

# **PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT**

**Tuesday 27 February 2024**

**Examination of proposed expenditure for the portfolio area**

## **PLANNING AND PUBLIC SPACES**

**CORRECTED**

**The Committee met at 9:15.**

### **MEMBERS**

Ms Sue Higginson (Chair)

The Hon. Mark Buttigieg  
The Hon. Anthony D'Adam  
The Hon. Scott Farlow  
The Hon. Jacqui Munro  
The Hon. Cameron Murphy

### **MEMBERS VIA VIDEOCONFERENCE**

The Hon. John Ruddick

### **PRESENT**

**The Hon. Paul Scully**, *Minister for Planning and Public Spaces*

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**



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**CORRECTED**

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**The CHAIR:** Welcome to the first hearing of the Portfolio Committee No. 7 – Planning and Environment's additional round of the inquiry into budget estimates 2023-2024. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal or Torres Strait Islander people joining us today. My name is Sue Higginson. I am Chair of the Committee. I welcome Minister Scully and accompanying officials to this hearing.

Today the Committee will examine the proposed expenditure for the portfolios of Planning and Public Spaces. I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

Welcome and thank you for making the time to give evidence today. Minister Scully, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. Mr Draper, Mr Conrow and Mr Wendler, you also do not need to be sworn, as you appeared at the initial budget estimates hearing before this Committee in your current roles. Witnesses who are appearing in a different capacity or who did not attend the initial round of hearings will be sworn prior to giving evidence.

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**Mr SIMON DRAPER**, Chief Executive Officer, NSW Reconstruction Authority, on former affirmation

**Mr MATT CONROW**, Chief Financial and Operating Officer, NSW Reconstruction Authority, on former oath

**Mr ALEX WENDLER**, Chief Executive Officer, Landcom, on former affirmation

**Mr JAMES HEBRON**, Acting Chief Operating Officer, Department of Planning, Housing and Infrastructure, affirmed and examined

**Ms MELANIE HAWYES**, Deputy Secretary, Crown Lands and Public Spaces, Department of Planning, Housing and Infrastructure, affirmed and examined

**Mr DAVID GAINSFORD**, Deputy Secretary, Development Assessment and Infrastructure, Department of Planning, Housing and Infrastructure, affirmed and examined

**Ms MONICA GIBSON**, Acting Deputy Secretary, Planning, Land Use Strategy and Housing, Department of Planning, Housing and Infrastructure, affirmed and examined

**Ms KIERSTEN FISHBURN**, Secretary, Department of Planning, Housing and Infrastructure, affirmed and examined

**Ms SIMONE WALKER**, Deputy Chief Executive Officer, NSW Reconstruction Authority, affirmed and examined

**Ms AMANDA LECK**, Head, Adaptation, Mitigation and Reconstruction Group, NSW Reconstruction Authority, affirmed and examined

**Ms JOANNA QUILTY**, Head, Preparedness and Recovery Group, NSW Reconstruction Authority, affirmed and examined

**Mr CLAY PRESHAW**, Executive Director, Energy, Resources and Industry Assessments, Department of Planning, Housing and Infrastructure, affirmed and examined

**The CHAIR:** Today's hearing will be conducted from 9.15 a.m. to 5.30 p.m. We are joined by the Minister for the morning session from 9.15 a.m. to 1.00 p.m., with a 15-minute break at 11.00 a.m. In the afternoon, we will hear from the departmental witnesses from 2.00 p.m. to 5.30 p.m., with a 15-minute break at 3.30pm. During these sessions there will be questions from the Opposition and from the crossbench members only, then there is 15 minutes allocated for Government questions at 10.45 a.m., 12.45 p.m. and 5.15 p.m. Let us begin with questions from the Opposition.

**The Hon. SCOTT FARLOW:** Thank you very much. Welcome, Minister.

**Mr PAUL SCULLY:** Good to be with you.

**The Hon. SCOTT FARLOW:** Your planning changes have been described as the biggest rezoning in Australia's history. Do you agree that your changes impact billions of dollars worth of property with a potential for some property holders to make a significant windfall gain from your program?

**Mr PAUL SCULLY:** I would agree that the Government's planned housing changes are about getting more young people into homes. There will be more homes built as a result of the planning reforms that we are doing to allow and make permissible things that had been permissible once upon a time and then been turned off with their permissibility once upon a time. As for the impact on land values, on properties, on people's bank accounts and the like, I'm not really in a position to comment on those individual circumstances. I am in a position, however, to say that our reforms are about making sure that there are more well-located, well-designed and well-built homes near transport, near jobs and near opportunity—all of the things that people have been screaming out for in the midst of a housing crisis. And they will also help us as a State to pursue and meet our goal and our targets set as part and parcel of the National Housing Accord, which, as you're aware, was agreed by all three levels of government.

**The Hon. SCOTT FARLOW:** Okay, Minister. You're an economist. You're aware that if you change the zoning of a property or you increase the permissible use on that property, it increases a property's value. Isn't that correct?

**Mr PAUL SCULLY:** It could. It only increases it to the extent that it becomes feasible to build. You can't just say that because an R3 zoning, for instance—a medium-density area—that was close to a transport hub that had not allowed, as less than half of them hadn't, residential flat buildings now does allow them, that

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**CORRECTED**

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automatically has an explosion of value. Because ultimately someone needs to build and deliver that residential flat building on it and sell to the market. In that sense, you've got multiple markets operating here.

**The Hon. SCOTT FARLOW:** You might be the only person in New South Wales who thinks that changing a property from an R2 zoning that allows a two-storey house to a six-storey zoning on R3 doesn't actually increase a property's value.

**Mr PAUL SCULLY:** I'm not suggesting it doesn't. You're suggesting it creates billions of dollars. It doesn't necessarily because, ultimately, you've got to sell the end dwelling. And there's a price at which people can obtain finance and are willing to pay for a certain amount. That cascades back through the system once you discount your margin, your costs of construction and your holding costs and the like into the land value. You can easily say, and you might want to say, that this suddenly creates billions of dollars of value. It will change land use values, absolutely; every transaction changes land use values. But, in and of itself, this doesn't create billions of dollars of funds for people.

**The Hon. SCOTT FARLOW:** We've got that established. I'll redirect you now, Minister. Do you agree then that the misuse of information could lead to a person gaining an improper financial windfall?

**Mr PAUL SCULLY:** I do agree that the misuse of information can have community scared, too. The misuse of information has been almost a hallmark of some people's engagement in this activity. I know where you're going.

**The Hon. SCOTT FARLOW:** We're talking about probity around the biggest rezoning in Australia's history, so why don't you just answer the questions?

