

**STANDING COMMITTEE ON
ESTIMATES AND FINANCIAL OPERATIONS**

2012–13 BUDGET ESTIMATES FOLLOW-UP HEARING

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 22 OCTOBER 2012**

**SESSION ONE
DEPARTMENT OF AGRICULTURE AND FOOD**

Members

**Hon Giz Watson (Chair)
Hon Philip Gardiner (Deputy Chair)
Hon Liz Behjat
Hon Ken Travers
Hon Ljiljanna Ravlich**

Hearing commenced at 1.13 pm**DELANE, MR ROBERT****Director General, Department of Agriculture and Food, sworn and examined:**

The CHAIR: On behalf of the committee, I would like to welcome you to the hearing this afternoon. Before we begin, I am required to ask you to take an oath or an affirmation.

[Witness took the affirmation.]

The CHAIR: You will have signed a document entitled “Information for Witnesses”. Have you read and understood this document?

Mr Delane: I have.

The CHAIR: The proceedings this afternoon are being recorded by Hansard. A copy of the transcript of your evidence will be provided to you. It would assist the committee and Hansard if you could please quote the full title of any document that you might refer to during the course of the hearing and be aware of the microphone and try to talk directly into it. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. This prohibition does not, however, prevent you from discussing your public evidence generally once you leave the hearing. Do you wish to make an opening statement or would you like to proceed straight to questions?

Mr Delane: I understand I am the only witness being called for this session. There are several officers of the department here in the observer gallery. If it pleases the chair and would help us to meet or address some questions by taking advice from them, I am more than happy to do that, otherwise there may be some additional questions that need to be taken on notice and supplementary information provided. I will leave that to you but I may, with your okay, refer to the chief financial officer, for example, for clarification so I might be able to answer some of the questions here and now rather than provide them as supplementaries.

The CHAIR: If there are questions that you feel you want to take advice on, we will accommodate that. Obviously, you are the one to answer them but if you want to take advice, we can wait until you have got that if that arises.

Mr Delane: I was sent an email with a number of topics, the first of which was the status of the department’s annual report, which I suspect at the time had not been seen by the committee. It is available; I did see you waving one through the window. There are copies available here if any of the committee members do not have a copy. I understand it was tabled in Parliament on Wednesday, 17 October.

The CHAIR: Just after we had written the email.

Mr Delane: It is available.

The CHAIR: I might proceed with some questions. The first question is in relation to the applicability of the Financial Management Act to the WA Agriculture Authority. Does the FMA apply to that authority?

Mr Delane: Yes, it does. To help everyone follow the thread here, I might go back—I will not take a lot of time on this but I think it is important to follow through—to 2007 when the Biosecurity and

Agriculture Management Bill was introduced and passed, which was legislation that established the Western Australian Agriculture Authority. I will come back to this but any acts that are done under the relevant sections of that act—152 and 154—are regarded as services under the control of the department for the purposes of the FMA. It does cover it. Some of the committee were around at that time but prior to that point the department's major way of dealing with assets and a range of matters was under the Agriculture Act and the corporate body that was established as a result of that. It had a number of constraints to the functioning of the department as the world had moved forward. For example, we had difficulty holding assets. The Agriculture Protection Board's assets were to be transferred to the department. We were unable to lease out department land where it was surplus. We were unable to legally participate in cooperative research centres and other profit and not-for-profit companies. When the legislation went through Parliament, there were a couple of cooperative research centres that may have been participating illegally under that act and the federal government had continued to evolve that model so the only way we could participate was to join a company, yet we did not have the imprimatur to deal with that. That legislation sought to pick up a number of things. I suspect it appeared slightly odd to the Parliament at the time that that mechanism was incorporated into the Biosecurity and Agriculture Management Act, which was largely for other purposes but it established under that act the Western Australian Agriculture Authority, and under section 156 it made clear the link between that authority and the FMA and the department.

[1.20 pm]

The CHAIR: If the FMA applies to that extent, what is the situation in terms of providing financial statements for investments by WAAA?

Mr Delane: WAAA is established under the Biosecurity and Agriculture Management Act 2007 as a body corporate governed by the minister but WAAA is not an agency within the meaning of that term in the Financial Management Act. It is not listed as a statutory authority in schedule 1 of the FMA. It is not required to prepare a separate annual report. Under section 156 of WAAA, where any acts or things done are to be regarded as services under the control of the department, it has been reported as part of the department. This causes quite a lot of confusion. There is also confusion caused by the name. There is ongoing consideration, and has been for some time, between ourselves and the Office of the Auditor General and the Department of Treasury, I think with each of us taking advice from the State Solicitor's Office as to how to clarify exactly how this is handled.

I can say that certainly to my knowledge, which I think is quite accurate, it was never intended at the time that this mechanism was written into the Biosecurity and Agricultural Management Bill by the government of the day that WAAA was established as a separate statutory authority and would therefore have a separate reporting obligation. In fact, it was originally proposed that it be a ministerial body, which, it was judged at the time, would cause equal confusion. When was the minister acting as the minister? When was he acting as a corporate body, which was a ministerial body et cetera? So the judgement, which may not have been smart, with experience we have had in recent times, was to actually call it the West Australian Agricultural Authority. Part of the problem was that then, as everyone expected it to be a statutory authority with all the obligations that go with statutory authorities—it is a corporate body; it is a legal vehicle for being able to do certain things.

