

**ECONOMICS AND INDUSTRY
STANDING COMMITTEE**

INQUIRY INTO 2011 KIMBERLEY ULTRAMARATHON EVENT

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 9 MAY 2012**

SESSION ONE

Members

Dr M.D. Nahan (Chairman)
Mr W.J. Johnston (Deputy Chairman)
Mr M.P. Murray
Ms A.R. Mitchell
Mr I.C. Blayney
Mrs M.H. Roberts (Co-opted Member)

Hearing commenced at 9.59 am

BUCKLAND, MRS STEPHANIE

Chief Executive Officer, Tourism WA, examined:

LAMONT, MS KATE

Chairman, Tourism WA, examined:

The CHAIRMAN: Before we commence today, I ask those in the public gallery to refrain from using audio recording devices as they may interfere with Hansard and, also, please turn off your mobile phones.

Thank you for appearing before the committee today. This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament.

Before we commence, there are a number of procedural questions I need you to answer. Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee?

The Witnesses: No.

The CHAIRMAN: Last night the committee received the responses to questions we forwarded after the last hearing. Thank you for providing these today. Do you propose any amendments to these responses?

The Witnesses: No.

The CHAIRMAN: Before we ask any questions, do you wish to make a brief opening statement that addresses the terms of reference?

The Witnesses: No.

The CHAIRMAN: Could you just briefly outline your respective roles in making decisions about providing assistance to the Ultramarathon in question that the committee is investigating?

Mrs Buckland: I am the chief executive officer of Tourism WA. As a consequence of that role, I review all proposals for event funding once they have been thoroughly assessed and vetted by a member of the Eventscorp team. Then, ultimately, I present those to the board of directors.

The CHAIRMAN: Do you tick it off yourself along the decision path?

Mrs Buckland: Not officially a tick but it is the practice within the agency that I review everything before it goes to the board.

The CHAIRMAN: But you make a decision as to whether it should go to the board?

Mrs Buckland: Typically what happens, and certainly what happened in the case of this particular event, is that I consult with a subcommittee of the board, which is the events subcommittee. In this particular case I consulted with the events subcommittee on 13 June about a range of different events, and this was one of them. I generally do not say yes, it goes to the board or no, it does not; I consult with that committee first and then we collectively decide what goes forward.

The CHAIRMAN: Is Ms Lamont on that subcommittee?

Mrs Buckland: Yes.

Ms Lamont: At different times I have been or not, depending on the number of people, on the board.

The CHAIRMAN: What is your role?

Ms Lamont: As chairman of the board, I lead the discussion around all board papers but particularly around events and we have a general discussion. Board papers usually go out a week before a board meeting and from time to time we look at events out of session. Events are probably the biggest number of decisions that the board makes in any one year. It would certainly be a good half of the papers that we get. Then the board makes a decision to either accept the recommendation of the executive or not. Usually it has been through the events committee process first, so the broader board already has a view about what the events subcommittee may or may not support.

The CHAIRMAN: Do you sometimes ask the officers responsible for the submission to come and give you advice directly?

Ms Lamont: From time to time. Usually always the executive director would be there. At board meetings all the executive directors for their relative papers are usually in the room and will often make commentary, and board members are free to ask them.

Mr W.J. JOHNSTON: Did this particular event go to the subcommittee?

Ms Lamont: Yes.

Mr W.J. JOHNSTON: The extract of the minutes that have been provided to us says that the board ratified the out-of-session decision, which had been supported by the majority of board members. What was the actual vote in the out-of-session decision?

Ms Lamont: Two people were either overseas or away and did not respond. Four people were in the room and two people were out. Six people supported the recommendation out of session and then it was ratified by the board.

The CHAIRMAN: So six people in the room or online voted for it, so it was unanimous?

Ms Lamont: Yes. We do not really vote in that sense, but they supported the recommendation.

The CHAIRMAN: Was this a rushed decision in any way?

Ms Lamont: No.

The CHAIRMAN: When was the decision made?

Ms Lamont: I would have to look that up. It was made in early July at an out of session. It may have been 6 or 7 July. I would have to check that date. It was subsequently ratified at the end of the month, on 28 or 29 July or something like that.

The CHAIRMAN: You did not feel that because the race was in early September —

Ms Lamont: That is why we have out of session because it is very fluid. Things come through all the time.

Mr W.J. JOHNSTON: I refer to the submission that went from the tourism executive to the tourism board. Two issues strike me when I read the papers. The first is that the event funding is not

broken down between the funding that was to go to RacingThePlanet and the funding that was to go to the film company. Is there any commentary about the fact that it was not detailed?

Ms Lamont: To be honest, I certainly was very aware that there were two parts to it. The whole discussion about the Kimberley Ultramarathon was around footage. It was around getting a documentary made. That is what started the process, because we had already been doing that. I guess that is part of this overall strategy about promoting Western Australia through events. We had been doing that with the “action events” series where there were other sporting events that showcased the Western Australian landscape.

