 pm.

Appearances:

Gallagher, Ms Katy, Deputy Chief Minister, Treasurer, Minister for Health and
Minister for Industrial Relations

Department of Treasury

Broughton, Mr Roger, Executive Director, Investment and Economics Division
Fletcher, Mr John, Nominal Defendant, Investment and Economics Division

Totalcare Industries

McDonald, Mr Tom, Deputy Chair

ACTTAB

Kourpanidis, Mr Con, Chairman

Curtis, Mr Tony, Chief Executive

Snowden, Ms Kayelene, Executive Manager, Finance & Business Services

Rhodium Asset Solutions Ltd

Moore, Mr Ken, Acting Chief Executive

Actew Corporation

Sullivan, Mr Mark, Managing Director

THE CHAIR: I would like to formally open this hearing into annual and financial reports by the public accounts committee. We are starting off with the Nominal Defendant for the ACT, Rhodium Asset Solutions and Totalcare Industries. Welcome, Minister Gallagher, and staff members. Do you wish to make an opening statement, minister?

Ms Gallagher: No thank you, chair.

THE CHAIR: We have not got a lot of time for this. On page 28, dealing with Rhodium, you have got four staff—

Ms Gallagher: On the Nominal Defendant?

THE CHAIR: No.

Ms Gallagher: You would like Rhodium?

THE CHAIR: I was going to do Rhodium.

Ms Gallagher: Okay, we have Rhodium.

THE CHAIR: I am dealing with page 25, Rhodium. You have got four people listed as your senior management who are contracted from MAXimus. If you go over to page 28 you will see that we paid \$2.1 million. Could you just explain this a bit more? We appear to be paying half a million dollars a year to each of these staff, or is there

something I have missed?

Mr Moore: MAXimusSolutions Australia has been awarded the contract by the Rhodium board to manage the wind-down of the company. That includes the provision of the three senior executives that are outlined in the annual report, but it also includes nine other contractors working at various levels within the company. So that actually buys you 12 contractors, not three.

Ms Gallagher: Who are non-executive staff.

MR HARGREAVES: Page 26, Caroline.

THE CHAIR: Page 26 says there are nine, does it?

MR HARGREAVES: Okay, up the top. It is 13.

THE CHAIR: So 100 per cent of the staff comes from MAXimus.

Mr Moore: No, it is a mixture between MAXimus and any employed staff. There are 12 MAXimus people currently at Rhodium and we have go about 21 employed staff under the Rhodium enterprise agreement.

THE CHAIR: Minister, a while ago in the Assembly you were asked a question about executive salaries with respect to Actew. Are you going to be looking at that with respect to all the TOCs? This does seem, on the face of it, to be an awful lot of money. Can you tell us how that process is going and when you will be reporting back?

Ms Gallagher: Yes, all of the territory-owned corporations have received a letter from the Under Treasurer and are responding to that. It was written on my behalf. They will be providing me with their response to that for consideration by me around a desire by the government to have a little more transparency around executive remuneration. I think I have had responses from nearly all of them.

THE CHAIR: And will you be reporting back to the Assembly?

Ms Gallagher: Yes.

THE CHAIR: Great, thank you. Mr Smyth.

MR SMYTH: The report on page 6 says that Rhodium will be wound up by 31 March 2010. Is that still the wind-up date?

Mr Moore: There has been a delay in the expected wind-down. The reason for that is that we have made considerable progress in shedding leases. The primary business of Rhodium, of course, has been vehicle leasing of different types. Since the government announced that Rhodium was to be wound down about the middle of last year, we have come down from about 3,700 leases then to about 1,300 leases now.

That has been through a combination of the successful transfer of the ACT fleet of

passenger and light commercial vehicles to another leasing company called sgfleet and the transfer of the ActewAGL vehicle fleet to Toyota Fleet Management. It is also as a result of us not writing any new business. We stopped writing most new business late last year, but there were transitional arrangements in place for ACT public servants for their novated vehicle leases and also for ACT operating leases. We have only just stopped writing business for those recently under those transitional arrangements.

We have been trying to market the 1,300 we have left to other leasing companies since early 2009. What we put in the annual report, and indeed in the statement of corporate intent, was that we would have expected to have arranged the transfer of those leases in time for the wind-down to have been completed by 31 March.

We still have a number of companies expressing interest in those leases. It is just taking a lot longer than we anticipated back then. We are now targeting 31 July next year as the wind-down. The number of leases between then and now will bleed off as leases mature, even if we do not get rid of any of them to another leasing company. They are currently coming down by about 50 to 60 leases a month.

MR SMYTH: So it is 31 July 2010; that means that we have two more annual reports and two more annual report hearings?

Mr Moore: What we are trying to do is cease trading by the end of April—

MR SMYTH: Yes.

Mr Moore: do the completion accounts and have them available by the end of July. They have to be audited, of course. But by saying “cease trading”, hopefully the completion accounts will be the final report on Rhodium. Of course, between now and then the number of staff will continue to decrease, including the number of MAXimus contractors as we make further progress with the wind-down.

MR HARGREAVES: Mr Moore, I was just looking at the staffing stuff. I see that 29 people are in the temporary full-time capacity. Did you say that they were all contractors, some of them with MAXimus and some of them with somebody else? What was the story?

Mr Moore: No, there are 12 MAXimus contractors and we have got about 21 employed staff. We have our own enterprise agreement which we have successfully just put through the new Fair Work Act et cetera. All of those employees are on fixed-term appointments because of the wind-down.

MR HARGREAVES: What is the conclusion date for their employment?

Mr Moore: Currently, 28 February, but I will need to extend them by a couple of months because of that delay.

MR HARGREAVES: Of those people, is there anybody in there who has rights for re-entry into the ACT public service?

Mr Moore: No.

MR HARGREAVES: And they all are aware that it is going to come to a conclusion at that time?

Mr Moore: Yes.

MR HARGREAVES: Okay. Is there any suspicion at all that any number of them might have expectations other than that?

Mr Moore: No. We are trying to help them—

MR HARGREAVES: What arrangements would you have in place if, for example, somebody was to be discovered to have an unreal expectation?

Mr Moore: We have been very up-front with what is going on with the wind-down. I do at least monthly staff briefings. They are quite aware that the government has decided to wind down. Come the end of their period of employment there are no guarantees either within Rhodium or the ACT public service.

We are providing assistance to those staff to write job applications. We have made arrangements with a few other agencies for them to be considered on a merit principle. We did have a few people that did have the right of return. Those people have left and have gone into ACT public service agencies. It has been a pretty good process so far in terms of keeping them informed of what is going on. We have a joint consultative committee between management and staff representatives that meets at least monthly.

MR HARGREAVES: That was my next question; thank you for that. How often do you meet with those people?

Mr Moore: The JCC?

MR HARGREAVES: Yes, the JCC.

Mr Moore: We are so small, we probably informally meet at least—

MR HARGREAVES: As needed?

Mr Moore: As needed, but there is a formal meeting of the JCC once a month.

MR HARGREAVES: Okay, that is fine, thanks, Madam Chair.

THE CHAIR: Mr Smyth, I am just conscious that we are very tight on time.

MR SMYTH: Sure. Just one last one from me. On page 56 you deal with your provision for impaired receivables. What was the \$395,000 written off during the year?

Mr Moore: We had a major default on one of our major equipment leases. That was to recognise that the amount outstanding on that lease will not be received, so we have

written it down.

MR SMYTH: Was that by a government agency?

Mr Moore: No, the private sector.

MR SMYTH: Thank you.

THE CHAIR: Does anyone have any questions about Totalcare? I think that is all for Rhodium, because I am just conscious of the time. Thank you very much, Mr Moore. I will move on to Totalcare. I actually thought we basically asked the only question of the Treasury on Totalcare.

MR SMYTH: Page 5 talks about winding up Totalcare, with the ultimate objective by the end of the 2009-10 financial year. Is that realistic and when will it occur?

Mr McDonald: First, can I convey an apology from Jeremy Pyner, our chair, who is unable to be here today. He attended the annual general meeting a little while ago, but he suffered a very serious bicycling accident a few months ago. He is effectively a quadriplegic and, while he is able to undertake his duties as chair, it is a little bit taxing for him to come down from Sydney, where he is in rehab twice in the space of a couple of weeks. He apologises, and unfortunately I am the B team today.

We are firmly committed and on track to close the company down once and for all by the end of this financial year. In terms of our settlements, I gave you some broad numbers at our last meeting. As of today, we have achieved 149 settlements of outstanding superannuation liabilities, with a payout of \$4,137,551.75. In terms of the overall cohort of those to whom we owe funds under the superannuation problem that was discovered in an audit some time ago, we are pretty much on target. We have got a bit more than half now from where we were. We have about 100 people that we have not been able to find, even though we have got access to the electoral roll and that kind of thing. We have a strategy in place with our lawyers for advertising for those folks. We have a few others who may require settlements, but our process now is set very well and keeps accelerating. It is now just a matter of routine and we intend, to the best of our knowledge and belief, as we said in our annual report, to have this company wound up by the end of this financial year.

MR SMYTH: On page 24 there is a run-through of the situation and it says there have been 483 settlements, of which 90 have received financial settlements. What is the difference between a settlement and a financial settlement?

Mr McDonald: Settlement and financial settlement: that was, of course, 90 at the end of the financial year, Mr Smyth. It has now gone up to 149.

MR SMYTH: Yes, that is fine.

Mr McDonald: Settlement can include zero payments, where we have informed people that we have no liability and they have accepted that. I might say that the structure that we have in place for determining liability, or lack of liability, is such that the company has not received any litigation. As a matter of fact, we have not had

to pay a lick of legal fees other than to our own external counsel. Folks have been very responsive to the way that we have approached that.

MR SMYTH: Right. So, of the 483, nobody has disputed that they were not entitled to something?

Mr McDonald: No, sir.

MR SMYTH: Okay. So we started with 2,000 files?

Mr McDonald: Pardon me. There were three—you could loosely include these in the cohort, but they are sort of outside of it—who were casual or temporary employees, to whom we sent letters that said, “If you are able to show that you are in another superannuation fund, please write to us and let us know and we will include you in the settlement cohort,” because that is one of the triggers. Those three folks wrote to us and said that they were and so we immediately put them into the liability stream and paid them out. With the rest of them, no, there has been no dispute.

MR SMYTH: Okay. On page 7 it says that one of the principal activities is the ongoing identification of assets and liabilities. What progress has been made in each of those areas?

Mr McDonald: Ms Susan Lebish is a director of Totalcare and she also is the head of the superannuation project team. Subject to what she may say, as far as possible, at the time of the annual report, we believed that we had identified every asset and every liability of the company. Committee members probably do not know, but Mr Smyth would know, that I have got quite a bit of prior experience in this kind of work, in my previous life, and the key to winding a company up, of course, is identifying these things and getting them properly locked away. That has been a major focus of the board’s attention since, frankly, 2004.