**Mr PAUL SCULLY:** I'm trying to answer the questions.

**The Hon. SCOTT FARLOW:** You're not.

**Mr PAUL SCULLY:** Actually, I am. I can answer the questions in the way that—

**The Hon. SCOTT FARLOW:** You're not. You're trying to engage in a debate.

**Mr PAUL SCULLY:** I think, Chair, that someone talking over the top of me while I'm trying to answer a question is trying to engage in debate. I know where you're trying to go with this, and that matter is before the ICAC.

**The Hon. SCOTT FARLOW:** Minister, this is a general question around your department—

**Mr PAUL SCULLY:** I won't be commenting on the details of that because it could prejudice an investigation.

**The Hon. SCOTT FARLOW:** —and the measures in place within your department.

**Mr PAUL SCULLY:** Yes, I understand where you're going.

**The Hon. SCOTT FARLOW:** Minister, given the risk, what new probity measures did you put in place to guard against such a risk?

**Mr PAUL SCULLY:** I'll defer to the secretary of the department.

**The Hon. SCOTT FARLOW:** This is a question for you, Minister. What did you do as the Minister for planning, embarking on this expedition?

**The Hon. MARK BUTTIGIEG:** Point of order: The Minister has a right to defer to his subject matter expertise in the department. The member can't direct him to answer if he hasn't got the answer at hand and one of his colleagues can answer the question. He is within his rights to do that.

**Mr PAUL SCULLY:** I am confident—

**The CHAIR:** Hang on a sec. The member also has the right to redirect the question. One of the realities of this session and the way it's set up is we only get limited time with the Minister, so the member does have the right to then move on to a different question if—

**The Hon. JACQUI MUNRO:** The Minister doesn't want to answer it.

**The CHAIR:** —he doesn't want the question redirected. It is the member's call on that, but the member also needs to respect the Minister's capacity to answer or not answer and direct the question. Let's move on.

**The Hon. SCOTT FARLOW:** Thank you, Minister?

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**CORRECTED**

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**Mr PAUL SCULLY:** Right. As I was starting to say, I'll defer on the detail of how the department manages its probity to the secretary of the department because, as you're aware, Ministers do not deal with the day-to-day administration of staffing arrangements within departments. However, when we set about this project and about this policy development, I spoke with the secretary about the probity measures that were in place. I was comfortable with the additional measures that were going to be taken around these specific areas and, as I said, I'll pass on to Ms Fishburn to detail some of those.

**KIERSTEN FISHBURN:** Thank you. I'll go into the additional measures that we put in place in relation to the transport orientated development. If the Committee is happy, I'll refer to it as the TOD, or else I will be talking for a long time. As you've made clear, Mr Farlow, it is a very significant program. We have general conflict of interest measures but we did bring in additional measures in relation to the TOD. That's not unusual, due to the sensitive nature of some of the work that occurs in Planning. Some projects and programs do have enhanced probity surrounding them and the TOD was one of those.

Government officials who were making suggestions on site selection were requested to sign a separate confidentiality agreement prepared in consultation with the program's independent probity adviser. As site selection was narrowed down, files were also moved to secure storage with limited access and information was shared internal to Government only on an as needed basis. The department undertook targeted consultation with stakeholders during program development. Limited information was shared in these sessions. It was a as-needs-to-know basis. Business contact forms were completed and meeting records were kept.

A probity adviser—Procure Group, for the record—was engaged in July 2023, so at the commencement of the program, to advise on the establishment of the interagency Assessment Review Committee, the ARC, including the TOD program control document, terms of reference, and conflict of interest. Conflict of interest forms were filled in by those members who were part of that committee. The probity adviser also attended the ARC meetings and advised committee members of their conflict of interest obligations.

**The Hon. SCOTT FARLOW:** Thank you, Ms Fishburn. With respect, under the department's code of ethics and conduct policy, all persons within the department make an annual conflict of interest declaration. Is that correct?

**KIERSTEN FISHBURN:** That is correct. Can I also clarify as well? They also make a conflict of interest declaration if circumstances change—for instance, if they're working on a project like the TOD project.

**The Hon. SCOTT FARLOW:** Okay. With respect to that, have all employees of the department made sufficient declarations?

**KIERSTEN FISHBURN:** I would have to take that on notice to confirm. I can certainly assure you that we have been focused on conflict of interest declarations over the last fortnight, but I'll take that on notice and come back after the break.

**The Hon. SCOTT FARLOW:** Were any updated conflict of interest declarations made as a result of the publication of either the TOD program or the low- and mid-rise housing changes?

**KIERSTEN FISHBURN:** I'll have to take that on notice. In fact, I can say yes, because conflict of interest deputy secretaries come to me and there were a number that were updated post the TOD program.

**The Hon. SCOTT FARLOW:** Could you take that on notice how many were updated?

**KIERSTEN FISHBURN:** Across the whole department?

**The Hon. SCOTT FARLOW:** Yes.

**KIERSTEN FISHBURN:** Yes. I may not be able to give you that information this afternoon but we can certainly find that out.

**The Hon. SCOTT FARLOW:** Thank you. It's also required that these declarations are made as soon as practicable following the interest or relationships declared have changed. Were any of these interests updated following the announcement of the TOD program or low- and mid-rise changes?

**KIERSTEN FISHBURN:** I've just said yes. I have seen a couple that have been updated.

**The Hon. SCOTT FARLOW:** Okay.

**KIERSTEN FISHBURN:** I'm sure there are others as well. Not every conflict of interest comes to me as the approver.

**The Hon. SCOTT FARLOW:** Minister, with respect, your secretary outlined in August that:

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**CORRECTED**

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There is always the risk that as a consequence, some malfeasance will corrupt a bit of the system. But does the small risk outweigh the benefit of getting more market certainty? I would argue at the moment you should probably be taking risks rather than locking the system down.

Do you agree with those comments?

**Mr PAUL SCULLY:** I agree that we should be doing all that we can to get more housing, to get more jobs, to get more investment and to get great public spaces in New South Wales. But, as to the secretary's comments, she's sitting right next to me. You can perhaps ask her.

**The Hon. SCOTT FARLOW:** It's a question for you, though, Minister, whether you agree with those comments.

**Mr PAUL SCULLY:** Which aspect would you like me to agree with?

**The Hon. SCOTT FARLOW:** The comments. Do you agree with them or not?

**Mr PAUL SCULLY:** I agree that we should be doing all we can, right? There was a culture of saying no in the department of planning, I have to admit, when I took over. Now that culture, I suspect, stemmed from the top.