The CHAIR: That being the case, how is Parliament then to be informed about the operations of WAAA?

Mr Delane: WAAA is reported in our annual report. You might note that even just inside the front cover that we refer there to copyright being held, so WAAA is dealt with there. On page 45 the Auditor General makes some comments in relation to WAAA and the Auditor General's people have consistently had a different view from the Department of Treasury and ourselves on some matters, and I do hope had that will be resolved soon. We do report, for example, on page 82 on the only material investment, other than our land and intellectual property, as a documentation et cetera,

which is held by WAAA for the department; we do report there on that matter. Next year's annual report I expect will also refer to the Australian Export Grain Innovation Centre Ltd, a not-for-profit company that we are just in the process of establishing, also with Grains Research and Development Corporation, and it will be reported similarly. So the intention, and I think this was covered in the debate in the Parliament at the time, was never that it was a separate entity, statutory authority, or that any investments it made would be reported in detail through that statutory authority. It was always intended that it would be reported as another asset or an investment et cetera as part of the department's accounts, and that is the way we are treating it at the moment. That is articulated in a numerical sense on pages 82 and 83 of our annual report as it relates to the major investment of WAAA into another entity, InterGrain Pty Ltd, it is reported there.

The CHAIR: The 2010–11 Auditor General's assurance audit report, which was tabled in November 2011, made some comment in respect of WAAA. I will provide you with a copy so you know what I am referring to. I take you to the final point, which states —

Treasury is reviewing the relevant legislation with a view to clarifying the financial reporting requirements for WAAA.

Do you understand that that view of the Auditor General is now satisfied? Perhaps you can say what happened following that? What is the review and has it occurred?

Mr Delane: I think that that is in part probably answered by the Auditor General's comments on page 45, where we take the OAG's comments to read that this matter is still standing, but he has not modified his opinion as a result. We welcome some greater clarity here. We have had quite a number of meetings with Office of the Auditor General. We have had a number of meetings with the office of Treasury. I think I have had one; other staff may have had others jointly with OAG and Treasury. We have taken, in relation to relevant matters, some State Solicitor's Office advice. I am fairly sure that Treasury has also taken SSO advice and I have a feeling, I could stand corrected, that that the Auditor General has also taken advice. I think we have all agreed that some greater clarity would be useful here as to exactly how the assets of WAAA and the activities that are linked to WAAA should be reported, and, whether they should they be reported within the department's report. I think the view of the OAG is that it should not be the case. We do not mind either way as long as we have clarity and sufficient lead time to be able to be appropriately report in the reporting period. I think that page I have been provided with also illustrates that the OAG has had some concerns about the appointment of auditors by subsidiaries or entities in which WAAA is an investor. That matter also had some detailed consideration and it really came to, in effect, matters of control. It was not a matter of dispute as to who was an appropriate auditor, as I understand it, in fact, the company was happy to recommend a number of auditors to the OAG and have the OAG endorse or select one of those, but it was a matter of whether the OAG if you like, had the proactive positioning to determine who the auditor was for the company.

There were matters also of cost that were debated, but at the end of the day the practical solution is that the OAG determines an auditor and the company's books are audited. I think the only current inefficiency in that is that that process probably leads to greater cost to the company than would otherwise be the case, but that is the not the biggest problem in the world.

[1.30 pm]

The CHAIR: In terms of the discussions that are being had, what are the changes that are being contemplated?

Mr Delane: I cannot be clear about those except that all parties are seeking greater clarity. From our point of view, we are really—if I can perhaps go back to 2007. We sought through our minister to have a mechanism available, which would enable the department and the government of the day to do what needs to be done. We did not design the mechanism. We worked with State Solicitor's Office, parliamentary counsel and others to work out what in, I guess, 2006 thinking was the best

available mechanism so that the department and government through a legal mechanism could own assets, could lease those assets, could own intellectual property in an efficient, clear way when federal law had changed the circumstances by which some public servants could handle that, could become a shareholder in companies when even the national RNE arrangements were requiring us to participate in companies to go about our business and also to establish commercial vehicles, companies, to do work which was then best done through a commercial vehicle and crop breeding was the case. InterGrain was established as a breeding company very soon after passage of the BAM act to enable us to continue to have a breeding entity that could deliver wheat varieties for Western Australian grain growers, could do it efficiently, could do it by engaging with other companies, locally, nationally and internationally, who would not talk to us because we were a government department and they were not going to do an intellectual property deal with a government department, and a number of other efficiencies that would come from establishing a breeding company, including some competitive neutrality considerations. That was all the drivers for it. That was a mechanism we had. It is the mechanism we have today. We have welcomed the discussions with the OAG and Treasury and would like to see a mechanism that is clearer for all parties and, perhaps, works a little better than the one we have got. My understanding is Treasury does intend proposing that the government introduce some amendments to the Parliament, but when this will be and exactly what they will be at this stage we do not know.

The CHAIR: I am just interested in the ownership of InterGrain. I note with interest that the annual report says, page 82 —

As at 30 June 2012 WAAA holds a 52.68% ... equity interest in InterGrain Pty Ltd.

I thought it was much higher than that. When did that change?

Mr Delane: That would have changed at the time. So, today Monsanto holds 19.89 per cent and GRDC will hold the difference between those two numbers and 100 per cent. I think that is right.

The CHAIR: Who is that?