I can say to the committee today, because I have indicated it to the shareholders already, that when you are doing this kind of thing, as a company gets closer to its wind-up date, there are things that can jump out of the woodwork about which you do not know. There are liabilities that can jump out of the woodwork, or there are assets that you can suddenly find. As of today, there has been only one anomaly that has come up since the annual report. It is an insurance issue and we are dealing with it. We will have it resolved, we believe, shortly and we will put the circumstances and resolution in our annual report.

These are things that you can never anticipate because when people get the knowledge that the company is closing down there are companies, entities or people who suddenly think, “Gee, I’d better do something about this because it isn’t going to be around any more.” Those are the things that you are always worried about.

MR SMYTH: Sure. Is that why on page 24 you say that the final liability may vary significantly from the estimated amount?

Mr McDonald: Yes. Mr Smyth, I can say, because Totalcare is not a TOC, that that is corporate-speak that the board is required to say under the Corporations Act. I can say

straight out that our liability estimate is holding firm at this time.

THE CHAIR: As there are no further questions, thank you very much, Mr McDonald.

Mr McDonald: I am much obliged, chair.

THE CHAIR: I do not think we have any questions for the Nominal Defendant.

MR SMYTH: Yes, I have.

THE CHAIR: I apologise, but we need to be reasonably quick.

MR SMYTH: Minister, on page 87 of the report for the Nominal Defendant, it says:

This financial report states the financial performance, change in equity and cash flows ... for the period 1 January to 30 June 2009 ...

Why is the annual report only for half a year?

Ms Gallagher: I am just trying to find where you are quoting from.

MR SMYTH: At the bottom of page 87 in the ACTIA report—paragraph (b), the reporting period. Indeed, minister, were you aware that it was only half an annual report?

Ms Gallagher: I had not got to it in this level of detail, but I am sure there is a good answer for it—and that answer is about to be given to us.

Mr Fletcher: The reason for that is that ACTIA actually took over as Nominal Defendant in January of 2009.

Ms Gallagher: That is right. I did know that answer.

MR HARGREAVES: So it was a savage corporate takeover, was it?

Mr Fletcher: It was not quite savage; it was a managed transfer of responsibilities from the previous Nominal Defendant.

MR SMYTH: All right. So where is the other half-year report? Surely, just because it shifts or somebody takes it over, that does not negate the need for a full year's accounting. Why has it been presented in this manner and where would somebody find a report for the full year, given, Treasurer—I do not know if you are aware—that the last annual report on the website is the 2007 report?

Mr Broughton: I will just explain to you how the fund works. Essentially, it is for people who are injured either by an uninsured motor vehicle or where the motor vehicle cannot be identified. The costs of any claims that come through the Nominal Defendant are met by a levy on compulsory third party insurers.

In the ACT, since the early 70s, we have only had one compulsory third party insurer,

which meant that the one insurer paid all of the costs associated with meeting the claims. At some point—I cannot tell you the exact date—in the past, it made a lot of sense, rather than levy that single insurer, which we know is NRMA, to allow NRMA to actually manage the claims themselves. That saved a round-robin of cash flow. So they managed the claims and acquitted the claims and wore the cost of doing so. Again, the timing of this I cannot be exactly sure of. This used to be managed outside of Treasury by a different agency, TAMS.

At some point in time it was decided that there ought to be at least some element of independence seen over these claims and so a Nominal Defendant was appointed. But, because the NRMA met the full costs of all the claims, there was not really much point in going through an audit process producing annual statements. That is why there was no financial statement until 31 December 2008.

MR SMYTH: I understand the Auditor-General has qualified the annual report?

Mr Broughton: That is correct.

MR SMYTH: Can you give the reasons why and what action you have taken to rectify the problems identified?

Mr Broughton: Yes, I can explain all that. It actually follows on from what I have just told you, in that, because there were no audited financial statements for the previous Nominal Defendant, we did not have audited numbers in relation to the liabilities that were transferred at the start. It was fairly late in the process that the auditor decided that that did not meet the standards, and qualified it. We have had an independent peer review of the measure of those liabilities but the auditor has not accepted that at this stage. We are in discussions and we are also prepared to undertake whatever actions are necessary to have the auditor sign off on an unqualified basis next time.

THE CHAIR: Thank you for your contribution. We will now move on to ACTTAB. Welcome. Minister, do you wish to make a statement—

Ms Gallagher: No. We will just go to questions as we are running a bit behind.

THE CHAIR: Okay. I am really aware of that. On page 5, under A.4, Outlook, it says you are trying to “secure on-going parimutuel pooling capacity”. How is that going, and what are the interim arrangements until that happens?

Mr Kourpanidis: It is an ongoing process, as it says in the report. Until 2012 everything is locked in place. Currently, we are not in formal negotiations but we are communicating with the largest operator of parimutuel betting in the country, Tabcorp, with a view to locking in a longer period than the one up to 2012.

THE CHAIR: Further down the page you talk about harm minimisation from gambling. What work are you doing in terms of that?

Mr Curtis: Which point are we referring to?

Ms Gallagher: I think it is dot point 3 under A.4.

THE CHAIR: Yes, “continue to ensure that the harmful effects of gambling are minimised”.

Mr Curtis: As you would be aware, we have certain requirements under the gambling code of practice to ensure that all of our staff are trained in harm minimisation and responding to the harmful effects of gambling when those circumstances arise. We have engaged Lifeline to provide that training to our staff. All of our staff are subjected to that training and refresher training. We also have, as part of the process, a coordinator of responsible gambling who ensures that our legal obligations are met under that. I think our response is more than our legal obligation. We devote a great deal of resources to ensuring that our products are provided responsibly and that, in circumstances where a customer encounters difficulty and makes contact with us, we ensure that they receive appropriate assistance.

THE CHAIR: I understand that people can bar themselves or be barred. I understand there are very few.

Mr Curtis: Yes. I think at the moment a total of 17 persons have elected to bar themselves—I think the term is “exclude themselves” from our services—by self-exclusion. A proportion of those have been put into effect by us, as a licensee, as a result of having discovered information in relation to those persons that would cause us to believe they have a problem and we respond to it accordingly.

THE CHAIR: Does that seem to you to be a low proportion or a high proportion of people who are excluded?

Mr Curtis: I think those that seek help are probably in a majority—probably about two to one. It is very rare for us to detect something ourselves. It is generally brought about as a result of a spouse, a partner or a child making a phone call to our coordinator seeking advice. We intervene as best we can in those circumstances and offer the appropriate advice. But until people put themselves in a position where they want assistance and recognise that they need assistance it is a difficult issue to deal with.

MR SMYTH: On page 3 you mention the product fees that have been introduced. Who are they paid to and how does that affect ACTTAB?

Mr Kourpanidis: The fees are paid to every jurisdiction from which ACTTAB shows vision and takes bets on a race from that jurisdiction. So in each of the states where we cover race meetings, use their product and take money on that product we pay that jurisdiction a fee for the use of that intellectual product. That is the term “product fee”.

MR SMYTH: Do you receive fees from interstate?

Mr Kourpanidis: To date, no. Legislation is in the process of being drafted and finalised in the next few months, I believe, to bring us into that arrangement as well, where we will be receiving—not we ACTTAB but the government—them.

THE CHAIR: So that is different legislation from the legislation that Mr Barr introduced?

Ms Gallagher: No, that is the legislation.

THE CHAIR: I thought it would be, because it was going to be introduced.

Ms Gallagher: Yes. The reason we are behind is that there were some legal challenges to the initial introduction of product fees. I think we as a group discussed our response to that and whether or not we should wait to see the outcome of that prior to introducing our own legislation. That has taken a fairly long period of time. What has happened is that ACTTAB is paying it all out and not getting anything back and it is having an impact on its operations.

MR SMYTH: So the \$2.5 million is just what is going out. What is expected to come in?

Ms Gallagher: Do you have the figure of what we are expecting through the legislation?

Mr Curtis: I understand it is probably somewhere in the order of \$1.5 million. It is significantly less than what is going out. That is simply the mathematics of us and the ACT producing less product than we are using.

Ms Gallagher: But it would go some way to compensate.

MR SMYTH: So where does it go? Does it go to consolidated revenue or does it go back into the industry?

Ms Gallagher: I think that might be a matter for the legislation. I am not sure. Do you have—

Mr Curtis: In the ACT?

Ms Gallagher: Yes, the product fee to go to ACTTAB.

Mr Curtis: No, I do not.

Mr Broughton: I can help. The way the legislation is structured is that the product fees that we collect from interstate gambling operations will go directly to the racing clubs themselves. As part of the arrangements, the Gambling and Racing Commission will initially collect the money on behalf of the racing clubs. The figure of \$1.5 million is our estimate of the amount to be collected.

MR SMYTH: There was an article in the *Canberra Times* on 24 October. The fifth paragraph states:

But a stoush looms between the racing industry and the Government, with the clubs wanting the \$1.5 million a year they expect to raise through the new laws to top up existing funding.

So there is no stoush and the clubs are getting the money?

Ms Gallagher: I think the stoush that that alludes to—I know the article but just in the context of that—was the overall budget for the racing clubs. They have asked that they be funded by the budget, not through ACTTAB, so that there is no uncertainty about how much they are going to get. We have agreed to that. Product fees will assist with that allocation, but my understanding is that the racing clubs want some additional money on top of that. That may lead to a gentle stoush. I think they are largely happy, but there are still issues around the overall sustainability of their industry that they are worried about.

MR SMYTH: The article goes on to say:

The three clubs warn that, unless their funding increases in the next 12 to 18 months, they will need to cut race meets from their calendars, reduce prizemoney for main and standard races, and shed jobs, severely hampering the industry's growth in the region.

That is slightly different from what is being said here.

Ms Gallagher: Their original submission to the government was, "Please budget fund us at the level that we are currently funded through ACTTAB." We have had subsequent representations from them saying, "We would like more in addition to that." I think that is a matter that the budget cabinet is going to have to look at. They have certainly provided some very comprehensive submissions to the government on that.

MR SMYTH: I am sure they have.

Mr Curtis: The feedback they have given us, even though we are not directly involved in funding them, is that they have had to weather the ebbs and flows of turnover fluctuations over the last couple of years, particularly with equine influenza and ACTTAB's turnover movement. When we lose VIPs there are often substantial drops. It increases when they come back, but it makes it difficult for them to budget.

Their approach to the government for an appropriation was probably a smart thing to do, but they have tended over the years to get a little bit more than they might have got in other jurisdictions. It is somewhere in the order of \$7 million that the industry get in the ACT as a result of the percentage that comes out of the ACTTAB turnover. It puts them in a far better position, I think, than a lot of other smaller regional clubs, particularly in the southern districts of New South Wales. I guess it could be seen as a bit of a try-on that they get a little bit more than they might get through an appropriation.

MR SMYTH: Perhaps this is a question for the chairman. The article opens in the second paragraph with this interesting comment:

With ACTTAB's future beyond 2012 unclear and its betting turnover stagnant in recent years ...