Mr W.J. JOHNSTON: The second thing is that on the documentation is “Table 3: Kimberley Ultramarathon visitor estimations” and a series of estimations of how much would flow into the Kimberley from athletes, visitors, event management, officials, sponsors and other cash flows. It comes up to about \$500 000. They are speculative numbers. In fact, we know that none of them actually came about.

Ms Lamont: Some of them did. You are right. Are you talking about the feasibility study?

Mr W.J. JOHNSTON: I am talking about a board paper. Table 3 is under “Key requirements”. They are all very speculative and none of them came to pass. I am wondering whether the board has given mind to the fact that these figures were so widely wrong.

Ms Lamont: The board is very aware of how feasibilities are done and where the evidence from that comes from. That is also partly to do with the capability of the event proponents. All of those kinds of things are covered off. Given the number of competitors who were in the 2010 event—I think there were well over 200—at the time we looked at that documentation, I thought it was relatively conservative; they were only doing the numbers on 100 whereas the year before there had been doing over 200 and it was a shorter event. When we looked at that in the light of that information at that time, that seemed reasonable.

Ms A.R. MITCHELL: Mrs Buckland, can I go back to when you say you received information from the staff. What do you do to assess that the information you are receiving has been well researched and thoroughly prepared for you?

Mrs Buckland: Typically, I would get a draft board paper as well as the feasibility assessment, so I am asking for the recommendation to be fleshed out. I would read the board paper, read the feasibility assessment and then ask questions about things like the financial projections and the event proponent—what do we know about them and their track record in running events in the past? I will typically ask a number of questions before I feel comfortable that a recommendation is ready to go to the board. However, I will say that in this instance I cannot recall the questions that I would have asked on this particular proposal. Just to give that some perspective, I would review well in excess of 100 of these types of proposals in a 12-month period so I cannot cast my memory back to over a year ago when I saw this particular one and I cannot recall what specific questions I asked at that time.

Ms A.R. MITCHELL: Ms Lamont, can I ask you the same questions given your link to assessing on the events subcommittee? How do you go about assessing the proposals that are presented to you for consideration?

Ms Lamont: The first thing is whether they fit the strategy. The strategy has been developed ever since I came onto the board in 2004. Originally, it must have been under Minister Kucera and then McGowan and then McHale and then Constable and then Hames. I think that is the order. This discussion about the strategy has been going on for a long time. It was becoming so expensive to support major events, big events—in the millions. The big decision about Rally Australia is that it cost so much and whether we were getting a good return on investment. The strategy shifted back in 2004 to say, “We need to start building home-grown events. We need to have events in Western Australia, many smaller events, some of which will have the capability to become major events in

10 or 20 years. It has to fit with Western Australia. It has to show our sense of place, our landscape, our people and all those kinds of things.” The first question is: does it fit the strategy? The second thing is over time we have recognised that one of our best marketing tools is to events because it is the hook. Western Australia is a very aspirational place to come. We want visitors to come. Our charter is to get people to come to Western Australia. Western Australia is a place they will go one day, not necessarily now. By running a strong events calendar, it is the hook that people go, “We’ve always wanted to go. Let’s go now because we can go to X event.” The first thing is: does it fit the strategy? The second thing is: can we afford it? Does it fit within our budget? The third thing is: do the proponents have capability? Once those things are tossed around and assessed, we look to the feasibility and see whether we get a good return on investment, whether that be an economic return or whether that be a media return because sometimes it is as much about where the footage—in this instance, it was very true—would be screened around Australia, showcasing the Kimberley, which is one of the most special parts of Western Australia in terms of international and national visitation. They are the kinds of things we look at.

The CHAIRMAN: Could I go specifically to the Ultramarathon? Were either of you told about the problems with the 2010 race series run by RacingThePlanet or the fact that a competitor in RacingThePlanet’s Gobi Desert race died? Were you generally satisfied with the expertise of RacingThePlanet? Essentially, the race relied on their capabilities.

Mrs Buckland: I was not aware of either of the problems that were encountered with the 2010 race in the Kimberley or the fact that a competitor in the 2010 race in China had died. I was unaware of either one of those when the recommendation went to the board. Can you please repeat the second part of your question?

The CHAIRMAN: Were you generally satisfied or were you briefed on your staff’s assessment of the capabilities of RacingThePlanet?

Mrs Buckland: The information that was provided in the feasibility and in regard to RacingThePlanet’s capabilities and experience gave me a degree of comfort because they were a company that had been around for about 10 years. They had run a number of races. They had not just run a number of races in city environments but in remote environments, so that made me believe that they would be capable of running a race in a remote part of our state.

The CHAIRMAN: Do you think there was an omission for you not to be informed of the problems in the 2010 race up in the Kimberley and the Gobi Desert issue?

Mrs Buckland: In hindsight, it would have been appropriate for the event holder to advise us that there had been issues in the past and then also to advise us if they had made amendments to their procedures to correct those issues.

[10.15 am]

The CHAIRMAN: But the 2010 event took place in the Kimberley, not very far from Kununurra. Do you not think your, let us say, network should have picked that up?

