



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

SELECT COMMITTEE ON ESTIMATES 2008-2009

(Reference: Appropriation Bill 2008-2009)

Members:

**MS M PORTER (The Chair)
MRS V DUNNE (The Deputy Chair)
MR M GENTLEMAN
MS K MACDONALD
MR B SMYTH**

TRANSCRIPT OF EVIDENCE

CANBERRA

MONDAY, 16 JUNE 2008

**Secretary to the committee:
Dr S Lilburn (Ph: 6205 0490)**

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).

APPEARANCES

Actew AGL	1194
ACTEW Corporation Ltd	1194
Chief Minister's Department	1194
Land Development Agency	1194

The committee met at 10.32 am.

Appearances:

Stanhope, Mr Jon, Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts

Chief Minister's Department
Cappie-Wood, Mr Andrew, Chief Executive
Dawes, Mr David, Deputy Chief Executive, Business and Projects Division

Land Development Agency
Mitchell, Mr Philip, Acting CEO

ACTEW Corporation Ltd
Costello, Mr Michael, Managing Director

Actew AGL
Mackay, Mr John, Chief Executive

THE CHAIR: Good morning, Chief Minister.

Mr Stanhope: Good morning, Madam Chair.

THE CHAIR: Good morning Mr Mackay, Mr Costello, Mr Cappie-Wood and all the officials who have come in this morning. Thank you very much for coming back. Before we proceed I will just ask you if you have read the privileges card that is before you and whether you understand the privilege implications which are contained within it. If you do, would you please say yes for Hansard.

Mr Stanhope: Yes.

Mr Mackay: Yes.

Mr Costello: Yes.

Mr Cappie-Wood: Yes.

THE CHAIR: Thank you very much. I just remind members and witnesses that when we are under privilege it is important that we take that very seriously. There have been a couple of times during our hearings when we have come dangerously close to actually talking about people with regard to their connection to certain items that may have revealed their identity because of the smallness of this town. We are just constantly reminding ourselves of that.

Chief Minister, we have set this hearing down from 10.30 to 2.30, but we are aware that you are only available until midday. Is that correct?

Mr Stanhope: That is not my understanding at all, Madam Chair. In fact, my office was advised that the hearing was from 10.30 to 12. That was the position put.

THE CHAIR: That was your availability, yes.

Mr Stanhope: That was the position that was put explicitly to my office.

MRS DUNNE: Madam Chair—

Mr Stanhope: I have not finished, Mrs Dunne. That was the position that was put explicitly to my office. I have cabinet at 2 o'clock. There is no way that I or my office would have accepted an agreement today that would have actually required the cancellation of cabinet.

THE CHAIR: No.

Mr Stanhope: At no stage was it ever suggested to my office that cabinet should be cancelled to allow this reconvened hearing. I regret the misunderstanding. I am not available beyond midday today. Just to ensure that there is no misunderstanding about the government's preparedness and that of my officials—I cannot speak for ActewAGL, but I can certainly speak for my officials—we are more than happy to reconvene at a convenient time, say, 4 o'clock this afternoon after cabinet. But I cannot now just abandon the cabinet that has been set for today in relation to which no suggestion has ever been made that it should be cancelled to make way for estimates. I stand ready to reconvene with all my officials—I am sure ActewAGL is similarly ready—at 4 o'clock this afternoon.

THE CHAIR: Okay. Yes, we knew that you were not available beyond midday, Chief Minister, and that was what I was going to reiterate, that we were quite aware of that.

Mr Stanhope: I beg your pardon.

THE CHAIR: That was what I was trying to say. We are quite aware of the fact that you are only available until 12 midday. It was just that we were wondering whether or not—we actually can, as you know, require officials to continue answering questions beyond 12.

Mr Stanhope: Right.

THE CHAIR: We had anticipated not doing that for any longer than until about 1 o'clock, if that is at all necessary. We sincerely hope it is not because we have private deliberations that we need to have between when this finishes and 2.30 which are really important to us. The committee has to meet for a considerable amount of time to finalise the report. Therefore, I was just letting you know that we anticipate, hopefully, finishing at 12 midday, but we may need to require to continue to discuss some matters.

Mr Stanhope: Madam Chair, thank you for that, and thank you for the explanation. I am not prepared to have officials appear before estimates without my attention. I

restate that if the hearing is not concluded at 12, I offer to reappear at 4.

THE CHAIR: Right.

MR SMYTH: Well, there is a point that needs to be made, Madam Chair. The Chief Minister said on the radio this morning that he is not responsible for his officials' comments. He either is or he is not. He needs to clarify that immediately. As advised by the secretary of committees, it is quite appropriate for officials to remain without the Chief Minister. I move that the committee keep the officials here, if required, from 12 till 1 o'clock.

THE CHAIR: I think the Chief Minister has already offered, very generously, to come back at 4 o'clock. So there is absolutely no need for us to continue—

Mr Stanhope: Madam Chair, in order to offer what assistance I can, it would be quite remarkable, let me say—in my 10 years in the Assembly I am not aware of a single instance in which officials have appeared without a minister present. Secondly, I will adjust my schedule and offer to remain until 12.30, which actually does cause me significant disadvantage in relation to other plans which I will now have to cancel. It is a matter of concern to me, Madam Chair, that I was advised that this hearing would be from 10.30 to 12. That is all my office was advised. It was made quite clear that that was our availability and that was all the committee required. I will stay to 12.30, but I cannot countenance my officials remaining without me and I cannot remain beyond 12.30.

MS MacDONALD: Can I suggest that that would take it to just under two hours. That should surely be enough time for us to ask our questions and sort out the issues that have come up.

THE CHAIR: I think so.

MRS DUNNE: I think also, Madam Chair, that we might take on notice the Chief Minister's offer to come back later this afternoon after cabinet.

Mr Stanhope: Certainly. I stand ready for me and my officials and ActewAGL to return at 4 o'clock.

THE CHAIR: Thank you very much, Chief Minister. That is extremely good of you. I would just like to ask if you would like to make some opening remarks.

Mr Stanhope: Thank you very much, Madam Chair. I would like to take the opportunity to make an opening statement. It has become, unfortunately, necessary to correct a number of misapprehensions in relation to my role and that of the government in relation to the data centre proposal. Some of these misapprehensions are, no doubt, the result of ignorance and perhaps inexperience. Others are fuelled by mischievousness.

Ordinarily, political and journalistic mischief is part of the rough and tumble of this place. Just occasionally they have the capacity to cause significant and lasting economic damage. At stake in the present instance is a private sector investment in

this town worth \$1 billion and hundreds of prospective jobs. I would have thought that it was incumbent upon those making mischief to be very confident of the grounds of their mischief and for an organ of record to deal exclusively with the facts.

In the current instance I regret that these basic standards have not always been met. On the part of the Liberal opposition we have seen what can only be described as scare mongering and fiction, laziness and a lack of intellectual rigour. Madam Chair, it may prove useful before I speak about the project in detail to set the context in which it was being considered.

The ACT's economy is strong. We have experienced a sustained period of higher than normal economic growth and enjoy record low unemployment. But we need to work hard to maintain economic growth, particularly given the potential impact of recent international and national events on the local economy. My government has, over the past few years in particular, focused strongly on building the economy. We have taken decisive action to reduce government costs while maintaining high standards in service delivery and we have put in place strategies to diversify the economy and attract external investment.

One such strategy has been the establishment of the strategic project facilitation group within the Chief Minister's Department. Private sector investment in the ACT is strong, but we operate in a highly competitive and fast moving investment market and we need to be able to proactively explore opportunities with potential investors and then move quickly to secure these investments for the territory.

The strategic project facilitation group serves as a single entry point to government for those proposing major projects, an entry point from which various government functions and services can be coordinated and marshalled. Essentially, the group case manages strategic investment opportunities and instigates new projects to address identified needs. It must be stressed that the role played by project facilitation is, as the name suggests, facilitation. It does not circumvent process.

The project facilitation group is modelled on the highly successful initiative adopted by the government to drive the building for our ageing community strategy. That strategy brought together accelerated land releases, the identification and land banking of aged care development sites and the appointment of a dedicated official to case manage proposals. Thanks to this approach my government has been able to increase aged care bed numbers by 30 per cent in five years, with more on the way to meet the growing demands of an ageing city.

I make no apology whatsoever for regarding the proposal for a data centre and gas-fired peaking power plant as a proposal worthy of special attention by the project facilitation group. Let us remember that this began as a \$2 billion potential investment for the ACT, an investment that could—and if the Liberals have their way, still may—be lost to Sydney or Singapore. As I said as long ago as May last year when discussing the possibility of a gas-fired power station for the ACT, the 2003 fires taught us all the importance of a secure and diversified power supply. Since then, the urgency has, if anything, increased, as the prolonged drought takes its toll on hydro power and as electricity prices rise.

While ActewAGL has accepted that a peaking power station cannot and will not be built at its preferred Tuggeranong data centre site, it has not abandoned hope that such a facility will be built on an alternative site somewhere more distant from built-up population areas. In other words, the Belconnen site is out. Indeed, the documentation for the application for a direct sale of land for the Belconnen site proves that, as far back as October 2007, it was never in. But more of that in a moment.

The Canberra technology city proposal was and remains one that presents great opportunities to the territory. Even the scaled back proposal without the peaking power plant will create 300 new jobs and stimulate the construction industry as it comes off its unprecedented highs of recent years. These economic benefits would flow through to all members of the ACT community. The revenue to government from such a major investment would help fund health and education services, police on the beat and better roads. The additional workers attracted to the territory would bring families with them and help our existing small and medium businesses to grow and prosper.

It is important to remember that at the time I announced the option for a direct land sale for the data centre in October last year I indicated that the option would remain open for 12 months during which time ActewAGL would undertake further investigations and obtain any approvals necessary for the development. That is a point the opposition and, it has to be said, sections of the media, whether from ignorance or inexperience or active ill will, failed to mention time and again in their analysis of process. They do it when they insinuate or outright allege that the government has somehow put financial gain ahead of the health and wellbeing of the community simply by allowing a formal assessment of a Tuggeranong site. It is axiomatic that you cannot judge a proposal until you have a proposal to judge; nor can you assess the suitability of a particular site for that proposal until a particular site has been identified. Yet that is precisely what the Liberal Party seriously suggests ought to be the process to be followed here.

In the Alice in Wonderland world of the Liberals, where time runs backwards and the rules of logic do not apply, proposals are tested before the details are formulated and sites are assessed without sites being identified. Back in the real world inhabited by this government and this community, the proposed data centre development, whether in its scaled back form or its original form, could not and would not have proceeded and will not proceed even now unless it meets all relevant standards, including those relating to emissions, noise and the environment. But to assess whether it meets those standards a process must be followed.

There is no circumstance under which my government would allow a non-compliant project to proceed, no matter how great the investment return. Indeed, on that point it is worth bearing in mind that precisely the same standards have to be met by the data centre proponents, whether the block they select costs a single dollar or a billion dollars. There is not one standard that applies to cheap land and another to land on Mugga Way. This project will prosper or founder according to whether or not it clears the environmental and other hurdles the statutory process erects in its path. These are identical.

Whatever the consortium, whatever the value of the land, whatever the economic

potential of the development, it is, therefore, simply spurious to suggest, as the Liberal Party has done and as the *Canberra Times* has unfortunately parroted, that the selection by ActewAGL of the Tuggeranong site rather than the Hume site suggests that the government has put financial gain ahead of public safety. Indeed, since the Hume site is as proximate to the residents of Gilmore as the Tuggeranong site is to the residents of Macarthur, one is tempted to ask why the Liberals and the *Canberra Times* are so eager to expose the good people of Gilmore to a development in their backyards that they deem intolerable for the residents of Macarthur. Perhaps there is some explanation that members of the Liberal Party may wish to give to that particular conundrum.

The government's credentials when it comes to adding to environmental and amenity standards are second to none. The same cannot, of course, be said for the Liberals. Let us reflect for one moment on the example of the dragway. My government pledged \$8 million for the construction of a dragway in the ACT to replace the one carelessly relinquished by the Liberals when in government.

MR SMYTH: Madam Chair, is this relevant?

Mr Stanhope: The \$8 million sits there still. It has to be spent because the—

MR SMYTH: Madam Chair, is this relevant?

THE CHAIR: Let us see where it is going. I do not know where it is going.

Mr Stanhope: only possible site in the territory upon which a dragway could conceivably be built has been ruled out. The project could not meet environmental thresholds, especially as they related to noise. Bizarrely, the Liberals, who have pledged to chain themselves to bulldozers to prevent the construction of a data centre at Tuggeranong, without even waiting for the formal environmental assessments to be carried out, have promised that, if elected in four months time, they will simply ignore the environmental assessments in relation to the dragway and build it anyway. So there you have it: on the one hand, a government committed to formal process, a government prepared to let the experts do their analysis; on the other, a Liberal Party that favours ministerial interference and the abortion of statutory processes when it is politically convenient; a party that will not even wait for the evidence.

On the one hand, we have a government prepared to take the political pain of abandoning a project when it fails to clear environmental hurdles; on the other, we have a Liberal Party that openly proclaims in relation to the dragway that it will simply ignore the evidence and proceed with the construction of the dragway knowing that it does not meet environmental standards.

MRS DUNNE: Relevance, Madam Chair.

Mr Stanhope: If the Liberal Party in this territory wants to talk about process, Madam Chair, bring it on. If the Liberal Party wants to talk about—

MRS DUNNE: Madam Chair, this is not a discussion about party policy; this is a discussion about why the minister was recalled.

Mr Stanhope: adherence to due process, bring it on. Madam Chair, I would now like to address allegations against me personally, which are contained in an editorial in the *Canberra Times*.

MRS DUNNE: Madam Chair, this is out of order.

Mr Stanhope: In that piece, the *Canberra Times* calls on me to come clean on the site—

MRS DUNNE: I raise a point of order—

THE CHAIR: Just a moment—

Mr Stanhope: Point of order?

MRS DUNNE: Yes, we are using the same rules as you do in the Assembly. Madam Chair, we recalled the Chief Minister and officials today as a result of letters from Mr Dawes and Mr Mitchell about evidence that we were not given or given incorrectly. An assertion that the Chief Minister might want to make about an editorial in the *Canberra Times* is not part of this inquiry. He can take that up with the *Canberra Times*. He can make a statement in the Assembly at any time. We have particular business in this committee today, and having the Chief Minister take a swipe at the *Canberra Times* is not part of it. If he has a difference with the *Canberra Times*, this is not the forum to do it. We have particular business. So could you rule that out of order, please?

MS MacDONALD: On that, Madam Chair, we all know that this issue has been broad ranging across the media. I think that the questions that will be asked today will go to more than just the letters to us from the relevant officials that we have called back today. We are talking about the proposed data centre and proposed peaking gas-fired power station. I think it is only fair that the Chief Minister be allowed to finish his statement and then we can ask all the relevant questions that we need to.

THE CHAIR: Okay.

Mr Stanhope: On the point of order, Madam Chair: I understand from what Mrs Dunne has just said that the opposition or the committee wish only to discuss the letters provided to the committee by Mr Dawes and—

MRS DUNNE: No, this is—

Mr Stanhope: Let me finish, please.

MRS DUNNE: Sorry.

Mr Stanhope: I understand from what Mrs Dunne has just said that the committee's intention was that questions only be asked on the letters submitted by Mr Dawes and Mr Mitchell. If that is the committee's intention then I can dismiss all of my officials and thank ActewAGL and we will just go to the two letters. If it is the committee's

intention to restrict all questions to those two matters then you should let us know, and I would not have wasted the time of all of these senior officials.

THE CHAIR: Well, that is the reason why we asked you to come back.

Mr Stanhope: If the committee wants to just discuss the two letters, we can finish this in 10 minutes.

THE CHAIR: I am happy for us to have a more wide ranging discussion, if that is what the committee wants, in which case I think we should continue with your statement.

Mr Stanhope: Thank you very much. I would have thought so.

THE CHAIR: Okay, thank you.

Mr Stanhope: I would now like to address allegations against me personally which are contained in an editorial in the *Canberra Times*. In that piece, the *Canberra Times* calls on me to come clean on the site and, most damningly, asserts that the government strongarmed ActewAGL into going to Tuggeranong rather than Hume. That claim, that I or the government strongarmed ActewAGL into accepting a site that was not its choice, is without foundation, frankly offensive, and contradicted by facts that were in the possession of the *Canberra Times* when the editorial was written. These include the fact that the Hume site was as proximate to Gilmore as the Tuggeranong site was to Macarthur and that the Hume site would have required National Capital Authority approval, potentially delaying the approval process well beyond the consortium's own self-imposed time frame. Either of these two facts in isolation utterly demolishes the conspiracy theory built up by the Liberal Party and promulgated by the *Canberra Times*; together, they are simply devastating.