Mr Delane: Grains Research and Development Corporation, which is a federal statutory research corporation. So, previously, prior to Monsanto investment in equity in InterGrain, InterGrain was started as a joint venture company of WAAA, WA government and Grains Research and Development Corporation, otherwise referred to as GRDC.

Hon LJILJANNA RAVLICH: Just quickly, just in relation to the hold by WAAA of 52.68 per cent, I notice in your annual report that there is a line there that states —

The department has no obligations with respect to liabilities incurred by InterGrain Pty Ltd.

I am just wondering how that works given that it is a major shareholder.

Mr Delane: I think I might need to take that on notice, but I think the constitution, the documents, refer to a way that the business is protected, but I would expect it would be wound up in any case if it was potentially going to get into difficult financial territory. It is not the sort of business and particularly with the constraints put around its operation by the conditions imposed through WAAA, that it does not have, if you like, the leeway to get into a set of circumstances that would expose it to a dramatic downturn in its operating circumstances. We end up being in deficit. But I am happy to take something —

The CHAIR: You are welcome to take advice if you prefer.

Mr Delane: Thanks, Chair. The way the company works and the way the processes work—so WAAA through the minister and the work of the department cannot enter into full profit entities, PTY entities, without the approval of the Treasurer and a set of Treasurer's conditions wrapped around that. Those Treasurer's conditions are quite tight. They include requirements to provide certain information to the Treasury, including if the circumstances of the company change. They include a constraint on the level of borrowings and my information is that InterGrain is currently

limited to borrowing no more than \$1 million without the prior approval of the Treasurer. To reporting annually, I think, in providing the business plan, which includes revenue forecast for crop variety sales and revenue from farmers delivering those varieties and paying the royalty. With that level of forecasting, that level of transparency of the documentation of the company, to the Treasurer's officials in the Department of Treasury and the constraints on the borrowing, the risk of the company ever getting to circumstances, such as inferred by member Ravlich that there would be a liability some financial clean-up to be undertaken, is very, very small.

Hon LJILJANNA RAVLICH: Director General, I am just wondering whether you could provide the committee with a copy of the constitution of the organisation.

The CHAIR: I think we already have it. That is in this.

Mr Delane: We have provided that. It is suitably redacted for commercially confidential information. We have provided as much as we can without breaching confidentiality requirements.

Hon LJILJANNA RAVLICH: You referred to a revenue forecast. Is it possible to provide the committee with the revenue forecast documents for the 2011–12 financial year?

Mr Delane: That would be considered as highly commercial-in-confidence information by the company so perhaps. So perhaps to illustrate the operating environment here, prior to 2007—in fact, probably going back before that to about—Australian Grain Technologies was established in about 2004. Wheat breeding in this country was largely in public hands as was done by departments and universities and CSIRO. There were some major changes running through the grains industry and associated organisations in the early 2000s, which led to the establishment of breeding companies.

[1.40 pm]

Wheat breeding in Australia is largely done by three highly competitive companies: InterGrain; Australian Grain Technologies, or AGT, based in Adelaide; and LongReach, which I think is headquartered in Melbourne. The release of any such information would be regarded as detrimental to the company that the Western Australian government formed with GRDC to deliver benefits to Western Australian and Australian grain growers. I would not be offering that up unless we were compelled to do so.

Hon PHILIP GARDINER: Can you remind me, director general, does GRDC have shareholdings in the other two companies?

Mr Delane: GRDC certainly has a significant shareholding in AGT and I think a small one in LongReach.

Hon PHILIP GARDINER: That is interesting because if it is so competitive, how do the other shareholders stop the sharing of information within GRDC?

Mr Delane: Thank you, member Gardiner! It is an issue that we, not surprisingly, all ask questions about on occasions. GRDC will not be the only entity in the world that is holding shareholdings in companies that are competitive either in part or wholly. That is a governance issue that GRDC needs to manage. They are very mindful of it and are regularly reminded of it. I think their view, certainly that it has articulated to us, has been that they needed to create a viable competitive environment of sustainable breeding companies and so they see merit in having established those shareholdings. I cannot tell you what their future plans are for that. Clearly, it creates some governance challenges for them but I can assure you that the companies are working very, very hard for their success, and that is good for grain growers. Whilst there were a number of questions asked at the time of the formation of InterGrain as to whether or not it was a good thing for grain growers to have a company funded by royalties, which clearly grain growers were paying, I think that a detailed analysis of the public record of InterGrain and, I expect, of AGT as well, would show that this has been a very successful change. For example, InterGrain is able to enter into partnerships to access technology and operate with a level of efficiency that was simply not possible when the

breeding program was being run by the department. InterGrain also access to a range of new technologies, which we would never have been able to access as a public service department, and is at a level of competition, principally with AGT as the other major competitor and with LongReach and some minor breeding companies, and is able to be really focussed on delivering value to grain growers because without that the company would be facing very challenging times.

Hon PHILIP GARDINER: How concerned is the Western Australian agency about the loss of information to the other competitors that they regarded as very, very important and proprietary to them?