They have fears about being no longer able to depend on ACTTAB. What is the long-term future of ACTTAB? I know that in the first paragraph on page 3 you talk about significant challenges to its own survival.

Mr Kourpanidis: From a pooling perspective, we are very confident that in some shape or form we will have a large pool into which we will place our funds long term, going forward. The parimutuel pool might be an issue down the track. It is 2012 at the moment for particular reasons that we can go into and explain. They are things beyond our control that have to do with time lines that exist for the major players in the pool. From discussions with the significant players, we are very confident that there will be a home for ACTTAB in a significant pool past 2012.

THE CHAIR: I have another question relating to page 3. The second paragraph states:

Both agreements have received interim authorisation from the Australian Competition and Consumer Commission (ACCC) and a decision in respect of final authorisation is expected shortly.

Can you tell us what happened?

Mr Curtis: Both of those agreements have received final authorisation from the ACCC. Essentially, the reason for them going to the ACCC was that—you might recall that it was about this time last year—there was a threat to terminate our pooling agreement by Tabcorp. The reasoning behind that was that they believed the agreements may have been in breach of the Trade Practices Act, in that there may have been price fixing, collusion or some other action occurring that may have constituted a breach of the legislation.

A new agreement was struck. The agreement was financially better for ACTTAB. As a matter of course, and based on the legal advice that Tabcorp had, it was appropriate that the matter be referred to the ACCC. We did the same with our agreement with Centrebet in relation to sports betting. We are pleased to say that both of those agreements received authorisation from the ACCC. So it is business as usual.

THE CHAIR: So the arrangement is working well. Was there any loss of income during the transition period?

Mr Curtis: No. The only fluctuation in revenues has been as a result of VIP customers moving from the parimutuel pool to other pools. Overall, our revenues have grown and we are at a record level for the financial year. Unfortunately, we have not been able to contain the expenses that we have no control over. They are those that have been legislated for in other jurisdictions in terms of product fees and our requirement to pay those.

MR SMYTH: On page 40 under “Turnover by meeting code”, I notice that greyhound racing has dropped by 7.9 per cent. Is there a reason for that?

Mr Curtis: That is as a result of a VIP customer that solely bet on greyhounds having moved to another jurisdiction.

MR SMYTH: It is one customer?

Mr Curtis: One customer.

Ms Gallagher: We are in the wrong occupation obviously!

MR SMYTH: We may well be. Are there plans in place to get that customer back? We are going to drive around and pick him up every day personally?

Mr Curtis: We are working very hard! The unfortunate thing with a lot of these professionals whose bets are of that magnitude is that they are betting into all the parimutuel pools in Australia. They are putting proportions of their investments into all of those pools. It is a case of where they can negotiate the best deal and the best rebate. That is what goes on.

MR SMYTH: A couple of pages further on under “Turnover share by location”, it says:

Total on-course turnover for the three codes decreased by 0.9% ...

Does that mean it has dropped as a total from three per cent to two per cent?

Mr Curtis: That is correct.

MR SMYTH: Is there a reason for that? Do you have to reverse that trend? Is there anything you can do?

Mr Curtis: I think it is important that something is done about on-course turnover. We partner principally with Thoroughbred Park in sponsoring events there and entering into joint marketing arrangements. Unfortunately, the arrangement where they have to race other than on a weekend—so the majority of their race meetings are conducted on a Friday—means that they are not able to attract customers to the course because most people are working at that time. I think the answer may well be in their being able to negotiate with the principal racing bodies to conduct, for example, morning meetings of a weekend or night meetings under lights in the summer. There are various things that could be done.

To their credit, the other two codes, greyhounds and harness racing—although the investments that are put in or their contributions to our turnover are small—are innovative in striking deals. The greyhounds, realising the turnover was falling, are now conducting a larger number of meetings and even non-TAB meetings outside the ACT. It means that ACTTAB is the only operator providing a service on those meetings.

MR SMYTH: Referring to page 23, why has the cash on hand dipped by more than \$2 million?

Ms Snowden: We went through a refurbishment program and the completion of a refurbishment program through 2008-09. That program is now complete, but we

funded that out of our reserves. We have also put funding into our new betting system, which you can see is an asset under construction in the intangibles. We have started funding that as well.

MR SMYTH: So the expectation would be that cash on hand would build up?

Ms Snowden: We are funding all of that through our cash reserves.

THE CHAIR: Referring to page 40, your Keno turnover is up. Do you see that being an issue in terms of problem gambling? That is your internet gambling, isn't it? You have no contact with those people.

Mr Curtis: I think the issue with Keno is that it is the size of the jackpot that is available which makes it attractive. When it goes over \$1.5 million and approaches \$2 million it becomes more attractive and we see an influx of people wanting to play Keno. Over the last couple of months it has actually dipped. That is probably as a result of the jackpot having gone off.

THE CHAIR: Yes, because the report states:

Turnover via the internet increased by 31% ...

As there are no further questions, particularly bearing in mind the time, thank you very much for your attendance.

Meeting adjourned from to 2.20 to 2.32 pm.

THE CHAIR: Good afternoon and welcome again to Minister Gallagher and welcome Mr Sullivan and the other people from Actew. I now formally declare open this public hearing into the annual report of Actew Corporation. Minister, do you have an opening statement?

Ms Gallagher: No.

THE CHAIR: In that case I will start off with questions. My first question relates to your premises. You are about to move out of electricity house. What is going to happen to it?

Mr Sullivan: ActewAGL House was owned by ActewAGL. They have sold it. I understand the purchaser was the Molonglo Group. It is their building now.

THE CHAIR: I just realised that I forgot to draw your attention to the privilege statement.

Mr Sullivan: I have read the privilege statement and understand it.

THE CHAIR: I appreciate that everyone here has read it. Just for the record, I point it out.

MR SMYTH: Page 50 of the financial statements of the Actew Corporation Ltd

annual report lists key management personnel remuneration as \$1.5 million. It lists the key management personnel as the chair, the managing director and the non-executive directors, of which there are five. Is it possible to get a breakdown of what is paid to each individual?

Mr Sullivan: We report in our financial statements under the reporting guidelines and that is what you have there. The Treasury has written to me with a view to seeking avenues to expand our disclosure in respect of remuneration. I have responded to the Treasury saying that we would welcome a discussion as to how to do that and how they would like to do it. But that is as we are required to report and that is what we report.

MR SMYTH: All right. If my maths are even vaguely reasonable, PAC was given some details when we were doing some appointments of what the board receives. It comes to about \$160,000 per annum. That would leave something close to \$1.2 million for the final position, which is the managing director.

Mr Sullivan: I think you read it wrong. Part (a) lists the directors of Actew.

MR SMYTH: Yes.

Mr Sullivan: Part (b) relates to the key management personnel remuneration. The remuneration amounts include payments to Actew directors and executives responsible for strategic direction of the company. So it includes several directors. I wish it was true what you were trying to conclude there because—

MR SMYTH: I was just going to say, at \$1.2 million, I would love your job.

Mr Sullivan: It would be extraordinarily attractive. But I can assure you that that is not the case. If you look at our annual report, I think we list the key officers of the corporation. There are about four of them.

MR SMYTH: So there are about four of them.

Mr Sullivan: Yes.

MR SMYTH: All right. So you are discussing with the Treasury how more information on that might be made available.

Mr Sullivan: The Treasury, I think, have written to us and have given a clear indication. We know there is interest in disclosure. We have reported back saying that this is how we are required to disclose and our issues with broader disclosure. We will work through with the Treasury on how to do that.

MR SMYTH: All right, thank you.

THE CHAIR: Mr Hargreaves.

MR RATTENBURY: I wanted to ask about Actew's community engagement program on page 17 of the annual report, particularly the advertising component of

that. Perhaps you could just point out, because I have not been able to find it myself, what was Actew's total advertising budget for the financial year reported on.

Ms Gallagher: I am sure we have that for you, Mr Rattenbury.

Mr Sullivan: With respect to our overall budget on advertising, we spent \$256,800 in 2008-09 on demand management communications. These are around water restrictions, saving water campaigns, save water for life. In 2008-09 we spent \$366,910 on the securing water for life campaign, which is basically around the water security projects. In 2009-10 our budget on advertising in respect of demand management will be \$330,000. That is up from \$256,000. Our budget on securing water for life will be \$300,000, down from \$366,000.

MRS DUNNE: Does that include the ads that appeared in the paper that say that while you have been saving water, we have been preparing to build a dam?

Mr Sullivan: That would be in the 2009-10 budget because they have all appeared in the 2009-10 year; so I gave you two answers for 2008-09 and 2009-10. They would be included in the 2009-10 budget.

MRS DUNNE: Okay; so they are the big glossies that have been appearing in the *City News* and the *Canberra Times*?

Mr Sullivan: Yes.

MRS DUNNE: What does that campaign cost?

Mr Sullivan: I would have to get that. It is within that budget. I will have to get you the detail of that.

Ms Gallagher: I think I answered in the Assembly, actually.

MR SMYTH: I know it is around \$300,000.

Ms Gallagher: We can get that for you.

MR RATTENBURY: Do you have any measurement of what outcomes or changes in behaviour these campaigns achieved?

Mr Sullivan: We know that demand management strategies have been generally successfully in Canberra and that we have achieved significant outcomes in respect of demand management. We know that there is an awareness of how we are approaching the issue of water security and what its key components are. We know that there is a desire to understand when we are actually going to start. There is still some confusion about whether we have started and when we are going to start building things.

You will notice that the current set of advertisements is basically to attempt this tie-in between demand management and supply management. The idea, if you have seen both of the ads, is that it starts with the kid in the bathroom and has then the kid as a construction person on the dam. Then the save 10 campaign, which is the basis of the

demand management communication advertisements, links again the child to the ad. We are attempting to get the picture across that we must address water from both a supply side and a demand side. Our work says that we are achieving that. In terms of any communication of messages, the only outcome you can see is whether people get the message, and they get the message.

MR RATTENBURY: Do you have any empirical measurement of that getting the message?

Mr Sullivan: Yes, we do.

MR RATTENBURY: Is that something you are prepared to share with the committee?

THE CHAIR: Will you share it with us?

Mr Sullivan: I have always been willing to share it in a broad form, in terms of what messages people in Canberra are understanding and getting and how it is moving. I am happy to do that and we will provide it on notice.

MR RATTENBURY: Thank you. That would be interesting.

MR SMYTH: I refer to page 8 of the annual report. I just make the general comment that the report is numbered in a very odd way. It might be good to start at one and finish at whatever the final page is. It seems to recalibrate several times. You list a number of projects including the enlarged Cotter Dam. None of them has a cost against them. Given that it is the annual report, why wouldn't any of these have a cost against them?

Mr Sullivan: I think at the time of writing the year in review and at the year in review we did not have a total out-turn cost for the enlarged Cotter Dam. I think what the year in review was about is far more a description of what we are doing about water security, which is what we are building. The financial side of all of our work is included fully in the financial statements.