The facts are that I personally had no role in the site identification or selection process. I issued no instructions and requested no briefings in relation to the valuation of the various sites that were under consideration by the proponents—none, absolutely none. As both Mr Mackay and Mr Costello have stated publicly and often, while potential sites were identified by government agencies, as they would be, the selection of a preferred site was, quite properly, a matter for ActewAGL and its partners.

I understand from subsequent briefings—I am sure ActewAGL can expand on this at length—that the selection was made on the basis of a number of criteria, including land size and gradient, proximity to infrastructure, access to major road networks and appropriate zoning. The observation by Mr David Dawes in his brief to me that the selected site retains the existing and proposed industrial land for release to the market was made after ActewAGL had identified the preferred site. Mr Dawes was simply noting that the site selected by ActewAGL had a flow-on benefit to the territory. There is, in real life, such a thing as serendipity.

In short, the selection of the site was undertaken by ActewAGL and it fulfilled that role without pressure or influence. Any suggestion that I acted improperly, have something to hide, or, worse, strongarmed a consortium that, at a whim, could simply have taken its business elsewhere, is counterintuitive, without foundation and

profoundly offensive.

I would like to address the issue of consultation. The original proposal, as with all projects of this magnitude, was subject to community consultation and a number of planning studies. The community expressed concern and the proponents responded to that concern. If this proves anything, it is that existing procedures for assessing development applications are highly effective. Mine is a government that takes consultation, due process and procedural fairness seriously.

The opposition, on the other hand, seems to advocate a model for fast-tracking key projects that would reduce the level of consultation required. I commend this to the *Canberra Times* as the subject of tomorrow's editorial. Here are some details to get started with. As I am informed, under the legislation proposed by Mr Smyth a project proponent could lodge a development application for a site and then, discovering an environmental issue, switch to another site without requiring community consultation on the second site or modelling of noise or pollution.

By way of illustration, had Mr Smyth been the responsible minister today, and had ActewAGL lodged a development application for block 18 section 23 Hume and then decided to seek another site because of heritage issues, ActewAGL would have been free to move to another site—say, for example, the Tuggeranong site that is currently so contentious—without any community consultation or modelling of noise and emissions. Instead, Mr Smyth would need simply the acquiescence of two of his fellow Liberal ministers and three commissioners to sign off on the proposal. The only possible remaining hurdle would be that the commissioner for the environment would need to be satisfied that the environmental impact of the project at the second location was not significantly worse than at the original site. Thus, if the developer was changing sites due to environmental concerns and the second site met relevant standards it would proceed without any capacity for community input whatsoever.

Further, Mr Smyth's bill requires that the commissioner must not consider the merits of the project. The approach strikes me as passing strange for a party supposedly committed to community consultation, a party that has pledged to chain itself to bulldozers should the data centre proceed at the site across the road from the Mugga Lane garbage dump.

I sincerely regret that this is not the forum for Mr Smyth to better explain and justify how the Liberal Party would have handled this data centre proposal, not in the abstract, not in wonderland, but in real life. I, for one, would like to know more.

MRS DUNNE: You could take the briefing that you have been offered.

Mr Stanhope: Finally, I want to briefly address allegations by the Leader of the Opposition, again blithely and heedlessly regurgitated by particular journalists, that the government planned a gas-fired power station for Belconnen. The government has indeed received a direct sale application from ActewAGL for a site at Belconnen which would serve as a backup data centre should any problems arise with the proposed data centre at Mugga Lane. The application, made in October last year, makes it quite explicit that normal operational power for the proposed Belconnen data centre would be sourced from the existing ActewAGL substation which is adjacent to

the site.

Because by their very nature data centres and backups require very high levels of reliability of power supply, a secondary power supply, including battery and diesel generator, was proposed. In its application for a direct grant, made, as I say, in October 2007, ActewAGL did not propose a gas-fired power station on the site, contrary to the inventions of Mr Seselja, again assiduously repeated by the *Canberra Times*.

Disappointingly, the *Canberra Times* was in possession of this information on the weekend and has, for whatever reason, chosen not to include it in its front page story this morning. Instead, we again have a regurgitation of the Liberal leader's fantasy about plans for a gas-fired power station in Belconnen. Still, Mr Seselja knows the facts and I call on him now to have the guts and the grace to do what government officials have done in relation to this same matter—to correct the record, to withdraw his comments and to confess that they are without foundation.

I call on Mr Seselja to admit that he got greedy, that he could no longer be content with innuendo and fear mongering. I call on him to admit that at some point last week he decided to step over that line that divides robust political debate from scary and dangerous invention. He can do it now or he can do it during the lunch break, but he has to do it today.

It ought not be necessary but for the sake of completion and understanding I feel it is prudent to point out that the government has not agreed to any development proposal for the Belconnen site. At this stage, its status is simply that an application for land has been made. Before any agreement is made, there will be detailed scrutiny of the application, most notably of its health and environmental aspects.

It is disappointing, though sadly predictable, that the opposition have engaged in such outrageous scare mongering in relation to this potential billion dollar diversification of the ACT economy. In so doing, in seizing momentary political advantage, what the Liberal Party, and in particular the party's leader and his deputy, have done is declare open season on all major development proposals.

What developer with a billion-dollar cheque in his or her pocket will want to consider the ACT as a destination, knowing that Brendan Smyth and Steve Pratt and Zed Seselja are ready to lend their moral and practical support to the letterboxing of entire suburbs with maps showing the toxic miasma that is on its way; and if this does not work he will just make stuff up—whatever it takes, whatever the cost? Such tactics generate unwarranted community concern to members of the community and dampen our prospects of attracting future investment. What Mr Seselja and the Liberals are saying to prospective investors in this town is: “Don't bother. Don't even consider the ACT because you won't be given an opportunity to have your case heard. Even if you comply with all requirements and all standards, we will scare off your customers, alarm the community and simply make it all too difficult.”

Indeed, as recently as the weekend we have had a Liberal MLA and an endorsed Liberal candidate for Brindabella arguing against even the radically scaled-down data centre development on Mugga Lane—a bizarre position for a political party that

prides itself on being pro-business.

My government and government officials have at all times acted properly in relation to the proposed data centre and gas-fired power station. We have engaged in a facilitation that complies with and is respectful of all planning processes. Officials have identified potential sites because that is their job. Neither they nor I have influenced the final selection because that is not our job. Moreover, we have allowed independent and rigorous statutory processes to run their course rather than aborting them midway, as we were urged to do by the Liberals. We have, at all times, operated quite properly and in the interests of the Canberra community and I regret that I cannot say the same for others.

MR PRATT: What an irresponsible, misleading lot of rubbish.

THE CHAIR: Excuse me, Mr Pratt! Thank you, Chief Minister. I believe Mr Mackay wants to make a brief statement. Is that correct?

Mr Stanhope: Yes, it is.

Mr Mackay: Yes, I would like to make a statement. I would like to thank the committee for this opportunity to clearly state ActewAGL's position in regard to the Canberra technology city development. ActewAGL believes the CTC development is a fantastic opportunity for the ACT, for a number of reasons. The development represents a significant direct investment of nearly a billion dollars into the ACT economy. It will provide ongoing jobs for around 300 people and indirect employment for many others. It brings further diversity to our workforce and, importantly, the co-generation elements of the proposal mean that the energy needs of the centre are efficiently provided, which in turn helps to reduce our carbon footprint.

ActewAGL was very pleased to secure the proposed site in the district of Tuggeranong for this development. It is ActewAGL's position that block 1671 is and remains the best site for the data centre and the co-generation plant. The site is zoned appropriately. Importantly, it is close to electrical easements and has ready access to gas supply. All our advisers' reports indicate that the site comfortably meets all noise and emission standards and does not have any adverse impact on heritage and flora and fauna considerations.

The site selection was undertaken by ActewAGL, in consultation with CBRE Consulting. ActewAGL initially expressed to LDA an interest in block 7 section 21 in Hume, on the basis that the site had passed a preliminary assessment for a small gas-fired power station as a stand-alone facility in 2002. When the LDA informed ActewAGL of plans to subdivide the site for an industrial estate, we thought it prudent to see whether there were other possible sites that might be suitable for the development.

At that stage, however, ActewAGL did not dismiss the possibility of further exploring procurement of block 7 section 21. Certainly, the government did not rule out the site either and it remained in the mix of possible sites. The LDA notified ActewAGL of the identification of a further possible site, namely, block 18 section 23 Hume. This site is located adjacent to the Monaro Highway, immediately north of the resource

recovery estate.

While early indications were that this site may fulfil all of ActewAGL's site requirements such as proximity to power, land size and the like, an early review of the site by LDA identified Heritage ACT concern regarding archaeological heritage along the Dog Trap Creek bed and surrounding land. ActewAGL's interest in the site was sufficient for it to agree to spend some \$100,000 towards a heritage recovery survey. However, ActewAGL became increasingly concerned that any recovery activities of valuable cultural artefacts might substantially delay the CTC development beyond the available commercial window. Again, ActewAGL decided to look further at other possible sites. I might add that we were quite correct in that assessment. LDA is still recovering artefacts from the site some nine months after the contract for the recovery of the items was let.

While the discussion in relation to block 18 section 23 were ongoing, ActewAGL's planning adviser identified a further two possible sites in the area. Again, these sites were identified on the basis of criteria that included land size and accessibility to key utility infrastructure.

One of the sites, then referred to as block 1610 part C in the district of Tuggeranong, was quickly ruled out as the site is traversed by a creek. We had concerns that it might be flood prone and it may have been affected by a planned road realignment in the future.

The other site identified by ActewAGL's planning adviser was at the time referred to as block 1610 part D in the district of Tuggeranong. This is the site now known as block 1671. The site, for the reasons I have stated earlier in my remarks, is ActewAGL's preferred site.

As far as ActewAGL is concerned, the site surpasses all of the other sites evaluated in terms of meeting the site criteria for the CTC development. I repeat my earlier statement: we were delighted when we got this site. So the position is quite clear. At no stage did the government or LDA rule out any site. The site eventually selected by ActewAGL was also identified by ActewAGL, not the government and not LDA. The only site identified by LDA was, in fact, in Hume, and it was ActewAGL who selected the site on block 1671 in the district of Tuggeranong. At no stage were we directed or pressured, nor was it even suggested by government or government representatives, that ActewAGL should make that selection. ActewAGL made the selection, with its advisers, on the basis that the site best fulfils the site requirements for the data centre and the co-generation facility.

So I can put it on the record unequivocally that I refute recent suggestions in the media that ActewAGL was in any way strongarmed into selecting our preferred site. Quite simply, the site we now favour was chosen by us based on commercial considerations and on our strict criteria.

Given the media reports of the weekend, I would like to briefly address the proposed Belconnen site. The Belconnen site is, and always has been, intended to complement the services of the primary data centre at block 1671. It is proposed that the Belconnen facility serve a secondary production demand as well as provide backup

and business continuity services for the primary site tenants; this remains the case. At no stage has there been any plan to locate a gas-fired power plant on the secondary Belconnen site. This too remains the case. The secondary site in Belconnen, if it proceeds, would be grid-fed with normal power redundancy measures in place, including battery, uninterrupted power supply and diesel generator backup.

Throughout this process, ActewAGL has strictly adhered to the applicable planning processes. It seeks to have the development considered in accordance with those processes. If the development meets the required standards and guidelines, it should proceed. If the territory is to continue to benefit from substantial infrastructure development such as the CTC, it is vital that the known business and planning rules are applied.

I close my remarks by reiterating ActewAGL's belief that the proposed CTC development represents a tremendous opportunity for Canberra, bringing jobs, new industry and significant investment into the territory in an environmentally responsible way.

THE CHAIR: Thank you, Mr Mackay. Just before proceeding, I would like to remind members of the committee that we are not bound formally by the same procedures as happen in the chamber. So we, the committee itself, decide on the processes and procedures and we have not decided on taking points of order, so they do not apply in this. I just wanted everyone to make sure that they understood that points of order do not apply. So we can proceed now.

I just wanted to clarify something, Chief Minister. I know that you dealt with this in your remarks, and Mr Mackay has just dealt with it, but I want to clarify once and for all this matter you raised about the editorial. Obviously it is a serious accusation about the so-called strongarm, as you have just said. I must admit that I did not actually read that, so I would like a little bit more clarification about what it said, if you could clarify that for me.

Mr Stanhope: Certainly. I relish the opportunity to repeat the point that I made. The suggestion that I personally had strongarmed ActewAGL into a decision that was not their choice or their wish in relation to site selection is quite offensive.

THE CHAIR: That is what the—

Mr Stanhope: It is quite offensive. It is without foundation. It is simply not true that I was in any way involved. Mr Mackay has just indicated that indeed that particular site was selected in the first instance for consideration by ActewAGL. ActewAGL went to the LDA and said, "Here is another site. Can we have this site considered?" Then ActewAGL made the decision to select that site.

But, to put the matter to rest completely—and I must say, having regard to some of the reportage and some of the claims that have been made in relation to my involvement or the involvement of others, some of the misinformation—perhaps I can take it to what you might think is something of an extreme and ask Mr Cappie-Wood, on behalf of the Chief Minister's Department, whether either he or any of his officials within the Chief Minister's Department brought untoward pressure or sought to

strongarm ActewAGL.

Then, I think for completeness sake, I would like to invite Mr Philip Mitchell, the Acting Chief Executive of the LDA, to advise me and the committee on whether or not the LDA acted in an untoward way, brought pressure on ActewAGL to take a decision that was not their decision or in their interests. So I invite Mr Andrew Cappie-Wood to respond on behalf of himself and his department, and Mr Philip Mitchell similarly in relation to the LDA.

MRS DUNNE: That is up to you, Madam Chair.

THE CHAIR: I am happy to hear from them.

Mr Cappie-Wood: Thank you, chair. I am speaking on my own behalf and that of my department. At no time was undue pressure placed on ActewAGL in their selection process. We were aware that they took all due diligence in arriving at their own decisions and hence no strongarm tactics were applied.

THE CHAIR: Thank you.

MR SMYTH: Did ActewAGL ask you to reconsider your decision?

THE CHAIR: Excuse me.

MRS DUNNE: That is a reasonable supplementary question.

MR SMYTH: Did ActewAGL ask you to reconsider the decision and allow them to—

THE CHAIR: Excuse me, Mr Smyth. I just want to hear from Mr Mitchell first.

Mr Mitchell: No. At no time did the LDA strongarm ActewAGL.

THE CHAIR: Thank you. I just want to complete my question. So is the *Canberra Times* report—there have been other reports in the media of late—that the location of the land, the site that has been chosen is only motivated by financial gain to the territory, correct?

Mr Stanhope: Certainly that allegation has been made, most particularly in an editorial in the *Canberra Times*. Certainly it is an issue that has been—well, I do not know who actually started the conspiracy, whether it was the Liberal Party or, indeed, the *Canberra Times*, but certainly they have been speaking off the same hymn sheet in relation to a conspiracy around the government being motivated by profit rather than taking into account the need to ensure that environmental and health issues, particularly in relation to emissions and noise, were appropriately satisfied.

In response to those allegations, I repeat that I had no role in site identification or selection, short of the making of the decision. Of course, in a process since, it was a decision that I put to the cabinet. So I had that role after ActewAGL had indicated its preference for the Tuggeranong site. At no stage, however, did I instruct or seek

advice or briefing on relative valuations of respective sites that had been identified and were under consideration. So, once again, Madam Chair, I can confirm absolutely that suggestions that either I or the government took into account the respective valuations or returns to government in relation to the selection of one particular site over another are spurious and false.

I wish to invite Mr Andrew Cappie-Wood once again to respond on behalf of himself and his department. But speaking for myself I refute those allegations absolutely.

MR SMYTH: So were you asked by ActewAGL to reverse your decision and allow 7 of 21 to be granted for the project?

Mr Stanhope: No.

MR SMYTH: Were you or your agencies or your officials asked by ActewAGL to reverse the decision to allow block 7 of 21 to be allocated for the use of the project?

Mr Stanhope: No. At no stage have I been asked, and I am not aware that the government has been asked or that the LDA has been asked.

THE CHAIR: We can hear from Mr Cappie-Wood.

Mr Stanhope: On behalf of myself, no. MrCappie-Wood, I would ask you to respond to the question that the chair has asked.

Mr Cappie-Wood: Coming to that point, the original site that ActewAGL came to government with was certainly not ruled out explicitly by ActewAGL as they sought other sites. I think ActewAGL can attest to their selection process, the site identification process. It was one that was shared between not only ActewAGL's own consultants but also government undertook work in that regard as well, principally led by the LDA.