Mr Delane: If I understand the question correctly, firstly, when we established InterGrain, the department, through WAAA, transferred its intellectual property, principally wheat varieties and other wheat-breeding lines et cetera, into the company. In 2011 we did the same to barley. InterGrain is now a wheat and barley breeder. I think it is the only wheat and barley breeder in the nation now. We have transferred that intellectual property. The jargon in the sector is that there is breeding and what is known as prebreeding, which is a technology that was developed by others and is then used by the breeders. To answer the member's question, we do some work and universities and CSIRO and other institutions do quite a lot of work in what is known as the "prebreeding" area. Our aim is to ensure that all breeders breeding for Western Australia, and therefore for Western Australian grain growers, have to access to the best breeding technologies and methodologies. If we were to develop a new opportunity for breeding wheat for Western Australia, we would expect to offer that to all companies that are breeding for Western Australia. So the grain growers could potentially get it through several avenues. That will not always make commercial or practical sense, but whether a super variety is delivered to a Western Australian grain grower through InterGrain or through AGT is of interest but it is not a matter for us to choose. We want both to be highly successful competitive varieties. We have to manage our government's interest in InterGrain but also make sure that we do not lose sight of our responsibilities to deliver value to, in this case, Western Australian grain growers, so they can advance their business sector and the state.

Hon PHILIP GARDINER: That is helpful, I think. I will go a bit further. Is the main creativity at the prebreeding level of the breeding, if you like, overall, with the InterGrain and AGTs, in a sense, having separate agreements with the prebreeding scientists, which I presume is DAFWA and maybe other government agencies, and do they just do the manipulations on the computer desktop to get the different varieties to cross? Is the real creativity at the prebreeding level?

Mr Delane: Thank you, member; I run the risk of upsetting most of the breeders, prebreeders and agronomists in one go here!

Hon PHILIP GARDINER: You will have to have a bit of courage!

Mr Delane: I think that the breeders who ultimately have to put this together and generate new varieties that are developed commercially and used by farmers would argue that the greater skill, or at least the greatest challenge, is defining the genetics that are necessary to be combined for a successful variety, and integrating the best technology, methodology, people and genetics in an organisation that puts all that together as quickly as possible and selects as quickly as possible and delivers a variety that can be used by grain growers. In fact, that is always what has driven us on behalf of the government in our role with InterGrain and other entities and it is absolutely what drives InterGrain, which is to deliver better varieties with greater yield or quality improvements and therefore is of better value to grain growers, because that will lead to the rapid and broad adoption of varieties by the grain growers, pay them an appropriate royalty and they will have a vibrant business. That was the driver for them looking around the world for which breeding technology company was best placed to partner one way or another with InterGrain, and that was the mechanism by which the Monsanto equity take-up was arrived at. A very similar methodology was used to look around the world and take professional advice from others around the world to look at which barley breeding or cropping technology company or companies InterGrain should partner

with one way or another that led to a non-equity partnership with Syngenta in barley. Syngenta is also a major global crop-breeding technology company. What we have now with InterGrain is an equity position from Monsanto, which is one of the world's biggest technology developers in this area, and a non-equity based collaboration with Syngenta, which also is one of the world's biggest crop-technology players. Both companies are apparently happy with that. Monsanto has no interest in barley globally and certainly not in Australia, so there is no conflict between the two very large global companies in this area.

What I am able to report from what has been reported to me and what I have observed of course is that InterGrain has been able to do things that it could not possibly have dreamed of doing without access to the sort of technology that a company such as Monsanto brings. There have been some press releases just released recently, maybe in the last few weeks. If you check on InterGrain website, there are some media releases there of the latest technology that InterGrain is adopting, which is Monsanto proprietary technology, which is a robotic piece of machinery known as a chipper which enables the company to do genetic DNA determinations of single seeds without destroying the seed, which makes enormous difference in the speed with which a company is able to achieve genetic advance. At the end of the day, that is fundamentally what it is about: how efficiently and rapidly can you achieve genetic advance in your varieties which will be taken up by grain growers at the earliest opportunity and the royalty flow back to the company.

[1.50 pm]

Hon PHILIP GARDINER: That is good. Am I correct that what Monsanto did in that case called the pre-breeding technology as opposed to the breeding? You made that distinction earlier.

Mr Delane: I might need to correct this, Chair, and you might want some supplementary information here, but my understanding is that in this area—it is different in some other crops, I think—in relation to wheat, Monsanto is principally in the pre-breeding space, improved breeding technology, like development of chippers, development of molecular markers which enable the identification of new genes. Where Monsanto has an interest in wheat breeding, it is done through companies that it has an equity holding in, such as InterGrain. I believe they have an equity holding in a relatively small breeding company in the United States as well.

Hon PHILIP GARDINER: I am going to stay on this a little bit longer if I can, Chair. The line of questioning is really to try to find out whether it is a pretty incestuous industry, which in a way it is, because when you have got GRDC, for example, and you get three of the main breeders in Australia, and then you have got, I presume, DAFWA and Monsanto and Syngenta in barley as the pre-breeding technology where this really drives how you can actually breed. The structure of WAAA is in a sense a corporate engineered structure which must have been devised for some reason. I presume the reason was to, in a way, take it out of government. Maybe I am wrong. I am interested in what the reason is that it was devised to do it this particular way, when incestuousness and being integrated is the same thing in a way. It is hard to see what the secrecy is when the transfer of information must be pretty strong.

Mr Delane: I think there are a number of questions there, Chair, but I will start with what I believe the sort of industry situation is and then maybe work back to WAAA. I ask the committee to think that in just over 10 years we have gone from as many as, I think at one point, 13 organisations identified in Australia as having some involvement in breeding wheat varieties—I think some of them would have been pretty much just dabbling—to, I think, nine and progressively it has been whittled down from there. There has been a number of substantial pieces of work done over probably the last 10 years that concluded that the Australian wheat industry—large though we like to think it is, but really quite small on a global scale—could really only support two, maximum of three, serious breeding companies. Part of the incestuousness comes from GRDC as the national R&D corporation co-funded by grain growers and the Australian government managing that reform process. Part of their equity holding in the three major programs, I think, really just flows from that.