MR SMYTH: All right. You mentioned the Cotter Dam. So what is the final target turnout cost for Cotter Dam? Is it the \$262 million as stated by Abigroup? Is it \$299 million as stated by you, or is it the \$310 million as stated in the—

Mr Sullivan: If you were present at the briefing you would have, before people started again alleging that we had confusing numbers—

MR SMYTH: Excuse me.

Mr Sullivan: I just said—you had good reason not to be there.

MR SMYTH: The committee do not attend briefings normally, although they will ask for their own briefings. I am not even sure what briefing you are talking about.

Mr Sullivan: I am surprised you are not aware of the briefing I am talking about,

Mr Smyth—

MR SMYTH: I am just simply—

Mr Sullivan: I mean, that really is amazing, if you are not aware that we brief the Liberal Party—

THE CHAIR: Mr Sullivan, this is a reasonable question from the committee.

Mr Sullivan: The total out-turn cost—

MR SMYTH: Excuse me. My name is—

Mr Sullivan: is \$299 million.

MR SMYTH: No, sorry, my name is pronounced “Smith”.

Mr Sullivan: Sorry. My apologies.

MR SMYTH: I know that you have briefed a number of groupings; so not just the Liberal Party who I know had a briefing. You did not specifically say which briefing.

Mr Sullivan: \$299 million is the total out-turn cost of the dam, \$363 million is the total project cost of the dam.

MRS DUNNE: How did the Abigroup come up with a number which was 266?

Mr Sullivan: You would have to ask the Abigroup that.

MRS DUNNE: They are one of your partners.

Mr Sullivan: Yes, but the Abigroup is the Abigroup. You cannot ask me to go and ask the Abigroup everything that the Abigroup says. I have an understanding of what the Abigroup believe their 263 is, and that is the direct construction costs of the dam, which is a sub-element of the total out-turn costs of the dam. It is quite consistent. It is not a different number.

MRS DUNNE: Could you go through those figures then—the direct construction cost of the dam at \$260-odd million, the total out-turn costs and then there is beyond the total out-turn costs, there is the total project cost—

Mr Sullivan: Yes.

MRS DUNNE: which takes us from 290 to 363. Could you outline for the committee, who have not been briefed, the differences in those components—what make up those components.

Mr Sullivan: I will do it roughly, and if you want more I will take it on notice, because I get misquoted too often if I say anything without precision: 263 is the direct construction costs of the dam as determined within the total out-turn cost.

\$299 million is the total out-turn cost of the dam, including those elements of indirect costs which are included in the total out-turn cost.

MRS DUNNE: Which are?

Mr Sullivan: No, I will just go—I will answer the question and you can ask more and you will probably get them on notice. \$363 million is the total project cost, which includes the total out-turn costs of \$299 million, includes expenditure undertaken to the time of the TOC, which is the pre-TOC cost of the dam, and includes the owner's costs of the dam. And that adds up to \$363 million.

MRS DUNNE: Could you just repeat that last bit?

Mr Sullivan: Yes. The total project cost of \$363 million is \$299 million, which is the total out-turn cost, plus expenditure up to the delivery of the TOC, plus the owner's costs to be incurred in the delivery of the dam project, and that results in the total project cost.

MRS DUNNE: And what are the owner's costs?

Mr Sullivan: The biggest element of the owner's costs, as you are aware, is energy costs.

MR HARGREAVES: I have got a non-dam question.

THE CHAIR: No, Mr Hargreaves. I think there are going to be a few more on the dam.

MR HARGREAVES: What I wanted clarification of was that this discussion with Mr Sullivan would not only be about the dam. I am happy to wait until this discussion has concluded, but I do not want to find that every moment of this committee's time is going to be taken up with discussion on the dam. If it is, I have got other things to do.

MR SESELJA: In that case, chair—

MR HARGREAVES: Mr Seselja, you are not a member of the committee.

MR SESELJA: I am asking the chair a question. In that case, chair, will more time be made available for drilling down on the dam? Obviously, it has been the expectation of members that annual reports hearings would be used to have significant time to ask questions about the dam.

THE CHAIR: Okay, there are two points here. As far as asking questions goes, I will attempt to give an even allocation to the parties, and if Mr Hargreaves has questions which do not relate to the dam then obviously he can ask them. In terms of what Mr Seselja was talking about, I think it is very likely that the committee will ask for a further hearing on this matter, but the committee has not actually formally met to make that decision. So it is likely, but the committee would have to consider it. Maybe we should continue on with questions.

MR HARGREAVES: What time are we intending to conclude?

THE CHAIR: Four o'clock, and I think it is likely that the Cotter will be the major topic.

MR HARGREAVES: It may very well be the major topic, but look at this annual report. That is not the only thing it is about, the dam. If members are so fixated on the dam that we are going to see a phalanx of people coming and asking questions, it is a farce, and I would suggest to you that, if people want to ask questions about the dam, now is a good time to do it, but also on notice is a good time to do it, and we will not be limited and absolutely myopic to one particular subject. I am happy to wait and see how it goes, but let me tell you that, if at half past three we are still on it, you can do it without me.

THE CHAIR: Okay. Thank you for your contribution, Mr Hargreaves. I have got confused as to which questioner we were up to. Mrs Dunne on costs, I think?

MRS DUNNE: Yes. Could I just go back, Mr Sullivan, to the costs of the dam. In the document that was presented to the Assembly on 17 September you indicate that the Actew board papers of 1 July indicated that the preliminary TOC estimate for the construction of the dam was significantly over expectations and the Bulk Water Alliance is now challenging in its design and costs to bring the total cost of the project within \$300 million. Eleven days later, the *Canberra Times* announced that the DA had gone out to public consultation and it was a \$200 million dam expansion. Minister, when did you know that the cost of the dam was going to look like being more than \$300 million?

Ms Gallagher: I think I have answered this a number of times in the Assembly, but the government was advised, I think in July, or the shareholders were advised in July, by Mr Sullivan to the Chief Minister and my office, that the cost of the dam had increased considerably. I do not think I was given a figure then. I was informed that they were undertaking some analysis of their costings to ensure that the work that had been done was a reasonable price for a project of this size and that they would advise the shareholders once that work was finalised. That work, I think, went to the Actew board in August, and the shareholders were advised in August of that.

MRS DUNNE: Did you read the minutes of 1 July that said that they were—

Ms Gallagher: I always read the minutes of the board meetings.

MRS DUNNE: So you knew roughly then that it was going to be hard for it to be less than \$300 million?

Ms Gallagher: I would have to go back and have a look at what the minutes said, but I read all the correspondence I get from Mr Sullivan and from the board. And I was certainly aware that costs were increasing on the dam. As to your question about when was I aware that it was over \$300 million, my answer to that remains that it was in August when the government was given final costings.

MRS DUNNE: Could you confirm to the committee that the words that were used in

Mr Sullivan's letter of 17 September, which I have just read out, reasonably reflect what is in the minutes?

Ms Gallagher: I can certainly review the minutes.

MRS DUNNE: Thank you.

Ms Gallagher: So your question is about the July minutes of the board meeting and the letter of Mr Sullivan to the Assembly.

MRS DUNNE: Page 12 of Mr Sullivan's letter to the Assembly.

Ms Gallagher: I have no reason to believe that they would be anything other than—

MRS DUNNE: Could I also ask: if by 1 July you knew that the cost was going to be hard pressed to come in under \$300 million, why when the news article—

Ms Gallagher: I did not say that. I did not say that I was aware it was hard pressed to come under \$300 million.

MRS DUNNE: Why the article that was written in the *Canberra Times* in relation to the DA, cost of the dam, used the figure of \$200 million?

Mr Sullivan: I can confirm that the DA did not use that number.

MRS DUNNE: No. I did not say the DA did; I said the article about the DA used the figure of \$200 million.

Ms Gallagher: I cannot speak on behalf of—

Mr Sullivan: It seemed to suggest the development application was about a \$200 million dam. And the development application had no number on it.

MRS DUNNE: Was the figure of \$200 million that appeared in the article supplied by Actew or the government, minister?

Mr Sullivan: It would never have been supplied by Actew.

Ms Gallagher: Not from my understanding, Mrs Dunne.

MRS DUNNE: Can you confirm that and get back—

Ms Gallagher: My office certainly would not have provided—

Mr Sullivan: Who was the journalist?

MRS DUNNE: Mr Violante.

THE CHAIR: Mr Rattenbury?

MR RATTENBURY: Do you want to keep going on that?

MRS DUNNE: No, not at this stage.

THE CHAIR: Sorry. I thought you had finished that one.

MRS DUNNE: No. I have finished the point.

MR RATTENBURY: I actually want to ask a non-dam question.

MR HARGREAVES: Are we over the dam yet?

MR RATTENBURY: I am sure we are not, Mr Hargreaves. On page 24 there is some reference to ActewAGL and I just want to ask a question that perhaps you can answer in that context. It talks about Greenchoice and the growth in Greenchoice numbers. What certification is required for the products sold under Greenchoice, if you are able to tell us about that?

Mr Sullivan: I really cannot. I would want some certainty about that. It is an ActewAGL issue and requirement. I am more than happy to ask Michael Costello if he would be happy to provide an explanation which I could pass on as part of this.

MR RATTENBURY: That would be helpful. A further question would be: what kind of wood wastes are eligible under the scheme if you are looking at the certification requirements?

Mr Sullivan: Yes.

MR RATTENBURY: Thank you. I have one further question then on the Murrumbidgee River. At the top of page 14 of the annual report it talks about the monitoring of the Murrumbidgee River. Who is undertaking the monitoring of the Murrumbidgee River below Tantangara to Burrinjuck?

Mr Sullivan: We are using Ecowise Environmental to undertake the monitoring of the Murrumbidgee River below Tantangara.

MR RATTENBURY: And they are about to be sold?

Mr Sullivan: They are sold, but they still deliver the full range of services to Actew and ActewAGL and they continue to monitor the river for us.

MR RATTENBURY: What aspects of the river are they considering as part of that brief?

Mr Sullivan: Again, to be sure, I will take that on notice. It is an extensive monitoring of the river but I will get you an explanation of just what they are doing.

MR RATTENBURY: Thank you. That would be helpful. And are those results of that monitoring publicly available or is that an internal document?

Mr Sullivan: The monitoring is generally for us as a client. It is for us to understand issues. Under the new Bureau of Meteorology reporting arrangements on water and rivers in Australia, we would expect that is the sort of material that we would release across the country and I think more of it will become public. I do not see any reason why, if you are interested in particular elements of that river quality data, we could not provide it for you. When I give the briefing as to what we are monitoring, maybe you can indicate whether you are interested in any particular element of it.

MR SESELJA: This is back to the dam now. When did Actew first become aware that the volume required of roller-compacted concrete would increase from 260,000 cubic metres to around 380,000?

Mr Sullivan: The most formal time we became aware of the quantity assessment of roller-compacted concrete is probably in delivery of the total out-turn cost because that is the finalisation by the alliance leadership group that that is the design, that is the volume of concrete required.