DR FOSKEY: Can I have a supplementary?

THE CHAIR: I think Mrs Dunne has got the next question. What is the supplementary?

DR FOSKEY: Ms MacDonald has identified that she has a supplementary. I have a supplementary to the current line of questioning.

THE CHAIR: Okay. Mr Smyth had a question back a little while ago. So it will be Mr Smyth, Ms MacDonald, then Dr Foskey and then Mr Seselja. These are supplementaries to this line of questioning? Is that right, Mr Seselja?

MR SESELJA: Yes.

MR SMYTH: Chief Minister, you have said consistently that the department or you had no role in the process of identification and selection of the site.

Mr Stanhope: That is not correct, Madam Chair.

THE CHAIR: No.

MR SMYTH: All right. Chief Minister, you have said that you have had no part in the selection of the site. Chief Minister, why, then, did the head of the LDA at the time, on 18 July last year—it is in her handwriting—write that CMD have already agreed on a site? Why did CMD agree on a site on 18 July? Indeed, why did the head of the Land Development Agency at that time make this request of her staff, “I suggest you raise this matter at the land supply meeting on Thursday.”

Indeed, on 4 July, just before the LDA was involved, she wrote, “Please turn your issues brief into a short brief for the CEO to deputy CEO CMD to apprise Mr Dawes of the twin issues—ie, threat to Actew’s initiative and industrial land supply. Whereas Actew will probably prefer their default option of returning to block 7-21, Hume, the implications for industrial land supply, which Mr Dawes emphasised was a priority for the government, must be taken into account in reaching a financial decision.”

Mr Stanhope: Thank you, Madam Chair. At the outset I want to draw attention to the way in which Mr Smyth actually couched his initial question. It goes to some of the confusion which certainly has been inherent in relation to the previous hearing of this committee. Mr Smyth opened his question with a preamble or a suggestion that is just wrong and which he knows to be wrong. He said, “Chief Minister, you have consistently stated that your department had no role and you had no role in site identification or selection.” I have made the point repeatedly that my department had a real and valid and detailed role in site identification.

So, it goes to the point of some of the misunderstandings and the ambiguities in relation to language. At no stage, as just proposed by Mr Smyth as a fact, as an assertion of fact, have I said that the department was not involved in site identification or in this process. In fact, that is what the project facilitation group was actually developed to do—to have a role in facilitating business. That is what facilitation is about.

MR SMYTH: But Anne Skewes, who is head of the LDA, says that CMD have already agreed on a site. They chose a site.

Mr Stanhope: We need to just put that in some perspective in relation to the mischief that is being made of language, and so much of the confusion is around terminology—a confusion around site identification as opposed to site selection. We just see another illustration of that now. Mr Smyth quite clearly is confused about what the government has said—

MRS DUNNE: So was Ms Skewes confused as well?

Mr Stanhope: and actually is mis-stating the reality of the different involvement of different agencies. But, in the context of the substance of the question that Mr Smyth asks, it has never been suggested that this was an iterative process and that it developed. We are talking about ActewAGL’s opening position of July last year at the early stages of site identification and assessment for a particular block.

The position changed. Quite simply, as the matter was agitated, as the matter was worked through processes, as the different impediments or disadvantages of individual sites were identified, then both LDA, the government and ActewAGL, as Mr Mackay has just said, looked further afield. As Mr Mackay has just said in response to the point that Mr Smyth made, ActewAGL itself looked further afield as it sought to explore alternative sites. Ultimately, a site was identified by ActewAGL, was put into the mix and was selected by ActewAGL.

So, Mr Smyth, I would have to go to the documents, and I would certainly defer to the LDA and to my officials in relation to what the opening position in July last year—in other words, 11 months ago—may have been. But Mr Mackay has just explained in some detail the nature of the process that ActewAGL itself engaged in as it sought an optimal site. He has just explained that in detail.

I am more than happy to ask those of my officials who would have a more detailed understanding of those early processes and those early considerations to actually assist you in understanding that particular process. I am not quite sure who it would be. Certainly they are not discussions that I was involved in, but I am sure the LDA or perhaps officers of the Chief Minister's Department would be able to actually further explain the way in which the process developed over time up to the point when ActewAGL ultimately expressed its preference for the Tuggeranong site. Mr Mackay indicates that he can give some initial assistance to Mr Smyth in relation to this matter.

Mr Mackay: Firstly, I simply reiterate that we were not strongarmed by anybody. I have said that. I have said it on oath. I have said it publicly. So I am saying that if we had been strongarmed, I guess I would know, given that supposedly I am the one who was strongarmed. I was not.

The role of the Chief Minister's Department—we were delighted to have them involved—was to facilitate access to decision makers, which is what they did very, very capably. We had lots and lots of meetings with them and lots and lots of meetings with LDA. But the role of David Dawes was not to help us select a site. It was to help us to get material in front of the government, which they did very effectively.

THE CHAIR: Thank you. You had a supplementary, Ms MacDonald.

MS MacDONALD: I want to go back to the issue that was raised before—you referred to it again—of not being strongarmed about the issue of the original site of block 7 of 21. Chief Minister, you referred to this in your opening statement as well. I want to get an idea of how far that would be from Tuggeranong if the original site of 7 of 21 in Hume had gone ahead.

Mr Stanhope: I must say I do not have that particular detail. I think it is fair to suggest that, whilst it may have pushed it—as it would, obviously—further away from some geographic points, it would have pushed it closer to others. It may be that there are others that have the measurements but certainly, in relation to any site selection, to move a site from one place, of course, pushes it much closer to another point. You know, these are always difficult issues for government in relation to any particular project. Yes, certainly, a particular project can be moved from one site to actually deal

with a particular concern to one group of residents, but it may very well be that it will actually simply raise the same level of concern or the same sorts of concerns for another group of residents. I think that perhaps is the case in relation to this. Others may—

Mr Mackay: I can tell you. It is 1,200 metres from Gilmore, quite simply.

MS MacDONALD: So just over a kilometre from Gilmore?

Mr Mackay: Yes, that is correct. The sites are very close to each other.

THE CHAIR: Dr Foskey.

Mr Stanhope: The point was made that the two sites are about 400 metres apart. I think that needs to be understood.

MS MacDONALD: So it certainly would not have added that much in terms of distance, even in Macarthur?

Mr Stanhope: Well, we are having a convoluted and detailed debate about site selection. The two sites themselves are, you know, within 400 to 500 metres of each other. We are having this detailed debate about site selection when the sites that we are talking about and discussing now are within a stone's throw of each other in any event.

THE CHAIR: Mr Seselja, you are next on the list for the supplementary.

MR SESELJA: Thank you, chair. You talk about getting into semantic detail, Mr Stanhope. During the estimates process—and I think you repeated the sentiment this morning—you said to the committee:

It needs to be understood that block 7, section 21 Hume, was not offered and then withdrawn by the government or any government agency. The site was offered and not accepted.

In July ActewAGL wrote an email which stated, “We therefore wish to request the support of the Chief Minister in asking the LDA to review the industrial land release program with a view to making block 7 of 21 available for the natural gas power station data centre project.” How do you reconcile these two statements? You have told us on the one hand that it was not offered and withdrawn and that ActewAGL made the decision on its own, yet as late as July they appeared to be begging to get block 7 of section 21 in Hume.

Mr Stanhope: I think it is true to say, in terms of my understanding, that it was not offered and then withdrawn. A request was made and, in the written response to the request, alternative sites were identified. But I think perhaps—

MR SESELJA: Because they could no longer get access to block 7 of 21?

Mr Stanhope: No. I do not know that level of detail. Certainly, the original request—

MRS DUNNE: You were very clear this morning.

Mr Stanhope: We need to understand the history of this.

MR SESELJA: If the site was offered and not accepted, why would they be asking for it as their top priority? If it was being offered to them, why would they be asking—

Mr Stanhope: It is probably appropriate for ActewAGL to respond to that. But it needs to be understood that there is some history to that site. I had earlier asked ActewAGL, and ActewAGL had pursued quite vigorously some years ago, about the prospect of establishing a gas-fired power capacity within the ACT in response to issues that became a concern, particularly post fire and particularly in relation to issues around the vulnerability or security of our power supply. ActewAGL have previously considered it and I believe their previous consideration of cross-benefit related to that site. Rather than me second-guessing, it would be appropriate for Mr Mackay or ActewAGL to respond on the process that was engaged in and their attitude and involvement in it.

MR SESELJA: Just before he does, I should point out that Mr Smyth asked you a question earlier; he asked you whether you or any of your agencies were asked in relation to block 7 of 21 to reconsider by ActewAGL. You said no. That does seem to be once again contradicted by this document.

Mr Stanhope: In response to the letter from Mr Mackay, I responded on 19 July. I said:

Dear Mr Mackay

Thank you for your two letters to me ... concerning ActewAGL's proposal to develop an integrated gas-fired power station and data centre in the ACT.

Your letter ... sought the immediate offer of a lease of portion of part Block 18 Section 23 in order for ActewAGL to obtain certainty with respect to its entitlement of the land and allow ActewAGL to complete commercial arrangements ...

At a meeting of ActewAGL and Government ... on Friday 6 July ... the Land Development Agency ... informed your officers that the Government has only just learnt of the need to undertake a heritage examination of this site. In light of the uncertainty this would introduce for your planning, your representatives—

ActewAGL, that was—

stated that their ranking of Hume sites was now:

- First, the site originally sought at Block 7 Section 21 [to the southeast of the Monaro Highway];
- Second, the site at part Block 18 Section 23 [located to the northwest of the Monaro Highway ... *provided* the heritage examination lasted not longer than three months and that ACT Heritage could assure both

- the Government and ActewAGL that development could proceed after that time, no matter what was found on the site; and
- Third, the Broadacre site at Block 1610, District of Tuggeranong ...

Further, your representatives stated that ActewAGL was willing to fund the heritage examination ...

The Government and ActewAGL representatives agreed that the three sites would be urgently examined and that advice would be provided to me on their respective merits.

The letter goes on. So Mr Seselja, in response to Mr Mackay's letter to me identifying a site in Hume, I responded on 19 July 2007 and set out in that letter the position that had been put by ActewAGL to the ACT government in discussions that followed Mr Mackay's original request. ActewAGL, in those discussions, had identified three sites. So, even within a month or two months of the initial request, as a result of consultations, discussions and identification of issues impacting on each of the sites, as I indicated before, the scope of sites that might be amenable to this particular development, or appropriate, or that ActewAGL may wish to include in its considerations was expanded by 19 July. To say it was offered and then withdrawn is not true. A request was made—an offer, it appears from these discussions. But, once again, if an offer was made and withdrawn, it was certainly not reflected in the correspondence between the parties—

MR SESELJA: You go on to say the site was offered and not accepted.

Mr Stanhope: Where is that?

MR SESELJA: In your statement to the Assembly, to the committee.

Mr Stanhope: That is my understanding, certainly. I think that is confirmed by this letter, which I wrote to Mr Mackay on 19 July 2007, in which I said, “Our officials have been discussing with your officials your request for a site in Hume. As a result of those discussions, your officials”—that is ActewAGL officials—“have now identified three sites which they would wish to give further consideration to.”

MR SESELJA: And they had their order of preference. If you look at the documents which Mr Smyth has referred to—on 4 July—we see Mr Dawes being referred to by the LDA, saying, “Whereas Actew would probably prefer their default option of returning to block 7 section 21 Hume, the implications of this for industrial land supply which Mr Dawes emphasised was a priority for government must be taken into account.”

Then, on 7 July, we see further discussion in the documents where it notes the preference of ActewAGL for block 7 of 21, the original site and the one we are preparing for industrial land release in the near future.

The third option is broadacre. It talks about “making block 7 section 21 available would seriously affect planned industrial land release at Hume, but the Chief Minister might be willing to accept this consequence”. So ActewAGL were pushing for it then. They continued to push for it. It is in a brief to you saying they want it.

How do you justify that part of that statement where you say the site was offered and not accepted, when they clearly were asking for that site and your officials, through Mr Dawes and others in the LDA, were saying, “It is too valuable as industrial land. We would prefer that it was not sold”? And then we see negotiations on another site. Where do you back up the statement that said that the site was offered and not accepted?

Mr Stanhope: Once again, Madam Chair, I would have to go to the records. But, Mr Seselja, could you read out from that file, please, where I said that that land was too valuable?

MR SESELJA: Sorry? That the land was too valuable?

Mr Stanhope: You just said that the government said to ActewAGL—

MR SESELJA: No, I did not say that; I said officials—

Mr Stanhope: Yes, you did. You just said—

MR SESELJA: Well, if you could let me—

Mr Stanhope: You just said officials said the land was too valuable—

MR SESELJA: I know what I said, and I did not say that. What I did say—

THE CHAIR: You did.

Mr Stanhope: You did; you just said it.

MR SESELJA: I said officials, not you; let us just make that clear.

Mr Stanhope: Well, read from the—

MR SESELJA: Let us just make it clear what I said.

Mr Stanhope: I just want to make sure—

MR SESELJA: Okay.

Mr Stanhope: I just want to make sure that we do not mislead, so read where we said that the land was too valuable to be released.

MR SESELJA: Please let me. We see a number of references. I talked about officials, but Mr Smyth has pointed out one to me, one which I was not referring to, but that was Mr Mitchell appearing before estimates on the 27th—

Mr Stanhope: Read from the letter where it says that officials—

MR SESELJA: You have asked me to explain about officials. I will explain if the

committee—

Mr Stanhope: No, read from the letter.

MRS DUNNE: Madam Chair, the Chief Minister is here to answer questions, not to direct—

MR SESELJA: If the committee would like me to put this information on the record, I will.

THE CHAIR: Just a moment.

Mr Stanhope: Read from the letter.

THE CHAIR: Mr Seselja, I think the Chief Minister would like some clarification about what he is answering. He needs to understand what the quotes are so that he can actually answer them. That is what he is asking for.

MR SESELJA: Okay.

THE CHAIR: Is that right?

MR SESELJA: We will go back to the ones I quoted from, and then we will come back to Mr Mitchell's statements.

THE CHAIR: Is that what you are asking for?

Mr Stanhope: Absolutely, because I was not there. I was not involved in this, so I want the relevant officials—

THE CHAIR: So you are just asking for some clarification?

Mr Stanhope: In order to identify the relevant officials. Mr Seselja, in his question to me, said, "Your officials said the land was too valuable to offer to ActewAGL." I just want him to read that so that the official that said that can actually respond.

MR SESELJA: Sure. On 4 July 2007, and this is an LDA document, it says, "Whereas Actew will probably prefer their default option of returning to block 7 section 21 Hume, the implications of this for industrial land supply which Mr Dawes emphasised was a priority for government must be taken into account in reaching a final decision." We then have Mr Mitchell saying this in response to questions from Mr Smyth. Mr Smyth said:

... this project would meet industrial land use.

Mr Mitchell said:

It would, but there would be an opportunity cost there—quite a substantial one ... I think the value of the land for industrial land would be higher than its value for broadacre use, which is what it is currently being used as.

We have further documents here referring to the government's reference in relation to the value of the land. I quote:

The LDA is urgently assessing the three sites. Key factors in the assessment include making block 7 of 21 available would seriously affect the planned industrial land release at Hume, but the Chief Minister might be willing to accept this consequence.

So we have, in all of these documents—

Mr Stanhope: So what we have is no statement from officials saying the land was too valuable.

MR SESELJA: We have a reference to what Mr Dawes had said, by the LDA.

Mr Stanhope: But your question was: “Your officials said the land was too valuable.” I have just asked you to identify—

MR SESELJA: Mr Mitchell certainly is on the record—

Mr Stanhope: He said there would be an opportunity cost but it was not a consideration.

MR SESELJA: What does that mean then, Chief Minister?

Mr Stanhope: That means that actually plans that have been made to significantly enhance the supply of industrial land—

MR SESELJA: That it would be more valuable to subdivide than sell that block?

Mr Stanhope: No, no. Madam Chair, can I answer the question, please?

THE CHAIR: Yes.

Mr Stanhope: There was a significant opportunity cost, and the fact is, in relation to that particular piece of land that had been previously identified by ActewAGL, that the LDA had done considerable work in having that land made ready for release to enhance industrial land supply and to deal with significant pent-up demand. That was the consequence of the later brief to me after ActewAGL made its ultimate site selection—the serendipitous advantage to the government or the community that we had identified a site that was ActewAGL's preferred site, the site identified by them and ultimately selected by them, and, at the same time, we had not lost the opportunity of having land that had been prepared for release to meet pent-up demand for industrial land within the ACT actually removed.