**The Hon. SCOTT FARLOW:** City Ford now? Say yes more often?

**Mr PAUL SCULLY:** No, I'm saying "Give answers". Just saying yes in and of itself is not a bad thing—just saying yes to more jobs and more job opportunities, just saying yes to more investment, just saying yes to more housing. I appreciate the Opposition doesn't like it, but it's not a bad thing. That doesn't mean saying "yes" to bad projects. This is the part that we have to assess. The department of planning is called upon to undertake a range of merit-based assessments. That's its job. It has to weigh up a whole range of things and balance the competing interests of a lot of people and, to be honest, have a whole bunch of people out there who often try to misrepresent what might be happening in certain circumstances. Of course, you don't do that, shadow Minister, but some of your colleagues certainly do.

**The Hon. SCOTT FARLOW:** Minister, did you or your office authorise the comments by the secretary?

**Mr PAUL SCULLY:** I don't authorise the comments by the secretary. The secretary is sitting here. She makes comments. She's allowed to make comments. It's a free country. It's not Soviet Russia.

**The Hon. SCOTT FARLOW:** Minister, why was the independent productivity, probity and policy advisory committee, a key independent probity oversight body in the department, abolished after you became the Minister?

**Mr PAUL SCULLY:** I don't abolish committees. I don't make those decisions, and I'll defer to the secretary again. But, as you've heard, there are substantial probity measures in place in terms of the department, in terms of how they operate, in terms of their requirement, just as there are on members of Parliament—as there should be. And I would like to say, just before we go too far, that this is coloured by the alleged actions of one individual. I still don't know whether those alleged actions have been taken to the ICAC or not. I've certainly reported them. The department certainly has. However, the good work of the several thousand people involved in the department of planning, the several thousand people involved in development assessments throughout local government shouldn't be besmirched by the one action. You wouldn't want to be besmirched by the actions of Daryl Maguire, despite him sharing your party room. And—

**The Hon. SCOTT FARLOW:** Come on, Minister. This is billions of dollars of—

**Mr PAUL SCULLY:** Hang on. We've got to see some of this in context too. It is easy to make and try and cast a pall over everyone who's sitting around this table, everyone who's sitting behind me, from the department, everyone who's involved here. And that's not—

**The Hon. SCOTT FARLOW:** Minister, we're not besmirching the reputations of everyone sitting behind you or everyone in the department.

**Mr PAUL SCULLY:** That's the ultimate thing.

**The Hon. SCOTT FARLOW:** But we're asking about the processes that you employ in your department as you embark on the biggest rezoning in Australia's history.

**Mr PAUL SCULLY:** And, as you've heard, they're substantive. There's additional measures put in place. Those additional measures were checked and confirmed by independent probity advisers and the ICAC.



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**CORRECTED**

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But, in terms of that specific committee, I'm happy to defer to Ms Fishburn for some further information, but it may have been in advance of even her time in the department.

**KIERSTEN FISHBURN:** It actually was. It was a committee that was stood up under the previous Government, under Minister Roberts. And I understand it was to advise that particular Minister. I'm not seeing any terms of reference in relationship to it. I'd have to take on notice anything further. It was, obviously, prior to me coming in as secretary.

**The Hon. SCOTT FARLOW:** Minister, given you're embarking on the largest State-led rezoning in Australia's history, wouldn't it have been prudent to actually keep committees like that and to actually increase requirements on your key bodies?

**Mr PAUL SCULLY:** No. I think it's actually prudent to undertake the additional measures that the secretary has implemented in terms of the department, those additional probity measures which she went through in detail but we can take you through them again if you like, because they are substantive. Is any system absolutely bulletproof in any circumstances? Of course, it's not. We know that from our own experience, and history tells us that's not the case. However, there have been substantive measures put in place by the department, and they are working.

**The Hon. SCOTT FARLOW:** Minister, you've loosened the screws. You've given the green light. And, Minister, it is a recipe for corruption. Don't you see this, Minister?

**Mr PAUL SCULLY:** No. It's not a recipe for corruption. That is the worst—you started this line of questioning by talking about misinformation, and now you've gone down the same rabbit-hole that you criticised. That is misinformation. What we've got is a solid process. What we have is one actor, which we don't know because I have still yet to see any evidence from the member for Wahroonga.

**The Hon. SCOTT FARLOW:** Do you know Katie Joyner, Minister?

**Mr PAUL SCULLY:** Never met her.<sup>1</sup> I've still not seen any evidence that the member for Wahroonga presented to the New South Wales Parliament, to the Legislative Assembly. I still don't know to this day if he's even bothered to report it to the ICAC. However, if he hasn't, he should. And, if he hasn't, he should be asked why he hasn't, because sitting there and huffing and puffing and calling for judicial inquiries and the like and all that sort of stuff to try and get around a well-reputed and really good corruption investigative body in the ICAC is actually really disappointing from someone who wants to be the first law officer of the State.

**The Hon. JACQUI MUNRO:** Minister, could we please move on? I've got some more questions. Minister, what work had the Government done with the ATC prior to 7 December "once-in-a-generation" media event to ascertain whether this non-proposal proposal of 25,000 homes and \$5 billion for the ATC is possible?

**Mr PAUL SCULLY:** I'd have to refer you to the answers of the Premier the other day; it's not something I was involved in.

**The Hon. JACQUI MUNRO:** So you haven't read the memorandum of understanding between the ATC and the Government?

**Mr PAUL SCULLY:** The role the planning department would be only in the case—

**The Hon. JACQUI MUNRO:** No, just to the question: Have you read the memorandum of understanding?

**Mr PAUL SCULLY:** No, I haven't because it's not part of my remit. My remit is to administer the planning system and the Planning Act.

**The Hon. JACQUI MUNRO:** Just to make sure—let me ask the questions, please. Do you have input—

**Mr PAUL SCULLY:** Well, do you want answers to the questions? I should be allowed to answer them, Chair. I mean, reasonably.

**The Hon. JACQUI MUNRO:** I'm asking very clear questions.

**The Hon. CAMERON MURPHY:** Point of order: It's a simple one, Chair. The question was asked and before the Minister could get three words out in terms of an answer a statement was made over the top of the

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<sup>1</sup> In [correspondence](#) to the committee received 14 March 2024, Hon Paul Scully MP, Minister for Planning and Public Spaces, clarified the evidence given.

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**CORRECTED**

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Minister's answer. That happened three times in a row. As a matter of fairness, the witness—the Minister—ought to be allowed a reasonable time to answer the question.