Mrs Buckland: Yes; in fact one of the things that I have found really interesting in my preparation for this hearing today is the fact that the event proponents had been liaising with the Department of Health, which obviously would have been well aware of what those issues were, for a number of months in the lead-up to the event. So I guess I am a bit surprised that that never came onto the radar and I wondered whether the Department of Health actually thought that it was such a big issue, and if they had thought was an issue, why had they not raised it? In hindsight we could say that it was an issue, but I guess what I am saying is that at the time when the Department of Health was being asked to look at whether or not the 2011 event could be classified as a special event under their act, nobody raised any of the issues that happened during the 2010 event as things that needed to be addressed. So in hindsight, yes, but at the time, I am not surprised it was an oversight.

Mrs M.H. ROBERTS: If I could just ask Ms Lamont, and just return to the funding issue and the board's decision to fund it, Mary Gadamis gave evidence to the committee that this event would have gone ahead anyway, so my question really is: why would the board decide to give money to RacingThePlanet if it was not needed for the event to occur and the event was going to occur anyway?

Ms Lamont: It goes to the strategy of using footage from the event. So we were already running the action event series, which is about showcasing Western Australia with talented and highly capable athletes, whether that be windsurfing or cape-to-cape mountain bike riding. So it was about showcasing the landscape of Western Australia. Usually when we do that, we do not have an expectation that we will be able to get footage that will be useful for us for tourism promotion purposes without having a relationship with the people running the event itself, because it is a separate thing doing the footage, so there was an expectation that we would have a partnership with them as well.

Mrs M.H. ROBERTS: Can I put this to you? I understand that the first approach for you to be involved was actually from the company Beyond Action. You were obviously keen to take footage of the event and promote it into your events calendar and saw that opportunity there. I am still failing to see why you would then have to provide funding to RacingThePlanet additionally. Quite clearly the footage the production company was taking would be for the use in future advertisements to encourage people to come to the Kimberley. That event would get national and maybe international publicity, so what I am suggesting is that there was a lot of potential benefit in it for RacingThePlanet to get this essentially repetitive, free publicity by the use of that footage of their event. What did Tourism WA expect it was going to get for the money it was paying RacingThePlanet separately from paying the production company?

Ms Lamont: I understand what you are saying, but at the time, and the way we have continued to develop both the action series and the subsequent footage that comes from it, it is a joint thing. It is not one without the other; we do not expect to get footage for free. And yes, I accept your point that there is a commercial potential benefit to the event proponent for additional publicity, but it is a two-way thing; it is not one without the other.

Mrs M.H. ROBERTS: My point really is that Beyond Action was being paid \$170 000 to have a helicopter and to take the footage, what was the \$105 000 for that was due to be paid to RacingThePlanet? What was that benefit of taxpayers giving them \$105 000?

Ms Lamont: I think the logic behind it would have been to enhance and improve the event so that it was a quality event that would showcase Western Australia in the best way.

Mrs M.H. ROBERTS: I just have one final question, Mr Chairman, on that topic. Did RacingThePlanet request the sponsorship or was the sponsorship offered; and, how was the figure of \$105 000 determined?

Ms Lamont: Sorry, I do not know the answer to that. It is at a level below where I would get involved.

Mrs Buckland: I do not know the answer to that question either.

Mrs M.H. ROBERTS: So the board hit upon an amount of \$105 000 with neither of you knowing why it was \$100 000 and not \$200 000 or not 50 000 or not 20 000?

Ms Lamont: I guess my only comment that is that in the scale and the amount of events we sponsor, it seemed to be a reasonable amount.

Mr I.C. BLAYNEY: I am just looking at the "Matter for decision" papers and it says —

The event will be owned and operated by Racing the Planet Ltd based in Hong Kong but will employ a local (Kununurra) event management company to run the event on their behalf.

So that was in July and that was the proposal obviously, but in the scheme of things, they basically ran it themselves. I am just curious why they decided not to use a local event management company. I thought for a moment that maybe there is not one, but I know that that there is one because there is that bloke who organises the bicycle ride along Gibb River Road. So I am just curious about that. Were you aware that they had decided to run it themselves rather than use an event-management company?

Ms Lamont: No.

The CHAIRMAN: These people come from Hong Kong. They run events around the world. They had some experience in the area in the previous year. One of the key things we found was that they just did not liaise. They did liaise with the Department of Health, but very few others. I understand that Tourism WA encouraged them to contact a couple of local people—John Storey was one of them—to get local expertise, but he was never brought on as a paid adviser. So given that you sponsored the group to come from outside that might not know too much about the local lay of the land and institutions that can help, would you not get the department of tourism to take their hand and, say, introduce them to the shire and FESA?

Mrs Buckland: In fact in 2010, and this is covered in our submission, Mr Hamilton and a former employee of Tourism WA, Mr Vaughan Davies, went to Kununurra with Mary Gadams and introduced them to representatives from the shire as well as other representatives in the local area. I would have to refer back to the submission to say exactly who those people were, but they did actually make some introductions back before the 2010 event, and I think it is reasonable to assume that if those introductions were made and then the event was run in 2010, RacingThePlanet would, by virtue of having run its own event in 2010, have made those connections in the local area. I think it is also reasonable to expect that we would then not have to introduce them again in 2011 when they had only just been there 12 months before.