MR SESELJA: What does that mean: “the most formal time”?

Mr Sullivan: Clearly, again, as we knew there were issues in terms of the scope of the dam requiring further excavation and therefore concrete, we were aware of a growing need for concrete. So, yes, at some point we knew it was going to be more than 260 but at the TOC is when we finalised and had accepted by the alliance leadership group that that was the volume of concrete required.

MR SESELJA: So what was the process for getting there—this would have obviously been more detailed in the surveys—that would have led you to need significantly more concrete?

Mr Sullivan: To deliver the total out-turn cost, you need a 30 per cent design standing. Once the 30 per cent design standing was present, it does not stop; it continues on from there. That then forms the basis of developing the total out-turn cost.

MR SESELJA: So when was the 30 per cent reached?

Mr Sullivan: The 30 per cent design was probably reached in about April.

MR SESELJA: April 2009. So the awareness of the changes then: you are saying that that translated to the cost estimates with the total out-turn costs?

Mr Sullivan: Everything in the end is—I will use the wrong word here—speculative until the TOC is determined. That is where you get significant movement as in the process of the TOC we create things like design challenge teams to see whether or not we can do it better or whether we can do it another way. But it is formalised when the TOC is agreed and approved by the alliance leadership group.

MR SESELJA: So when did Actew then become aware that significantly more concrete would be required, without knowing that it would be finalised at 380,000 cubic metres?

Mr Sullivan: I would say in around April.

MR SESELJA: And these matters, that the scope was well out? You say that you knew in April that the scope was well out in terms of the amount of concrete?

Mr Sullivan: No, that is not the question you asked me: does that mean the scope is well out? I answered the question that that is when we knew there would be more concrete required.

MR SESELJA: “Significantly more”, I said.

Mr Sullivan: We did not know the scale. You said: when did you know that you needed more? April.

MR SESELJA: I said “significantly more”.

Mr Sullivan: When we got to the final, that is when the TOC is determined. You then shifted to: therefore that is when you knew the scope of the dam was changing significantly? And that is quite a different question.

MR SESELJA: Well, did you not know when you needed much more concrete that the scope of the dam was changing?

Mr Sullivan: That is a different term again. You have dropped the “significantly”. Yes, we knew the scope of the dam was changing.

MR SESELJA: Okay, and the scope of the dam was not changing significantly even though the amount of concrete needed was?

Mr Sullivan: At that stage, in April, we knew there was more concrete required. Was it a significant change at that stage? I cannot tell whether I knew it was significant at that stage. Things were changing.

MR SESELJA: That was my original question. My original question did use the word “significantly”.

Mr Sullivan: No, you used the word “concrete”. You asked about concrete.

MR SESELJA: Yes, a significant amount—increased concrete.

Mr Sullivan: Yes, and I said when we decided we needed significantly more concrete it was at the total out-turn cost.

MR SESELJA: But you knew—I asked you before that, going back.

Mr Sullivan: “When did you know that you needed more concrete?” We started knowing in April.

MR HARGREAVES: I’m getting dizzy, Madam Chair.

MRS DUNNE: Could I intervene here, Madam Chair?

THE CHAIR: Mrs Dunne.

MRS DUNNE: Did you know when TOC 1 came out that you needed significantly more concrete?

Mr Sullivan: I do not know what you mean by TOC 1, Mrs Dunne.

MRS DUNNE: Are we going to play silly buggers all afternoon? We have had a discussion. There is a figure that came out that has been colloquially called TOC 1. The minister said the other day that she would take it on notice and provide the answer. She has not done it. That was when you, I understand, commissioned the Deloitte's report, worked through the figures and came up with the figure of 299, which has been colloquially known as TOC 2. When you got the first total out-turn cost—whether you want to call it TOC 1 or whether you want to call it Francis I do not care—did you know then that you needed significantly more concrete?

Mr Sullivan: No. What we knew then was that we needed to challenge many of the assumptions that had gone into the preliminary TOC work, including whether we needed more concrete. You may call this pedantic, but I am being very careful because, boy, I get sick of what I say being recited another way.

MR SESELJA: Do you have examples of that?

Mr Sullivan: I will give you a very good example. I have been quoted by you as saying in May the dam would cost \$186 million. In a private meeting with you, because we are not allowed to talk about the briefing, I asked you had you sourced that. I said, "Can you quote it to me?" You said, "No, I haven't got it." You came out two days afterwards and quoted me again as saying in May \$186 million. So I got the quote, and I did not say it.

MR SESELJA: I am sorry; which of my quotes have you actually challenged? I am not clear on which.

Mr Sullivan: In several of your quotes, which I am happy to deliver to you, you have said that Mark Sullivan in May said the dam would cost \$186 million; I said it on 18 May actually. You have said it several times. In our briefing I asked you to quote when I said it and you said, "No, I haven't got it with me." Two days later you quoted it again and said, "He said \$186 million in May." I thought I should check what I said because maybe you were right and maybe you were wrong. I do not think I am allowed to quote it—depending on what the *Hansard* says—but I never said it. What I quoted was the fact that the ICRC report had accepted there could be a 30 per cent variation in the cost.

MR SESELJA: Which would take it to what?

Mr Sullivan: Which would take it to 186, but I quoted what a report dated at a certain time said.

MR SESELJA: But that was what you were working on at the time.

Mr Sullivan: No.

Ms Gallagher: I think the point, Mr Sullivan—

Mr Sullivan: The point is I am being careful. This preliminary process in the TOC was certainly enough for us to say we needed to seriously challenge some of the design, construction and quantity assessments that were included in that preliminary process. Until those challenges were over I could not say I had a figure in my head of how much and how significant the increase in concrete was. For instance, as a result of those design challenge teams—and the Deloitte's report shows this—the excavation depths were reduced compared to the excavation depths that were in the preliminary discussion of the TOC.

Arup, in the annexure to the Deloitte's report, commented that at the point they were involved—which was July-August—they felt that the excavation depths were perhaps too conservative. I say "conservative". "They thought you may have been digging further than you needed to." Again in that report they note that, as a result of some of the design challenge work conducted by the alliance, some excavation limits—which in their view was good engineering—had been agreed to which actually reduced that.

That is an example of what I mean when I said "not until we had gone through the process". This is why, when I spoke to the board, the Chief Minister's office and the Treasurer's office, I gave no figure on what I felt the dam would cost at that time. What the Treasurer said in respect of being told that it was going to increase significantly is true. I could not give a figure because I did not know a figure. I did not have a figure in my mind that I felt you could hold to account in respect of the estimate of the cost at that time until the total out-turn cost was finalised.

When the total out-turn cost was finalised, along with the results of most of the design challenge work and the construction challenge work that we had undertaken, it left very few elements which we regarded as open risk in respect of the dam. That is when I knew there was a significant increase in concrete and a known and accountable term for the price of the dam.

MR SESELJA: How often were you briefing Minister Corbell during the time of the increases?

Mr Sullivan: Minister Corbell was being briefed on the policy issues of water security supply. It was a different briefing to what the shareholders were getting. Minister Corbell has and had a deep interest in the delivery of water security measures to Canberra—how we were going, how we were proceeding about it and how it fitted in with the policy directions that he and his department were taking. He was being briefed regularly. Officers of his department were talking to Actew on a very regular basis in respect of the policy elements of the water security projects, but not in respect of the issues that would have been of concern to the shareholder ministers.

Ms Gallagher: I think once the final cost was provided to the shareholders the

shareholders requested that Actew brief the entire cabinet. This is a major project and there are interests outside of the shareholders who need information. That was provided, I think, within three days of the shareholders being advised.

MR SESELJA: Just on that distinction between what the minister would be interested in and what the shareholders were interested in, the minister has informed us that he is the responsible minister. Are you saying he had no interest in the costs of the dam and the ongoing arrangements?

Ms Gallagher: No. I do not think anyone has said that.

MR SESELJA: Maybe Mr Sullivan can clarify what he means—what was the nature of those briefings and how many briefings there were for Minister Corbell from Actew?

Ms Gallagher: That is probably a question that should be directed to Minister Corbell—

MR SESELJA: I can ask Mr Sullivan. I have asked him.

Ms Gallagher: on behalf of his department, DECCEW. Under the administration of it he has responsibility for water security and policy. That is his responsibility and his department briefs him on that. It works with Actew. Had there not been a little, I guess, lack of coordination today, Minister Corbell would have been here and would have been able to answer that question.

MR SESELJA: Is Mr Sullivan able to tell us, on notice, the nature of those detailed briefings and how many there were effectively?

Mr Sullivan: I do not think I could go to that detail—not because I do not want to but because, as I say, they were regular, particularly with his department. His department talks to us continuously about water security as well as other water policy matters. That would be on a weekly basis. Minister Corbell and I have regular meetings to review issues around water security policy and I have them with his office. I do not know if I can give you categorically the number of briefings and their nature or—

MR SESELJA: I am not asking you to remember now.

Mr Sullivan: I think as well as I can.

MR CHAIR: Mr Seselja, we might move on to another area.

MR SESELJA: I am sorry; is that answer going to be taken on notice or are we not going to get that answer?

THE CHAIR: Yes. He said he would take it on notice.

Mr Sullivan: If I can give an improved answer on that, I will, but I suspect I will not be able to improve my answer.

THE CHAIR: I just want to make sure that everyone has a chance to ask questions. Mr Hargreaves, you gave the impression that you have a question now?

MR HARGREAVES: Yes, I do. Thank you, Madam Chair. There is a certain degree of curiosity, minister and Mr Sullivan, around Actew China Pty Ltd. I am not familiar with some of the terminology in here, but before I go on I have to congratulate you on a couple of sentences on page 22 of the financial statements. Minister, you might like to have a read of this. I thought the Department of Disability, Housing and Community Services were good at bureauspeak, but they are not as good as ActewAGL. That bit around the work on the interest rate swap I think should be framed and put in every public service office. It is an absolute piece of poetry. But going back to my curiosity—

MR SMYTH: I will get you a copy of *Economics for Dummies*.

MR HARGREAVES: You would have a copy of that, but I would not. That speaks volumes, doesn't it? Mr Sullivan, on page 15 of the financial statement segment—and I echo Mr Smyth's concerns; it is really hard to get through this stuff without getting dizzy—it refers to the Actew China loan forgiven. When I first read that I thought, “Yes, we're going to take over China; that's good.” But I did not realise, of course, that it would probably reflect to Actew China Pty Ltd, which I found later on in the thing. Can you let us know a little bit about the loan that was about to be forgiven? It is probably linked because page 54 of the financial statements talks about investments in controlled entities. It talks about Actew China Pty Ltd shares and a cost investment there of 300,000. I know it is not a lot of money given the cost of dams and things, but it also says, “Provision for diminution of investment”, which is 300,000. Can you tell me how we come to be putting something in there as a positive figure and then taking out exactly the same thing at the same time? I could not find an explanation for that, and I would be grateful for one.