Those companies are pursuing their own access to the best technology and genetics they can. So AGT has a major global breeding technology company as a shareholder in Limagrain and I think other shareholdings—Longreach has Syngenta as a major shareholder et cetera. Does it look incestuous? There are some cross linkages. The success really comes from the success of grain growers being able to have access to the best varieties for their circumstances, adopting them quickly and staying ahead of their competitors around the world in different production regions et cetera and, back from that, the breeding company being able to get the very rapid genetic advance as efficiently as possible.

Coming back then to what does this mean for WAAA and why was WAAA established, the judgement was made separately together by the department going back now quite a number of years, probably around 1998–99, and GRDC and others around the same sort of time. The competitive neutrality push in Australia was happening at about that time as well. That delivery of rapid rates of genetic advance for Australian grain growers was unlikely to be sustained through publicly owned breeding companies which then were perceived to be under financial pressure, were regarded as quite inefficient and were demonstrated to be inefficient when GRDC in effect privatised crop variety testing and found that in fact the variety testing results that grain growers needed could be achieved at a much lower cost than had been delivered through departments such as the Department of Agriculture and Food. There has been quite a push there to continue to achieve the sort of efficiencies and sharp commercial focus you can get in companies, the sort of agility you can get in companies, the sort of partnerships that you can do routinely if you are a company, and that it is difficult, if not impossible, to do as a department.

The formation of WAAA was needed for a whole range of reasons, but specifically in relation to InterGrain it was really to establish an entity, InterGrain Pty Ltd in this case, in which the Western Australian government could maintain for the foreseeable future as a large and benevolent shareholding so that a breeding company could still be based in Western Australia and deliver what Western Australian grain growers needed, which is a rapid rate of genetic advance. That was in effect to move the breeding program from, if you like, inside of DAFWA to just outside of DAFWA with even today the Western Australian government holding a majority, over 50 per cent shareholding, in that company.

That company proceeded to a point where the board of InterGrain decided that the success of the company was impeded by its access to, or lack of access to, some of the world's best genetics and best technologies to be competitive with other breeding programs, and sought to include a technology partner in that company that would bring additional investment. We do not sell off part of the existing equity; it was to take on additional equity. That is what happened in that case.

[2.00 pm]

Two alternatives were discussed at the time. The first was should the Department of Agriculture—I think it was the Department of Agriculture at the time, but it might even have been Agriculture Western Australia—continue to hold the breeding program as a public program, with GRDC having an equity share but not ownership of the program, because they had always co-funded the program, and for the department to manage the royalty flow from farmers and have the minister of the day endorse the setting of the end-point royalties, et cetera; and there were lots of complexities with all of that. The second was should the department divest itself of the program and in effect put it out for expression of interest, or in fact for sale. The latter was judged at the time to be absolutely not in the interests of Western Australian grain growers—acutely. The first, which was retaining it within the department, was regarded as being perhaps in the very short term in the interests of Western Australian grain growers, but really was going to be highly likely to lead to a chronic decline in the ability of the department to breed varieties with the rate of improvement that the grain growing sector needed. So the judgement was made that we needed to be able to establish a breeding company in which the Western Australian government was able to hold a shareholding, just as was

occurring by different means and different ownership elsewhere in the nation. So we did have some discussions at the time, and in fact quite a number of industry meetings, where we looked to see whether there was an industry mechanism by which the industry itself could own the shareholding that the government had held—in fact, whether the industry itself was going to be able to be in a position to take over the company, so in effect own its own future. There was a lot of work done and quite a lot of meetings held at the time—I think around the 2003–04 period—and in fact there was a mechanism, which I think still exists today, called COGGO, or Council of Grain Growers—sorry, Chair, I would have to provide that detail—

The CHAIR: I do not want to curtail you, but we actually have quite a lot of other areas of questioning, and we have 15 minutes left.

Mr Delane: Sorry, Chair; I will try to wrap this up. So there was a mechanism that also imposed assessments and was not broadly owned by grain growers. So in advancing what the department was about in wheat breeding and what the government of the day—I believe still the government of today—believed was important is advancing the rate of genetic gain for Western Australian grain growers, the judgement was made to use the WAAA mechanism to form that company GRDC, and that is the situation as it is today. But we do appreciate and respect the views of Treasury and OAG that there are some complexities and perhaps some improvements that could be made to that mechanism that would probably improve its functionality from our point of view and from the government's point of view, and that may improve certainly the clarity of understanding and may improve the clarity of reporting. Just on that, one thing that is clear to us, particularly as this week the company Australian Export Grain Innovation Centre Ltd will be established, which is a not-for-profit, with GRDC, and we may have other much smaller entities established, again to be able to advance this work, that our annual report next year should include at least an operating statement or something, or at least a number of pages for WAAA, which summarises what is happening in that area, as well as the equity statement in the annual report and any notes to the annual report. That will depend on whether the Department of Treasury is able to define and advance through the government and the Parliament any amendments to the BAM Act that would bring into effect the proposed changes to the WAAA mechanism that they have discussed. We have not seen any, if you like, draft clauses or instructions that would lead to changes that would address that.

Hon KEN TRAVERS: What are the smaller companies that you said you are going to create and that you are going to report on next year?