**The Hon. JACQUI MUNRO:** To the point of order: The Minister had actually answered my question with a one-word answer—

**The CHAIR:** And you were redirecting.

**The Hon. JACQUI MUNRO:** —so I'd like to move on to the next question.

**The CHAIR:** Yes, there's no point of order. Carry on.

**The Hon. JACQUI MUNRO:** Minister, just to clarify, you've had no input or drafting involvement in the MOU at all?

**Mr PAUL SCULLY:** No, nor should I have.

**The Hon. JACQUI MUNRO:** Okay. Who first—

**Mr PAUL SCULLY:** Perhaps if I could explain the situation—

**The Hon. JACQUI MUNRO:** No, please let me ask questions.

**Mr PAUL SCULLY:** —we could cut down your line of questioning and save you time.

**The Hon. JACQUI MUNRO:** Can I ask, Minister, who raised this issue with you?

**Mr PAUL SCULLY:** The Premier informed me.

**The Hon. JACQUI MUNRO:** So it wasn't Steve McMahon?

**Mr PAUL SCULLY:** No. As I said, if Steve McMahon had informed me I would've said that, but I've said the Premier informed me because it was the Premier who informed me.

**The Hon. JACQUI MUNRO:** And when did he inform you?

**Mr PAUL SCULLY:** It was a couple of days in advance of the announcement. I have to take on notice the exact date. It doesn't come to mind.

**The Hon. JACQUI MUNRO:** That would be helpful. Have you or your office had any conversations with Morris Iemma or Graham Richardson about this issue?

**Mr PAUL SCULLY:** I haven't about this matter and, to the best of my knowledge, my office hasn't either in relation to this issue because there is no planning proposal before the department.

**The Hon. JACQUI MUNRO:** That is what is so confusing about this.

**Mr PAUL SCULLY:** I don't know that it is.

**The Hon. JACQUI MUNRO:** That's why I'm wondering: Why did you agree to be part of the media event that proclaimed this once-in-a-generation opportunity?

**Mr PAUL SCULLY:** Because on the same day we announced the Transport Oriented Development – Accelerated Precincts and the other 31 transport-oriented development sites—so it was a multi-pronged media event. You may have missed the multiple media releases on that day but I think there were three, from memory, because we also announced measures with regard to the metro.

**The Hon. JACQUI MUNRO:** That's also under question because I'm curious—

**Mr PAUL SCULLY:** I issued the media release; I do remember it.

**The Hon. JACQUI MUNRO:** Why did you decide to be involved but the Minister for racing didn't get involved?

**Mr PAUL SCULLY:** You'd have to ask the Minister for racing.

**The Hon. JACQUI MUNRO:** I did actually ask the Minister for racing last week.

**Mr PAUL SCULLY:** There you go. So you've got your answer.

**The Hon. JACQUI MUNRO:** He said, "Ministers in government need to be very careful interfering with the rights and views of actual memberships of independent organisations"—referring to the ATC—so I'm wondering why you haven't been so careful in interfering with the rights of members given you were photographed and commented in this once-in-a-generation proposal.

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**CORRECTED**

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**Mr PAUL SCULLY:** The rights of members for the Minister for racing are different to mine. My role in the Government is to administer the planning Act and a range of other Acts and there was no—

**The Hon. JACQUI MUNRO:** But you're saying that you're not involved as the planning Minister, is that right?

**Mr PAUL SCULLY:** There is no planning proposal. When a planning proposal is submitted—

**The Hon. JACQUI MUNRO:** So why do an event?

**Mr PAUL SCULLY:** Let's step through the process.

**The Hon. JACQUI MUNRO:** Why do an event—a media—

**Mr PAUL SCULLY:** Mr Draper may be able to add some detail because you're clearly misunderstanding.

**The Hon. JACQUI MUNRO:** Minister, why do a media event, as the planning Minister standing next to the Premier—

**Mr PAUL SCULLY:** Have a look at the transcript.

**The Hon. JACQUI MUNRO:** —announcing 25,000 new homes, potentially, as a once-in-a-generation opportunity if you hadn't read an MOU and if you didn't think that there was any planning involvement from the department?

**Mr PAUL SCULLY:** Because my role in that media event was to talk about the Transport Oriented Development Program, which was released on the same day.

**The Hon. JACQUI MUNRO:** So your role in that media event was not to announce the potential 25,000 additional homes on that site? Is that what you're saying?

**Mr PAUL SCULLY:** The 25,000 homes was part and parcel of the media event. Do you want me to step out for certain parts and step back in?

**The Hon. JACQUI MUNRO:** But is that part of your role?

**Mr PAUL SCULLY:** No, my role is very clear. When there is a planning proposal—if there is a planning proposal—that comes before the Government in relation to this then the department of planning, along with other agencies of government, will be the one who is likely responsible for the assessment of that.

**The Hon. JACQUI MUNRO:** So is anybody in your planning department working on this proposal?

**Mr PAUL SCULLY:** There is no proposal.

**The Hon. JACQUI MUNRO:** We've heard from the CEO of Sydney Metro that he has members of his team engaged in work on this issue.

**Mr PAUL SCULLY:** Because he's building a metro.

**The Hon. JACQUI MUNRO:** But he is saying that he is actually contributing to—

**The Hon. SCOTT FARLOW:** Without a proposal, he's building a metro still?

**The Hon. JACQUI MUNRO:** That's right. He's contributing to the feasibility of the ATC's proposal.

**Mr PAUL SCULLY:** You'd have to address that question to him.

**The Hon. JACQUI MUNRO:** But you're saying that—

**Mr PAUL SCULLY:** We can ask the secretary, who is sitting right next to me, if there is a planning proposal. As far as I know, it's still being worked through the membership of the ATC at the moment in respect of that.

**KIERSTEN FISHBURN:** I can answer some further questions.

**The CHAIR:** We might get back to that, if that's okay, in the next session. Minister, just on that, in your meeting with Morris Iemma on 17 May last year, did this topic come up during that meeting?

**Mr PAUL SCULLY:** No. I hadn't heard about this topic until the Premier raised it with me a couple of days in advance of the media event.

**The CHAIR:** As my colleagues have characterised it, this is arguably the biggest rezoning proposal—

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**CORRECTED**

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**Mr PAUL SCULLY:** Some have said that.