Mr Sullivan: I will get Simon Wallace from our finance group to give a better answer, but Actew China was a subsidiary that we created several years ago to involve ourselves in work in China. We were in a number of relationships with entities in China. We did some work and we earned some revenue. It became inactive—it has been inactive for a number of years—and then we deregistered it. This is basically the accounting clean-up of that, which is to take in and out of our books the value of the investment, to write off the loan. There was no real money involved. We had not been active in that company. We felt it was good to delist it, and we have gone through the process with ASIC to delist it.

MR HARGREAVES: So I do not need additional officers just to confirm with you that my understanding is that on that page 54 you have taken into account the \$300,000. This is an accounting treatment just to clear—

Mr Sullivan: Yes. It is an accounting treatment that basically reflected the delisting of the company.

MR HARGREAVES: I do not need that book now, thanks, Mr Smyth!

MR RATTENBURY: On page 14 of your annual report under the heading “Salt

reduction strategy”, it says that during 2008 the discharge from lower Molonglo exceeded ACT authorisation limits. Was Actew penalised for that?

Mr Sullivan: Actew has not been penalised in a financial way for that to date. That is partly because the environmental protection agency recognised that we have outlined to the environmental protection agency what we are doing to attempt to control the total dissolved solids in our effluent. It is not the total level of those total dissolved solids. In fact, the total level of our panels of solids has gone down, but the percentage level has gone up. That is where we breach our licence. I think the environmental protection agency has acknowledged the work that is being coordinated by the Chief Minister’s department in respect of demand management to attempt to reduce the levels of salt particularly into our waste water.

As to the ActewAGL water division’s review of its operating procedures at lower Molonglo, where you use a fair amount of salt in terms of your processing, and our looking at a range of possible strategies if the demand management strategy does not answer the problem—I should not speak for them, but my understanding of their position on this at the moment is: “We are satisfied with what you are doing.” It is not a significant breach. It is basically a recognition that we hover around the requirement—slightly under, slightly over. “We want you to continue to report to us in respect of where your strategy development is going and what options you are pursuing, and we will continue to monitor.” It would be open to them to penalise us.

MR RATTENBURY: Do you expect to be in compliance this year?

Mr Sullivan: I would expect compliance would be difficult this year.

MR RATTENBURY: When do you expect to come back into compliance?

Mr Sullivan: If my flow returned I would come back into compliance very quickly. Demand management will take a little while. We have had some encouragement in respect of demand management. In fact, the largest source of salts from consumers is actually washing detergents, and the move to more concentrated forms of washing detergents is a good one in respect of salts. The water industry could not convince the detergent makers to move to concentrates but the supermarket industry could move them to smaller boxes, taking up less shelf space.

We do not see at this stage a lot of hope in respect of the input of salt into the waste water process in terms of possible reductions. If your demand management side fails, it leaves solutions for which options have included increasing flow, finding a way to increase flow to basically dilute the waste water. We do not think it is a very good and effective policy, but it is possible. The other is for the mechanical removal of salt from the effluent, which would require very expensive plant to physically remove the salt from the waste water.

MR RATTENBURY: So I am correct in hearing you basically say that unless it starts to rain again you will continue to be out of compliance?

Mr Sullivan: We will be marginal around compliance. I think we are in compliance more than we are out of compliance. But the chances of incidences of us being outside

compliance remain high. As I say, it is not a significant breach, and it is not—I will use the wrong word again but I will use the word—a dangerous breach. Certainly, we are absolutely fully engaged with the EPA in terms of how we can address it. It is quite a similar thing probably to our incinerator chimney emissions, where we are quite often outside the compliance again.

MR RATTENBURY: You know how to give us a warm inner glow, don't you, Mr Sullivan?

Mr Sullivan: Incinerators do that!

THE CHAIR: Can I just confirm, from what you are saying, that you do not actually remove or manage the salts actively; it is just a matter of how much water there is and what Canberrans put down the drains, and it ends up with this result?

Mr Sullivan: We very actively manage solids in the process, in terms of the outflow of effluent. What is difficult for us to control in outflow of effluent is the salt levels.

THE CHAIR: But you do not extract those?

Mr Sullivan: We do not have a salt extraction process.

MR RATTENBURY: Can I come back to some further questions on the Cotter Dam?

THE CHAIR: Yes, sure.

MR RATTENBURY: You have indicated previously that the original estimates did not make any allowance for the range of other costs involved, such as the escalations, approvals and contractor fees. That is quite understood at this stage. Do you think it was clear to the public that the \$145 million plus 30 per cent would be the final cost?

Mr Sullivan: My review of this is that I believe both the government and the public assumed that the \$145 million was probably a reasonable estimate of the total cost of the project and did not understand its limitations. I am very plain on that. I do not believe that either the government or the public understood the limitations of the \$145 million number.

MR RATTENBURY: Do you think that was a problem?

Mr Sullivan: Certainly, from where I sit today, it was a problem.

MR RATTENBURY: Was \$145 million the figure that was used in all of the cost comparisons across all of the water security projects?

Mr Sullivan: Yes, but again all of the water security projects and all of the alternatives were costed on exactly the same basis. So competing possible projects were costed on the same basis. Therefore if you had an assumption in respect of things such as margins, indirect costs and owner's costs that they would be similar under any final estimate, it certainly does not remove the validity of the \$145 million

number as a basis of comparison between possible projects. Where it gets into it is in terms of the net economic value of the projects. It becomes an element in that. That really is about all, because, again, the \$145 million number did not get into any decision to build the dam.

MR SMYTH: But the \$145 million was based on 260 million cubic measures of concrete?

Mr Sullivan: You can read the GHD document in its entirety as to what it assumed. It was done without a constructor, without a designer, and it was done on the assumption of an 80-metre-high dam across an abutment, using a desktop engineering solution. It was heavily qualified. In terms of its calculation of concrete versus the calculation of concrete in the total out-turn cost, it is an incomparable piece of estimation.

MR SMYTH: But there must be some comparison in that it is still an 80-metre-high wall but it is a much deeper foundation. If the basis is \$145 million on approximately a quarter of a million cubic metres as opposed to \$145 million and 380,000 cubic metres, that is a 50 per cent margin. So it is not directly comparable to say that you could therefore compare it favourably to the other projects and then come to the same conclusion. That is a big difference in terms of just raw material.

Mr Sullivan: It is not. I mean, it is a big difference. If that was the only difference in the price, it would be great. It is significant without being huge.

MRS DUNNE: Madam Chair—

THE CHAIR: I would like to ask a question, Mrs Dunne. You said that from where you sat now it was a problem that the public debate was focused clearly, as we said, on a figure which turns out not to be correct. But from where you sat at the time, while the \$145 million was being talked about, was that a problem then?

Mr Sullivan: I was in Gallipoli working for the Department of Veterans' Affairs, and it was not a problem for me. I was probably a consumer of water, so I would have thought, "If this dam's going to cost \$145 million, get on with it." By the time I joined the corporation, I had the alliance in place and I was developing a total out-turn cost. One of the things also is that when you put that alliance in place you did not say to them, "Here's your cost estimate, you've got to work to that and tell us if it changes." They start from scratch and say, "The terms of the alliance contact will be that we will develop the cost of the dam." They developed their cost of the dam, and that is the cost of the dam that then determines whether or not we build it.

I think the Deloitte report comments on the fact that there probably was not reflection. Again, if you point the finger and ask, "Who should have been reflecting?" it is Actew, I believe. You have got an alliance developing a cost which is to go to its board to determine whether or not it will build a dam. You have got this preliminary estimate which is being used by government as an in-principle lever to start thinking about a dam, and by government to basically determine that this is the priority project and other competing possible priorities. That is then developed into an announcement that we are going to build a Cotter Dam, that it is going to cost \$145 million, and

acceptance by the public that that is the cost of the dam.

Again, on reflection, I think there should probably have been frank and fearless advice, or whatever you want to call it, saying, “Be careful how you use that number.” Instead, I think there tended to be an adoption of that number as the cost, and probably a focus, from towards the end of 2008, clearly on the fact that that cost was not going to be right.

THE CHAIR: Why wasn’t that information that the cost was not going to be right put out more clearly?

Mr Sullivan: As I say, internally, as much as anywhere else, there was an adoption of that as the cost; that was the price. The ICRC had looked at it and endorsed it. The Deloitte report was the report which crystallised for me its deficiencies. If you read the GHD report which gives the \$145 million figure, it reads like—I think the regulator called it a “robust and comprehensive estimate”. It took someone who could analyse it financially, commercially and from an engineering sense to say that, as an estimate, this is a deficient process, and why.

That was probably the time when the failure of the \$145 million process became evident to me. It is basically saying it is quite complex in understanding until someone could actually point out to you what is wrong with this thing. But, as I say, its consequence—and that is the important thing to focus on—was in respect of the need to review and revise estimates of the net economic value of the project, and its public confidence.

The suggestion, which I am not suggesting anyone at this table has made, that somehow a decision to build a dam for \$145 million was taken, and now we were facing a \$200 million increase, did not take place. The only decision point in building a dam was with the full knowledge of \$363 million as the price of that dam.

THE CHAIR: Mrs Dunne.

MRS DUNNE: I would like to go back to the evidence that Mr Baxter gave to the justice and community safety committee last week when he was asked whether he understood that the \$145 million was the total out-turn cost and he said directly, “Yes.” He understood it to be the total out-turn cost. What was the breakdown in communication in that Actew could be giving a figure to the ICRC, the regulator, and the ICRC could so badly mistake that?

Mr Sullivan: I am not going to comment. I was not present when Mr Baxter said that. I will say this: the ICRC report clearly indicates that, on the \$145 million, you must give a tolerance of 30 per cent—

MRS DUNNE: Yes, he made that point as well.

Mr Sullivan: and anyone who knows about total out-turn costs knows that you would never, ever tolerate a 30 per cent tolerance in a total out-turn cost. A firm estimate with a 30 per cent give or take is just not acceptable. If I had come out and said, “It’s 299, give or take 30 per cent,” I would be rightfully laughed out of this place. You can

never say that the 145 bears any resemblance to a total out-turn cost. A total out-turn cost is a very specific technical term which requires a number of prerequisites which were, in no-one's language, present at the 145. My respect for the regulator is enormous. I have not heard what he said, but to use that language of saying, "This was a total out-turn cost," would indicate you do not understand what a total out-turn cost is, because I gave you before what the precedents for a total out-turn cost are, and you would never have said, "But give or take 30 per cent." Thirty per cent estimates are estimates. Total out-turn costs are not estimates; they are much closer to hard, financial, accountable facts.

MR RATTENBURY: What was the 30 per cent about then? I understand the way ICRC conduct their reports is that they will prepare a draft and you will then get an opportunity to comment on it. So Actew clearly had an opportunity to comment on it. What was your understanding of what the 30 per cent was?