Mr Delane: We have AEGIC, the Australian Export Grain Innovation Centre, which has had lots of coverage. I think the minister has spoken at some length in the Parliament about this. That it is a not-for-profit entity. The Grains Research and Development Corporation is the other member of that entity, and that is in a 50–50 membership split. It is a not-for-profit, so it is not a shareholding; it is a membership. We have done work and engaged with industry on other very small areas—for example, our lupin breeding program, which probably has an annual budget of less than \$1.5 million, so it is a pretty small area, but it suffers from the same sorts of issues that wheat breeding did back before 2007. So we have been doing some work with GRDC and industry stakeholders and partners for some time to see whether there will be benefits in establishing that as a very small company as well. So again, Chair, I guess what we are trying to do here, as the operating world for the industry sector that we contribute to, and the operating world for the department, continues to evolve, is use existing legal mechanisms provided by the Parliament, or recommend amendments or new legal mechanisms to enable us to achieve the outcomes that we are here to achieve.

Hon KEN TRAVERS: This goes back a bit, but earlier you said there is a \$1 million cap on borrowings. Is that right? Is that for WAAA or for InterGrain?

Mr Delane: That is for InterGrain. We will have to check that, but I am pretty sure that the Treasurer's conditions for InterGrain include a \$1 million borrowing limit without reference back to the Treasurer.

The CHAIR: Can you just confirm that one way or the other?

Mr Delane: Yes.

[Supplementary Information No A1.]

Hon Ken Travers: Have there have been any agreements over that \$1 million at this stage?

Mr Delane: No; I am not aware of any request.

Hon KEN TRAVERS: When you say “borrowings”, is that a limit on the total debt or liabilities that the company can incur, or is that the amount that it can actually borrow from a bank—so, a more traditional borrowing—because I would imagine that there is a way of incurring liabilities and debt that does not incur borrowings, through a fee for services with some of your partner organisations and the like? I am trying to work out whether that \$1 million is a cap on actual borrowings or on debt and liabilities of the organisation.

Mr Delane: Chair, I will see whether I can clarify that. That is for formal borrowings. So what we might call trading losses or cash flow issues are not included in that. But the shareholders do have regular briefings. The shareholders have put the directors around the board table, and we do get an annual report and briefing. That is without the informal—I think Hon Phil Gardiner referred to the incestuous nature in most of these sectors. This is no different. If there was stuff happening, such as if InterGrain was not paying bills for laboratory analysis or field services or something, I am pretty sure the shareholders would find out about that really quickly. So, if you like, the formal–informal governance mechanisms that would limit the risk of InterGrain trading at a loss separate from undertaking formal borrowings are reasonably sound.

Hon KEN TRAVERS: Nonetheless, I would not mind getting what the total debt and liabilities of the organisation are, broken up into the different categories, whether they are short term or long term, and what the nature of them is.

The CHAIR: I assume you would need to take that on notice?

Mr Delane: Yes. I would need to take that on notice, Chair, and we will need to work through the accountants and see just how that is framed, and whether the company is not able to provide that information or is unwilling to provide the information because it regards it as commercially sensitive.

The CHAIR: Provide it to us, and we will decide.

[Supplementary Information No A2.]

Mr Delane: We will provide the response, and if it is not what the member is looking for —

[2.10 pm]

Hon KEN TRAVERS: Whatever; I imagine the annual report will have detailed those sorts of figures.

Mr Delane: Exactly.

Hon KEN TRAVERS: I am not looking for anything more extensive than what would be reported in the accounting standards for the annual report and debt liabilities.

The CHAIR: To be clear, if there are matters you request be held confidential, just tell us which ones they are.

Mr Delane: Thank you, Chair; that is very helpful. I think it should be relatively straightforward for matters of normal liabilities listed in the normal annual reports. I expect the company will ask for confidential coverage and we will forward that through.

Hon KEN TRAVERS: Just to be clear, if they own any subsidiary companies or shareholdings, whether they have any liabilities attached to them, would they be recorded in the books?

Mr Delane: There are no current subsidiaries. From memory, the Treasurer's conditions require all that to be prior approved, so that will be well known.

The CHAIR: You were talking to Hon Phil Gardiner about the research. That is, all the current research that InterGrain is conducting in relation to GM crops. Are they doing any other research?

Mr Delane: To my knowledge and advice from the company, InterGrain is doing no breeding of GM crops. It is all non-GM work. The partnership with Monsanto was about access to world-class breeding methodologies and technologies, not access to GM crops. My advice is that InterGrain has advised it is not doing any GM breeding work.

The CHAIR: The committee asked for a copy of InterGrain's financial statements and were declined those statements on the grounds they were commercial-in-confidence. I am seeking your view whether the refusal to provide that information to the committee would appear to trigger the reporting obligations contained in section 82 of the FMA.

Mr Delane: I think I will take that on notice, Chair. I can perhaps just reiterate what I have said. This is a highly competitive environment and the provision and publication of the financial details for InterGrain will be seen by them and the shareholders as potential for significant commercial damage to the company. But I am happy to take that on notice and answer the specific question in relation to that clause.

The CHAIR: Section 82 is a reporting obligation. If information is not to be provided to the Parliament, there is a requirement to notify. I give that to you on notice.

Hon KEN TRAVERS: You are aware of that section 82 are you not?