MR SESELJA: But it wasn't serendipitous. You have got documents here demonstrating exactly that it wasn't; that it was being pushed—

Mr Stanhope: No, but it was, because ActewAGL made a decision, an ultimate

decision in relation to the site that they preferred, and they made that decision on the basis of their own assessment of their priorities and ultimate site. So, at the end of the day, ActewAGL got the site that they wanted, and a site that had been prepared for release to the market to enhance industrial land supply was also able to proceed.

MR SESELJA: After being told that the government wanted to hold on to this land for other priorities.

Mr Stanhope: Well, certainly—no, it wasn't told that. It was certainly within the mix of a whole range of factors, such as heritage, such as flood plains, such as the need to go to the—

MR SESELJA: Are you telling us this was serendipitous?

Mr Stanhope: It was serendipitous. At the end of the day, it was an excellent win-win—

MRS DUNNE: Yes, you can make your own serendipity, can't you?

Mr Stanhope: No, it was a win-win. ActewAGL got the site that it identified and wanted, and another piece of land that had been within the mix could now proceed to be finally prepared and released for the market to meet pent-up demand for industrial land. So, I think that is a great win-win that we had managed to satisfy this proponent for this major billion dollar investment whilst retaining the capacity to release industrial land to meet significant pent-up demand within the community for industrial land at Hume. So, it was a classic win-win. Everybody won out of the ultimate decision. I think it was a fantastic result.

MR SESELJA: But it was not serendipity—

THE CHAIR: Okay, just—

MR SESELJA: Well, we need to finish this, because we have got documents from the LDA saying that Mr Dawes has emphasised that this is a priority and has to be taken into account. Then we have further documents where the LDA is urgently assessing the three sites, key factors in the assessment, and stating that making block 7 of 21 available will seriously affect the planned industrial release at Hume, but that the Chief Minister might be willing to accept this consequence.

Then we have a document given to you saying that their preference is still for 7 of 21. In fact, on 8 July they said that they therefore wish to request the support of the Chief Minister in asking the LDA to review the industrial release program with a view to making block 7 of 21 available for the natural gas power station.

It is not serendipity. Why would they be desperately asking for it if it was being offered to them? Why would they have to be continually putting in these requests if this site was on the table for them to take? That is not backed up by any of these documents.

Mr Stanhope: Well, I think it could be backed up then by another response by

Mr Mackay on the decision processes that ActewAGL actually engaged in at the time. I have attempted to explain the situation and the scheme and the nature of the discussions. You know, these were not hard or fast; they were not set in cement. There was a move in relation to ActewAGL's requirements, and that was, of course, as Mr Mackay has already indicated, driven by a range of other factors that impacted on the suitability or at least the priority that would be afforded to separate sites. So Mr Mackay can respond on behalf of ActewAGL as to why it took the decisions that it did.

THE CHAIR: Thank you, Mr Mackay.

Mr Mackay: Well, I mean, I think that the first thing is that when we went to LDA—and I clearly remember the meeting that we had with them where we were talking about the original—

THE CHAIR: Just a moment, Mr Mackay. Do you wish to listen to the answer?

MR SESELJA: We were listening.

THE CHAIR: You were not actually. You were having a discussion, so listen to the answer, please, because this is very important.

MR SESELJA: Sure. We're listening.

THE CHAIR: Thank you.

Mr Mackay: So the broad context is that we had the original block in Hume. We had been talking to the LDA many years ago about a smaller gas-fired generator. When we went back to the meeting with LDA some years later to say, "Look, we would like to look at that block again for a larger gas-fired generator, and a data centre," the broad response was, "Well, welcome back. But look, things have moved on. You have not done anything with that site for four years. We have. We are working on that site, and so it may well be we will need to talk about some other sites."

But the evidence of actually where we stood at that particular time in July, Mr Seselja, is contained in the Chief Minister's letter to me of 19 July where it says that the Government and ActewAGL representatives agreed that the three sites would be urgently examined and that advice would be provided to me on their respective merits.

The fact of the matter is that we had not really had a close look at that Tuggeranong site at all at that stage. It was an iterative process over the next month or two, which I think would be quite normal in these circumstances, where, the closer we looked at the Tuggeranong site, the more it was appealing in terms of our criteria. Then eventually we settled on it as the best site, which we thought was the best site then, and today we still think it is the best site.

MR SESELJA: But part of the reason you thought it was the best site—and that is reflected—is because the government was telling you that it did not want to release block 7 of section 21.

Mr Mackay: It quite clearly said that all three sites were still available at that time, as the Chief Minister's—so, no, not clearly at all. They said they had moved on and they had been doing various studies and rezoning things to that site, but they didn't rule it out, and the Chief Minister didn't rule it out in his letter to me of 19 July. It was still on the table. We then went through an iterative process. We learnt more about the Tuggeranong site and became more and more attracted to it. Of course, that is why we locked in on it.

MR SESELJA: If that process was still open on 18 July, why was Anne Skewes saying on 15 July that CMD had already agreed to the site?

Mr Mackay: 19 July you mean? That process was still open on 19 July—

MR SESELJA: Sorry, yes, 19 July, but this is 15 July, Anne Skewes.

Mr Mackay: Sorry, I have not heard what—

MR SESELJA: Well, this is a question really for the Chief Minister or the Chief Minister's Department. Had the Chief Minister's Department agreed to the site on 15 July? If not, why is there this false note on the files you provided to us?

Mr Stanhope: That's an LDA file, is it?

MR SESELJA: Yes.

Mr Stanhope: Well, I guess perhaps only Ms Anne Skewes can answer that, and, unfortunately, she is not with us any more but—

MR SESELJA: Perhaps Mr Dawes could come forward and tell us.

Mr Stanhope: Well, Mr Dawes does not work for the LDA.

MR SMYTH: But he could tell us the department's side of the story.

Mr Stanhope: I just want to reiterate the point. On 19 July, four days after this file note, the government had taken a decision in relation to this. I expressed that decision to Mr Mackay in a letter which says that the government and ActewAGL representatives agreed that three sites, namely, block 7 of section 21, block 18 of section 23 and block 1610, would be urgently examined and advice would be provided on their respective merits.

Then I went on to say that, regardless of the outcome of that examination, the government gives in-principle support to ActewAGL's proposal and undertakes to reserve for 12 months a suitable site of approximately 21 hectares for direct sale at market value to ActewAGL.

That was the position. We said, "Here are the three sites. We note that you have listed them one, two, three. We will do an urgent examination of all three, and we will take it from there." In the interim, as Mr Mackay has just said, it was an iterative approach. As a result of that urgent examination ACTEW said—and only ACTEW can answer

this, and I think they received some advice from one of their consultants—“Well, hang on. There is actually another site.” Some focus was then given to that fourth site, which is not actually included, as I understand it.

Mr Costello: It is part of that.

Mr Stanhope: It is a part of that. So, 1610 was large—it is C and D—and consultants to ActewAGL, said “Well, look, hang on, part of this would be excellent.” ActewAGL then made a decision based on that.

THE CHAIR: Okay.

MR SESELJA: When was that decision taken, Mr Mackay?

Mr Mackay: The actual decision to lock in on 1610?

MR SESELJA: Yes.

Mr Mackay: I would have to just check. It was 8 August.

MRS DUNNE: 8 August.

Mr Mackay: We wrote a letter on 8 August, which I will now refer to. So we wrote to Cathy Cooley, Project Manager, Urban Development, LDA, telling her basically that we had examined the sites. We said that ActewAGL has examined the sites proposed to develop an integrated gas-fired data centre and that a section of land within block 1610 of Tuggeranong has been identified as the preferred site.

MR SESELJA: So it was 19 days after that response?

Mr Mackay: That’s correct.

THE CHAIR: Okay, you had a supplementary, Mr Gentleman?

MR GENTLEMAN: Well, it is to do with location as well, yes.

THE CHAIR: Well, they are all to do with location. Dr Foskey still has her supplementary from a while ago, and Mrs Dunne has been wanting to ask her substantive question ever since she was—

MRS DUNNE: Ever since quarter past 10.

THE CHAIR: Yes, well, unfortunately, we took Mr Smyth’s supplementary, and it has gone from there. So, Dr Foskey, your supplementary quickly, then we are going to Mrs Dunne and then we are going to you, Mr Gentleman.

DR FOSKEY: I have a question for clarification purposes. I note that last time you appeared before us on this matter, Mr Stanhope, Mr Mitchell for the LDA talked about four sites that were identified. It is unclear whether it was the LDA who identified them, but the criteria that he cited as the main criteria that I assume the

LDA had do seem to be rather different from the ones Mr Mackay cited earlier on. That could be just a matter of emphasis, but I note that Mr Mitchell talked about the closeness to the methane gas generation. In fact, he stressed that its proximity to existing methane gas generation was an advantage. But he did not refer to any of those other matters that were raised by you, Mr Mackay—that is, water infrastructure, gas infrastructure and electricity power lines. It also gives a sense that LDA identified the four sites, and you said very strongly in your evidence that ActewAGL chose the Tuggeranong site. I was just seeking clarification of that, please.

Mr Mackay: If you want it from me, quite clearly it was our consultants who identified the Tuggeranong site; it was not LDA. They may have been aware; there may have been discussions—who knows—but my advice from my people is that it was us who identified the Tuggeranong site and us who put it into the mix of sites to be considered.

DR FOSKEY: What criteria had you given LDA as the main conditions for a successful site?

Mr Mackay: Broadly, they were what you see in the documents. They were a range of things. Clearly, the zoning was important and the access particularly to gas and electricity infrastructure was important. They could not be under a flight path, which was also very important. They were basically the main criteria.

DR FOSKEY: Was methane gas access one of the criteria?

Mr Mackay: I am not specifically aware of that, although I can recall that being discussed in relation to this site. It certainly was not a criterion before we started because we did not know of that site before we started. I would see that as a plus now, though.

DR FOSKEY: You would; I know Mr Mitchell is dying to speak, but will methane gas be used by the gas power plant if it is built there?

Mr Mackay: It will be possible to use it. It would depend on whether we could get access to all of that. Most certainly, we support the methane gas extraction. In fact, we were the funders of the methane gas extraction, certainly at the other landfill site and I think at that one too, so we have been supportive of both.

DR FOSKEY: So at best it was a secondary and not a primary consideration—

Mr Mackay: Absolutely.

DR FOSKEY: for the selection?

Mr Mackay: I think that would be fair enough to say.

DR FOSKEY: Mr Mitchell, do you have something to add?

Mr Mitchell: If there is a question for me.

DR FOSKEY: Given that I was referring to your original statement on 27 May regarding the criteria, have you got anything to add?

Mr Mitchell: In terms of the criteria, I thought the size of the land was one—20-plus, 21 hectares. What is referred to as the zoning, the permitted uses, were certainly very important, so appropriate land use defined under the territory plan, and access to major road networks. I also had here that the site was relatively flat and close to existing ActewAGL infrastructure—and, yes, possible utilisation of existing methane generation. But that may have been—

DR FOSKEY: So those were the criteria you were given for selection?

Mr Mitchell: The last one may have been more emphasised when ActewAGL and their consultants came up with 1610 at Tuggeranong, which is now their preferred site. In terms of the identification of the sites, I clarify that when ActewAGL approached us first, it was about block 7 section 21 Hume. There were some constraints that were identified in relation to that block, one being that the work that had been done some years before was now out of date and not related to an identical proposal. That was part of it. Yes, it was very important that the site had been identified for industrial use, and a lot of planning studies were underway. But in terms of the value—and perhaps Mr Mackay can comment on the value—we would sell the land for market value. So the territory would get the same return, no matter who we sold it to.

DR FOSKEY: Regardless of who purchased it.

Mr Mitchell: So it was more a question then for ActewAGL—if they could get land that was zoned broadacre, that would have a much lower purchase price but, if it was zoned for industrial use, it would be valued on the basis of the highest and best use and would be perhaps three to four times as expensive.

DR FOSKEY: Do you concur with Mr Mackay's statement that it was ActewAGL that identified block 1610 part D, and where did LDA fall out of the process, if it did?

Mr Mitchell: It was ActewAGL and their consultant CBRE who identified block 1610 district of Tuggeranong, yes. I think the only site that LDA identified was the second site in this chronology, which was block 18 section 23 Hume, and that was the one that has the archaeological issues.

THE CHAIR: Just for clarification: 1610 D has been mentioned and 1671; they are the same site?

Mr Mitchell: It is the same one. 1610 district of Tuggeranong is the larger block that has now been subdivided. So the block that ActewAGL are interested in is now known as 1671.

THE CHAIR: We just wanted to clarify that for the record because all of these numbers are flying around. Mrs Dunne, you had a question.

MRS DUNNE: Thank you, Madam Chair.

MR MULCAHY: Sorry, just as a supplementary to that, just to be clear, what you are saying—

MRS DUNNE: No, Madam Chair—

MR MULCAHY: is that it would have had no relevance in terms of the value of land, whether it is industrial or broadacre; from the territory government's point of view, they would have generated the same revenue outcomes?

Mr Mitchell: In terms of the financial return to the territory, yes, I think it would be much the same.

Mr Mackay: So we were always told we were going to pay market value wherever we went.

MRS DUNNE: My question is to the Chief Minister. Chief Minister, your officials—and this is principally why we are here today—said in estimates on 26 and 27 May that they were not involved in the process of the site selection. There has been a whole semantic argument about site selection rather than site identification. In fact, Mr Dawes said that the CMD did not become involved in the process at all until after the site had been selected, yet the documents received by the opposition under the Freedom of Information Act from the LDA showed that they were considering comments made by officers from CMD all through the process.

For instance, I draw your attention to the brief that you received in your office on 17 July and that you signed off and agreed to on 18 July, which actually says, in relation to some cabinet decisions, that “the cabinet decisions should be deferred until you”—that is you, Chief Minister—“have determined which of the three sites”—which we have just discussed—“is to be offered to ActewAGL”. So, quite contrary to the advice that Mr Dawes and others gave us the other day, not only was CMD intimately involved in site selection—in fact, it seemed to be the other way around and that ActewAGL was doing the site identification—but in fact ActewAGL was not getting a choice and an opportunity to select the site because you agreed with this submission which said that everything was on hold until you had determined which of the three sites was to be offered to ActewAGL. This submission was received on 17 July, and which you agreed to on 18 July.

Chief Minister, why did you sit mute here the other day while your officials said that they had not been involved in this process, when clearly they were and you were? Is this another case of your selective amnesia coming to the fore again? Isn't this a case of letting them mislead this committee so that you could put this issue to bed as quickly and conveniently as possible? How is there such a great disparity between what officials have said, what you have said and the documents that you have read, agreed to and signed off on?

Mr Stanhope: I am not quite sure what the question was.

THE CHAIR: No, I am lost as well.

Mr Stanhope: It was essentially a statement. What was the question?

MRS DUNNE: Quite frankly, why are your officials saying one thing, Chief Minister, when the documentation that you have signed off on clearly indicates that something quite else was the case? You sit here today and have Mr Mackay saying, “We identified the sites, not LDA.” Mr Mackay’s organisation and its officials identified the sites.

Mr Stanhope: Mr Mackay has just said that. Madam Chair—

MRS DUNNE: So who was doing the site selection? You?

Mr Stanhope: Madam Chair, it is offensive to suggest that I have Mr Mackay sitting here today saying things that he does not believe to be the truth. This is just a repeat of the suggestion about the government. Mr Mackay, sitting here now, has just put his position and ActewAGL’s position to this committee. To have Mrs Dunne characterise that as my having Mr Mackay sitting here doing my bidding—

MRS DUNNE: No, you characterised it as that.

Mr Stanhope: No, you just did, Mrs Dunne. It is highly offensive, and a shocking insult to Mr Mackay, as well as being quite inappropriate. I think the record needs to show that. Secondly, in relation to the document that I did sign off as agreed, I agreed to the recommendation. I often receive briefs, as does every minister, which contain a range of information and suggestions. These are briefing materials for information. I certainly do not accept all information that I receive, or every suggestion that I receive, in relation to a brief. When I sign “agreed”, I am agreeing to the formal recommendation. The formal recommendation assigned to that brief was a recommendation to sign the two letters to Mr Mackay at tabs A and B, and I agreed.

Madam Chair, in the correspondence that Mrs Dunne refers to, I agreed to a recommendation from my department to sign two letters that were attached to the brief. If the brief contains other information, such as “the Chief Minister will decide this or that”, because I have agreed to a specific recommendation that I sign a letter, that does not mean that I in any way countenanced or agreed, or that suggestions that may have been included in the brief were accepted or agreed by me, or that I actioned those things that were in the brief. That is the case in relation to this brief. So that is the response to the fact that I agreed, or signed that I had agreed, to a certain brief. I agreed to the recommendation contained within that brief. The recommendation was that I sign a letter, and I duly signed it. It was dated 19 July, and we have just read it out.