Mr Sullivan: The 30 per cent was basically saying that it probably was the one clear statement of uncertainty about the \$145 million, and the 30 per cent was seen as a reasonable tolerance to take account of what would be thought to be unknown, yet would always happen, type changes in the estimate.

MR RATTENBURY: And they are the sort of things you have talked about subsequently as being some owner costs and those sorts of matters—that the ICRC were taking into account in that 30 per cent?

Mr Sullivan: I do not think anyone took into account owner's costs—ICRC or the original estimate. I do not see any evidence of owner's costs being in there.

MR RATTENBURY: Given that that 30 per cent figure was identified in 2007 as a likely increase above the 145, why do you think it is that the 145 figure continued to be used as the figure for the purposes of public debate when in fact we should have been talking about something like \$190 million?

MRS DUNNE: Well, 186, perhaps.

Mr Sullivan: I reported to government in December 2008, and it was published by government after cabinet considered it in March 2009, that my estimation of the increase in the cost of the dam was in the range of a 50 to 80 per cent increase on the \$145 million. But I made it very clear that until I saw the total out-turn cost it was nothing other than the view of someone who was deeply involved in this project now of the likely range of the increase. We had advised that the 145 was certainly not what we believed would be the cost of the dam in December 2008.

MR RATTENBURY: One other clarification of the ICRC report: it talks about a 20 per cent contingency. Can you explain to me what that is compared to the 30 per cent allowance?

Mr Sullivan: It is quite difficult. A contingency really is that you look at particular issues which you think you have accounted for in your estimate but within those particular issues you think there is going to be movement, and you allow a contingency for movement against a known element of your costings, whereas the

tolerance is basically that other things are going to happen. It could be scope change; it could be all sorts of things. In our total out-turn cost we have contingency, but we do not have tolerance. In an early estimate you have both contingency and tolerance.

MR RATTENBURY: So the bottom line is that, with the costs that were approved by the ICRC, once you put in the tolerance plus the contingency, you start to get to a figure more in the order of \$217 million in 2007?

Mr Sullivan: Dollar terms?

MR RATTENBURY: Yes.

Mr Sullivan: Because there is a quite a change in dollar terms. It is a possible. What the ICRC allowed was \$145 million.

MR RATTENBURY: Plus 50 per cent.

Mr Sullivan: No. He then allowed a process for how the eventual prices would be reviewed and accounted for in terms of his future price determinations, but what he allowed specifically in water pricing was \$145 million. He basically gave a heads-up saying, "Look, I concede there can be movement in this."

MR RATTENBURY: Minister, did the government review the ICRC report at that time, in 2007?

Ms Gallagher: I would have to take that on notice.

THE CHAIR: Thank you.

Ms Gallagher: I am sure the ICRC report was considered by cabinet but I will confirm.

MR SMYTH: The total project cost is now \$363 million. Can you explain to the committee, should that cost further rise, who will carry that risk?

Mr Sullivan: That risk would be shared between Actew and its alliance partners.

MR SMYTH: In what ratio?

Mr Sullivan: Fifty-fifty.

MR SMYTH: Are you aware of the *In pursuit of additional value* report, sponsored by the Victorian government, that came out in October this year?

Mr Sullivan: Yes, I am.

MR SMYTH: For those who have not read it, it is a report about delivery through the alliance model. It basically says that alliance models generally end up with TOCs and out-turn costs 50 per cent higher than the business case estimates, compared with traditional models at something like 30 per cent and public-private partnerships at five

to 10 per cent. Are you happy with the progress of the alliance and the way it is delivering this program?

Mr Sullivan: Yes. The Victorian government have led the way in terms of advice on alliancing. You are quoting from their latest publication, which is an update on their publication of 2005 or 2006 around alliancing and when and how you would do it. We have actually already started just an assessment against that, the new report, in terms of our alliance processing, and we fit pretty well. The basic driver of alliancing, which I think is in that report and in the first report, is generally scale, generally motivation: why would enter an alliance?

The driver behind alliancing for the water security projects was very much an attraction of: what model of contracting would attract the right sorts of designers and constructors to Canberra to build major infrastructure at a time when there was a construction and infrastructure boom on in Australia, led by mining, followed closely by water? The alliancing model was seen as the way to do that. There had been some precedent in Canberra in respect of the National Museum and in respect of the defence headquarters. The board had expertise in alliancing at that time and it drove the alliancing decision very much in line with the sorts of criteria that are reported in the Victorian report as to when it would be appropriate to use an alliance.

MRS DUNNE: Can I follow up, please, Madam Chair?

THE CHAIR: Certainly.

MRS DUNNE: Minister, the thrust of the recommendations and the thrust of some of the discussion in that report is that the optimum—

Ms Gallagher: In which report? In the Victorian report?

MRS DUNNE: The Victorian *In pursuit of additional value* report. The thrust is that the big motivator for going down the alliance model is when there are unexpected or unquantifiable risks. My understanding, from the briefing that I attended, was that the major risk in relation to the dam was the risk of flooding of the site during construction. What other risks are there in the building of the dam that would move people towards an alliance model?

Mr Sullivan: As I said, one, the motivation. Forget the Victorian report of 2009, by which time we were in an alliance. We cannot take heed of it and say, “Should we be in an alliance or not?” But the motivation, as I explained to Brendan Smyth, was around the fact of: how does Actew attract the sorts of construction and design capability for Canberra which Canberra has not had for an awfully long time? It was basically by saying that we have a collection of major water security projects and the alliancing framework is the way to do it.

Another answer to your question is that, if you want proof of unexpected risk, you would simply look and say that a national firm, in doing a desktop estimate of the cost of a dam, said, “We think you should be able to build this dam for \$145 million, and as a result of an alliancing process we know we can build a dam for \$363 million.” It basically is a revelation of risk.

The alternative would have been to go to market and go down a design and construct model whereby someone, with a similar process to the GHD analysis, would have probably said, “On our understanding of this site and what you are trying to build, we can build that for you for X”—I do not think it would have been 145, because I think one of the clear things about 145 was that it was not a commercial estimate, but it would have been probably up around the \$200 million—“We will build it for you.”

We would have then gone through the typical process every time we discovered one of the risks. And we regard the risk of flooding as a very serious risk if it occurs, but a very unlikely risk to occur, and therefore it has led us to believe that it is a risk that we will assume. It is not the most significant risk to the dam. The most significant risk to the dam at the time of the alliance was moving the dam from conceptual design, early estimate, to final design and construction. That was the risk.

MR SESELJA: The Actew July 2007 update report on the enlarged Cotter Dam says “considers the project to be non-complex, relatively straightforward, with clearly defined outcomes, where the major cost is in supplying and placing roller-compacted concrete”. It is saying that there are not many unquantifiable risks, and the Victorian report is saying that alliance models should be where the delivery of government’s infrastructure projects is complex with significant risks. Those two do not seem to stack up. You acknowledge that the Victorian report came after these decisions were made, but is the Victorian report incorrect? Is that the rationale for going down the alliance model where there are difficult to quantify risks?

Mr Sullivan: To use a document which says “complex projects” and then to use a document about a dam project, and say that as far as the dam project is concerned it is simple—no dam is not complex. The engineering processes of a dam are, in an engineer’s eyes, quite straightforward: you strip an abutment, you excavate it, you lay concrete, you add a tower, you put some pipe works through it, you put a lot of conduit and electrical materials through it and you utilise your dam. It is a hugely complex task and fits, I think, the Victorian statement in 2009.

Please do have a good read of the Victorian report on alliancing, because the Victorians are really taking alliancing quite seriously. As I said, we are looking very hard at their 2009 report and it did guide us. We basically adopted the Victorian government’s adviser on alliancing as our guide on alliancing. Our guide on alliancing said, “You are the classic alliancing project.” That is a person who is basically one of the key advisers to the Victorians, their leadership in respect of alliancing.

I can line up expert after expert who will tell you about water security projects. Remember that you are talking about generically in this report we think why you use alliancing is complexity. I have said it twice and I will say it three times: the board’s decision on alliancing was to attract competent dam and structural engineering constructors and designers to a place where there was a lot of risk that using traditional approaches we could attract them. The fact that we got multiple bids from construction design consortia to enter into an alliance process with it in respect of these projects reinforced, I think, what the rationale of the board at the time was in why would we go alliancing. So it was not saying, “Here is the Victorian list; it says complexity.” Our one was about the fact that this is the way to attract the right people

who can build these projects for us competently and well, and you do it through alliancing.

MR SESELJA: So what is the attraction to those partners? Is it the scope for greater profits? What is it that brings them in with an alliance model?

Mr Sullivan: It is the scale of work. It is the expectation of reasonable return. Again, I probably have a view as to language, but scope for greater profit. No, they do not gouge us. The alliance contract model is basically one which says it is open book. It is one that says, “You reveal to us everything you do.” It is one that says, “In being in alliance with us, you submit to an independent estimator sitting in the next room and reviewing everything you have done and you commit to aligning with the independent estimator.” That is the attraction to an alliance construction partnership. Clearly, Abigroup and John Holland, who are not associated companies, saw that the scope and scale of the projects we required them to do—that is, the transfer, the spillway and the dam—were a significant commercial opportunity for them which weighed up against other possible commercial opportunities around this country, and said, “This is a project worth doing.”

MR SESELJA: But still why, under the alliance versus other models, is it more attractive to them? There would be the significant work with a dam. But it was more attractive to them—why? Because of the chance of a greater return?

Mr Sullivan: No. It is because basically it brings them into a project in a different way. It brings them into a project at the chance to basically develop the project, to work between a designer and a constructor and an owner, to specify the project fully. It brings with it risks for them.

If the alliance leadership group had rejected the dam’s TOC, the parties would have walked away with no margin, no profit. They would have basically been paid for their services at cost and finished. It basically brings a large-scale project into their portfolio, which, if I was the commercial side of those companies, basically gives confidence to its investors, to its financiers and others, in terms of its future income streams, leading outwards. It means you take the risk of bid, because the risk of bid in terms of a design and construct model is quite significant. You have to do a hell of a lot of due diligence and you basically have to develop what you can in terms of design and what you can in terms of construction estimate, then you basically start again, which is that if anything changes it is not your fault.

MRS DUNNE: Can I go back to—

Mr Sullivan: I just want to answer the question. I will do a scope change. So, for us and for the constructors and the designers, I think the opportunity to work in an alliance framework is very strategically attractive for large construction design companies to engage themselves in.

MRS DUNNE: Could I refer, Madam Chair—and I have got a copy of the page, if the secretary would like to circulate that, just so that Mr Sullivan and the minister can refer to it as well—to page 47 of that report. It has a graph and some accompanying discussion about the cost movement for various sorts of projects under various sorts of

models. That graph clearly shows, and the commentary goes with it, that public-private partnerships provide the greater certainty in the final costs from the business case stage of an increase of about five to 10 per cent, the traditional tendering model at about 20 per cent and then the alliance model shows a blow-out of cost to 50 per cent more than the original outset costs.