Mr Delane: I will take some advice from the chief financial officer here. We provide information, including as was provided in a note recently to the Chair, a very long list of agreements and details, including redaction of some information in those documents and the exclusion of documentation regarded as being commercial-in-confidence.

Hon KEN TRAVERS: I am surprised that you have not already put your mind to section 82, which is a legal obligation on you. When you decide not to provide information to the Parliament, it triggers a requirement that you issue a certificate to the Auditor General as to the reasons you have not done that. I cannot understand why that needs to be taken on notice. I would have thought that was something you would have already put your mind to—whether it triggers or not.

Mr Delane: My understanding is that because WAAA is not an agency under the FMA, and InterGrain is an entity in which WAAA has a shareholding, that particular provision does not apply. But we will provide a response to that question.

The CHAIR: With regard to investment strategies, does WAAA have an investment strategy document outlining the structures it is prepared to invest in and the structures of its portfolios or investments and that sort of thing?

Mr Delane: No, WAAA does not have an investment strategy; it does not have a strategic plan. It does not have any of those sorts of documents that a corporation, a department or a statutory authority would have. It is a legal mechanism that is used when a legal mechanism of that nature is required to do certain business. WAAA currently holds our asset portfolio. It currently holds copyright. It is the vehicle through which we participate in entities that are normal business for us—a cooperative research centre, for example. It is the legal entity that is the holder of contracts we

have with research and development corporations and other parties. It is also the legal vehicle for participation in companies of which there are today only one or two companies—depending on the registration of AEGIC, which is due at this time—to advance other work, so different from cooperative research centres and such entities. It is a vehicle used to carry out the business of government and the business of the department, it is not a statutory authority that you might expect would have some sort of investment plan.

The CHAIR: How is it possible to ensure that the investments are effectively monitored? Are you relying on Treasury to do that? What is the accountability mechanism there?

Mr Delane: There is that accountability mechanism. Leaving aside land and assets and the normal routine business of a department in which WAAA is involved, that mechanism is used for us. For a company, for example, that is formed, and under the Treasurer's conditions, there is an obligation for reporting to the Treasurer and, therefore, to officials at the Treasury department, who are able to check against the conditions the Treasurer has imposed and whether that entity is functioning appropriately or leaving the government open to any risks or matters of that nature. Where it is an entity formed for the normal course of our business—Plant Health Australia, Animal Health Australia, Plant Biosecurity Cooperative Research Centre; those sorts of entities—they are dealt with through normal departmental assessment of what are mostly pretty small investments. I think quite a lot of those are in the order of \$200 000 to \$400 000—not that much more than a large research contract. They are managed through normal department management and accounting processes.

The CHAIR: On page 82 of your annual report it gives a percentage of the equity interest in InterGrain. What is the dollar value of WA's investment in InterGrain as at the end of the last financial year?

Mr Delane: I will need to take that on notice, Chair. I have tried to educate myself on the methodology behind which this equity is calculated and the CFO can prepare that advice for me. We have also taken some advice from a major accounting firm previously as to the methodology that should be applied.

The CHAIR: Do you not know at this point the dollar value of WAAA's share in InterGrain?

Mr Delane: Utilising this accounting methodology, which we have taken professional advice on, the 52.68 per cent has an equity of \$9.545 million. We could provide, if necessary, that particular calculation method.

[2.20 pm]

The CHAIR: Okay, if you could take that on notice at A3.

[*Supplementary Information No A3.*]

The CHAIR: How often are performances and activities reported to the minister in regard to WAAA?

Mr Delane: We do not currently provide, if you like, a WAA report, again because of the composite nature of things. The minister receives the normal reporting from entities—at the moment only InterGrain—and depending on matters of particular interest, you know, changes in board directors obviously, there is appropriate reporting to the minister where the business is at. And on a relatively regular but ad hoc basis the chair of the company also reports to the minister, but I cannot tell you when these particular reporting events occur—not here anyway.

The CHAIR: For example, what return has the investment that InterGrain makes generated for the state, if we are looking at this as publicly owned? I guess what I am trying to say is that following the monitoring of this is quite hard because, as you say, it is an unusual arrangement and so forth. For us as an estimates committee, it is quite hard to work out exactly. Is it a profitable enterprise? What is it providing back?

Mr Delane: I think it is always important to go back to the thread of why this company was established. So its first success is delivering value to grain growers.

The CHAIR: How do you measure that?

Mr Delane: I am sorry?

The CHAIR: How is that measured? Are there ways of measuring it?

Mr Delane: That could be measured through the adoption of InterGrain varieties; the percentage of the Western Australian wheat crop, which is covered by farmers choosing to adopt InterGrain varieties, instead of someone else's varieties; the rate of genetic progress, not just theoretical but actual practical progress; the average yield of wheat; and the tested improvement in InterGrain's and others' varieties against historic varieties. So there are ways of measuring that, and there have been publications over the years that have done that, or individual breeders, and for breeding generally in the Australian wheat sector. So that can be done.

The CHAIR: Who would be providing that feedback? Whose job is it to do a valid monitoring so that therefore we can measure the success of this because of the following outcomes? Because if nobody has that job, it is all pretty intangible.

