



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: [Annual and financial reports 2011-2012](#))

Members:

MR Z SESELJA (Chair)
MS M PORTER (Deputy Chair)
MR B SMYTH
DR C BOURKE

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 4 APRIL 2013

Secretary to the committee:
Dr A Cullen (Ph: 620 50142)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 9 August 2011

The committee met at 12 pm.

Appearances:

Barr, Mr Andrew, Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Sport and Recreation, Minister for Tourism and Events and Minister for Community Services

ACTEW Corporation Ltd
Mackay, Mr John, Chairman
Sullivan, Mr Mark, Managing Director

ACTTAB Ltd
Kourpanidis, Mr Con, Chair
Snowden, Ms Kayelene, Acting Chief Executive

THE CHAIR: I formally declare open the public hearing of the Standing Committee on Public Accounts inquiring into the 2011-12 annual reports. On behalf of the committee I would like to thank you, Treasurer, and thank Mr Sullivan, Mr Mackay and other officials, for being here today. We will commence with an examination of the annual report of ACTEW Corporation Ltd and follow with an examination of the annual report of ACTTAB Ltd.

Before we go to questions, there are a few procedural matters. I would like to maximise the opportunity for members in attendance to put their questions directly given the short time. I therefore ask members to ensure that their questions are concise and to the point, and witnesses can assist by keeping their responses concise and to the point. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the blue privilege statement before you on the table. Could you confirm for the record that you understand the privilege implications of the statement.

Mr Mackay: Yes, chair.

THE CHAIR: I also remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live.

Before we proceed to questions from the committee, Treasurer, would you like to make an opening statement?

Mr Barr: No, thank you. In the interests of time, I think it is best to proceed to questions.

THE CHAIR: Thank you. I might start with issues around the controversy over the salary of the managing director of ACTEW. I want you to perhaps explain to the committee what is the process for setting the salary of the managing director. Do you as a voting shareholder have any role in that? Do you give any oversight? Do you tick off at the end of that process? Are you able to talk us through exactly how that occurs?

Mr Barr: No. The shareholders do not have a role in setting the salary of the managing director. That is a matter for the board. Mr Mackay may wish to outline the process the board undertakes. There is a remuneration committee of the board that considers these matters.

Mr Mackay: The full board acts as a remuneration committee whenever there are any remuneration matters affecting the senior management group. In Mr Sullivan's case, decisions of the board are taken based on advice from one of Australia's leading remuneration consultants. We have, in the last five years, taken three reports from that consultant. Mr Sullivan, with his salary and bonuses—there are two elements to it—is currently paid, according to that remuneration consultant, in the lower quartile, the lower 25 per cent. So for every 100 executives doing what Mark is doing, 75 are earning more than him, according to this consultant.

THE CHAIR: Just to clarify, I have an extract of the 2009-10 annual report. It says:

The voting shareholders determine the remuneration for Directors.

Is that an incorrect statement in that annual report or is there some confusion?

Mr Barr: Directors of the board.

THE CHAIR: So that does not include an executive director of the board?

Mr Barr: I think this relates to the rem tribunal. In relation to directors of the ACTEW board, there is a process, and in recent times that has involved the Remuneration Tribunal. That is for board directors as opposed to staff and executive staff of the company.

THE CHAIR: But the managing director is an executive director of ACTEW.

Mr Barr: No, it is not the same.

Mr Sullivan: The legislation provided for the board to appoint the managing director and determine the managing director's remuneration conditions—as opposed to the government appointing all other directors, including the chair.

THE CHAIR: You might be able to clarify something for us. I know that in the initial articles of association for ACTEW it did talk about the voting shareholders having a role here. I will just read from it and maybe you can clarify if that was changed at any stage or what the practice is that deviates from what is in the memorandum and articles. Clause 49 of that says:

Subject to the provisions of any contract between the Company and a Chief Executive Officer or between the Company and an Executive Director the remuneration of a Chief Executive Officer or an Executive Director shall from time to time be fixed by the Directors subject to approval from the Voting Shareholders.

Is that the process that is followed or has that changed? If that has changed, when did that change?

Mr Barr: I would need to take that on notice unless Mr Mackay or Mr Sullivan can provide information.

Mr Sullivan: As I understand, what you are quoting from is the original articles of association of ACTEW from 1995.

THE CHAIR: Yes, that is correct.

Mr Sullivan: The government, in 2004-05, altered the constitution of ACTEW to make it clear that the board were responsible for the appointment and remuneration of the managing director. But I should take it on notice to get a very accurate response to you.

THE CHAIR: So your understanding is that that was the original way it was done but that in 2004-05 that was actually changed by the government.

Mr Sullivan: Yes.

THE CHAIR: If you are able to, can you provide any detail as to exactly what the mechanism was by which that was changed?

Mr Sullivan: It is a constitution change.

THE CHAIR: I think that would be useful.

Mr Mackay: Could I just say that, as a former CEO of ACTEW going back 15 years, I do not ever recall the shareholders being involved in remuneration. That might be my memory, but I am almost certain that it never occurred.

THE CHAIR: Just a question to you, Treasurer: the managing director has made statements in relation to his salary saying that it was put, certainly to the Chief Minister, and no doubt this was also put to you as a voting shareholder in relation to a reduction of salary, but that was rebuffed by the Chief Minister. Was that also put to you?