The CHAIRMAN: You had the ability to authorise the race. Your person, right before the race, ticked off the pages.

Mrs Buckland: No; he did not have the ability to authorise the race. There was a milestone requirement for RacingThePlanet to prepare a risk management plan and Mr Hamilton looked at it. It needs to be clear that even if he had not been happy with it, the most he could have done is to say to them, “I am not happy with it, and we are not paying you.”

Mr W.J. JOHNSTON: Can I just clarify that? So what you are saying is that if he had not been happy with that, it would not have been paid?

Mrs Buckland: All he could have said is, “I am not happy with this and since I am not happy with it, I do not think it meets our contractual terms, so I am not paying you.”

Mr W.J. JOHNSTON: This is a very fundamental issue to the problem is it not? When your organisation previously gave evidence, it was not clear to me whether you were saying it was self-assessment or there was a role for the organisation.

Ms Lamont: There is no role.

Mrs Buckland: I think it was quite clear in the submission that Tourism WA made before the officers gave evidence that Tourism WA is not a regulatory authority and that we were not in a position to approve the event either going forward or not going forward. In fact, we are not in a position to approve any event going forward or not. All we can do is hold holders of events that we sponsor accountable for meeting a certain set of contractual requirements.

Mr W.J. JOHNSTON: But this is the question I have, and this is my point of asking you. You gave them \$105 000; in the end, no money transacted, but that was for other reasons. One of the things you are saying is that you approved the payment because of the risk assessment plan.

Ms Lamont: The fact that they provided one.

Mr W.J. JOHNSTON: What is the point of providing one if you do not do anything; if it does not mean anything?

Ms Lamont: We are not tasked, and we do not have the expertise, to make judgements about risk management plans. We are a sponsor of an event; we are not the event holder and we are not the event manager. I can give it some context if that is useful.

Mr W.J. JOHNSTON: I am just trying to work out what the purpose of the requirement is. Ms Buckland said, “We would not have paid if it had not been a satisfactory risk assessment plan.”

Ms Lamont: If they had not done one at all.

Mr W.J. JOHNSTON: What is the point of asking for one if you do not do anything with it?

Mrs Buckland: Again this has been addressed, in both the submission and also our responses to the supplementary questions that the committee put to us. I think one of the things, in hindsight, looking back at this event and what occurred here, that has come out of that is that we have gone back and had a very hard look at that risk management section and we have had extensive consultation with State Solicitor’s Office in reconstructing that set of requirements, acknowledging the fact that Tourism WA are not risk management experts. So now there is a new set of requirements and that set of requirements requires events that we sponsor to develop a risk management plan. It has to be in accordance with ISO standard 31 000 and it has to be verified by an independent risk management expert and the event holder has to provide us with that verification and they also have to provide us with a verification that the plan has been supplied to the relevant local authorities. That varies by events and they are stipulated in each contract so it differs by contract. So we have strengthened that requirement in regard to what we require of people and we have also acknowledged that we are a sponsor and we are not, and should not be, involved in the micromanagement of the detail of the operations of an event, but we need to hold people accountable if they are going to be getting sponsored through taxpayer funds. We need to hold them accountable for developing an appropriate plan to a certain standard.

Mrs M.H. ROBERTS: Page 2 of Tourism WA’s submission states that RTP has made no claim for payment and Tourism WA has not offered to make payment. Has that agreement with RTP been terminated, as per clause 20, due to a breach of any clause; and, if so, which clause? And secondly, does the termination of the agreement have any impact on the indemnity provided to the state under the sponsorship agreement?

Mrs Buckland: If I can just refer the committee to our responses to the supplementary questions, because I believe that exact question was a supplementary question. So if I can just refer you to the second page of the paperwork we provided to the committee last night.

Mrs M.H. ROBERTS: That is part of the problem, we only got it last night. I only received it this morning.

Mrs Buckland: We were asked for it to be completed by yesterday and so we fulfilled that requirement.

Mr W.J. JOHNSTON: So what is the answer?

Mrs Buckland: The answer to: has the agreement being terminated? No. Again we have consulted with the State Solicitor’s Office about whether or not it would be prudent to do so, and basically what they have said is that given the circumstances that we are in right now, where we said we were not going to exercise our options for further events, and that we have not paid any money, there is no advantage to the state in terminating the contract. Part B of the question was about, if we did terminate the contract, what happens to the indemnity clauses. Basically the advice is that if we were to terminate the contract or in fact any contract that has this indemnity clause in, it is unlikely that it would affect the indemnity provision. So indemnity survives the termination of the contract.

That is subject to the Limitation Act of 2005. I am not an expert on that act, so you would have to seek further advice on that.

[10.30 am]

Ms A.R. MITCHELL: Ms Buckland, I want to come back a little bit and talk about the risk management plans. I pick up that you changed how they are going to be done. I certainly applaud the Action Event Series. I think there is a lot of merit for it, but I do believe that under those events, there is probably a different requirement than what you might expect for other events that are conducted and you sponsor through Tourism WA. Can I clarify, though, are you going to get these plans—and I understand a marketing plan might be more different because it would come later—and these insurance policies and risk management plans before you sign contracts in the future?