**The CHAIR:** —that we've seen.

**Mr PAUL SCULLY:** I have never said that.

**The CHAIR:** It's very large; let's leave it at that.

**The Hon. SCOTT FARLOW:** The board just said it.

**Mr PAUL SCULLY:** Like I said, not me.

**The CHAIR:** Massive changes are coming.

**Mr PAUL SCULLY:** Not really, actually, but keep going with your question.

**The CHAIR:** Potentially massive changes coming our way—

**Mr PAUL SCULLY:** No, not really.

**The CHAIR:** What's your fundamental motivation for these changes? What is your driver for these?

**Mr PAUL SCULLY:** Getting young people into homes. The Productivity Commissioner of New South Wales recently had a report—I'm sure you've read it—that indicated that over the last five years Sydney has had a net loss of 35,000 people aged in that 30- to 40-year old age group.

**The CHAIR:** Thank you, Minister. I have read it.

**Mr PAUL SCULLY:** No. You've asked for my motivation.

**The CHAIR:** Thank you. That's the motivation; I hear it. It's getting young people into houses.

**Mr PAUL SCULLY:** Part of it.

**The CHAIR:** Thank you.

**Mr PAUL SCULLY:** But it's also making sure that the next generation aren't locked out of the housing market. It's making sure that there are opportunities for people to downsize. It's making sure that regional communities don't have the pressures that they have at the moment with housing new workers. It's making sure that we have got an opportunity for people to stay close to where they work and live close to where they work so that we can improve the productivity of our city. It's dealing with the climate impacts and dealing with the flood risks associated with living in what is basically a horseshoe-shaped city of Sydney. There are multiple good reasons why we would do this. I can't think of a bad one.

**The CHAIR:** Minister, what, if any, advocacy have you done within your Government and with colleagues within your party across the country? What have you done as planning Minister, what advocacy have you done, to abolish negative gearing and halve the capital gains discount?

**Mr PAUL SCULLY:** The funny thing about Federal taxation matters is that they're Federal Government matters.

**The CHAIR:** What advocacy—

**Mr PAUL SCULLY:** What I'm concentrating on—

**The CHAIR:** You are the planning Minister of—

**Mr PAUL SCULLY:** Yes, I am the planning Minister.

**The CHAIR:** —New South Wales.

**Mr PAUL SCULLY:** I'm not Jim Chalmers.

**The CHAIR:** You are explaining to this Committee now that—

**Mr PAUL SCULLY:** Jim is a great guy, a lovely guy. I have worked with—

**The CHAIR:** —your biggest concern—

**Mr PAUL SCULLY:** —him for a long time, but I'm not him.

**The CHAIR:** —is getting young people—

**Mr PAUL SCULLY:** I'm not Stephen Jones.

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**CORRECTED**

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**The CHAIR:** —into houses. What have you done? There is \$38.9 billion worth of tax concessions going to existing property owners and keeping the market closed to young people. What advocacy have you done, Minister?

**Mr PAUL SCULLY:** You're right. There's two things I'd say on that. The first one is that my first job is to look at where I, as the Minister for Planning and Public Spaces, have direct responsibility and direct influence.

**The CHAIR:** Do you have an advocacy role? Do you have a direct advocacy role?

**Mr PAUL SCULLY:** With respect, Chair—

**The CHAIR:** Do you meet with planning Ministers?

**Mr PAUL SCULLY:** —can I finish my answer? I said that there was a two-part element to this. The first part is to look at where I can influence and make policy changes on areas with respect to the Acts that I administer and more broadly within the New South Wales Government. I think I am well and truly on the record as having proposed a series of policy changes that allow that. I would note, in saying that, that Joey Moloney of the Grattan Institute recently said:

If all of the restrictive zoning in those really desirable inner suburbs had been more permissive and we'd been allowed to build more houses where people really want to live and work, that would have led to lower prices and rents.

In terms of Federal taxation matters, Federal taxation matters are not the responsibility of the New South Wales planning Minister.

**The CHAIR:** Can I get you back to the question? What advocacy, if any, have you done? If the answer is no, that's fine.

**Mr PAUL SCULLY:** No, I don't. My advocacy is against—

**The CHAIR:** So you have done no advocacy whatsoever to abolish negative gearing or halve the capital gains discount?

**Mr PAUL SCULLY:** No, because you know why?

**The CHAIR:** Notwithstanding, this is one of the main causes identified as locking people out.

**Mr PAUL SCULLY:** Actually it's not. It is not.

**The CHAIR:** It is a main cause.

**Mr PAUL SCULLY:** No, actually, the economic research on this suggests that if you were to change that it would have a minimal impact on prices but likely increase rents. What the New South Wales Government is doing is actually—

**The CHAIR:** Have you ever had the benefit of negative gearing in your history of purchasing homes?

**Mr PAUL SCULLY:** No, I haven't, but I've had the good fortune of being able to purchase a home.<sup>2</sup> There are hundreds of thousands of people out there at the moment who are looking to buy a home or to rent a home, and if we got rid of some of the restrictive planning and zoning requirements—which is what we are trying to do as a government—a lot of those people would actually have a reasonable shot at it, and we could not pursue furbphy ideals.

**The CHAIR:** If the intention is genuinely to ensure entry-level housing, why is the affordable housing quota only set for 15 years?

**Mr PAUL SCULLY:** That's only on one part of it. Let's step through the whole gamut of things. In the affordable housing bonus scheme, which came into effect on 14 December or 15 December last year—which, mind you, has already got 12 projects being considered; one of them, Mr Wendler's, has already got secretary's environmental and assessment requirements been issued. There are a further four or five EISs and SIAs that have been issued and well on the way, so there is strong interest. That allows for a minimum of 15 years. Secondly, in the transport oriented development accelerated precincts we have a requirement of up to 15 per cent affordable housing in perpetuity. In the further 31 areas, we start at 2 per cent—raising through time on a published scale—in perpetuity housing contributions.

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<sup>2</sup> In [correspondence](#) to the committee received 14 March 2024, Hon Paul Scully MP, Minister for Planning and Public Spaces, clarified the evidence given.

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**CORRECTED**

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We are changing the way that affordable housing is being done. But the thing about that is, if land transactions happened maybe five years ago, you can't then go and impose something over the top, because what you risk is getting no housing out of that land rather than a slightly smaller amount of affordable housing that they might buy.

**The CHAIR:** Why are so many councils not with you, Minister?

**Mr PAUL SCULLY:** Lots of councils are working with us.

**The CHAIR:** But why are so many not? Why have submissions come in to you saying, "Can you please not give us this one size fits all. Can you please not override our planning powers and controls."