Mr Barr: I received, as a shareholder, an email. It would be appropriate, when responding to that in writing, to indicate that it is a matter for the board to consider. We have a special general meeting coming up in the next couple of weeks that will resolve this matter.

THE CHAIR: You do not see a role for you as a voting shareholder to have any input in or influence on accepting that or to give any suggestion to the board in relation to that?

Mr Barr: I think it is a matter that the board and the shareholders will consider at a special general meeting in a couple of weeks.

THE CHAIR: Did you rebuff the offer as well?

Mr Barr: No. Neither did the Chief Minister. The Chief Minister responded in writing, indicating that there would be a process that would need to be followed.

THE CHAIR: With respect, that is not what Mr Sullivan said a couple of days ago. He said that it was put to the Chief Minister, through, I think, the chairman—I forget the exact words, Mr Sullivan—but it was rebutted or rebuffed or something along those lines.

Mr Sullivan: The words I used in a radio interview were “rebuffed” and “rebutted”. I agree with the Treasurer that in fact it was basically said: “It is not for us to consider this. It was back to the chairman. It is not for us to consider this. The board should consider it.” At the moment, I think it will be in the hands of the board. I have made it clear that my offer remains on the table.

THE CHAIR: Mr Hanson, with a supplementary.

MR HANSON: I have got a couple of supplementaries. Just on that issue, did you nominate an amount by which you consider your pay should be cut?

Mr Sullivan: I nominated an amount which I thought would be reasonable.

MR HANSON: What is that amount, can you tell us?

Mr Sullivan: I think that it is something which needs to be sorted through between me and the board and then, on resolution of that, I have got no problem in disclosing what the outcome is.

MR HANSON: You are happy to nominate that figure to the Chief Minister and to the Deputy Chief Minister?

Mr Sullivan: I nominated that figure to the chairman of my board, and the chairman, in consultation with me, conveyed the suggestion I had made to him to the shareholders.

MR HANSON: Back to the previous issue that you were discussing, Mr Mackay, you said that in your previous role as the executive director you had no recollection of the shareholders having any role in approving the remuneration for the executive director. Based on the articles of association, there was a process there that should have been followed. Are you saying that was not followed?

Mr Mackay: I am not sure. I am simply saying I do not recall that being followed. So I do not know what replaced that, but my recollection is that the board decided. I am saying that is my recollection anyway. I am talking of 15 years ago when I commenced in that role or probably 10 years ago when I left it.

DR BOURKE: Mr Mackay, who was the consultant that you used to undertake this research around executive salaries?

Mr Mackay: Egan Associates. I am on several other national boards and have been on stacks of national boards. I have chaired a listed company. There are two or three

highly regarded remuneration consultants and I have come across him in many other cases.

DR BOURKE: Perhaps you could tell us the process the board used to select the consultant?

Mr Mackay: We may have gone for expressions, although I doubt it. We would have sat around and said, "Who is a good remuneration consultant?" And we have called them in. That would have been pretty standard on the other commercial boards that I am on. There are others around. If somebody had suggested somebody else, we may well have gone to them. Once you tend to go to one of these people, it is very easy to go back to them because they have got all the base data and they know the organisation. Of course they do not just look at Mark's salary, they look at the entire executive team, quite often.

DR BOURKE: Are you able to tell us any other large corporations which have used the services of this particular consultant?

Mr Mackay: I would have to take that on notice, but there are stacks of them. I am on several, as I say, national boards and I have come across John Egan frequently, with other hats on. He is well regarded.

Mr Sullivan: I think what we can do is provide, from their own web page, their description of the people whom they provide services to. Most of these would not be disclosed by them but they give you a range of whom they consult. They have had a fair bit to do in terms of the commonwealth government's recent review of secretary salaries. They have worked in the government space as well as the ASX space, as well as the private corporations space. They have got a good web site and I will get you that linkage so that you can see their own description of whom they deal with.

THE CHAIR: Mr Smyth has a supplementary.

MR SMYTH: Mr Sullivan, you are quoted in the *Canberra Times* as saying that the Chief Minister has never once written to this organisation seeking clarification of your remuneration and has never once raised it an annual general meeting. Is that correct?

Mr Sullivan: She has certainly raised it through other people. It is correct to say, in relation to did I receive a piece of communication from the Chief Minister, no. Certainly, in discussion with her, I accept that, from the time she became Chief Minister, she sought, through the bureaucracy, confirmation of my salary. That was provided to her based on what is now the erroneous 2010-2011 report and has clearly become the base, foundation document for the shareholders in understanding my salary. That was raised directly with me by a senior bureaucrat and we responded to the Chief Minister and to the other shareholder. There was then discussion with her chief of staff, just explaining elements of it in terms of the description. Literally, no, but I think yes, there has been contact made from the time the Chief Minister became Chief Minister.

MR SMYTH: Through the bureaucrat, when did that discussion occur?

Mr Sullivan: Prior to the tabling of the 2010-2011 annual report. The discussion was: “The annual report is coming out soon. There will be interest in your remuneration. The Chief Minister would like to understand what the annual report is going to say around your remuneration.” We responded directly to the shareholders, saying, “You have asked about this; here it is.” The Chief Minister’s chief of staff then rang our company secretary and asked for an explanation of terms used in the remuneration report. That would have occurred prior to the release of the 2010-11 annual report, probably in about August-September or September 2011.

MR SMYTH: Was there a discussion on the quantum of your salary?