Mrs Buckland: It is not always practical to get them before we sign the contracts, but we will always seek to get them well in advance of the event being held. An example is the Ord Valley Muster, which is an event which we are sponsoring. That is scheduled to be coming up on 25 May. We have been negotiating the details of that contract with the company that is putting on that event. We expect we will have that contract signed this week. However, we have advised—event holders are aware of it, because they have obviously seen multiple drafts of the contract—they clearly of our requirements in regard to the risk management plan and the insurances, and we have said to them that we expect both of those on the signing of the contract, which will be a full two weeks before the event.

The CHAIRMAN: Could I just explore what you have done after the event? Have you gone through a commission, in-house or otherwise, a thorough evaluation of your role in the event so you understand it, and what takeaways have you picked up from that?

Mrs Buckland: Again, I think that was one of the supplementary questions. In the last six months we have actually done a complete overhaul—and are undertaking a complete overhaul—of a lot of the things that we do in regard to events. Some of that is actually covered in the government's response to the upper house inquiry into the One Movement event, so that might be of interest to the committee. But in regard to this particular event, one of the things that we have done is we have done a complete review of how we do post-event analyses. We have now instituted a procedure for that. We have not run the Kimberley ultra-marathon event through that process yet. We fully intend to do so, but I think it is very important that we are taking into account the learnings from this inquiry as well and obviously not just what Tourism WA is privy to. The committee is obviously privy to a lot more information than we are, so we are awaiting the results of the inquiry. Having said that, we have obviously made a number of changes to our procedures in advance.

The CHAIRMAN: I would just like to get in and leave time for insurance.

Mrs M.H. ROBERTS: I was going to deal with that matter of insurance. In your response to a question provided at 13 about whether you received a copy of the insurance policies and so forth, it refers there to the fact that Tourism WA sighted details of their public liability insurance on 1 September, 2011. I assume that is by Mr Hamilton in Kununurra just before the race. I am wondering whether or not that meets Tourism WA's expectations in terms of the contract to merely sight rather than receive the public liability insurance documentation the day before the race and to merely sight, not receive, the risk management until the same time, just before the race in Kununurra—whether that meets your contract, just to sight contracts the day before. I also note that the actual insurance certificates and relevant schedules covering the event were not provided to you until 15 February this year. Is there some explanation for that five or six-month delay?

Mrs Buckland: There are lots of questions there, so I will start with the first one in regard to the sighting of the insurance policy and whether or not that is in accordance with the contract. In fact it is actually in accordance with the contract because the contract says that the event holder must produce copies of their certificates of insurance at Tourism WA's request. This is an area again in

reviewing the outcomes from this event that we have modified in all of our contracts, and we now require event holders to actually provide us with copies of those certificates of insurance and details of their policy prior to an event being held. In this case, that is not what happened. In respect of the copies of the insurance policies only being provided to us in February, we requested those from RacingThePlanet some months earlier. However, they were not forthcoming until 15 February. I cannot remember the exact date that we requested them.

Mrs M.H. ROBERTS: The other question I have asked you is about the risk management plan only being sighted the day before. Mary Gadams gave evidence to the committee that she could have provided that potentially six months beforehand if Tourism WA had asked for it. You have just said that these things are required to be available at Tourism WA's request. Firstly, was a request made for the risk management plan at any time before the day before the race? If not, why not?

Mrs Buckland: I am not aware of whether a request was made. I do not believe one was made, and I do not know why it was not.

The CHAIR: Can I explore the insurance; a couple of things. In your response to question 13, you stated that it, as member for Midland indicates, was received on 15 February 2012. Did that include not only the insurance certificates but relevant schedules—in other words, the details of what is in?

Mrs Buckland: We would have attached and provided to the committee whatever we were provided with.

The CHAIR: Just back to the contract —

Mrs M.H. ROBERTS: Can I just clarify, Mr Chairman, we do not have any schedules, do we —

The CHAIR: No, we do not.

Mrs M.H. ROBERTS: — that have been provided to us.

The CHAIR: It depends what schedule you mean.

Mrs Buckland: Yes. We have provided to you what has been provided to us.

The CHAIR: That is all the details you have.

Mrs Buckland: That is all the details.

Mrs M.H. ROBERTS: The question then arises: do you consider what you received adequate?

Mrs Buckland: Again, when an incident like this happens, ideally we would have had the entire policy, but we do not have that.

The CHAIR: Just to follow up on this insurance issue, this is the sponsorship agreement—section 14, “Insurances”; section 14.1(a), the public liability policy. You are requiring the event holder to have a public liability policy and it must “comprise terms and conditions which are reasonable and approved by Tourism WA”. So there are two parts to that question. How do you know the terms are reasonable if you do not have the schedule? It is not just ticking; it actually says “approved by”.

Mrs Buckland: I understand, and I agree that there are discrepancies in the contract. In one place in the contract it says that we just want you to produce the certificates when we ask for them, and in another part it says the terms have to be agreeable to Tourism WA.