**Mr PAUL SCULLY:** I'm going to address this one-size-fits-all furphy of an argument once and for all, because I expect that my colleagues in the Opposition will come back to this at some stage. The entire process—from day one we have said that our new standards only get set if councils don't sit above them. If they can't deliver their housing with changes to their own requirements or within their existing requirements that are higher—

**The CHAIR:** Then you will take away their capacity to say no.

**Mr PAUL SCULLY:** No. Then we set a new standard. We don't take away their capacity to say no at all. Some 85 per cent of residential development applications remain assessed by local councils, 97 per cent of which are approved, and every single one of them will still be assessed by a local council. It's the great thing about this change. Unlike the previous Government, who tried to do this through a complying development, which was genuinely a one-size-fits-all approach, our approach is to negotiate with councils, and I expect that we will probably find, over the coming weeks, that we will have more councils that are coming on board, because lots of councils and lots of mayors are coming to see me saying, "Minister, we want to work with you and the Premier because we recognise we have got to do something." However, they are concerned that some of the councils next door won't do their share of heavy lifting. But what they want to do is to say, "Hey, we have got this area here that we've just about finished a master plan on. Can we complete that?"

**The CHAIR:** What's your definition of a non-refusal standard?

**Mr PAUL SCULLY:** It's a number of standards by which elements can't be refused on that grounds alone.

**The CHAIR:** That's right and we're talking about the grounds that councils are coming to you saying, "That will cause a problem for us."

**Mr PAUL SCULLY:** No, that's not actually what councils are talking to me about.

**The CHAIR:** Some of the submissions are pretty clear, Minister.

**Mr PAUL SCULLY:** Some of the submissions are, but that's not what councils are talking to me about. Councils are talking to me about the fact that they're now—finally, some of them—looking at the way they can do some of these things better to make sure that there are opportunities to deliver housing. It might be this area here has a flood impact, so can we change it? And we have a little bit more height over the other side so we can deliver housing outcomes. A lot of councils—and credit to them, Chair—are saying, "Actually, no. We recognise that we have got a role to play both as a signatory to the National Housing Accord but also as the level of government that could help identify things."

**The CHAIR:** Minister, thank you, I think that's right, and I think that in—

**Mr PAUL SCULLY:** It's really good. It's great.

**The CHAIR:** In no uncertain terms, I don't think there is one participant that doesn't want to address the housing crisis.

**Mr PAUL SCULLY:** I think there are a couple but, anyway, that's all right.

**The CHAIR:** I'm not aware of any and I don't think there is any bad faith—

**Mr PAUL SCULLY:** I think Alister Henskens doesn't want to do it.

**The CHAIR:** I don't think there is any bad faith here. What we're talking about is the much more sophisticated end of the argument. This one size fits all—

**Mr PAUL SCULLY:** It's not one size fits all.

**The Hon. SCOTT FARLOW:** It is.

**The CHAIR:** This one size fits all—

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**CORRECTED**

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**Mr PAUL SCULLY:** That's the Liberal—

**The CHAIR:** No, Minister—

**Mr PAUL SCULLY:** Chair, I'm really disappointed The Greens have adopted this characterisation from the Liberal Party.

**The Hon. JACQUI MUNRO:** This is disrespectful to the Chair.

**Mr PAUL SCULLY:** I didn't think this coalition would ever exist.

**The Hon. SCOTT FARLOW:** It's the truth—maybe because it's the truth.

**The CHAIR:** I am not referring to the Opposition's concerns here. I'm referring to some of those 65-odd Greens councillors across the State who are coming with genuine concerns that there is a one size fits all—

**Mr PAUL SCULLY:** Well, no, there is not—but, sure.

**The CHAIR:** —once you hit a particular part of the planning process.

**Mr PAUL SCULLY:** There is not at all. Ms Gibson has done an extraordinary amount of work on this with her team.

**The CHAIR:** Nobody is suggesting a lot of work hasn't been done.

**Mr PAUL SCULLY:** Can I finish, Chair? Can I finish, please?

**The CHAIR:** I'm not sure which part you're finishing, Minister.

**Mr PAUL SCULLY:** I think, in the interests of everyone in the Committee here and everyone who might be watching online, that it might be worthwhile at this very early stage to actually take you through what "non-refusal standards" means. I'll hand over to Ms Gibson to do the detail, because she explains it much better than me.

**The CHAIR:** Minister, thank you, perhaps we might do that in the afternoon session.

**Mr PAUL SCULLY:** I think it would actually stop a lot of questioning that wastes all of our time, perhaps in this early stage, if we just had a look at the facts.

**The CHAIR:** No, I think we'll come back to that later. Thank you very much.

**Mr PAUL SCULLY:** Okay, but if you don't want the facts I can't help you.

**The CHAIR:** Are you aware of Ku-ring-gai Council's independent ecological assessment that shows that the mid-rise set will result in the loss of some 32,000 trees—

**Mr PAUL SCULLY:** I'm aware of the claim.

**The CHAIR:** —and a 50 per cent application would result in the loss of 16,000 trees?

**Mr PAUL SCULLY:** I'm aware of the claim. Look, there is a fact sheet here, that I've got multiple copies of and I'm happy to table so everyone can have a look at it, on the mid-rise—

**The CHAIR:** Minister, I think everybody has seen the website.

**Mr PAUL SCULLY:** No, I don't think a lot of people have actually looked at it, because—it's clear that they haven't read it at least, if they have looked at it. This might help. And again, I'll defer to Ms Gibson about the detail of some of this. But in our analysis of those claims of Ku-ring-gai Council, they actually don't stack up.

**The CHAIR:** In terms of the vegetation and tree cover loss?

**Mr PAUL SCULLY:** Yes. Do you know why? Because vegetation policies still apply, right? But Ms Gibson might be able to take you through some of the detail.

**The CHAIR:** But Minister, we accept, like in any planning process, when you have non-refusal standards, any of those tree policies, any of those vegetation policies, they will ultimately—

**Mr PAUL SCULLY:** No, that's not how it works.

**The CHAIR:** —where they don't live consistently—

**Mr PAUL SCULLY:** This is why I offered, and suggested, that early on today Ms Gibson outline what non-refusal standards actually means, because it saves this line of questioning—which is going to go round and round in circles.

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**CORRECTED**

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**The CHAIR:** Thank you. Can you sit here right now and guarantee that the 162 hectares of critically endangered Blue Gum High Forest and the 217 hectares of critically endangered Sydney Turpentine-Ironbark Forest will not be reduced—

**Mr PAUL SCULLY:** Who is proposing it?

**The CHAIR:** —as a result of your planning reforms in the next five, 10, 20 years?

**Mr PAUL SCULLY:** I'm not going to guarantee something for 20 years, but—

**The CHAIR:** Okay. Fine, thank you.

**Mr PAUL SCULLY:** Hang on, can I answer the question?

**The CHAIR:** You are guaranteeing here, you are telling this Committee to accept your 15—

**Mr PAUL SCULLY:** No, I've said I will not guarantee something in 20 years' time. Again, Ms Gibson may wish to outline how non-refusal standards work.