Mr Sullivan: No. I think this is where the wheels fell off, in that the terms of the quantum of my salary were stated and were accepted as being true and correct. The discussion was around the terms used in describing the remuneration.

THE CHAIR: When you say it was stated, you mean the erroneous figure was stated?

Mr Sullivan: Yes, the erroneous figure. There was a consistency in this error in the 2010-11 report—first reported, in response to the Chief Minister’s request, erroneously and then the error was continued through the annual report and it was not corrected until we detected it.

THE CHAIR: In relation to the identification of that error—and I certainly, from what I have seen, accept that it was an error rather than a deliberate attempt to mislead or anything—you discovered that, I think, in October last year. Can you just talk us through briefly when you informed the government because there is some confusion as to whether the government was informed very soon after or when the Chief Minister was informed? Are you able to just talk us through the detail of exactly the steps you took or the steps that ACTEW took?

Mr Mackay: I actually took the steps and I am happy to talk about it.

THE CHAIR: Yes, Mr Mackay.

Mr Mackay: I think it was 3 October 2012; the company secretary approached me and said there was an error in the annual report, not the current one but the one before last. I simply said to her, as I would have in any other corporate situation, “You’re the company secretary, go and get legal advice, audit advice and what other advice you need and then do whatever that advice says.” It was as simple as that.

THE CHAIR: What was the next step? What then followed?

Mr Mackay: The next step was the company secretary contacted auditors attached to the Auditor-General’s, took some legal advice and spoke to various people over that period, remembering that the government was in caretaker period. It was just a couple of weeks out from the election when all of this came up. She spoke to various people and finally got a final sign off on this just a short time ago. It said, “Look, the way out of this is to inform the shareholders and for them to ask for the Assembly to correct this record.” As soon as she did that I sent a letter to the Treasurer saying, “Here’s this

mistake and here's what you have got to do to fix it."

THE CHAIR: You are saying a short time ago, but there was an attempt relatively early to let the government know. That is certainly what has been reported—that the government, through its departments, was informed of the error.

Mr Mackay: I do not think we ever said, "You must tell the shareholders," although I think it is safe to assume that they probably would have if they had seen it as serious as it now is. I would have probably too if I had seen it as serious as it now is, but that was that.

THE CHAIR: So when were the departments or anyone in government informed of the error?

Mr Mackay: There were several discussions, many discussions, from the time that I heard about the mistake right up until just into January and February.

THE CHAIR: Do we have a date as to when the government was first informed?

Mr Mackay: I could give you a date: 9 October, company secretary contacted external legal advisers, request; 11 October, chief financial officer provides company secretary—I will get this right in a sec—legal advice, received 30 October. It is around that time, 30 October, the first contact, I think, with various bureaucrats.

THE CHAIR: So the government knew on approximately 30 October or within a few days of that date?

Mr Mackay: The ACT bureaucrats knew at that time, yes.

THE CHAIR: Thank you.

MR SMYTH: Who was told in the bureaucracy?

Mr Mackay: There were various people. As I say, there were people in Chief Minister's, there were people attached to the audit office and several others, probably three or four others.

MR SMYTH: Could we have a list of who was told, please?

Mr Sullivan: We will take that on notice.

MR HANSON: Is your correspondence normally through the bureaucracy rather than directly to the shareholders on matters like this?

Mr Mackay: It is a mixture. On this one I am not sure why, but certainly it is not unprecedented—put it that way.

MR HANSON: Who do you address the annual report to—to the shareholders or to the bureaucracy?

Mr Mackay: To the shareholders, yes.

MR HANSON: So why would you not address a correction to the annual report to the shareholders?

Mr Mackay: I do not know why we did not do that. I kind of regret that we did not, although I may well have thought that they are in caretaker mode and perhaps we should leave it until after the election and then report to whoever the shareholders are then.

Mr Sullivan: I think the usual practice that we have is that if we prepare material for the shareholders we deal with the bureaucracy. It used to be with the Treasury Directorate and now it is with the Commerce and Works Directorate, who have a responsibility for territory owned corporations within the bureaucracy. To a degree this followed our usual practice in terms of, "We need to do something involving the shareholders. What do you think we should do and how do you think we should do it?" They were providing advice. The mistake was that we did not decide the matter was serious enough to escalate directly to the shareholders, which we should have, and they did not, it would seem, see the matter as serious enough to directly escalate it.

MR HANSON: Given the matter of your salary had been played in the media previously when it was a nominated figure of, I think, \$610,000 and had been the subject of quite a bit of debate in the Assembly as well, did you not see that as a significant issue that would cause embarrassment?

Mr Mackay: I was running this matter with the company secretary. Mark was not, and nor should he have been, running something to do with his salary. The two factors that I think were playing in my mind was that number one we were in caretaker period and number two we were talking about not the current report but the report before the current one. It may have been of some interest, but the correct figure for Mark had been released some time before and was with all Assembly members. I thought, "We have got time to get this right. History is not going to change and it is not going to cost us any more money. History is not going to change by taking some time to make sure we deal with this absolutely correctly."

DR BOURKE: Treasurer—

MR SMYTH: I am sorry, just a question to the Treasurer.

DR BOURKE: My question is to the Treasurer too.

MR SMYTH: The bureaucracy was told on 30 October.

DR BOURKE: It is a supplementary and I have already told the chair.

THE CHAIR: One at a time; thank you.

MR SMYTH: Why did no-one tell you? Have you asked why nobody saw fit to inform you?