The CHAIR: One of our biggest struggles here with running these high-risk events in high-risk areas is endemic to these issues and that is your whole program is based on filming, promoting action events. Insurance is absolutely vital—and cloudy. If you just have certain cover of insurance, the details are what really matter.

Mrs Buckland: Yes. one of the things that we have done is we have had a meeting with senior executives at RiskCover, and we have asked them to now get involved in helping us review all of our contracts to make sure that (a) we are asking for the appropriate insurances relevant to the event

that we are sponsoring and also the amounts of insurance that were requesting the event holder to have for each event.

The CHAIR: Have you had conversation with RacingThePlanet before or subsequent to the incident that gives you confidence that they have adequate insurance to cover what you wanted and what needs to be covered at that event?

Mrs Buckland: I have not.

Mr W.J. JOHNSTON: Do you have legal advice to say that you are not liable for anything that occurred during the event, because you keep emphasising that you are only a sponsor. Do you have legal advice that says that being “only” a sponsor absolves you from liability?

Mrs Buckland: We do not have legal advice that says it absolves us from liability, but we do have legal advice that quite clearly says that on the basis of the contract that we have established with RacingThePlanet we are a sponsor.

Mr W.J. JOHNSTON: So if you have not fulfilled or you have not properly applied the contract, that would lead to question marks around that issue.

Mrs Buckland: I am not a lawyer; I do not know. I cannot answer that question.

Mr I.C. BLAYNEY: Do you think it might be prudent in the future to decide for events like this which are where it is a company operating out of a foreign country, that if they want to have an event within Western Australia that you will only accept insurance that is from an Australian insurance company?

Mrs Buckland: In this particular case it was. It had to be an insurer that was approved by APRA and, as I understand it, the insurer that they have chosen is an Australian company.

Mrs M.H. ROBERTS: My question relates to contract with Beyond Action. The committee has received evidence that the contract with Beyond Action was signed on 9 August, and the cabinet approval for the funding for Beyond Action was not given until 22 August. Can you explain why a contract would be signed committing presumably the state to expenditure prior to cabinet? If that is appropriate, why send it to cabinet at all?

Mrs Buckland: Chiefly, one thing I want to clarify is that there is a contract with Beyond Action that Tourism WA had signed in December 2010. It is a standing contract that outlines the WA Action Event Series and what Beyond Action does; what their role is in relation to filming of that series. One of the things in that contract is a provision that allows us to vary the contract to add events. What you are referring to on 9 August is a variation letter to that contract which allows the Kimberley Ultramarathon to be added. The reason for that is that in anticipation of being able to secure the funding to film the event, Beyond Action needed to start planning and preparation. They were well aware of our situation in respect of funding in that we may or may not be able to secure the funding to proceed with the project. Basically, what they were doing was planning and preparing in the event that we were able to secure the funding.

Mrs M.H. ROBERTS: So the follow-up question here is: what would you have done in the event that cabinet did not approve the funding?

Mrs Buckland: We would not have filmed the event and we would not have proceeded with the project.

Mrs M.H. ROBERTS: And would you have any further liability to Beyond Action?

Mrs Buckland: They may have been some minimal costs associated with them doing that preparation. I do not know what those would have been. Those are costs that Tourism WA would have been up to cover out of its budget.

Mrs M.H. ROBERTS: Can I just clarify that you think that there is nothing wrong with what you did in terms of varying the contract ahead of cabinet approval? You think that is an acceptable way to operate?

Mrs Buckland: I think that under ideal circumstances we would have waited until after we had the cabinet approval, but I think there is a very minimal financial risk to the state by doing it beforehand.

The CHAIRMAN: The funding for this was provided for royalties for regions. Was there any delay in making decisions because of that source of funding?

Mrs Buckland: I would not say there was a delay. It is just a longer approval process because there are more people who need to see it and review it.

[10.45 am]

The CHAIRMAN: You indicated you are going to do an evaluation of your procedures. You are going to wait until this committee report is finished, which is not that long from now. Have you already put in place any processes in anticipation of or from lessons learned here; and, if so, what are they?

Mrs Buckland: Yes, we have. I think I have outlined what we have done in regard to the risk management part of our contract and in regard to insurances. The other thing that we are in the process of doing is a complete review of our sponsorship template. So, we have got external legal counsel and the State Solicitor's Office assisting us with that review, which will allow us to make sure that we have covered any learnings from this particular event, or any other events for that matter. In addition to that—I think I alluded to this in the answer to some of the supplementary questions—there is much more of an emphasis internally on making sure that all of those procedures are adhered to by the staff.

The CHAIRMAN: One of the things that jumps out at me is your internal research into looking at, if you wish, the due diligence of RacingThePlanet. That happened before it got to you. My assessment is that that is where the first failures were. They did not pick up clear flags about the race in 2010 up in Kununurra and in the Gobi Desert, mirrored with the fact that this is an overseas group and in a very difficult area with limited communication and other facilities. We heard from the department of tourism people, but it seems to me that they did not have the feelers adequately out there in this area. Would you agree with that?