**The Hon. MARK BUTTIGIEG:** Point of order—

**The CHAIR:** Can I redirect you, Minister, please?

**The Hon. MARK BUTTIGIEG:** Point of order, Chair.

**The Hon. SCOTT FARLOW:** You're not going to get this one up, Mark.

**The Hon. MARK BUTTIGIEG:** Chair, I've taken a point of order. With all due respect, Chair, I don't think it's fair on the Minister not to allow him to articulate a thorough answer when you're asking him direct questions.

**The CHAIR:** I accept that.

**The Hon. SCOTT FARLOW:** There you go—you did.

**Mr PAUL SCULLY:** Very generous of you, Chair.

**The CHAIR:** How about could you guarantee that those vegetation amounts that I have just stipulated to you—

**Mr PAUL SCULLY:** Is there a planning proposal to undo some of those vegetation amounts? I'm not aware of one—is anyone else?

**The CHAIR:** Minister, I'm just finishing the question—will not be reduced between now, five, 10 or 15 years? We will stop at 15 years because you are planning for 15 years with your affordable housing. So 15 years, those vegetation sizes in hectares will not be reduced as a direct result of your planning changes that you're seeking to introduce through the TOD SEPP?

**Mr PAUL SCULLY:** I don't believe they will. However, I'm happy to take the detail on notice because I'm not aware of any actual planning proposals that are planning to cut all those trees down.

**The CHAIR:** Thank you, Minister. On that—and I pick it up from your answer to my colleague's initial question—you are the planning Minister.

**Mr PAUL SCULLY:** I am.

**The CHAIR:** You are making proposals and decisions that will have a dramatic cascading impact—

**Mr PAUL SCULLY:** Your characterisation, not mine.

**The CHAIR:** —on the living environment, the social environment and the built environment. That's how planning law works, Minister.

**Mr PAUL SCULLY:** Sure.

**The CHAIR:** So when we say that these changes will, in effect, deliver millions of dollars of profit to certain—it is true. That is what happens. It is a fact.

**Mr PAUL SCULLY:** I appreciate the statement but, again, this would all be a better-informed conversation for this Committee if we were actually relying on what is going to happen. You started with non-refusal standards. It can be confusing. I understand that. I was the shadow Minister for a while and, if you don't have some of the advice around you, it can become confusing as to how some of these things are presented. I really think, in the genuine interests of the Committee and exploring this properly, because there isn't an



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**CORRECTED**

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alternative on the table at the moment, we should go through what non-refusal standards means and how it works. Would you like to know how it works?

**The CHAIR:** Minister, thank you.

**Mr PAUL SCULLY:** We've got a lot of really good, skilled people here who can take you through the absolute detail of how it works. But if you're not interested—

**The CHAIR:** Have you ever appeared in the Land and Environment Court in merits appeals?

**Mr PAUL SCULLY:** It's disappointing that we're going to have this discussion.

**The CHAIR:** Minister, have you ever appeared in the Land and Environment Court in a merits appeal?

**Mr PAUL SCULLY:** I'm not a lawyer. I haven't been to the Land and Environment Court.

**The Hon. SCOTT FARLOW:** Sue is.

**The CHAIR:** Could I ask you, Minister—

**Mr PAUL SCULLY:** Mr Murphy, have you appeared in the Land and Environment Court? You're a skilled attorney.

**The Hon. JACQUI MUNRO:** Point of order: The Minister is not respecting the environment which we are in.

**Mr PAUL SCULLY:** In fairness, my departmental officers aren't being respected either.

**The Hon. JACQUI MUNRO:** The Minister is talking over the Chair and questioners and taking up valuable time.

**The CHAIR:** Minister, what assistance have you been offering to councils at this point in time to assist them with assessments and planning applications that they have before them?

**Mr PAUL SCULLY:** Sure. There are a couple of things that are going on. First off, we had a grants program that went out to 60-odd councils, but I'll stand corrected slightly on that number—60 to 70 councils. Some financial assistance was provided to councils to engage new planners—new young people who will be engaged in helping shape the environments, cities and towns that they live in. That's one thing. The second is we're working on improvements to the system that will allow assessments to be done more quickly and accurately. One of the big improvements that we're making, and hope to make in due course—we've just gone out to the market to look for IT solutions—is through the use of artificial intelligence in the planning system. That isn't to replace the role of planners. Planners remain and will always remain, in my view, central to the planning assessment system. But it's about enhancing and speeding up the system.

I'll give you an example. If you come along with a housing development and you put it into the system, the AI tool could run its electronic eye, if you like, over the system and say, "Right, on all of these areas, it gets a tick. It's in compliance with the DCP or the LEP. On these three areas, for instance, it's outside of it." Many planning proposals have one or two things that are outside the controls of an area. That allows those skilled planners to concentrate their efforts in the assessment part on those couple of areas, rather than having to go through the entire list. They can look at what's coming out of the list. They can concentrate on those couple of areas where it might be outside it, with the aim of being able to give a faster yes or faster no.

**The CHAIR:** I've got one point. You are aware that this Committee is now holding the inquiry into the TOD SEPP and some of the incidental—

**Mr PAUL SCULLY:** You waited a long time, but I know you got there.

**The CHAIR:** We're holding that inquiry. Are you committed to waiting for the outcome of that inquiry? This Committee is working very hard to do that as quickly as possible. Are you committed to waiting until the outcome of that inquiry?

**Mr PAUL SCULLY:** To be honest, I don't think that's the best way of getting people into homes into the future.

**The CHAIR:** Why?

**Mr PAUL SCULLY:** We will continue to do the work that we're doing, as we've said we're doing. Some of the TOD stuff is a program of work that will last some time. The master planning of eight TOD sites—the large accelerated precincts—is a large body of work that needs to continue.

**The CHAIR:** You accept you want to get it right.

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**CORRECTED**

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**Mr PAUL SCULLY:** However, if there are suggestions, positive ones, from the Committee that we can take on board, we'll be looking to integrate them. I don't think that there's a monopoly on good ideas. If there's good ideas, that is why I'm trying to encourage this Committee to actually try to understand in the first instance some of the stuff it wants to explore, not just today but in the future. But if there are good ideas that come out of it, I think we should take them. For too long, Chair, governments have kicked the problem of housing down the road.