On the other issue of the confusion, as Mrs Dunne mentions, I understand that this estimates committee was reconvened to delve into the confusion that arose in relation to evidence provided at the last hearing by Mr Dawes and Mr Mitchell. We actually have not got to that particular issue yet.

MRS DUNNE: That is why I am asking this question.

Mr Stanhope: Mr Dawes and Mr Mitchell have explained the confusion. We have seen it here again today. We saw it most particularly in relation to a question which

Mr Smyth asked earlier, in which Mr Smyth prefaced his question by saying, “As you have repeatedly acknowledged, you were involved in site identification and site selection,” when it is quite clear that that is not what I have repeatedly said or admitted. What we have said, and said repeatedly and appropriately, is that, yes, the Chief Minister’s Department were involved in a whole range of issues and discussions around the identification of sites and the facilitation of this incredibly important project. They were. In fact, I instructed them to be involved, and they were involved. They were involved in a whole range of discussions that have led to a result or a consequence where the proponents of a billion-dollar expansion of the ACT economy and a major enhancement to our economic base and to our employment base have moved to the stage where a development application has now been formally lodged. We are hoping, of course, that it meets all of the statutory hurdles that it needs to meet or to achieve.

So, yes, we were involved. I established the project facilitation group for the very purpose of involving itself. But, as to some of the confusion, I understand the context in which Mrs Dunne asks the question. Mr Dawes’s response, to some extent, to the questions previously asked of him at estimates is a result of him responding in the context of his involvement and his group’s involvement. Mr Dawes needs to respond personally to this. I cannot speak for him in relation to what was in his head or his mind, but as I understand his response and his letter of explanation to estimates, when he realised, on reviewing the *Hansard*, that there was the potential for real ambiguity in his responses, Mr Dawes, I believe, in answering, was answering on behalf of himself and his group. In doing that, he had inadvertently misled on the basis that all prior involvement was not by either him or his group; it was by the policy branch, because at that stage the major projects group did not exist.

That is part and parcel of this. It was just a simple mistake by officials of the Chief Minister’s Department in relation to terminology. There has been real confusion. Mr Smyth has added to that confusion today and indicated that it is a matter of confusion. He continues to confuse site identification with site selection. That was the nature of it. I remember the discussion well in estimates. The discussion was around, “Did you facilitate this process or did you make the ultimate decision?” What I, Mr Dawes and Mr Mitchell were saying at the time was, “Yes, we did facilitate it, but we didn’t select the site.” We facilitated it. We were involved in identifying sites. We were involved in discussions with Actew, LDA and others about the impediments or the advantages of one site over another, but we did not select the site. ActewAGL did. That is the nature of this confusion.

There is enormous interest in this terminological or semantic debate we are having: “Were you involved in site selection?” “No.” “Were you involved in facilitating this wonderful project?” “Yes, and appropriately so, and proudly so.” But there was inexactitude in the language, and some of that—and this goes to Mrs Dunne’s question—was as a result of the fact that I believe Mr Dawes was responding about his personal involvement and the personal involvement of his staff. In that sense, he did mislead insofar as there had been significant involvement by another branch within the department prior to him and his staff taking over the project. That is my understanding. If that is not correct, I would wish somebody to correct me immediately.

Mr Dawes: How about I clarify it?

Mr Stanhope: Mr Dawes.

Mr Dawes: I would like to read something here, just to clarify where and how that error of 27 May came about. I would like the opportunity to apologise to the committee for making an incorrect statement at the hearing on 27 May. In making this statement, I was seeking to reiterate my answer of the previous day that the project facilitation did not play a role in site selection. I mistakenly extended my response to cover the Chief Minister's Department as a whole. Officers of another area of the department, the policy division, did have a role in site identification as part of the development of the annual land release program.

Whilst I have been aware of this, and I was focusing on the role of my division in project facilitation, and I did not consider the broader involvement of that area of the department, my answers the previous day accurately reflected the role of project facilitation, and the broadening of the response the subsequent day to include the department was an unintentional mistake on my part. When I became aware of the error when I went back and looked at the *Hansard*, I then felt that I had to correct that; hence that is why a letter went to the chair to ensure that the record was set straight.

Again, I apologise to the committee for that. It is nonsensical to think that I was not aware of this particular project. This particular project is a very exciting project for the territory when you look at the economic benefit for the territory, potentially 300 jobs, a billion dollars, and when you look at the construction of that particular project as well; the ongoing benefits that there will be for the building and construction industry alone are significant. But we did not have any role to play.

There has been a lot of talk about the brief that went to the Chief Minister on 14 August, which we released under the FOI documents, whereby after the decision was made by ActewAGL to go to block 1671—let us not confuse any of the other numbers—the chosen site, I did express a view to the Chief Minister that this was a good result for Canberra. It meant that we still had industrial land that we could take to the market. I think one of the key roles that our division has played over the course of the last six to eight months was not only addressing the shortage of land supply in the residential area but also ensuring that we have a robust industrial land supply program as well as a commercial land supply program. We should not forget that.

One of the advantages of 7 of 21, if, for example, it was going to remain in the control of the LDA, is that we were on the front foot in having available land for supply. As Mr Mitchell has always said, if you look at the way land is sold in the ACT and the territory, we seek valuations for the highest and best use of that particular block of land; hence that is why that block of land was still on the table. I think that has been reiterated. I do not know how many times we have to say it, but it was reiterated on 19 July in a letter from the Chief Minister to the chief executive of ActewAGL, Mr Mackay, that the preferred site was still block 7 of 21.

If you look at the real technical terms, we are getting hung up on a whole lot of things here, when you look at whether 7 of 21 is in Hume or block D of 1671. I would like the opposition to look at the block and section map and you will see the line of 7 of 21

goes into the district of Tuggeranong, so if we really want to get semantic you could say that 7 of 21 is in the district of Tuggeranong, the same as block 1671. It comes back to semantics. If you look at 18 of 23, it is in the district of Jerrabomberra, as is the Mugga tip. So I just think we were actually playing around a little here, and we have got to really focus on what a great project this particular project is.

One of the things that I think has actually been brought out in all of this, and one of the things that we really forget, is that ActewAGL have lodged a DA through the proper planning processes, and one of the things that our facilitation group does not do is interfere with those statutory processes at all. That is conducted by ACTPLA or environment or any of those issues. A DA was lodged. It was notified. The community have had the opportunity to review that DA. They have had their say. We now see that Actew have taken that on board and have rescaled the project and lodged a fresh DA. So I just think it is important that we remember that due process is currently taking place.

THE CHAIR: Okay. Mr Smyth, you had a supplementary. Mr Seselja had a supplementary also.

MR SMYTH: I do, Chief Minister. It comes back to the quote—

MR MULCAHY: I thought I had the call earlier.

THE CHAIR: Is that a supplementary?

MR MULCAHY: Yes.

THE CHAIR: I beg your pardon, Mr Mulcahy. I will put you next.

MR SMYTH: You said in this place in May:

It needs to be understood that block 7, section 21, Hume, was not offered and then withdrawn by the government or any government agency. The site was offered and not accepted.

Did you write formally to ActewAGL offering site 7 of 21 for their use for the power station and data centre?

Mr Stanhope: I would have to take advice on that, Mr Smyth. Could you repeat the question?

MR SMYTH: You said in the Assembly in the estimates in May this year:

It needs to be understood that block 7, section 21, Hume, was not offered and then withdrawn by the government or any government agency. The site was offered and not accepted.

Did you formally offer the site to ActewAGL for the use of the power station and data centre?

Mr Stanhope: My understanding, Mr Smyth—I am prepared to be corrected on

this—is that, ultimately, all four blocks that have been under discussion were made available, in a not necessarily formal sense—

MR SMYTH: Were identified; let us use your words “were identified”.

Mr Stanhope: That is right. They were identified, hence made available for consideration by ActewAGL.

MR SMYTH: Was it made available for their use? Did you offer it? I mean, the brief from Ms Davoren to you says: “Tell TAMS to put off their proposal for the cemetery until you”—that is you, Chief Minister—“have determined which of the three sites is to be offered to ActewAGL.” Did you offer site 7 of 21 to ActewAGL for their use?

Mr Stanhope: I do not believe I did specifically. I believe four sites were identified and, in the process that we have discussed, now ad nauseam, ActewAGL ultimately decided on the site that is the preferred site. But it was always my understanding until then that the four sites remained capable of being selected by ActewAGL. That is my understanding. But, then again, for completeness sake, it has to be acknowledged—I think it has to be said—that the only formal offer that I made was a formal offer that followed a decision of cabinet. I do not—

MR SMYTH: You said in this place:

The site was offered and not accepted.

Was it formally offered to ActewAGL for their use?

Mr Stanhope: I do not believe so, Mr Smyth, but I—

MR SMYTH: So will you correct the *Hansard* from May this year, that it was not offered for use and not accepted, because that is what you have told these estimates?

Mr Stanhope: Well, it was not specifically, it was not formally offered, Mr Smyth. I guess we had better get down—it was not formally offered. I do not believe any—

MR SMYTH: Well, was it identified or was it selected?

Mr Stanhope: It was identified and not selected, as I understand it. But I will ask Mr Mackay. I was not involved in the—

MR SMYTH: We go back to the brief to you: “TAMS to put off their cabinet proposal until you”—Chief Minister—“have determined which of the three sites is to be offered to ActewAGL.” Was 7 of 21 offered to ActewAGL?

Mr Stanhope: Mr Mackay, did we offer you that particular site?

Mr Mackay: I think the simple answer is that at all stages I felt that we could select any one of those four sites.

MR SMYTH: Were you offered 7 of 21 for your use?

Mr Mackay: You have a copy of the letter, of the Chief Minister's letter of 19 July.

MR SMYTH: No, we do not. Perhaps the Chief Minister would like to provide all those documents that he has suppressed—

Mr Mackay: Well, I read from it—

MR SMYTH: the tomes and tomes of black documents, where you have an introductory name and a signature block at the end that are black.

Mr Mackay: I have quoted from the letter—

MR SMYTH: The question is, Mr Mackay: were you offered 7 of 21 for your use for the power station and data centre? Could you have proceeded with your development?

Mr Mackay: I would need you to clarify that. If you are asking was I formally offered it on the basis that I could say yes or no, I think the answer is no. Did I always have the impression that it was available? Answer: yes. So we could have had that site if—

MR SMYTH: So was it offered and was it not accepted? Was the site offered to you?

Mr Mackay: Yes. Effectively, yes, it was, because, effectively, all sites were offered, and we chose a particular one—

MR SMYTH: But in the end—

THE CHAIR: Would you let him answer the question, please.

Mr Mackay: so therefore we rejected the other three.

MR SMYTH: But his letter from the cabinet, after cabinet made a decision: was 7 of 21 offered for your use?

Mr Mackay: I would have to check the correspondence on that, but I am simply saying to you, quite clearly: in the Chief Minister's letter of 19 July, at that point we were talking about three sites, and 7 of 21 was included in those that were available. So I deduced from that at all times that, had we gone back and said, "We'll have it," we would have got it.

MR SMYTH: But you did go back. Your officials did go back and ask the Chief Minister to reconsider, did they not?

Mr Mackay: There was quite an iterative process, but by the time we got to the point where we had to make a decision we felt that the block we chose in Tuggeranong was the best—and that was the only one we were interested in.

MR GENTLEMAN: Mr Mackay, irrespective of whether the proposal was going to go ahead on any of these four sites, the key issue for the residents of Tuggeranong is

the emissions. I dropped in yesterday and picked up a copy of the briefing from the open consultation day—

MRS DUNNE: This is not a supplementary.

MR SMYTH: This is hardly a supplementary.

MRS DUNNE: This is a changing of direction.

MR GENTLEMAN: The concerns, Mr Mackay, have been expressed that emission levels from this generation—

THE CHAIR: Yes, I am sorry.

MRS DUNNE: Close him down and go back to the supplementaries.

MR GENTLEMAN: plant or data centre represent a potential risk. This is the key issue to Tuggeranong residents.

MR PRATT: This is just a diversionary spin.

MRS DUNNE: Yes, suddenly you are interested, are you, Mick?

MR GENTLEMAN: What assurances can you give us about these matters, and can you provide some examples of the levels of nitrous oxide emissions from the gas generators compared to other sources? I have waited all day to ask my question.

MRS DUNNE: This is not a supplementary question.

MR SMYTH: It is hardly a—

THE CHAIR: Just a moment.

MR GENTLEMAN: It is the key issue for Tuggeranong residents.

THE CHAIR: Just—

MR SMYTH: No, we were looking at the process. If you want to talk about Tuggeranong residents, I am happy to have that discussion as well. This is not a supplementary.

THE CHAIR: Ms MacDonald?

MS MacDONALD: I just make the submission to you, Madam Chair, that a number of members of the Assembly who are not members of this committee have asked numerous questions but Mr Gentleman who is a member of this committee has not had a chance to ask a question. He has the right to ask a question.

MR GENTLEMAN: It is the one that concerns the residents the most, the emissions.

MRS DUNNE: Yes, and he is on the list to ask a question, but Mr Smyth had a supplementary to my question.

MS MacDONALD: I am actually taking note of the fact that there are 15 minutes left, and that this—

MRS DUNNE: We will be back at 4 o'clock; do not worry.

MS MacDONALD: The questions on the site selection have actually been asked over and over again and have been answered numerous times.

MR SMYTH: Are you here to defend the government or to help the committee?

THE CHAIR: Mr Smyth, you can continue your line of questioning. One more question, and then we go to Mr Gentleman.

MR SMYTH: I think it was Mr Seselja.

THE CHAIR: Mr Mulcahy, sorry; I beg your pardon.

MR MULCAHY: I was extended the right of a supplementary when Mrs Dunne asked a freedom of information question.

THE CHAIR: That is right; you were.

MR MULCAHY: It seems that Ms MacDonald keeps trying to shut down everyone who is not part of her team. It is very unusual in estimates to have this process, and I appeal to you to bring some control of your colleague and ensure there is equitable opportunity to raise questions.

THE CHAIR: Mr Smyth will continue; then we will go to Mr Mulcahy. Then we will go to Mr Gentleman.

MR SMYTH: The question would simply be, and I quote from the 8 July document from Actew that said:

We had previously identified block 7 of 21 as our preferred site. This site has the advantage of having been assessed and found suitable for a gas-fired power station in 2001 and is otherwise eminently suitable. The decision to move to the 10 of 23 site—

which I think should be 18 of 23 site—

was initiated by the LDA because they had identified 7 of 21 as part of the industrial land release program and were well advanced with planning for land release.

It goes on:

We therefore wish to request the support of the Chief Minister in asking LDA to review the industrial land release program with a view to making block 7 of 21

available for the natural gas power station-data centre project, noting that substantial other land will continue to be available for general release in the immediate future.

So, again, I do go back to my question, Chief Minister or perhaps the secretary of the cabinet or any of the officials here: following the cabinet decision, did you offer block 7 of 21 to ActewAGL for their use as a power station and data centre?

Mr Stanhope: We offered, ultimately, four sites to ActewAGL as a gas-fired power station.

MR SMYTH: So they could move immediately to 7 of 21?

Mr Stanhope: Ultimately, ActewAGL chose—

MR SMYTH: No, you identified, surely.

Mr Stanhope: Four sites were identified.

MR SMYTH: So how many did you offer?

Mr Stanhope: All of them.

MR SMYTH: After the identification process, how many did you formally offer to ActewAGL?

Mr Stanhope: As Mr Mackay has just said, ActewAGL believed that all four sites, having been identified, were potentially available for selection by ActewAGL.

MR SESELJA: That is not what their documents say. That is not what their own email said.

Mr Stanhope: This was an iterative process. I think, at the stage of that particular email, the site that Actew ultimately selected had not been identified. So, as Mr Mackay has said, circumstances change; information changes.

MR SESELJA: Within 18 days it was accepted.

Mr Stanhope: No, this is nonsense. As Mr Mackay has said, and as I have said and as my officials have said, initially ActewAGL started with the position of interest in a single block. There were discussions. The single block expanded to three blocks. There were further discussions and considerations. ActewAGL took further advice, and the three blocks expanded to four blocks. At that stage, and in this process, ActewAGL was presented with a circumstance in which it could have put to the government a request for any one of those four blocks to be considered.

MR SMYTH: And it did, 7 of 21.

Mr Stanhope: No, ultimately it did not. It put up a position. It is a classic. Yes, ActewAGL had a position; it had an opinion. Then it got further information.