Ms Porter interjecting—

THE CHAIR: I will chair it; thank you. Mr Smyth is asking a question. Maybe he will have to ask it again, because it was difficult to hear, and then Dr Bourke can ask his question.

DR BOURKE: Thank you, chair.

MR SMYTH: Have you made inquiries as to why no-one informed you from 30 October until this year as to this change?

Mr Barr: Yes, indeed.

MR SMYTH: What answers have you received?

Mr Barr: It would appear that the public service thought that ACTEW would notify the shareholders and ACTEW appeared to think that the public service would notify the shareholders. The Christmas period intervened, clearly. I have, on the public record more than once, expressed my disappointment that the time period from when officials in government knew and when the error became apparent to the time when I became aware of it is unacceptable. I am principally concerned with that issue.

I do not, as I think I have expressed on a number of occasions, believe in the conspiracy theories that have been bandied about in relation to this. I fully, 100 per cent, accept it was an error. But what compounded the error was the length of time before I became aware or the Chief Minister became aware. I obviously canvassed this in the Assembly. When I became aware, I immediately took the steps to correct the record and have answered probably 20 to 30 questions already in the Assembly in question time in relation to what I did and when, as a result of this information becoming available.

The key point for me was that I received a letter back in September 2011. That indicated the salary figure that was in that annual report. I have carried that figure and the subsequent media attention in relation to that figure as my understanding of the remuneration package of the managing director. So it was news to me that it was something different. Obviously it is concerning when you receive a letter, in response to a question, indicating a particular figure and you subsequently find out it is something different. Once I became aware of that, I took the steps that I have taken to inform the Assembly.

We have asked a series of questions, both of the corporation and of our own bureaucracy, in terms of how the error occurred, why it was not reported to us earlier, and have sought now to resolve this matter. We have a process by which we can do that, which I think is appropriate. We will resolve the matter. I think it is important then that everyone can move on and get on with their jobs and the important work that is necessary for the corporation and the government.

DR BOURKE: Treasurer, how common are errors in annual reports?

Mr Barr: They do occur from time to time in organisations within the territory

government, within the commonwealth government and within major corporations. We are all human. Errors will occur from time to time. I think the issue is how quickly they are identified, corrected and what we learn from those errors so that the subsequent questions really relate to what systems are in place at the ACTEW level to ensure that this cannot occur again and, in the context of our own bureaucracy, to ensure that this sort of issue cannot occur again. Those discussions have been had and we certainly look forward to improved processes being in place at both levels.

DR BOURKE: I know at the last public hearing we had here we had the Auditor-General telling us there were three errors in their annual report. Mr Mackay, from your experience in private enterprise, what is the level of errors in annual reports of organisations that you have been involved in?

Mr Mackay: It would be quite frequent. You do not want them to be there. Sometimes they are material, and sometimes they are not. Therefore, you would look at the error and say, "Is this a material error or not?" Then you would decide what to do with the company secretary and so on.

MS PORTER: On page 4 of the ACTEW report, it outlines an additional borrowing program of \$214 million for the financial year. Treasurer, are you comfortable with the level of borrowing by ACTEW of this particular amount?

Mr Barr: The funds are borrowed to fund major capital expenditure. Those costs are recovered through independent pricing determinations. I think it is fair to observe that ACTEW's gearing levels at around 60 per cent are not unusually high for this sector. I think we are comfortable with the borrowing program and, more broadly, with the capital expenditure program. Water security projects are certainly important mainly for the city's longer term development but also to ensure, from a consumer's perspective, water restrictions are highly uncommon rather than being a regular part of our day-to-day lives. It certainly is important that the corporation continue to invest in infrastructure in order to support a growing city.

MR HANSON: Mr Sullivan, obviously a lot of that borrowing for capital works the minister just referred to is for the dam. We have seen a number of cost increases to the dam. The latest was just recently to \$409 million from \$405 million. Previously, in 2009, before that latest blowout, it was reported in the media that you said, "I'm putting a lot at stake. I've been asked directly by my board and by the government, 'Are you putting your name to this cost?' And I am." That was against the \$405 million.

Mr Sullivan: No; it was against the 363, from memory.

MR HANSON: Against the 363? So you put your name to 363 and then I assume you put it against 405. And now you are putting it against 409.

Mr Sullivan: Let us just clarify. The budget for the dam was \$405 million. What we are giving to the government, who are going to table it in the Assembly when it is available, to be as open as we can about this, is to say that our current projected cost to complete the dam looks like \$409 million. It will not be \$409 million; there are a number of variables in that which we cannot get a proper handle on. So the budget

actually remains contained at \$405 million. It will end somewhere around the 405; it will end somewhere within one per cent of that. There are a number of risks and opportunities around that number, but it is not a new budget.

Yes, it was 363, and I retain my accountability for delivering the Cotter Dam, and my accountability if there is any view held that my oversight and management of that project are responsible for movement of the budget. I do not think anyone reasonably accepts that I am culpable for the floods of March last year; I am not that good. And I do not think that we expected to find a major geological fault at the foundation of the dam as late as we did after the \$363 million budget.

So I think in terms of the reviews conducted by the ICRC into the \$363 million budget, and the review conducted by Deloitte into the management of that budget, they would give resounding evidence that my accountability for the dam project is very strong and the performance has been strong. I am sure that when the dam finishes and we can sit and report and say that the dam cost this much money—whether we do it or whether we have it imposed upon us—we will see a similar check of my accountabilities. And I must say that the team I lead in respect of the dam, I think, can be extraordinarily proud of where they are bringing this dam in and where it could have gone. The management of this dam is extraordinarily active by us as a partner.