Mrs Buckland: I would agree that there are opportunities for us to improve our pre-event assessment process. Obviously, I have read the transcript and am quite clear on what your opinion is in that regard, too.

The CHAIRMAN: Do you think the outcome and your sponsorship of the RacingThePlanet that led to a catastrophe have harmed the reputation of tourism in Western Australia?

Mrs Buckland: I do not think it has harmed the reputation of tourism in Western Australia—so, Western Australia as a place to come for a holiday. I do think that potentially it has harmed the reputation of Tourism WA.

Ms A.R. MITCHELL: Ms Lamont, can I just follow up from the question to Ms Buckland about changes to the processes? To you, as chairman of the board: will the board be making any changes to how they make deliberations and assessments of recommendations that come through to the board?

Ms Lamont: As I said earlier, I think it was in around 2006 when we recognised the strategy was shifting from really dealing with only big companies doing big events to putting a lot more effort and energy into the regional events scheme. It was about building capability of event proponents all over the state. That is when we first started making risk management as part of the process as a milestone to be paid for the event. I think this experience has shown us that we need to do more

than that. We were talking about this immediately after that event. In our October board meeting, we were discussing issues around how we could do this better. It is continuous improvement all the time; that is part of what we want to do. So this extra emphasis is now on recognising that, firstly, we are sponsors and not managers; and, secondly, we are not tasked and not funded to be experts in risk management. It is about putting the onus on the event manager and event proponent to prepare risk management and other parts of the proposals that are then confirmed as being appropriate by experts in the field. So the board will continue to monitor that, absolutely.

Mr I.C. BLAYNEY: Going back to the insurance, the only paperwork we have got for the insurance is a Hong Kong company. I will take your word for it that this company—which I have never heard of but that does not mean anything—is APRA approved. The other thing that interests me once again is where it is a foreign company operating here. Is there any way you can make it so that if there is an accident, like in this case, and an injured person wants to hold that company accountable, that company can be held accountable here in Australia, rather than having this grey area of where you have to go to sue for damages? My understanding is in the case of RacingThePlanet it is actually a little bit unsure even which jurisdiction you would go to to try to get damages from. Is there a mechanism there that you can say, “Your liability resides in Australia” so they can use our courts and our legal system?

Ms Lamont: I am really sorry, Ian; I cannot answer that. I do not know the answer to that question. I do know that I would not be recommending that the Western Australian government, through Eventscorp, does not deal with overseas companies. I think that we are an international destination and we need to use the best event managers we can from around the world. I am confused. I believed that when I sighted the insurance document, it was a recognised insurance company and that it was a member of APRA or whatever it is. When I saw that, I did not think that it was not an appropriate insurance provider.

Mrs M.H. ROBERTS: My question goes to—I need to put it in some context—the quality of advice that Tourism WA provides to the minister and also to the cabinet. We have been advised that it is not your decision; it is the government’s decision that the committee is not to have access to the cabinet submission that was prepared. That was 22 August. Based on the media release that three ministers put their name to on 26 August after the cabinet decision, I am guessing that the information in that media release somehow formed the basis of information that Tourism WA provided to cabinet. In that media release, it said that there would be over 100 competitors from more than 30 countries. Three ministers put their name to that. I am guessing they did so on the basis of advice provided by Tourism WA to those ministers and to cabinet, yet we have had evidence that early in August it was well known that there were only, at that stage, fewer than 30 competitors signed up. RacingThePlanet knew that it had no chance of getting anywhere near 100 competitors. On 6 September, Minister Hames again referred in Parliament to 100 competitors, so that is after the race. The minister was still referring to 100 competitors in the race when that clearly was not the case. We have heard evidence that they were scratching around for competitors to meet the 40. I have asked the minister questions in Parliament like the name of the insurer and so forth. I have now found out that the so-called name of the insurer that the minister provided to us was not the insurer at all but merely a broker on St Georges Terrace, so it was not actually the insurer. I am guessing that the minister was given poor information, or wrong information really, by Tourism WA. Is Tourism WA at all embarrassed about the advice that it has provided on this event to your minister and to the cabinet?

Ms Lamont: No.

Mrs M.H. ROBERTS: So the fact that you are telling cabinet that there are 100 competitors on 22 August when there are only 30 does not embarrass you. The fact that information is given to the minister that this is the name of the insurer and it is not the insurer but a broker, that there are people from over 30 countries competing when there are barely 30 people competing and when the

advice does not include essential things like the fact that someone died in a recent race and that there were other problems in the Kimberley—none of that seems to embarrass you at all? Three ministers go out on 26 August, a few days before the event, saying that there are over 100 competitors from 30 countries when a simple phone call could have told you that that was not going to be the case and you are not embarrassed. I am astounded!

Mrs Buckland: Interestingly, the draft media release—this is our standard practice for media releases for events—was provided to RacingThePlanet before it went out. We asked them to confirm the details in the media release and they came back and confirmed that the media release was fine to go. We were not aware until Mr Hamilton went to Kununurra that there were going to be only 40 competitors in the race.