MR SESELJA: It was given Hobson's choice.

Mr Stanhope: It received further information, ultimately from its own consultants. As Mr Mackay said earlier today, ultimately the site that ActewAGL selected was drawn to its attention by its own consultant. It was at the request of ActewAGL that that fourth site was added to the mix of sites potentially available for selection, and ActewAGL selected that site, and the ACT government agreed to formally offer an option over that particular site. It is just a classic. The situation changed. Advice changed. Circumstances changed. ActewAGL changed its mind. It is as simple as that.

MR SMYTH: But that is not what you said in May this year when you said to the committee:

It needs to be understood that block 7, section 21, Hume, was not offered and then withdrawn by the government or any government agency. The site was offered and not accepted.

Mr Stanhope: I stand by that.

MR SMYTH: You stand by that?

Mr Stanhope: I stand by that.

MR SMYTH: You said the site was identified and not accepted.

Mr Stanhope: Yes, except that they were offered in the sense that they were in the mix. As Mr Mackay has just said—

MR SMYTH: You are the one going on about semantics here.

MR SESELJA: ActewAGL did not think they were in the mix.

THE CHAIR: I think, Mr Smyth, we are moving on now.

MR SESELJA: ActewAGL did not think they were in the mix, because that is what it says in their documents.

Mr Stanhope: No. This needs to be clarified, because it will be the subject of further obfuscation and deliberate confusion and scaremongering. Four sites were identified. To that extent, they were all on offer. So let us actually deal with the semantics of this. This is what we are talking about. Were the sites offered or were they on offer? Yes, the sites were on offer, as Mr Mackay has just indicated. He understood at all times, as did I, as did my officials, that if ActewAGL had come to the government and said, "This is the one. This is the site—

MR SMYTH: But they did.

Mr Stanhope: Then they changed their position, as a result of discussions.

MR SESELJA: They were given no choice.

MR PRATT: They were given no choice. That is right.

Mr Stanhope: It is a funny thing, Mr Smyth, that sometimes, when somebody is provided with further and better information, some people actually change their mind. So are you suggesting—

MR SMYTH: But you said previously they went and identified—

THE CHAIR: Be quiet, Mr Smyth.

Mr Stanhope: Are you suggesting, Mr Smyth, that you have never changed your mind or your position on an issue when you receive further and better information?

MR SESELJA: They were forced to change their mind.

THE CHAIR: Be quiet, Mr Seselja, please.

Mr Stanhope: Are you calling Mr Mackay a liar?

MR SESELJA: I am saying that the documents show you had a clear preference—

Mr Stanhope: Mr Mackay has to answer this question.

MR SESELJA: You gave a clear preference as to which sites you did not want them to take up and they indicated in correspondence to you that they wanted you to reconsider your position that this was to be reserved for industrial land.

Mr Stanhope: That was when there was a focus on a single site. As a result of discussions amongst officers, including advice provided to government and to ActewAGL by ActewAGL's own consultant, ActewAGL changed its position on a preferred site. Mr Mackay has just said that; we have all repeated it today. I, the Chief Executive Officer of ActewAGL, the Chief Executive of the Chief Minister's Department and the Acting Chief Executive Officer of the LDA have all said, under oath, to the extent that this is a formal proceeding, that under no circumstances—we have each categorically denied that any pressure of any sort was brought to bear on ActewAGL in its final site selection. I would like Mr Mackay to repeat again, fully cognisant of the implications of breaching privilege, the implications of that—Mr Mackay, were you brought under pressure to select the site that you ultimately selected, as just now further alleged by the Leader of the Opposition?

Mr Mackay: Absolutely not.

THE CHAIR: Thank you. Mr Mulcahy is next.

MR SESELJA: We are finishing. Will Mr Mackay then—

MR MULCAHY: The question I have got of the Chief Minister—

MR SESELJA: take us through what was the process of identifying this site within two weeks for a \$2 million project? Could you take us through that process?

THE CHAIR: Mr Mulcahy has got the floor.

MR MULCAHY: Thanks. Chief Minister, I want to just explore the issue of the documentation that we spoke about a moment ago under the Freedom of Information Act. The media gave prominence to that—I think you were overseas—on 7 June. Substantial amounts of that material were blacked out, as shown on the television news bulletins. Can you explain why the information was suppressed? And will you provide that information to the committee—or is it being withheld for some legitimate reason?

Mr Stanhope: Mr Mulcahy, as you know, decisions in relation to the application of the Freedom of Information Act are not made by ministers; the decisions are taken by the respective and responsible officers, in this instance certainly somebody within the Chief Minister's Department—were made by the department; they were not referred to the government. The government's advice or a minister's advice on the request was not sought. All decisions in relation to Freedom of Information Act requests the subject of this particular issue were dealt with by the respective agencies. I think we all understand that freedom of information requests are not referred to ministers.

MR MULCAHY: Can Mr Cappie-Wood expand?

Mr Stanhope: Certainly. I think it needs to be understood, though, that neither ministers nor the government per se, the executive, make decisions in relation to the responses to Freedom of Information Act requests unless they apply—

MRS DUNNE: You have the powers to do so.

Mr Stanhope: Perhaps, but I am just making sure, for the sake of the record, that it is clearly understood that these decisions were made by agencies without reference—

MRS DUNNE: And not referred to you in any way?

Mr Stanhope: Without reference to ministers. Indeed, I did not even know until it was publicly reported that an FOI request had been responded to in relation to this matter. Mr Cappie-Wood can, I am sure, give details of the decisions and the nature and basis of decisions taken by the department in relation to this particular request.

Mr Cappie-Wood: Thank you very much. There were a considerable number of FOIs received across the public service. They relate to a range of agencies, including the Chief Minister's Department. There has been an initial release of documents from the Chief Minister's Department. Several areas of the documents released have been blacked out, as is quite often the case, as they relate to the circumstances within the Freedom of Information Act. There are larger amounts of documents which are currently being referred to other parties for their advice because there are third parties mentioned. As is the case, advice is being sought on that. And we look to further release. We have sought an extension of time from the people who have asked for the original FOI—a 30-day extension—which is normal in the circumstances where there

are extensive third parties to be consulted. We are complying within the 30-day extension and would anticipate that there would be further considerable releases of documents.

MR MULCAHY: Are those third parties government officials or commercial entities? Could you explain the nature of the third parties in a broad sense?

Mr Cappie-Wood: Some of the third parties certainly are commercial entities—and to that extent ActewAGL. Some of them are third parties to the extent of commercial operators that would have advised ActewAGL as well that are referred to there, as well as some of the government agencies. We look to release the government agency ones quite quickly, but certainly we will be complying within the statutes of the act, the time limits of the act and the conditions the act covers.

MR MULCAHY: You would agree that, in the interests of transparency, as much of this information ought to be made available to the Canberra community as is physically possible?

Mr Cappie-Wood: I would agree with that, yes.

THE CHAIR: Mr Gentleman, we will go back to your question.

MR GENTLEMAN: Thank you. It did refer to site selection, particularly with regard to the biggest concern of Tuggeranong residents, as I said, and that is the emissions, whether at any of the four sites. As I said, I stopped in yesterday at the open day and picked up a copy of Actew's information sheet there.

MR PRATT: Were you in disguise?

MR GENTLEMAN: Mr Mackay, concerns have been expressed that emissions from the gas generation data centre represent a potential risk to the health of residents. You would have seen today's photo in the *Canberra Times*. What assurances can you give about these matters, and can you provide some examples of the levels of nitrous oxide emissions from the gas generators compared to other sources of nitrous oxide emissions already occurring in the ACT?

Mr Mackay: Thank you, Mr Gentleman. That seems to be the main concern that is being voiced. The other two, as you know, are noise and visual amenity. What I would say is that our revised proposal to build a much smaller gas-fired generator—in fact very substantially smaller—and a smaller data centre is in response to those community concerns. The levels of emission coming from the smaller gas-fired generator are infinitesimal when compared with existing levels of emissions in that location from things like the 20,000 or so motor vehicles that go along that road each day; the wood fires, particularly, in Macarthur and that part; and the gas heaters that are in that part. The additional emissions, I would say, are infinitesimal. We have had expert advice on that, but if our expert advice is wrong then there is no question at all that the proposal will not go ahead.

Similarly, by relocating the gas-fired generators inside and making them much smaller, the noise output will simply not be audible from these areas. The reduction in

noise emissions is very substantial indeed. And we have gone back from something like 18 chimney stacks—these 35-metre stacks—to four, and from the location of Macarthur all of those are below the horizon—it is not as if they are going to be standing up—and will be able to be very well shielded by the natural environment and reasonable planting of trees and so on.

I can prove to any reasonable independent expert that the emissions are safe and infinitesimal, the noise is safe and infinitesimal, and the impact on the visual amenity can be dealt with and is quite reasonable for that site.

MR GENTLEMAN: You mentioned that this is the revised proposal, and you have modified the original proposal quite extensively. What was the reason for that?

THE CHAIR: Mr Gentleman, it is 12.30.

MR SESELJA: Are we going to come back, chair.

THE CHAIR: We will have a private meeting and make some decisions about that. I just wanted to let you know that the letter that I addressed to you said 2.30, but I did receive information from the office that you were available till 12, and the committee was informed that you were available only till 12. I just wanted to clarify that.

Mr Stanhope: I think it is quite reasonable—

THE CHAIR: The committee did understand—

Mr Stanhope: Just as a matter of process, Madam Chair, let me say that I and all my ministers accept the importance of estimates, but for an estimates committee to simply say, “We want you to cancel cabinet because we want to have a meeting” is simply unacceptable.

THE CHAIR: No, we did not—

MRS DUNNE: No-one said that. No-one asked. The records of the estimates will clearly show that.

Mr Stanhope: Madam Chair, in relation to your deliberations, as I said earlier, I and my officials—I am sure Mr Mackay is available again. I have other functions and I have a whole range of other things that I simply have to attend to today. Could I ask for the indulgence of the estimates committee in its consideration of whether or not it believes a further explanation in relation to the evidence which I understood this hearing was all about—was simply the evidence of Mr Dawes and Mr Mitchell. If the committee requires further explanation of the previous evidence of Mr Dawes and Mr Mitchell, could I ask that there be some time line? If we are to reconvene at 4 o’clock, I would like some understanding that the reconvened hearing would not extend beyond 5 o’clock.

THE CHAIR: Thank you very much, Chief Minister.

Mr Stanhope: I just cannot give open-ended commitments in the context of all my

other responsibilities; I need some understanding—as do officials.

THE CHAIR: Thank you very much, Chief Minister. We will let you know about that. Thank you very much for appearing before us this morning.

Mr Stanhope: Thank you very much. It has been a great pleasure.

Meeting adjourned from to 12.32 to 4.04 pm.

THE CHAIR: Good afternoon, Chief Minister. Thank you very much for coming back.

Mr Stanhope: It is a pleasure, Madam Chair.

THE CHAIR: Good afternoon, Mr Mackay, Mr Costello, Mr Cappie-Wood and officials. Are you wanting to make any more comment before we—

Mr Stanhope: No, not at all, thank you, Madam Chair, other than that I and my officials and, I am sure, Mr Mackay, Mr Costello and their officials stand ready as always to assist the committee in any way that we are able, and we are very pleased to be here.

THE CHAIR: Right. I have got a question, and then I will go straight to you, Mrs Dunne.

Mr Stanhope: Just so that we have some understanding at the outset, I understand, Madam Chair, that it was agreed that this session of the estimates committee would conclude at 5 pm, is that correct?

THE CHAIR: 5 o'clock.

Mr Stanhope: Thank you.

THE CHAIR: There is no more time after that.

Mr Stanhope: No, that is fine; I just wanted to confirm the arrangements.

THE CHAIR: So, Chief Minister, just for me to understand about the project now, this data centre is a large project. Have we had an investment of this scale previously?

Mr Stanhope: Not by the private sector.

THE CHAIR: You have outlined some of the benefits to the ACT this morning. So what happens if we lose this project? There is obviously a risk to the territory that we might lose this project. I am just trying to understand.

Mr Stanhope: Thank you, Madam Chair. I must say, I would perhaps have to take some advice on the question or the suggestion that this may be the biggest single private sector investment in the ACT's history, but I imagine it probably is. In fact, I am almost certain that this would constitute the biggest single investment by the

private sector in the ACT ever.

Of course, this is not just about scale and it is not just about the size or the extent of the investment. It is an investment of in excess of \$1 billion with the construction activity implicit in that and the economic activity that that would generate of itself being an additional 300-plus jobs. It is also very much about the broadening of the economic base and the cementing of a reputation which the ACT quite appropriately has as a genuine, reasonably-based knowledge economy with a real focus on knowledge-based industry in large measure centred around ICT.

The nature of this particular proposal, a data centre and its connection with information technology in that particular sector, makes this an incredibly exciting and important development for the Australian Capital Territory for a whole range of reasons. It is significant for its size; it is significant for the level of economic activity it would generate; it is significant for the employment; it is significant because it enhances already existing capacity and reputation in relation to a particular industry sector.

It would be devastating if this particular proposal, having reached the position that we have—a formal lodgement of the development application—could not proceed. In terms of consequence, it would not just be the economic consequences of lost opportunity; it would also have an enormously negative and detrimental impact on our reputation as a place to do business, a place that is open to expanding its horizons and broadening its economic base. So, in addition to the practical implications if the project were to be lost, there is a perceptual and reputation implication that would be very grave.

THE CHAIR: Thank you, Chief Minister. Mrs Dunne.

MRS DUNNE: Thank you, Madam Chair. I would like to go back to where we were this morning, Chief Minister, when Mr Mulcahy was asking you about documents. Mr Mackay actually at one stage said, “Well, surely members have seen these documents,” and we do not have them. We have a range of them. Can I just point out, for instance, Chief Minister, in accordance with the Freedom of Information Act, the Leader of the Opposition received a document, which is folios 10 to 15 of the FOI request, which looks rather like this—I am sorry, but for the *Hansard* record, there are big black squares on the page. I just need to show you this, Chief Minister, and I will be happy to table it when I am finished it.

This, Chief Minister, is a draft of the submission that you received on 17 July and signed off on on 18 July. The opposition did not receive the final version of this. It is not on the schedule of documents which are subject to the Freedom of Information Act. I have actually asked our staff to double check, but, at this stage, my advice is that the final version of this document and the attachments do not appear to be on the final version of the FOI request that was provided to the members of the opposition.

We do actually have a copy of it, Chief Minister, and it looks like that—it actually has nothing blacked out. This was a copy provided by Mr Cappie-Wood and others to a journalist at the *Canberra Times* last week. So, Chief Minister, why, in making decisions in relation to the Freedom of Information Act—I take the point that an

official actually made the final decision—is it sufficient to: (a) exclude this document from the schedule; (b) to substantially exempt the draft on the basis that it is an internal working document in accordance with section 36; and (c) then go on to release the final version, the one that you signed, in full, completely to the *Canberra Times*?

Why is there one set of rules for what information is made available to the members of the Legislative Assembly and another for what is made available to the fourth estate? Will you now, as a result of this, provide to this committee and to the Assembly all the documents that relate to the freedom of information request and the decisions in relation to site selection and identification for the gas-fired power station?

Mr Stanhope: Thank you, Mrs Dunne. It was interesting to actually see that document. I have not seen the documents that were released, but, I must say, it was redolent and reminded me—it was like a flashback—of documents that I had received from the Liberal Party in government when I was in opposition that I had sought under the Freedom of Information Act, where ACT government officials had quite rightly and appropriately implemented the provisions of the Freedom of Information Act in their release of documents to me.

I think I probably still have the documents, Mrs Dunne. I could provide them for your elucidation. They are pages and pages of documents that I sought under the Freedom of Information Act that have page after page similarly blacked out as officers and officials quite rightly and appropriately, consistent with their responsibilities under the Freedom of Information Act, provided information that was releasable consistent with the Freedom of Information Act and restricted from release those parts of those documents that were not consistent with the provisions of the Freedom of Information Act. As you know, Mrs Dunne, there are a whole range of exemptions and exclusions that the Freedom of Information Act allows for. We can have a separate debate about the appropriateness of that.

MRS DUNNE: We will, do not worry.

Mr Stanhope: I am sure, from time to time, in our continued existence here, Mrs Dunne, we will. But, at the end of the day, officials in their role, and consistent with their responsibility to administer the law through administering the Freedom of Information Act, exclude from release a whole range of documents, for instance, on the basis that they may be commercial in confidence or that they may be quite genuinely internal working documents or that they may be excluded as a result of issues around cabinet confidentiality. That is how the Freedom of Information Act operates.