MR HANSON: We have seen the dam go up by tens if not hundreds of millions. We have seen the latest review by the ICRC, which was pretty scathing. But then we have seen you get massive bonuses. Can you understand why in the community there is some concern to try and correlate the fact that we have seen massive price escalations in the dam, and a scathing report from the ICRC, and then you are getting—

Mr Sullivan: No; the only report of the ICRC on the dam was not scathing. The ICRC released a report on the dam and the budget of \$363 million, and it was extremely positive.

MR HANSON: This is not on the dam, but on the—

Mr Sullivan: I would like you to cite where the ICRC—the ICRC, if anything, probably has a philosophical problem with building the Cotter Dam now. That is not a difference in terms of “Have you built it well?” It is a difference which I have not heard anyone in this room suggest is right—that it should not have been built for another 20 years.

MR HANSON: Malcolm Gray raised a number of concerns in the media about ACTEW management.

Mr Sullivan: I do not believe so. Cite the report. I ask everyone who talks about the ICRC report, “Show me where he said these things.” Malcolm briefed me, and he said, “I hope you do not regard the report as being critical of ACTEW.” I said, “If you tell me it is not, I won’t regard it as being critical.”

MR HANSON: I heard him on 666 radio, I am pretty sure, saying that he had—

Mr Sullivan: Pretty sure? He has written a 200-page report. I encourage people to read it, because really—

MR HANSON: So when he raised those concerns on radio they did not reflect—

Mr Sullivan: it is a philosophical, policy-driven report. I do not think you will find in it—as I say, the criticism, and I think it is more implicit criticism than explicit, is that this dam should not have been built. As I say, I do not agree with that, and I have never heard anyone in this room agree with that contention that this dam should not have been built.

MR HANSON: So you are saying—

DR BOURKE: Treasurer, why does the government believe that this is an important project, what are the benefits and why has it stretched out? Why has the time line stretched out so much?

Mr Barr: The issue of the importance of this infrastructure has certainly been canvassed extensively in the Assembly, I think for as long as I have been a member. Going back into the last decade there have been various calls over the time for additional infrastructure to be built for the city. There has been a lively debate over the location of such infrastructure. Obviously I will be corrected immediately if I state something around other people's positions that is not accurate, but I think it would be a fair characterisation to say that there has been political consensus on the need for new infrastructure. There has been a debate about where and, in fact, my recollection of the debate earlier on and before I was a member of the Assembly was about building it earlier rather than later.

THE CHAIR: It would be full now.

Mr Barr: We could certainly say with confidence after the flooding event last year that the dam is in the right spot. It rains there and it will fill.

THE CHAIR: It pretty much rained everywhere.

Mr Barr: Yes, but it is certainly in a more productive catchment. I think on that issue debate has been had extensively and it was resolved within the Assembly that it was the right thing to do.

THE CHAIR: I think there is agreement on that, Mr Barr; thank you. Mr Smyth—

DR BOURKE: Chair, can I get the rest of my answer, please?

THE CHAIR: I am sorry; I thought Mr Barr had finished.

Mr Barr: That deals with the first part of Dr Bourke's question.

THE CHAIR: We also will not have very long answers, so I will ask Mr Barr—

Mr Barr: I understand. To briefly respond on the other points, there has been a lot

thrown around about blowouts and the like. I think that has been unfair in the context of what has contributed to delays and what has contributed to increased costs. I think Mr Sullivan has covered that. I will not add anything further there.

THE CHAIR: Can I just ask you, Mr Barr, on that point: if that is the case, if it has not been a blowout, do you agree that the government and ACTEW severely underestimated the cost of this dam at the beginning of this process?

Mr Barr: My observation is I do not know where the \$150 million figure ever came from. That one is extraordinary.

THE CHAIR: It was one put out by the government, I believe.

Mr Barr: That is extraordinary.

MR SMYTH: Put out by the chief minister of the day.

Mr Barr: That is extraordinary. I think the fact that that ever got currency is problematic—

THE CHAIR: We believed the government when they put it out.

Mr Barr: That was certainly before my time.

MR SMYTH: No, you sat in cabinet when that was announced.

Mr Barr: I think that is an extraordinary issue and it has certainly coloured the debate in relation to this piece of infrastructure.

THE CHAIR: So that was just a false number that was put to the people?

Mr Barr: Mr Mackay may be able to give some further information on this.

Mr Mackay: All I can say is that the 150 had no special status. The day we decided to build the dam we knew it was going to cost 363. So the day it was approved it was 363. Mr Sullivan is now saying it is a bit over 400. To me, that is an 11 per cent blowout, if that is what you want to use, in a \$400 million project. We found a geological fault and we had to put in enough concrete to fill this room 200 times to fix it. Then we had two of the worst floods in Canberra's history—the two worst floods in Canberra—once early, when we were trying to do the foundations, and once late when it came and we had to close the site down. So, if that is a blowout, I do not understand blowouts or construction. It is not a blowout and it is not an unreasonable escalation, given the nature of this sort of construction and those three major events unforeseen.

THE CHAIR: Mr Smyth.

MR SMYTH: When did you first become aware of this geological fault? My understanding is that there were concerns right at the start about the geology of the site. This fault that required 200 rooms full of concrete—when did you specifically

first become aware of that?