Mr Delane: I am not sure it is a formally allocated job, Chair, but we in the department have done work ourselves on that over the years. GRDC clearly has a strong interest and the grain growers contribute levies with federal government matching to a point. So grain growers have a very serious stake in the rate of genetic gain and the return on investment, and GRDC now promotes themselves as intending to make grain growers' investment through their levy and the best investment they make. And we have also had independence through a national variety testing program, which has been formed which also tests independently the improvements made by the different breeding companies. So the national variety testing program tests the varieties put forward by breeders every year so they are able to be tested. We do collect through, I think CBH Group, the deliveries; so, Western Australia through CBH Group and any other information we have, not just the total tonnage and type of wheat, but what the varieties are—so it is possible every year to determine what percentage share of the Western Australian wheat sector, InterGrain, AGT, LongReach and any other breeders actually have, and, therefore, what their performance is. So, does that explain it?

The CHAIR: It does but it does not produce any comments. If I was to say: can you provide for the committee on notice the return in terms of benefit to the crop grower of InterGrain's work since it has been established in as quantified a way as possible? Because this information is collected but it is not collected in a way that necessarily provides that figure.

Mr Delane: We will do some work on that and see whether we can help the committee there. Clearly it is a company established for profit. I can say that we, and I think GRDC, never expected the company would make a profit in its early years, and that we were not looking to establish the company to generate substantial dividend payments. Although we had hoped the company would be very successful, the company clearly has plans to be very successful and may in time return a dividend to its shareholders. That has not been the principal driver for us. The principal driver has been a very successful company delivers benefits to the state through grain growers.

The CHAIR: I have no problem with that. I would like the benefits to be delivered to the farmers. But what I am interested in is how is that quantified?

Mr Delane: We will provide some documentation that I think will explain that in a much clearer way than I have been able to—sorry, Chair.

The CHAIR: The Biosecurity and Agriculture Management Act indicates that all intellectual property created by the department resides in WAAA. The documents you have provided to the committee indicate that this intellectual property has been licensed to InterGrain; is that correct?

Mr Delane: I think for the wheat breeding and barley breeding material transferred into InterGrain, so they are formally transferred into InterGrain, into the company, as part of our equity.

The CHAIR: Okay, and what was received for that from that exchange of equity?

Mr Delane: When the company was formed, which was only GRDC and WAAA, DAF in its various incarnations and GRDC had had many years of partnership in wheat breeding and related matters, all of which had been covered by research contracts, which included equity shares. So at the time of formation of InterGrain, we were able to determine from that long history of shared investment in wheat breeding what the equity share of the two parties was. I am happy to provide the specific details, but I think in broad terms it was around 70–30. So 70 per cent of the equity in all of the current wheat varieties; therefore, the associated end point royalty streams and all of the breeding lines that were being advanced towards varieties and all of the background genetic material which could be drawn on from seed stores and the like, the assessed equity shares between us and GRDC at that time was about 70–30. That was then contributed into the company and was the foundation for the starting equity shares in the company. Then with the uptake of InterGrain into the shareholding and taking up an equity, which was to grow the investment and take up the equity, then that produced our shareholding to 52-odd per cent.

The CHAIR: Okay, and when Monsanto bought a share in InterGrain, which was a few years back now, what was the process that was actually undertaken then? Was it put out for expressions of interest? What is the actual process that was engaged for them to get that 19 per cent share?

Mr Delane: The company at the time, the board and management, determined that InterGrain needed better access to a range of breeding technologies and methodologies.

[2.30 pm]

It also needed an equity injection to enable it to do some of the methods of breeding and achieving a greater rate of genetic improvement than was possible with the equity it had available to it. At that stage I think neither of the current shareholders was contemplating making additional equity injection into the company. So, the company went around the world to look at all the potential companies; other organisations that might provide that, if you like, technology boost, and might consider making an equity injection. They assessed nine breeding companies, including some of the largest international breeding and crop technology companies. Those companies clearly included Monsanto; it was not the only company. Major companies, the names of which will certainly be known to member Gardiner, included Dow, Bayer, BASF, Limagrain and Syngenta, and KWS, MPZ, and HRZ, which are acronyms for other breeding entities. They evaluated all those against a set of criteria for what they were looking for, and the board determined and recommended to the shareholders that Monsanto was the best equity partner for the company. Clearly, everyone recognised there were going to be some issues around that, but the company was clear and was able to assure the shareholders that they had been through a detailed process—not the same process that our department would have gone through, but a process of similar or perhaps greater rigour—and from that they selected and recommended to shareholders that discussions be held with Monsanto. Monsanto was clearly responsive to that, and as a result there was a proposal for Monsanto to take an equity partnership in the company, and rules around the sharing of technology and intellectual property were developed. A similar process was followed for barley, which led to the board selecting Syngenta as the barley technology partner, but in the Syngenta case it is without equity holding.

The CHAIR: Unfortunately, we have another hearing, which was supposed to start three minutes ago, so I am going to have to finish this hearing.

Hon PHILIP GARDINER: Would you like me just to advise them?

The CHAIR: No; that is okay. I have a lot more questions, but I will put them on notice, I think; that is probably the easiest thing. Do members have a final question they want to ask? No.

The committee will forward any additional questions it has to you via the minister in writing in the next couple of days, together with the transcript of the evidence, which includes questions you have taken on notice. Responses to these questions are requested within 10 working days of receipt of the questions. Should you be unable to meet this due date, please advise the committee in writing as soon as possible before the due date, and the advice has to include specific reasons as to why a due date cannot be met. Members, if you have any unasked questions, please submit them to the committee clerk at the close of the hearing.

Finally, on behalf of the committee thank you very much for your attendance this afternoon.

Hearing concluded at 2.33 pm