I am more than happy that Mr Cappie-Wood made decisions in relation to the release of those particular documents that I think you are referring to, Mrs Dunne, as head of the agency, but the officers who responded to the request responded, I assume—I have no reason to believe otherwise—consistent with their obligations under the Freedom of Information Act and consistent with that act. That does not mean that the document or a minister cannot unilaterally choose to release whatever documents they wish, consistent with or otherwise the Freedom of Information Act.

MRS DUNNE: Thank you, Chief Minister.

Mr Stanhope: That is the scenario that we have now.

MRS DUNNE: Will you do so now then?

Mr Stanhope: No, I am not going to make that undertaking, Mrs Dunne, and you would not expect that I would give carte blanche to release of documents that—

MR SESELJA: Sounds like they were not fair dinkum reasons then.

Mr Stanhope: Is it seriously suggested that—

MRS DUNNE: But the Deputy Chief Minister said the other day that if we read the documents—

MR SESELJA: It wouldn't be in the public interest one day but it would be another day?

Mr Stanhope: No, no, the Freedom of Information Act—

MRS DUNNE: The Deputy Chief Minister said the other day that if we read the documents—

Mr Stanhope: The Freedom of Information Act contains a range of exemptions for very good reason.

MRS DUNNE: The Deputy Chief Minister said we would be able to see that there was nothing to hide.

THE CHAIR: Excuse me, Mrs Dunne, can you—

Mr Stanhope: Let me answer the question.

THE CHAIR: Yes, please, Mrs Dunne.

Mr Stanhope: The Freedom of Information Act is constructed in such a way that it recognises that certain information should not, at least initially or at least subject to further consultation, be released. I believe many of the documents that have not yet been released or the information that has not been released relates to issues affecting third parties. It is quite reasonable and appropriate that documents that relate to third parties not be released without at least some consideration or without allowing that third party an opportunity to give consideration to its release.

That is how the Freedom of Information Act has always operated. That is how it operated when you were in government. That is how you responded to freedom of information requests from me when you were in government. This government, through its officials, responds to its responsibilities under the Freedom of Information Act in precisely the same way. If there are commercial-in-confidence, cabinet-in-confidence or third-party issues involved, internal working documents

et cetera, et cetera, the information is exempt from release.

The act then requires, as I am sure you were advised, that the applicant be advised that if they have issues with this then they can seek internal review. If they have issues with the internal review, they can actually pursue the matter through the Administrative Appeals Tribunal. This is how the legislation has always operated. It is how it operated when I was in opposition and was seeking information from you in government, and it is the same today.

MRS DUNNE: The Deputy Chief Minister said the other day in public that if the public or anyone got to read the documents it would be clear that there was nothing to hide. So, if that's the case, Chief Minister, why won't you release the documents, and why has Mr Cappie-Wood selectively given some of these documents to the *Canberra Times* while at the same time refusing to list them on the FOI request?

Mr Stanhope: Well, the department, without authority, has absolutely no right—in fact, I think it is a criminal offence for public officials—to release documents otherwise than consistent with the law. In most regards, that is consistent with the Freedom of Information Act. I do not have that same constraint. As Chief Minister and as a member of the executive, I can choose to release documents, and I directed Mr Cappie-Wood that he was to make those documents available to correct a range of misinformation that was being peddled in relation to issues around site selection for the gas-fired power station and data centre. So—

MRS DUNNE: So you personally authorised the release of that document?

Mr Stanhope: I certainly did.

MRS DUNNE: To the *Canberra Times*.

Mr Stanhope: Certainly.

MRS DUNNE: How many other documents were released to the *Canberra Times*?

Mr Cappie-Wood: Attached to the three pages that you are referring to were copies of the Chief Minister's two letters to John Mackay as head of ActewAGL.

MRS DUNNE: And that's it?

Mr Cappie-Wood: To my recollection, that was it. I am happy to ask behind me if there is any more, but that was certainly my recollection.

THE CHAIR: Okay. Mr Gentleman.

MR GENTLEMAN: Thanks, chair. I want to go back to the issue of emissions. Mr Mackay, just before the adjournment you explained that you believe the scaled down proposal will have little impact on the people living in Tuggeranong. On that matter, do you have any more detail on the impact of any emissions, noise and visual impact for this proposal?

DR FOSKEY: Actual evidence would be good.

Mr Mackay: Chair, I would like to table a document that deals with this and several of the other issues.

MS MacDONALD: Are you going to address this document?

Mr Mackay: Yes.

Mr Stanhope: We are just waiting for the chair.

MS MacDONALD: I am sorry. I was hanging on your every word there, Mr Mackay.

Mr Mackay: I realise that these documents are quite small. Basically, the first one talks about the emissions levels for the revised proposal—that is, with a smaller generator and with the peaking plant removed. You can see on the left-hand side at the top graph an hourly arrangement and at the bottom an annual. You can see in the first column the emissions that we will make. The second column is existing background emissions—that is, from wood-fired stoves, motor vehicles, gas heating, et cetera. The third column is the combined. If you look above there you will find the Australian standards on emissions and the WHO standards on emissions. Whereas the original proposal with the peaker had those graphs moving up quite close to the Australian standard, the revised proposal, as you can see, has minimal impact.

That is what has been submitted in a revised proposal to ACTPLA. My understanding is that ACTPLA will, as a matter of course, seek independent advice from the department of health on that matter. I was advised today that the department of health may well be considering seeking independent expert advice on these things, which is exactly what we would have expected them to do on this issue. We have absolutely no problem with it. What that basically says is that there will be no danger and the effects will be minimal.

I am absolutely sure that if I took my own circumstances, where I live very close to this big facility that puts out lots of gas and has lots of motor vehicles, that is, Civic, you would find that the numbers are much higher than that. I live within a kilometre of Civic. That goes to the emissions, Mr Gentleman.

I have included in here some noise exposure graphs, which again are based on the revised proposal. I am having a little bit of trouble here because I am colour blind, but what I can say is that in the bottom left-hand corner, which is the residents of Macarthur, they will not hear any noise. That is the simple fact. The health facility is right on the border of the green area where it is fine, but it is right on the border. It may well be that we will need to do some more noise abatement to make absolutely sure that there is no noise.

So far as the residents are concerned, I can say categorically that they will not hear this facility. I know a little bit about noise because I was in charge of a \$500 million noise abatement program at Sydney airport where we insulated 4,000 homes and lots of schools against noise. So I know quite a lot about it, and I can tell you that these people will not hear any noise; nor will they need to take any measures because they

will not hear this above the normal suburban background noise.

MR PRATT: Is that based on 28 megawatts or 42?

Mr Mackay: That is based on 28. On the third page there is an artist's impression view of the site from just off Jackie Howe Crescent. This is the revised proposal. You can see the building down there and you can see the four chimneys. As I said this morning, the chimneys are all below the horizon, so they are not sticking out. I would think that even as it is, with some careful colouring of those chimneys as well as some tree planting, they will not have any significant impact on the visual amenity of that site. In fact, on the back is yet another artist's impression, and this is a view 500 metres south of the site looking towards the Mugga Lane tip. Again, you can see that this is not something that has a huge visual impact, particularly in the revised form, where there are fewer buildings, less chimneys and, in fact, the power station itself is completely enclosed in the centre of the site.

So what I am saying is that we have responded very much to the concerns raised by the community. We have cut the thing in half. We have taken away the large gas peaking plant and effectively given a guarantee that we will never, ever seek to put it back on the site. So that is not an issue. We have dealt with the emissions, the noise and the visual impact.

I think the only other matter which people seem to be very excited about is the public consultation. We are already on record as saying we wish we had our time again; we might have done some things differently. But the stuff that is peddled around, that the first time these people knew about this site was when somebody stumbled across the little yellow sign on the block, is just absolute, palpable rubbish. It was on the front page of the *Canberra Times* well before the sign went there. In fact, we took the *Canberra Times* journalist out to see the site because we were very pleased with it. We were very proud, and he wrote a very positive article the following day. Neither he nor I saw the possible community reaction.

We wrote to every Assembly member in this room a month before we publicly went out and announced that we had submitted the documents to ACTPLA and offered full briefings. We wrote to the Karralika residents association some time before, and that is how the people, the other groups, heard about it. It is because we had done those things. Sure we could have gone out some months before. In fact, we had several articles in the *Canberra Times* stating that we were planning to do this. They were very positive.

My own personal feeling is that it would not have mattered what we had said to at least some of these residents. We could have consulted them all day and night. I mean, we could go to them now and say, "Well, let us have an independent review of the emissions, of the noise, of the visual amenity, and if that independent review supports what we were saying, will you support this project?" The answer is, of course, that they will not because they would like to leave things exactly as they are.

MR GENTLEMAN: In relation to that consultation and the consultation period that happened yesterday, was there any change in responses from community groups to the original—

Mr Mackay: Very much so. It is reported in this morning's paper—I have forgotten the words—that we were rough with people yesterday. I reject that out of hand. But at the first consultation meeting we had 350 people there—I think we stopped counting when we had 350 people there—and they were angry and they were upset. We have responded to that in the way in which I have just described in terms of the emissions and the visual amenity and the noise and all the rest of it.

Yesterday—do not hold me to the numbers—we had well under 100 people come through. Some of them are still angry, and nothing short of cancelling this project will change that. But the reaction yesterday was a pale shadow of the first time we held public consultation. Several members in this room were at the meeting yesterday and they would have seen for themselves. In fact, I am told the number we had there yesterday was 160.

People were still saying, “You are not listening. You are not listening.” Of course we are not listening to people who want to cancel this project. We think it is a great project, and we think we have already responded to a reasonable person's view on the issues that they have been getting stuck into us about. I do not know where else we could go in terms of responding to the community, short of cancelling the project, which I have no intention of doing. I cannot reasonably see how we can move to an alternative site without effectively losing the momentum that we have now in terms of customer expectations and all the rest of it.

If we were to move to some other site—there are very few that we could move to—if we moved to any one of the other three sites that we are both considering, we would come up against all the problems that we have already spoken about in terms of heritage, flooding or whatever it is and we would still be dealing with the basic issues that these people are involved in. But just assume for a second we moved back to the original site. We would still have to go through a full planning process. I believe the National Capital Authority would then be involved as well because it is within 200 metres of a major thoroughfare. So my advice is you could add another six months to the last number you thought of to get that through.

Now, by the time we moved through effectively a full new planning process, EIS and all the rest of it, this centre will have been built in Singapore or somewhere else and be operating. I do not think that is an option. I think we are at a point where it is Sydney or the bush—in my mind, anyway. It would be a matter for our partners and our board and our shareholders. But if we cannot get this project through within a timely fashion in around about its current configuration, then I think the chances of it ever being in Canberra are very seriously diminished.

THE CHAIR: Mr Smyth.

MR SMYTH: Thank you, Madam Chair. Chief Minister, this morning you maintained that block 7 of section 21 was available and that, had Actew applied for it, it was there to be used. I note that in a *Canberra Times* article on Wednesday, 11 June there was an aerial photograph with graphic overlays on it for the four different sites. Under the site block 7 of section 21, Hume it states:

ActewAGL selected this site in 2002 for a stand-alone power station but the project remained uneconomical.

It goes on to say then:

Last year the Land Development Agency said it was no longer available because it had since been developed for other industrial uses.

Perhaps Mr Mitchell would like to confirm this. When was it made no longer available from the Land Development Agency?

Mr Stanhope: As we discussed this morning, I do not believe it was ever made not available. I think that was the view of the department and ActewAGL this morning. The fact that it is written in the *Canberra Times* does not make it a fact. I have expressed some frustration at the way in which information has been peddled by the Liberal Party and been unthinkingly accepted by the media, and that is an example. I do not know of a single piece of evidence—and you attempted mildly this morning to find evidence—that has been produced.

In fact, it is my understanding, the understanding of the Chief Minister's Department, the LDA and certainly ActewAGL that all four identified sites remained available. It was the understanding of each of us—Mr Mackay went into some detail this morning—that all four blocks were in the mix; each of them was available for selection. If ActewAGL had come to the government at the end of this process and said, "Look, we have looked at all four. We want this site. We understand that you have actually been giving serious consideration to releasing it to enhance the supply of industrial land. We understand it is probably an embuggerance. We have mucked up some of your land release strategy. But we have looked at this proposal; we have looked at all the options and we believe that this is the most viable site for us."

I can tell you now that in relation to a potential \$2 billion project, had that been put to me, I am not going to say, "Oh, well, too bad." If, after all that consultation and discussion and evaluation of all the sites, Actew and its partners had done their due diligence and accepted that this was a proposal for them to pursue and made their decision that that was their preferred site, then, you know, I have no reason to believe that that request by the consortium at that stage would not have been accepted by government. But that is not what happened. That is all hypothetical.

MR SESELJA: Isn't that exactly what the LDA told us?

THE CHAIR: Excuse me.

MR SESELJA: Isn't that exactly what the LDA advised?

Mr Stanhope. No, it is not. We have been through this. We have been round and round and round this table. As much as you are trying to actually create some conspiracy here or some suggestion about value or site selection or considerations or decisions taken by the government, you are simply wrong. You have tried desperately to create a conspiracy around who selected the site. This morning—

MRS DUNNE: Well, Chief Minister—

Mr Stanhope: Madam Chair, this needs to be reiterated. This morning, sitting here, cognisant of the privilege statement and the implications of that, the Chief Minister, namely, me; the Chief Executive Officer of ActewAGL, Mr John Mackay; the Chief Executive of the Chief Minister's Department, Mr Andrew Cappie-Wood, and the Acting Chief Executive of the Land Development Agency, Mr Philip Mitchell, stated explicitly and categorically and without hesitation, equivocation or ambiguity that at no stage did the government or any of its agencies or officials apply any pressure to ActewAGL in its decision to select the site that is now the subject of the development application.

MR SMYTH: That was not the question—

Mr Stanhope: I have not finished, Mr Smyth. That is now on the record. It was evidence given by the four of us. This continuing reagitation of this issue and suggestions that any of these blocks were ruled out or that pressure was brought to bear not to accept a particular site and to move to another site is essentially to challenge my evidence and that of John Mackay, Andrew Cappie-Wood and Philip Mitchell. If that is what you are doing, I would appreciate it if you would now state that you do not believe any of us, that you believe that we are misleading this Assembly. Say it now. Stop mucking around and reagitating this issue. If you believe that I, John Mackay, Andrew Cappie-Wood and Philip Mitchell are lying to this committee, then I would appreciate it if you would have the courage to say so.

MR SMYTH: I have a document in front of me, Chief Minister, that says there was a meeting in May last year, May 2007. The document states that the LDA advised that this site was no longer available as it was programmed for development and sale as industrial land in the near future. Is that true or not?

Mr Stanhope: And I have read out to you a letter from me to the department, to Mr John Mackay, saying that this site will be given urgent consideration for release to ActewAGL as a site for a gas-fired power station and data centre.

MR SESELJA: You said that that advice was never given?

Mr Stanhope: Which advice?

MR SESELJA: The advice that Mr Smyth refers to.

Mr Stanhope: I have no idea what discussions were held between the LDA and others.

MR SESELJA: You just said that they hadn't happened.

MR SMYTH: On the second—

Mr Stanhope: I am saying this might have been the view of the LDA in May but it was not a view that the government accepted.

MR SESELJA: That is not what you said.

Mr Stanhope: Yes, I did. That is what I just said. The government did not accept that position, because I responded—if this is May 2007 we are talking about, and it is—to Mr Mackay on 19 July 2007, in other words two months later, saying, “Yes, Mr Mackay, we are happy to accept that your first preference at that stage remains this particular site, but we have added two other sites to it,” and it was, as we have explained ad nauseam, an iterative process, which led from a position in May 2007 of ActewAGL applying for a specific block. Within the space of a couple of months that request for a direct grant of a single block had expanded into consideration across the board of the potential for one of four blocks to be the preferred site. Mr Mackay has given detailed advice or evidence to this committee on the nature of the process.

MR SMYTH: I am sure he believed it.

Mr Stanhope: You have come back and you are now suggesting that the advice that I gave or the evidence that I gave, that Mr Mackay gave, that Mr Andrew Cappie-Wood gave, that Mr Phil Mitchell gave is not true and correct. And it is.

MR SMYTH: Mr Mitchell has not spoken for himself today.

Mr Stanhope: Yes, he has.

MR SMYTH: If he would like to come to the table—

Mr Stanhope: Yes, he did.

THE CHAIR: He did, Mr Smyth.

MR SMYTH: He has not answered about 2 May. Was there a meeting on 2 May, Chief Minister, where it was made known that this land was not available, and has this information, this document, been made available to the press by Mr Cappie-Wood as a summary of the reasons why block 7 section 21 was not available?