Mr Sullivan: We became aware of that towards the conclusion of the laying of the foundation and, if you were aware of it, your partners would never have signed up to the budget as they did. There had been a lot of geotechnical testing done of the site which did not reveal the problem. It was only when the excavation of the right-hand side of the foundation, which is an engineer's right-hand side—it is probably your or my left-hand side—revealed significant geological problems, and then it was chased. It was chased and chased until it was concluded.

MR SMYTH: Can you take it on notice and give us an exact date as to when that became apparent?

DR BOURKE: Mr Sullivan, what do you mean by “chased”?

Mr Sullivan: It means basically you keep digging until you hit solid rock, which was about nine or 10 metres later.

MR SMYTH: Can you give us more of an exact time?

Mr Sullivan: I think we have given you that before. I will check.

MR SMYTH: If you could.

Mr Sullivan: I know there was a geotechnical debate. I think we gave you all of the geotechnical diagrams; we gave you where the holes were and where the seams were determined. We will check that again and replay it or do it again.

MR SMYTH: Thank you.

Mr Mackay: Could I just say that, in terms of the supposed blowout in time, the dam is not finished. It will not be finished for some months, but it is filling up with water right now. So the fact that we have not finished the top will make absolutely no difference to the amount of water that dam will hold at the time and when we can access it.

THE CHAIR: If I could just follow up there. Mr Sullivan, you talked about the \$363 million versus now \$405 or \$409 million. I understand the partners are taking some of that loss at the time. Is that a 50-50 split in terms of that over-expenditure or is there a different split?

Mr Sullivan: In layman's terms, yes, 50-50 splits of pain and gain, but it is much more complex than that. In terms of the first bit of money, it is our pain, then it turns into 50-50 and then once you start getting into—you will not pay a negative fee. They will not pay to build the dam but they can not earn any money out of building the dam.

THE CHAIR: If it comes in at 409, that extra \$46 million—how much of that is worn by ACTEW as a partner and how much by the other partners?

Mr Sullivan: That is the cost to ACTEW.

THE CHAIR: The \$46 million is all costs to ACTEW, is it?

Mr Sullivan: It is the cost to ACTEW.

MR SMYTH: Just another quick question. On page 24 of the annual report I see the arboretum received \$30,000 for Voices in the Forest. Could we have a reconciliation of how much ACTEW has donated both in cash and in kind to the arboretum project since its inception?

Mr Sullivan: Voices in the Forest is a venture coordinated by the Village Building company, which was seen by us as being a community event for sponsorship. Of course, we moved the garden from Weston Creek, on the closure of that garden space, to the arboretum grounds. ACTEW has built a garden. Its discovery garden is now in the arboretum grounds. Other than that we have, of course, provided water services to the arboretum, which we would to any leasehold in Canberra. I will try and get you details. It is how far you spread it out. Some of it is purely the provision of water services—that is, potable water services, not irrigation services, which they do themselves. But potable water and sewerage we provide, as we provide to any leasehold.

MS PORTER: Talking about community engagement activities such as you have just been describing with regard to the arboretum—and I understand the community has a great interest in water security—what are some of the key community engagement activities that you undertake in order to work with the community to get your message across in relation to the work that ACTEW does? I guess the arboretum is an example of that.

Mr Sullivan: It is. This goes to both water security and water conservation measures. At the arboretum, the discovery garden is a very specific measure to assist Canberrans who are interested—and we know they are interested—in having a garden but using less water and how to do it. It lines up with the project we did at Rosary School in terms of turf types and things like that.

On water security generally, Canberrans are very interested in how we are securing the city's water. We have gone from the direct community impact of projects, be it the Burra community down at the Murrumbidgee-Googong pipeline or the Cotter community, out to the general community and having them understand the projects. There is a fascination with projects—and it is good to have a fascination with projects—and how they fit into basically a water grid which protects Canberra and offers it water security for the next 30 to 40 years. So we go from Friends of the Cotter to open days, to information days, to education programs.

The Cotter Dam is the only piece of curriculum accepted in the school systems of Australia around how you build a dam, how you take care of the environmental impacts of it, how you do certain things about it. The spinoff in terms of community engagement in this project has been very high, and the response is basically one which is overwhelming support of what we have been doing.

MR HANSON: In terms of things like sponsorship, corporate engagement and

community engagement, my understanding is that the Chief Minister has written to you or the chair regarding, I guess, what has been described as corporate largesse. She stated on the radio she had heard a number of rumours about various activities that had raised eyebrows. Can you give an explanation of what letters you have received from the Chief Minister regarding that and what response you have provided?

Mr Sullivan: Yes. The Chief Minister, after a discussion with the chairman, wrote to the board asking them if they would be willing to conduct a review, to give her confidence around the governance of ACTEW, particularly around issues such as sponsorships, hospitality and things like that. The board responded immediately and said of course it would do such a review. It engaged PricewaterhouseCoopers to do the review. It specifically requested that the review be conducted by senior partners of that firm not from Canberra but from interstate. It was conducted by two senior partners from Sydney.

We are expecting that review to conclude in the next month or so. We are expecting some idea of its conclusions in the next two weeks. As soon as we have got that review, we will be passing it back to the shareholders.