Isn't that what we are seeing, only in spades here, minister—that we have gone down with an alliance model and we have ended up with a huge blow-out in costs; that the experience of the leader in alliancing in the Victorian Government, in their report, which is a comparative study involving four treasuries, is that alliancing gives us a big cost blow-out and that is why they have recommended that you should use alliancing, it is legitimate to use it, but you should do it when it is complex and you cannot actually work out what the unknown contingencies might be? Haven't we got ourselves into a situation where we have needlessly blown out the cost of this dam because we did not take a more prudent approach?

Mr Sullivan: If I can comment first: one, to table page 47 of a Victorian government report and then say, "Doesn't this prove something?"—I think they would object to that. You must read this full report. Two, against a baseline, what are you comparing? And what do you compare the business case estimate to being against an actual out-turn cost? These are very clearly different things. If you are talking about a design and construct estimate, you are talking a very different estimate. If you are saying, "This is why the 145 turned into 363," it is a ridiculous speculation. It has no bearing. It is just not on the same graph.

If you are talking about the fact in a public-private or in a D&C that you have Abigroup and John Holland come in to you and say, "We will build that dam for \$200 million," and it turned into \$240 million, okay, that is valid. It is a 20 per cent increase in their estimate to their final cost. To attempt to suggest that you are holding an alliance responsible for a growth in a total project cost to what I have described—and I think fairly and openly described—as the process of developing the \$145 million is just—I will leave that to Mr Baxter, because Mr Baxter, I think, understands the difference between those numbers. But to try and then produce a page of a 2009 report and say: "This proves you got it wrong. You should have read this report before you did it. You are so in advance of it"—it is a fishing exercise, which ain't going nowhere.

MRS DUNNE: Mr Sullivan, how much of the \$240-odd million difference in the cost that we have seen over the last year would be margins for the alliance?

Mr Sullivan: I will take that on notice and if I can release it I will.

MR RATTENBURY: Mr Sullivan, in response to a question on notice in May this year from the estimates committee—I think I was in that conversation where we had some discussion about the Cotter Dam before we quite knew where it was going—Actew gave an estimated cost of \$145 million, indicating a 30 per cent rise—and I quote: "accepted by the ICRC".

Mr Sullivan: When was that?

THE CHAIR: The estimates in May this year.

MR RATTENBURY: This was a question on notice in the estimates committee in May—that costs would now rise in the order of 50 to 70 per cent, up to \$246 million. Why was this advice provided to the Assembly when, according to your own time line, which you subsequently provided to the Assembly, you had already indicated to the board in March 2009 that costs may exceed \$250 million? Basically, what I am saying is that in May you told the Assembly it was the ICRC cost plus 50 to 70 per cent, but you had told your own board in March that it may exceed \$250 million.

Mr Sullivan: I will take that on notice and refer back. The clear thing I have said all along is that in terms of my decision point in that we are seeing a clear sign of escalation—always qualified by saying, “Till we see the total out-turn costs, we won’t know”—was the movement to the 50 to 80 per cent variation on the 145. If you take 2005 dollar terms into 2011 dollar terms, which this process has also done, that takes it well into \$230 million, \$240 million. I have certainly told the board regularly and reported that by saying, “This price worries me; it’s escalating.” The next major point is July when I know what the early TOC processes have determined.

MR RATTENBURY: I know you get concerned about being misquoted, but both of these pieces of evidence were provided in your own writing.

Mr Sullivan: Yes. I am happy. I will stand by any evidence I provide in writing, reported accurately.

Ms Gallagher: So what are you worried about, Shane—the difference between the upper limit of the 246 and another statement around 250?

MR RATTENBURY: I guess what I am trying to get to is why a figure was quoted to the estimates committee in May that was lower than a figure you had given to your own board in March. That is, at its most simple, what I am asking.

Mr Sullivan: I have got a public report out in March saying this dam can go to \$246 million.

MR RATTENBURY: You have provided to the Assembly in your 17 September letter—

Mr Sullivan: I will check the 17 September—

MR RATTENBURY: In the chronology, it says, “March 2009, board advice, costs may exceed \$250 million.” It says, “However, construction methodology is under review.”

Mr Sullivan: Right.

MR RATTENBURY: So that is obviously a caveat?

Mr Sullivan: So that is not “will”; it is “may”.

MR RATTENBURY: That is March.

Mr Sullivan: Yes, so it may go up over what the range was. We were doing a lot of work around it. I will stand by that.

MR RATTENBURY: But then in May you told the estimates committee that you were standing by the ICRC cost but it could now rise in the order of 50 to 70 per cent. I am just trying to work out—

Mr Sullivan: I was sticking to what I had declared to shareholders, board and government, and that was that I believed that, subject to the total out-turn costs, there was a possibility of a 50 to 80 per cent change.

MR RATTENBURY: The other figure then is interesting. In the Deloitte's report, which thankfully you have provided us—and this bit was still in the report—TOC 1, which according to Deloitte's they reviewed in May 2009, had been completed. Did that not tell you that you had overrun the \$250 million and indeed were looking at a figure of over \$300 million? I think TOC 1 came out at \$310 million, if I remember correctly. That was also in May.

Mr Sullivan: No. The TOC that went to the Alliance Leadership Group to approve as the final TOC was \$310 million.

MR RATTENBURY: That is right. What was the figure in TOC 1 then?

Mr Sullivan: I do not know what the figure in TOC 1 was. The figure in TOC 1 changed every day. There is no TOC 1 document that says, "Here's a number." It is the preliminary work.

MR RATTENBURY: Deloitte's did a review of TOC 1, so there must be a number.

Mr Sullivan: It is the preliminary work behind the development of the estimates.

MR RATTENBURY: You do make this hard for us.

Mr Sullivan: It is hard. You do not get to it very easily. It is not easy. We tend to jump and say, "Yes, there's a formal minute in time when we had a TOC 1." A TOC 1 was never considered as viable by Actew or the alliance partners.

MR RATTENBURY: What did Deloitte's review then? What is TOC 1, according to Deloitte's?

Mr Sullivan: They would have reviewed the first outcomes of the TOC development. That is what is now known as TOC 1, but please do not—

MRS DUNNE: So you know what it is now, do you?

Mr Sullivan: You explained it to me and I understood what you said to me. I do not use TOC 1. A TOC is delivered through a process of approval. There has only been one TOC that has been delivered through a process of approval. TOC moved, if you

had determined it, because we wanted the TOC first by the end of July. It was at the end of July that I extended the TOC and said, “We don’t want the TOC now. I can’t have it now. It’s not robust. It’s not a viable number yet. Take your time.”

MRS DUNNE: So what was the May figure? Deloitte’s say in their executive summary: “Based on a review of the May 2009 TOC estimate (TOC 1) and the August 2009 TOC estimate (TOC 2),” and they continue. What was it that they reviewed that was something that was available in May 2009 which Deloitte’s and most other people called TOC 1?

Mr Sullivan: I will take that on notice.

MR SMYTH: Part of the confusion is that there seem to be public numbers and there are other numbers. For instance, documents tabled in the Assembly on 17 September said, “The preliminary TOC estimate for the construction of the ECD is significantly over expectation. The BWA is now challenging its design. Cost estimates bring the total project cost within \$300 million.” That was 1 July. That is what the board and ACTEW understood on 1 July.

In the 11 July edition of the *Canberra Times* the report said that the government had invited comment on the \$200 million Cotter Dam expansion proposal. If the board is told on 1 July it is now pushing \$300 million and the *Canberra Times* reports that the government is considering \$200 million, what action did Actew or the government take to correct that inaccurate reporting? I do not recall seeing a letter to the editor saying, “No, it’s now pushing this.” I think part of the confusion among members trying to get to grips with this, and indeed in the community—

Mr Sullivan: Journalists who understood the Cotter Dam process always seemed to report the right number. At other times numbers reported by others as different was their business.

MRS DUNNE: Mr Downie reported numbers but they were much lower than \$365 million. Is he the journalist who understands it better than this journalist?

Mr Sullivan: But he always reported \$250 million after the public declaration that it was 50 to 80 per cent higher than 145.

MR SMYTH: But in that specific case, minister, what action did you take as minister responsible to clarify that number? If no action was taken, why not? This is part of the problem, that numbers are hanging out there—

Ms Gallagher: Yes, I agree. The moving numbers have not helped. I think Mr Sullivan has talked at length on that today. As to the issue in July—and I cannot speak for that article; I cannot recall it from memory, but I am sure you can provide it to me—there was no final cost at that point in time known to the government in which to respond. Things are written in the *Canberra Times* all the time that government has different views about and indeed all of us have different views about.

MR SMYTH: But this is an article about the government asking—

Ms Gallagher: At that point in time the government was not in a position to ring up the *Canberra Times* and say, “That figure is incorrect; it is this figure,” because the final figure was not known to the government.

MR SMYTH: The article focused on the government calling for public comment on a \$200 million dam proposal, but Actew and its board at that stage had already discussed, through their own minutes tabled in the Assembly by the minister, that it was now probably in excess of \$300 million. Surely that needs to be corrected. My question stands: if no action was taken, why not?

Ms Gallagher: I think from the government’s point of view we have been clear from the start about the information we have had around the costings of the dam. We have acted very quickly on receipt of the information from Actew to make that information available to the public. I accept that the changes in cost and the different numbers that have gone out over the history of this project have not helped community understanding of what the final cost would be.

I guess at the end of this public hearing it is unclear to me whether the opposition support the dam, whether they think \$363 million is an unreasonable cost for the dam or whether they think the delivery of the dam through the alliance model is unreasonable. I guess we will wait and hear from the opposition at the right time. From the government’s point of view, when the information has been made available to the government in a way that we can talk with some certainty around the total out-turn costs of the dam that information has been made public.

MR SMYTH: Looking at the sheet of paper that Mrs Dunne had, distributed from the Victorian report, the second last paragraph says, “A strength and weakness of the alliance delivery method is that it is very forgiving of inadequate business cases.” Was this project started with an inadequate business case?

Mr Sullivan: No.

THE CHAIR: I am afraid that, while we could continue this discussion for hours and hours longer, the time has, unfortunately, expired. I would—

Ms Gallagher: So you are for the dam?

MRS DUNNE: You know we are.

THE CHAIR: I would normally say at this stage that further questions will be taken on notice.

Ms Gallagher: Is it an unreasonable cost?

MR RATTENBURY: That is what we are trying to get to the bottom of, isn’t it? Some straight answers would help.

MRS DUNNE: Yes.

Ms Gallagher: You have received all the straight answers.

THE CHAIR: It is possible that, in fact, we will be scheduling a further hearing. I understand that our secretary—

Ms Gallagher: We will get on and build a dam.

THE CHAIR: has been taking down a number of things that you have said that you will get back to us on. Thank you very much. We will communicate with you as soon as possible about whether there will be questions on notice or a further hearing.

Ms Gallagher: Thank you.

THE CHAIR: Thank you very much for your attendance. I also I thank the audience for their attendance.

The committee adjourned at 4.04 pm.