Mr Stanhope: Mr Smyth, I just explained that it may have been a view expressed within the LDA but it was not a view accepted by either the Chief Minister’s Department or the Chief Minister. The evidence of that is contained in my letter—

MR SESELJA: We are not going around in circles.

Mr Stanhope: Yes, you are.

MR SESELJA: You are denying this happened, and it is in your document.

Mr Stanhope: On 19 July, two months after the letter that you refer to, this was the government’s position. At a meeting of ActewAGL and government representatives on Friday, 6 July, two months after the date you refer to, the Land Development Agency informed officers of ActewAGL that the government had just learned of the need to undertake a heritage examination of this particular site and “in light of the uncertainty this would introduce for your planning, your representatives stated their

ranking of Hume sites". This was an iterative process. It continued to change. It changed right to the end. In fact, it changed beyond the position set out in this letter.

On 19 July, the position agreed between ActewAGL and the LDA and the ACT government, through the Chief Minister's Department, was that the AGL's declared preferences were: first, the site originally sought at block 7 section 21; second, the site at block 18 section 23; third, the broadacre site at block 1610. That was the position as the negotiations, discussions and consultations delivered. So, if in May, the LDA did have a particular view about the appropriateness of this particular site, that view was no longer relevant and did not prevail within the space of the next two months.

MR SMYTH: Why did your officials not tell the *Canberra Times* this last week and give them this document that says that from the May 2007 meeting with the LDA the LDA advised it was no longer available?

Mr Stanhope: I think it is probably quite likely that the ACT government was not asked or it was not relevant for discussions. How do I know what transpired in the conversation between the officials?

MR SMYTH: I seek leave to table the documents. There is a copy of the information—

Mr Stanhope: Yes, and the record needs to show, as I just indicated, that that document was superseded—

MR SMYTH: But you just said that you did not know about that document.

MRS DUNNE: You do not know about this document.

MR SMYTH: It is a summary.

MR SESELJA: And you said that it never happened.

Mr Stanhope: I know it is a superseded one because you have just read it out and you gave a date of May 2007.

MR SMYTH: This document was authored and delivered last week.

MRS DUNNE: And given to the *Canberra Times* last week by Mr Cappie-Wood.

Mr Stanhope: But what date is the document?

MR SMYTH: Last week; it was delivered last week in the briefings.

MRS DUNNE: Last week.

Mr Stanhope: No. When was it dated? When was it written?

THE CHAIR: You cannot tell in fact, Chief Minister. Ms MacDonald.

MS MacDONALD: Thank you, Chair.

Mr Stanhope: Can you provide me with a copy of that document, please, Madam Chair? Mr Cappie-Wood just points out to me that, in relation to the date preceding the forwarding of that letter to Mr Mackay, the brief states, “By way of contrast, block 7 section 21 is currently being prepared for sale in the near future by the LDA to meet the current high demand for an industrial estate in Hume”—and this is the brief to me from the department—“Therefore, if this site becomes the final one offered to ActewAGL, there would be an urgent need to identify other replacement land for release.” That was the position on 19 July 2007.

There was a clear acknowledgement in the brief to me, which covered the letter which I then sent to Mr Mackay. And I will read it again: “By way of contrast, block 7 section 21 is currently being prepared for sale in the near future by the LDA to meet the current high demand for an industrial estate in Hume.” Let me repeat it: “Therefore, if this site becomes the final one offered to ActewAGL, there would be an urgent need to identify other replacement land for release.”

So it was clearly contemplated on 19 July 2007 that ActewAGL might still select that site and, if they did, all the good work that the LDA had done would be undone and they would have to go off and prepare another site for release to the market. It is as clear as day. It is in the papers. It is evidence.

THE CHAIR: Ms MacDonald.

Mr Costello: Can I help on this matter?

Mr Stanhope: Madam Chair, Mr Costello wishes to make a contribution to this.

THE CHAIR: I beg your pardon, Mr Costello.

Mr Costello: I can actually help and clarify this matter.

MR SMYTH: I would still like to hear from Mr Mitchell as well.

Mr Costello. Sure. I asked Mr Mitchell what document this was and he said he did not know. There is a good reason for that, because it is not one of their documents. It is a document prepared by ActewAGL, about a week ago, four or five days ago—

MR SMYTH: So it was valid a week ago?

Mr Costello: No. Let me finish, if I may. It is a summary of how we saw the situation in relation to each of these sites. It is true that it says that, on 2 May 2007, at a meeting with LDA, the LDA advised this site was no longer available for this program development. Yes, that was our summary. It was not an LDA document; it was not LDA advice to anybody. What we meant by that was: it was no longer available, as it had been in 2002. Perhaps we should have felicitously put those words in. Maybe we should have. But that is not an LDA document; it is a simple summary, a pulling together, of various bits and pieces that we put together for the sake of facilitating discussion. And that is what we did. So there is nothing nefarious about it.

You are quite right; we probably should have put in there, “Not available as it had been on the basis it was in 2002,” when it was, I think, broadacre land then, was it not? What was it in 2002?

MRS DUNNE: Industrial.

MR SMYTH: No, it was still industrial.

Mr Costello: Industrial, but it was not zoned in this way, or going to be used in this way. So that was all that was. There was never a suggestion—never a suggestion—as this document of 19 July says, “The government and ActewAGL representatives agreed that the three sites”—including that one—“would be urgently examined and that advice would be provided.” We never thought it was not available. We just knew that they had other plans for it and that would be a difficulty. But they did not say it was not available and we never thought it was not.

MR SESELJA: But in May, in your document, you say that the LDA advise that this site is no longer available. So what did you think at that point?

Mr Costello: What we thought was: it was not available on the same terms as there had been in 2002, that they had other considerations in mind. So naturally enough, we looked at other sites as well. And the delightful thing about it is: we found an even better site as a result of that look.

THE CHAIR: Ms MacDonald.

MR SESELJA: But then in July you still thought it was not available?

THE CHAIR: No, that is not what—

Mr Stanhope: No. In July, I—

Mr Costello: No. We knew it was available because of the—

MR SESELJA: No, on 7 July, you thought it was not available?

MRS DUNNE: Your officers wrote to the LDA and said, “Can you please intervene with the Chief Minister to get it back on?”

Mr Costello: On 6 July, it was not available on the same terms, no. On 6 July, there was a discussion. That discussion was summarised in the Chief Minister’s letter of 19 July. And as a result of that, all sites were available and we considered they were available at that time. And a decision was made and we got a better site than the original site and we are delighted.

Mr Stanhope: As we have said a thousand times today, it was an iterative process. There were discussions, views were put, the matter developed. On 19 July, I informed ActewAGL, specifically and explicitly, that the site was available. And in the brief to me, the department acknowledged, if this is, at the end of the day, the site which

ActewAGL suggest, then you are going to have to have another industrial land release site for release to the market. The brief even goes so far as to say, on 19 July, "If this is the site which ActewAGL selects, then of course, you will have to develop another site for release to the market."

And it is explicitly clear. Nothing is ever static in policy making or decision making or where there is consultation around a \$2 billion project. We are talking about a \$2 billion project. There are a few considerations that play in any discussion or consultation where the stake is a \$2 billion investment in the territory.

THE CHAIR: Ms MacDonald.

MR SESELJA: So on 19 July—

THE CHAIR: Excuse me, Mr Seselja.

MR SESELJA: If we can just finish this point: on 19 July, you were advised that it was not available, having thought all this time, right through 6 July at least or 7 July, I think it was, that it was not available; so you gave advice on 19—

Mr Costello: No. Please! With great respect, I did not say that. I said, "Not available in the same way it was in 2002."

MR SMYTH: That is the first time we have heard that canvassed like that.

MR SESELJA: That is the first time that has been put in.

THE CHAIR: No, he said that a number of times.

MR SMYTH: No, he said that in the last few minutes.

MR SESELJA: That is the first time. It is not reflected in the documents. When was consideration first given to the Tuggeranong site? Mr Mackay indicated earlier, I think, that it came late in the piece. So when was that consideration first given?

Mr Mackay: I think that the meeting of 6 July was quite critical. We had had lots and lots of discussions prior to that about the key block, which we had been fixated on since 2002, which Mr Smyth rightly points out. We had then been shown the block which ended up having the heritage issues. It became clear to us and our advisers on 6 July that we needed to have a serious look at these other blocks. We had some knowledge of them. We had an expert planner with us in tow. I went back and reviewed the documents and spoke to him at lunchtime today and asked him, "Well, how could we jump from our fixation on 6 July with the original site to this new site?" He basically took me through in less than five minutes how that site was identified and how it was an obvious way to go. He said to me that he still believes this site is the best site, and I still believe that, too.

The issues come down to the ones we have spoken about this morning. Price was one of the issues. We knew we would pay more for the original site. There was no secret about that. Also, we had much better access to the high-voltage power lines on the

new site than we did on the other site. In fact, we would have had to take high-voltage power lines probably across the Monaro Highway and, when we thought about that, we assumed that the National Capital Authority would have great difficulty with that. So another big plus was not having to involve the National Capital Authority, not having to run longer power lines across a major public road. We are talking here about big power lines.

MR SESELJA: So having pursued this site for—

THE CHAIR: Excuse me, Mr Seselja. Ms MacDonald has the call.

MR SESELJA: I will just finish the point.

MS MacDONALD: No.

THE CHAIR: He has answered the question.

MR SESELJA: Can we finish this point?

MS MacDONALD: No.

MR SESELJA: Having pursued this site—

MS MacDONALD: No, you are not on this committee.

MR SESELJA: all this time—

MS MacDONALD: Mr Seselja, you are not on this committee, and you do not actually have the call.

THE CHAIR: Thank you.

MR SESELJA: Is there a reason that we do not want to answer this particular question?

MR SMYTH: Pursuing this point, you have pursued this for 12 months and then in a couple of weeks you found a new site—

THE CHAIR: No, he has answered it umpteen times. I am sorry, but—

MR SESELJA: No, he has not answered that question at all.

THE CHAIR: What question hasn't he answered?

MR SESELJA: Having pursued this site for all this time, it took one month from that meeting—

Mr Stanhope: Madam Chair, in order to deal with the Liberal Party's fetish on this matter, it would be appropriate if Mr Mackay could respond.

THE CHAIR: Yes, okay.

Mr Mackay: The answer is absolutely yes. That is not a huge surprise. We had been kicking around out on these sites. We knew the general area. We knew very clearly what our criteria were. We had one of Canberra's most respected urban planners as our adviser. It did not take very long at all. You knew straightaway there were no serious heritage issues and no flooding issues. We had good access to our facilities. It was the right size. And we were going to get it for less money. It had all of those things going for it. So it did not take very long to get attached to that. It took a little longer to get detached from our original site that, as I said, we had been fixated on since 2002. But once we took those things into account, it was, to me anyway, a no-brainer.

THE CHAIR: Ms MacDonald?

MS MacDONALD: Thank you. Chief Minister, this morning you touched on the issue of the claims made in the papers on the weekend by the Leader of the Opposition with regard to the suggestion to build a gas-fired power station in Belconnen, which you totally ruled out as being not true. Can you say why it is that you think the Liberal Party are making such claims?

Mr Stanhope: It has to be said that there is absolutely no evidence to suggest that ActewAGL at any time, from the time it made an application for a direct grant of the land at Belconnen, which was in October last year, had any intention of powering the data centre in Belconnen with gas or building a gas-fired generator on that site. ActewAGL have confirmed today that that is in fact the case. There is no evidence. It is a pure fiction and confection by the Leader of the Opposition. It is relevant to ask: why would the Leader of the Opposition, and why would the Liberal Party, construct a fiction around a proposal to build a second gas-fired power station in Belconnen? The Leader of the Opposition and the Liberal Party would do that for no reason other than to seek political advantage, to maintain or to continue a scare campaign that really has been at the heart of their opposition to the data centre at Tuggeranong. The Liberal Party saw an opportunity to extend the level of concern and anxiety that they have generated in relation to the Tuggeranong proposal to Belconnen. It is as clear and as simple as that.

There is no evidence, not a skerrick of evidence, that suggests that ActewAGL ever intended it—and the evidence is there. The evidence is there in the formal application which ActewAGL lodged with the LDA, dated 31 October 2007, which says, under “Power requirements”, that the site would be powered by mains electricity with a backup diesel generator, and the application made reference to the need for a switching station. I think that is as a result of the very high levels of energy which data centres utilise.

It is a fair question: in the absence of any evidence, any piece of paper, any concession, why would the Liberal Party suddenly decide to run a secondary campaign against a data centre in Belconnen that will be powered by mains electricity with backup diesel generation? There is only one explanation. Why would you do that? Why would the leader of a political party simply confection a development for which there is no evidence? In fact, all the evidence is to the contrary—namely, the

evidence is contained within the application which ActewAGL lodged, dated 31 October 2007. Yet the Leader of the Opposition claimed that there is clear evidence that, prior to their campaign of opposition to the Tuggeranong data centre, the government fully intended to construct a gas-fired power station at Belconnen. So it is just an attempt to extend the scare campaign in relation to bogies that have been imagined in relation to the Tuggeranong proposal into Belconnen, into another part of Canberra. It is as simple as that.

The test now for the Leader of the Opposition, of course, is: having been informed today categorically, absolutely, by ActewAGL that it had no intention of building a gas-fired power station at Belconnen post its application, what is the Leader of the Opposition going to do to clear the record?

MR SESELJA: Post its application? So are you saying there was some intention at some point?

Mr Stanhope: No, I am talking about the claims that you made in the paper on Saturday. What I am saying is what I know. Your claim that until six weeks ago—

MR SESELJA: Just be clear: was there ever any intention?

Mr Stanhope: When the Liberal Party started its campaign, your words were, “It wasn’t until the Liberal Party started its campaign against the Tuggeranong power station that the government abandoned plans to build a gas-fired power station,” when in October 2007 ActewAGL, in its application to the LDA, stated explicitly that the Belconnen facility would be powered by mains electricity with backup diesel generation. Mr Mackay might be able to add further to that.

Mr Mackay: What the Chief Minister says is absolutely correct. We have never sought to put a gas-fired generator in Belconnen. We always assumed that this proposal would be relatively straightforward, given that there are major data centres already in Belconnen in very close proximity to housing. So there is no question of emissions, noise or anything else that comes out of those things that do not already exist from a major federal government data centre—

DR FOSKEY: They come out somewhere, Mr Mackay.

Mr Mackay: I beg your pardon?

DR FOSKEY: The emissions do come out somewhere, just not in Belconnen.

Mr Stanhope: They come out in New South Wales, that is exactly right, with coal-fired power. The challenge now, of course, is whether or not the Liberal Party believes there is one standard in relation to correcting misleading statements and allegations for Liberal Party politicians and another standard for government officials. That, of course, will be the test of Mr Seselja’s integrity and professionalism—having railed against ACT government officials in relation to statements they made before estimates, to not adopt the same attitude of professionalism, integrity and courage that public servants have exercised and which he demanded of them. So we have here an interesting test. Is there one test for Liberal Party politicians and another test for ACT

government officials? I guess we know the answer to that.

MR SESELJA: So when was it taken off the table, Chief Minister?

THE CHAIR: It is 5 o'clock.

MR SMYTH: Perhaps the test is that you will now table all those documents without anything blacked out, given that the Deputy Chief Minister said that anybody who reads all the documents will know there is nothing in there. So for the edification of the committee and those interested, will you now table all those documents without the pieces blacked out?

Mr Stanhope: The documents are still being considered, consistent with the Freedom of Information Act.

MRS DUNNE: This is not a request in accordance with the Freedom of Information Act; this is a request of this committee.

Mr Stanhope: No government or minister is ever going to give carte blanche to a request for the release of all documents—

MR SESELJA: The committee has the power of inquiry.

Mr Stanhope: What about if they deal with third parties and third party interests? Some of them will have commercial-in-confidence restrictions. Some will have other restrictions. To suggest that any government or any department should, holus-bolus, release documents without any regard for the implications for third parties or to—

MR SMYTH: So you won't table the documents?

THE CHAIR: Mr Smyth, you asked this question at 4 o'clock.

Mr Stanhope: I am certainly not giving carte blanche to release a whole raft of documents without consideration of the implications for others, most particularly for third parties. That would just be absurd. You would be the first to castigate me if I did.

THE CHAIR: Thank you, Chief Minister.

Mr Stanhope: Thank you very much. It has been a pleasure, Madam Chair.

THE CHAIR: Thank you, Mr Mackay, Mr Cappie-Wood and officials.

Mr Stanhope: I hope we have cleared the air.

THE CHAIR: Certainly, Chief Minister.

The committee adjourned at 5.00 pm.