It is a bit like your term before about scathing ICRC reports. That was actually a Ross Solly term. I think corporate largesse is a Noel Towell term. That term did not enter into any of the correspondence between the shareholders and the board. It is about governance. It is about good governance. I think it is about saying, "Can you just assure us, and assure us through a good mechanism such as an external review, that your governance framework reflects what we and the community would expect it to be?" And it was welcomed.

THE CHAIR: What is the cost of that review?

Mr Sullivan: I would expect it will be over \$100,000, probably around that number. What we have done is make sure that we are not constrained. We actually sought from Pricewaterhouse a terms of reference around governance. They put forward a framework of a terms of reference. We took that to our board who said, "That appears to be comprehensive and sensible." We accepted that terms of reference. The cost will be what the cost will be but I expect it to be around the \$100,000.

THE CHAIR: Is it limited to ACTEW or is it ActewAGL as well?

Mr Sullivan: It is ACTEW Corporation; that is what the shareholders are shareholders of.

MR HANSON: Just on that issue, obviously there is a relationship between ACTEW and ActewAGL and, with regard to some of the hospitality and sponsorship, it is a question of what is appropriate and what is not. What role do you play, as the chair, to make sure that ActewAGL is not overspending, shall we say, on hospitality and sponsorship and that it is an amount that you are comfortable with, given that you are the chair of both ActewAGL and ACTEW? How do you make sure that ActewAGL's involvement is in the good interests of ACTEW, as chairman?

Mr Mackay: All sponsorships are listed in the annual report for ACTEW and

regularly come to the board for a general sign-off that they are appropriate. Then I sign all of Mark's personal expenditure off on a regular basis. So I am able to say without question that the sponsorships, according to the board, are reasonable and that Mark's personal expenditure is reasonable.

MR HANSON: Given that you are the chair of both, it is a bit difficult. Are you comfortable that the levels of hospitality, sponsorship and corporate engagement with ActewAGL are appropriate, given your role as the chair of ACTEW?

Mr Mackay: I think they are appropriate. They would not be doing those things if they were not. ActewAGL was set up especially so that it would operate like a private sector company, especially so that the people who put in hundreds of millions of dollars to own part of that business were not interested in owning something if the government would be able to play with it on a daily basis. So it was especially set up. The government of the day took a very large cheque in exchange for that set-up. So I am perfectly comfortable, and ActewAGL just happens to be the most successful utility in Australia, on just about any measure that you would like to run.

THE CHAIR: Sorry to cut you off there but we have pushed it over time. I know there have been a lot of questions. I appreciate your answering the questions. If there are further questions, members can put them on notice within two days of the transcript becoming available. There may well be other questions that members want to put on notice. I encourage you to do so if there are. I thank Mr Sullivan and Mr Mackay for being with us today.

Mr Sullivan: Thanks, chair, for a positive exchange.

THE CHAIR: We welcome Ms Snowden and Mr Kourpanidis. Thank you for being here. I will not go through the whole opening statement, but I just remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the blue privileges statement before you on the table. Could you confirm for the record that you understand the privileges implications of the statement.

Mr Kourpanidis: Yes.

Ms Snowden: We do.

THE CHAIR: Is there any opening statement you would like to make?

Mr Barr: No; we will go straight to questions.

THE CHAIR: I will go straight to questions, members.

MS PORTER: What have been the changes for the previous financial year turnover for racing, Keno, Sportsbet and Trackside?

Ms Snowden: The changes?

MS PORTER: Yes. Pages 48 and 49 refer to some changes.

Ms Snowden: Racing turnover decreased for the year by 1.95 per cent. We are seeing a trend across racing in terms of parimutuel racing, which is the TAB racing, moving to fixed odds, which is sports racing.

THE CHAIR: Just on a procedural thing, I have you listed as the acting chief executive. Can we be clear for Hansard.

Ms Snowden: That is correct; I am acting chief executive. We are seeing a move from racing to fixed odds. That will continue; that is the way the trend is going. Sports betting has increased. Once again, that is that move from—

Mr Barr: You can't watch sport now, can you, without—

Ms Snowden: You cannot watch without people betting on it. With Keno we have increased our sub-agency network, which has resulted in increasing the Keno. And the Trackside has increased as well. We do not have many Trackside sub-agency venues, but in the branch and agencies we have seen an increase.

THE CHAIR: How does an organisation like ACTTAB compete with the likes of Tom Waterhouse and others when the advertising is so invasive? Presumably ACTTAB is not going to go down that path of having people on commentary panels, but it must be a real concern for the organisation going forward as to how you can possibly compete with the likes of Bet365, Tom Waterhouse and others.

Mr Kourpanidis: I am more than happy to answer that question. You are quite correct in what you are saying. It is a real challenge competing against the likes of the large corporate bookmakers. That is the challenge that the organisation faces. That also is the reason why typical parimutuel pools are reducing and dollars are instead flowing across to what we refer to as fixed odds, which are in fact sports odds, where, just as you can have a bet on a football match, you can have a bet on a particular horse in a particular race and your funds do not go into the pool where the group of superTABs pool their money but are held separately in a Sportsbet account.

THE CHAIR: Is there a view within ACTTAB as to whether—there has been a lot of talk about restrictions on advertising and the like for sports betting. Does ACTTAB internally have a view one way or the other on that?

Mr Kourpanidis: Yes. On a strictly business view, you would turn around and say that we would not want to partake in anything that will reduce our ability to compete. On a personal view, for example my own, I do not agree with that. I think that the needle has gone too far in the other direction; as has been the base story for a number of weeks now in the media, with gambling on sport, you cannot watch a sport event without having the influence of betting on that outcome in your face.