Mr W.J. JOHNSTON: Ms Lamont, I just want to ask you—it is very similar to the question that Michelle has just asked—about the submission that went to the board. It strikes me that the event funding is not explained adequately because there is no explanation that there is funding for the TV production and separate funding for RacingThePlanet. The risks are said to be that the event holder, RacingThePlanet, might experience financial risk, and you are just about to give them \$100 000 three days before the event.

Ms Lamont: No, it is —

Mr W.J. JOHNSTON: If I could finish. You go on about the event overview being completely wrong; in terms of the selection criteria, the key requirements are not right; will it generate national television, which is not supported by evidence; and then you get to clause 8, which says, “Can the event be managed in Western Australia?” It says, “The event operations will be managed by a local Kununurra event management company”, which is not true and was never true. Are you happy that you were making a decision based on adequate advice when so many elements of the submission simply are not right?

Ms Lamont: At the time that we got the feasibility study and that information, we believed it to be accurate.

Mr W.J. JOHNSTON: But it was not; that is what I am getting at.

Ms Lamont: I understand that, but we only knew that afterwards. On the issue that information was coming all the time, you would all know about cabinet process and cabinet submissions being written.

Mr W.J. JOHNSTON: It is not true.

Ms Lamont: What I am saying is that that kind of information was being prepared as early as July, when in fact we had no reason to believe that there would be fewer than 100 competitors based on the fact that the year before in the same region with the same company running it, there had been well over 200.

The CHAIRMAN: Back to the point, before you ticked off on the event, some of those key milestones that you as a board were informed of and approved the sponsorship on the basis of simply were not panning out. The numbers —

Ms Lamont: But we did not know that on 6 July when —

The CHAIRMAN: That is right; you did not know that. They put these things to you —

Ms Lamont: Yes.

The CHAIRMAN: But what the member is asking is: after 6 July in the run-up to the event, it was clear that they were —

Mr W.J. JOHNSTON: But even on 1 July when the submission was put together, question 8 of the event selection criteria event says, “Can the event be managed in Western Australia?” The answer for that from the executive to the board is: “The event operations will be managed by a local

Kununurra event management company.” That was never true; even on 1 July it was never true. That is what I am getting at. That is just one example. The submission made to the board was completely inaccurate. Given the facts that it was inaccurate—not now; it was inaccurate then—does this not disturb you? What is it that you are doing as chairman?

Ms Lamont: The information that the board was given on the day we believed to be true. There was no reason for us to question it. It did not seem inconceivable that there would be a local event manager. We knew there were people in Kununurra who had that capability. We also knew that the event had been run the previous year, so there was no reason for us to question that that event could not be run locally. So we did not question those facts because we believed them to be accurate.

Mrs M.H. ROBERTS: On the same point, at any stage did Tourism WA prior to the event inquire as to whether there was a local event manager in place, and did cabinet make a decision based on information that there would be a local event manager?

Ms Lamont: I do not know. I was not in cabinet.

Mrs M.H. ROBERTS: Ms Buckland should know that answer, because she knows the information that is provided to cabinet.

Mrs Buckland: To my knowledge, Tourism WA was not aware of whether a local event manager had been engaged, although we were told that that was going to be the case in the lead-up to the event being approved by the board. In regard to what cabinet may or may not have considered, I am not able to comment on that, and you know that.

Mrs M.H. ROBERTS: But you are able to comment on information you provided to cabinet.

Mrs Buckland: No, I am not.

Mrs M.H. ROBERTS: You absolutely are.

The CHAIRMAN: You now know that Tourism WA, in their submission, state that it was going to be locally managed. This is crucial, because one of the clear indications of this is that there was not adequate local knowledge in the management and operation of and planning for this race.

[11.00 am]

Tourism WA recommended two people for the 2010—one was taken up, one was taken up as a volunteer. But no-one locally managed the 2011 operation and I think it was the crucial failing of the organisation. You do recognise that now, and are you disconcerted that one of the key issues that you identified, local management, told RacingThePlanet they should contact some people and it simply was not carried out? You contacted them in 2010, told them to have local people, you suggested two people, they talked to those people but they did not give them the task of advising them on local management. If they did, I am confident, especially talking to one of them, Mr John Storey, he would have told them who to contact—the shire and everyone else. That simply was not carried out. I take it you were told that. But simply below you a central commitment made to its board was not carried through, and it was obvious when the Tourism WA person attended the pre-race briefing that there was not a local organiser. It was organised by people who had just flown in, maybe a week before at most.

Mrs Buckland: I understand your point.

Mr I.C. BLAYNEY: What if, upon reflection now looking at the event, someone else comes in to you and says, “I want to run something similar to the Kimberley Ultramarathon,” perhaps a local who would hopefully do it a bit better, would Tourism consider sponsoring it? I think it would be a goer.

Ms Lamont: We get hundreds and hundreds of event proposals every year and we do our very best to give due consideration to all of them. If they fit the strategy and are about promoting Western

Australia to Western Australians, to national Australians and international visitors, which will help drive tourism businesses and the economy of the state, of course we would consider them.

The CHAIRMAN: Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date on the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on a particular point, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

Hearing concluded at 11.02 am