Mr Barr: I think you now watch sports betting with a bit of Rugby League and AFL in between it.

THE CHAIR: Indeed. I think that the impact on our children needs to be considered. I think it is a concern. Yes, Dr Bourke.

DR BOURKE: Treasurer, on 8 February this year you announced that a review had been commissioned into the future ownership and governance of ACTTAB. Why do you think this review is necessary?

Mr Barr: Some of the issues have clearly already been canvassed. ACTTAB is one of only two remaining government-owned betting agencies in Australia and it is the smallest. These issues are live. The marketplace is changing dramatically. I think it is timely to have a look at what the future options are. We have commissioned a review. PricewaterhouseCoopers are undertaking that. There is a project working group evaluating a range of different options for the future of the organisation. They range from no change to government no longer owning ACTTAB and there are a variety of options in between.

It would be fair to observe that, within an annual budget priority setting process, investing in new sports betting technology is not high on the government's budget list. This presents a challenge for a government-owned organisation. In order to adapt to a changing marketplace an injection of capital would certainly assist, but there are a variety of ways of achieving that. There are broader philosophical questions around whether the government should still be in this business that certainly need to be grappled with.

Ultimately the Assembly will need to make a determination on this. It would be my preference that there is a consensus in terms of a way forward that provides certainty for employees. We have been particularly keen to work with the union and staff at ACTTAB, senior management at ACTTAB and the board to ensure that there is confidence in the future and that we do work through a thorough process that presents all of the available options and ensures a well-informed decision for the Assembly to take.

Obviously the government will need to put forward a preferred position. I think that is sensible. But in the end the Assembly will need to make a determination on this. It would be my view that a unanimous position would be ideal, if that can be achieved. In the end, I think there will be a need to resolve some of this uncertainty and to ensure that there is a future for the organisation and one that they can go forward with with some confidence in terms of investment in future.

DR BOURKE: With this government ownership of ACTTAB, have you had much in the way of community representations around that question which you just raised?

Mr Barr: In the initial feedback, in relation to the terms of reference for the review, it has been very strongly raised that the community benefit and the support that ACTTAB has provided to the Canberra community in a number of different ways, be it in sponsorship at high profile events or support of a number of other organisations over the organisation's history, is an important factor that we need to consider. And we do, because there are a number of organisations and a number of events and activities that simply would not be either at the levels they are now or in existence at all if it were not for the support of ACTTAB. That needs to be acknowledged and it needs to be very much a part of our consideration for the future of the organisation.

MR SMYTH: The report is still due in May?

Mr Barr: I am anticipating that, yes. I will take some further advice on exactly when in that month. Yes, I would be anticipating that time frame, although, again, my preference would be to ensure that all stakeholders have been consulted. If it slips into early June in order to ensure that, I am comfortable with that. I am not suggesting that we want to draw it out any longer, but I do want to ensure that all stakeholders are consulted.

MR SMYTH: The cost of the report?

Mr Barr: I will need to take that on notice. Obviously there will be some costs associated with it, but I will take that on notice.

MR SMYTH: Will the report be tabled in the Assembly?

Mr Barr: Yes.

MR SMYTH: What is the current valuation on ACTTAB?

Mr Barr: It depends who you talk to.

MR SMYTH: In your opinion, minister.

Mr Barr: I will not profess an opinion. I do not profess to be an expert in this area. I have heard a variety of different views on this.

MR SMYTH: What is the range you have heard?

THE CHAIR: Here is your chance to talk it up.

Mr Barr: I would prefer not to put a figure on that in this context, as I think that sets parameters. To do so in a way that would simply be me plucking a figure is really not appropriate.

MR SMYTH: Have ACTTAB worked out what they are worth, Mr Chair?

Mr Kourpanidis: No. You really cannot do that because, unless you have the whole package in front of you of what you are selling and what strings are or are not attached to that package, it is very hard to set a figure. All I could say is a TAB was sold recently, the Tasmanian TAB, and those figures were meaningless in what the buyer actually ended up with at the end of the day because of, I suppose, all the little nooks and crannies that they did not correctly assess.

MR SMYTH: Has the value of the asset that the territory owned declined over the last decade?

Mr Barr: Over the last?

MR SMYTH: The last decade—the last five years; the last two years?

Mr Barr: I think it would be fair to say that prior to the advent of some of this new technology and some changes that have occurred, particularly in sports betting—although, again, I could not put a figure on that; it would be only an anecdotal view. It is pretty clear that the marketplace has changed dramatically, particularly in the last 12 to 24 months, with the proliferation of hand-held devices and apps. It is much, much easier. You see this obviously in the now almost seamless integration into broadcast of sport in particular.

THE CHAIR: Thank you, Mr Barr, and thank you, Ms Snowden and Mr Kourpanidis. Before we close, just a couple of administrative matters. Answers to questions taken on notice at this hearing are due with the committee secretariat within two weeks of the committee transcript becoming available. Written supplementary questions from members should be provided to the secretariat within two working days of the proof transcript becoming available. If the committee has any supplementary questions following on from this hearing they will be forwarded by correspondence. Answers to supplementary questions should be provided to the committee secretariat no later than two weeks from the date of receipt.

On behalf of the committee, I thank you, Treasurer, and officials. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and suggest any corrections. I now formally declare the hearing closed.

The committee adjourned at 1.03 pm.