The best time to talk about planning reforms that would deliver more well-located, well-designed and well-built housing was a decade ago. The second best time is today. If we keep kicking it down the road and down the road and down the road, you know what happens? More people have higher rents, more people have higher prices, more people will get locked out of opportunity and more people—more of the great people in the 30 to 40 age group, the innovators, the creators, the employers of the future—move away from Sydney. When cities hollow out of young people, they die.

**The CHAIR:** Just before I go to the Opposition, can I just ask on that then?

**Mr PAUL SCULLY:** Sure.

**The CHAIR:** Why have you had 19 meetings with banks, developers and construction industry and only seven with community housing and the Greater Cities Commission in the time you've been in?

**Mr PAUL SCULLY:** Because banks and the construction industry help finance and build houses. Community—

**The CHAIR:** Are they the ones with the great ideas, the innovators, on what houses should be for communities and green space?

**Mr PAUL SCULLY:** Some have good ideas; some not so good.

**The CHAIR:** Great. Thank you, Minister.

**The Hon. SCOTT FARLOW:** Minister, given in 2021, a full RFP was undertaken through a 298-page series of nine documents with probity advisers appointed. Why was the speedway handed over to your Labor mate Tony Beuk and the Western Sydney International Dragway Ltd, in what has been described as a sweetheart deal with no public tender or announcement in October 2023?

**Mr PAUL SCULLY:** For a start, I correct the record that there was—you actually identified the fact that there was a RFP process.

**The Hon. SCOTT FARLOW:** In 2021.

**Mr PAUL SCULLY:** However—

**The Hon. SCOTT FARLOW:** Of which the drags didn't win.

**Mr PAUL SCULLY:** Would you like an answer, or do you want to keep talking over the top of me?

**The Hon. SCOTT FARLOW:** Go, Minister.

**Mr PAUL SCULLY:** An answer, okay. As it was not a lease of more than 25 years, it's not a decision that came to me, and Ms Hawyes, who is in charge of that area of the department, can provide full information on the process that led up to that.

**The Hon. SCOTT FARLOW:** Okay. We'll go back to that, Minister.

**Mr PAUL SCULLY:** No, actually, I think it's important to get this right. I mean, jeez—

**The Hon. SCOTT FARLOW:** Minister, no. Minister, we will go back to that. We can redirect that. Minister, on the back of that, are you saying you had no conversations with Tony Beuk prior to the Western Sydney drags?

**Mr PAUL SCULLY:** I haven't spoken to Tony in years. I certainly have never spoken to him about—

**The Hon. SCOTT FARLOW:** What about your office, Minister?

**Mr PAUL SCULLY:** No, not to the best of my knowledge.

**The Hon. SCOTT FARLOW:** You say that under oath, Minister.

**Mr PAUL SCULLY:** Not to the best of my knowledge.

**The Hon. SCOTT FARLOW:** You haven't spoken to Tony Beuk.

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**CORRECTED**

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**Mr PAUL SCULLY:** I haven't spoken to Tony in years, not since he left the New South Wales branch of the Labor Party where he was the IT officer.

**The Hon. SCOTT FARLOW:** Okay. So, Minister, when Tony Beuk's running around town telling people that you said to him that you had a boil on your arse that you needed his help lancing. You say that that never ever happened?

**Mr PAUL SCULLY:** I've never used—

**The Hon. SCOTT FARLOW:** You never ever had that conversation.

**Mr PAUL SCULLY:** I could actually say I've never used that expression in my life. I might be a boy from Wollongong, I might have some colourful terms occasionally, but I've never used that expression because I've never heard that expression before then. I do have a desire, as the old Parramatta speedway advertising went, to get people's backsides track side—

**The Hon. SCOTT FARLOW:** There you go.

**Mr PAUL SCULLY:** —to see some speedway racing. I'm a motorsport fan. I like it. I enjoy it, right? And for years after the previous Government—you would remember; you were part of it—stuffed up the speedway process, there has not been racing in New South Wales. There has not been the opportunity to get good motorsport through.

**The Hon. SCOTT FARLOW:** And you're endangering it further, Minister. You're endangering it further.

**Mr PAUL SCULLY:** I'm not endangering it further.

**The Hon. SCOTT FARLOW:** Minister, when—

**Mr PAUL SCULLY:** When racing starts again, it's scheduled for 23 March. I hope you'll be there.

**The Hon. SCOTT FARLOW:** Minister, when the former dragway director—

**Mr PAUL SCULLY:** Have you ever been there?

**The Hon. SCOTT FARLOW:** I've been to the speedway, Minister.

**Mr PAUL SCULLY:** Right. There were no cars going round, were there, because you guys did nothing about it.

**The Hon. SCOTT FARLOW:** Former dragway director and architect of the original tender, Mark Hinchelwood, says:

It's a sweetheart deal. Minister Paul Scully has offloaded the problem from his desk onto Sydney Dragway, and in return, Sydney Dragway receives a financial benefit. It's a win-win for both ...

You reject those claims, do you?

**Mr PAUL SCULLY:** I do because it never came to my desk. As I said, Ms Hawyes can take you through how the process—and, again, this Committee would be well advised and better informed if it actually threw some facts at the front end.

**The Hon. SCOTT FARLOW:** We'll come to Ms Hawyes this afternoon, Minister. Minister, when it comes to—and you talked about the original process—the original process that had Sydney Dragway bidding, saying that they would be both the venue manager and venue operator, now this process has given the drags a lease when they had no intention to operate it and sought a sublease, introducing a venue operator immediately. Don't you see that as being substantially different?

**Mr PAUL SCULLY:** Again, I can get Ms Hawyes to take you through the full detail of the process which would equip the Committee with some better information rather people's speculation, right?

This was a completely aboveboard process, with advice, with proper process and with checks in it afterwards, and there is nothing untoward here—despite the fact that people might like to characterise it that way.

**The Hon. SCOTT FARLOW:** Let's go to those checks, Minister. As part of those checks, did you or your office do any due diligence on Sydney International Speedway Pty Ltd before you issued the media release on 22 December?

**Mr PAUL SCULLY:** Again, I refer you back to the fact that this is not something that came to my office or my desk for my decision.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** You issued a press release—

**Mr PAUL SCULLY:** Yes, I did.

**The Hon. SCOTT FARLOW:** —extolling the virtues of Sydney International Speedway Pty Ltd.

**Mr PAUL SCULLY:** It's extolling the fact that there will be racing back there. As I understand it, there was some very successful track testing done on Saturday. You may have been at Tay Tay. You missed it.

**The Hon. SCOTT FARLOW:** That press release says that Sydney International Speedway Pty Ltd understands the speedway industry—an organisation that was formed nine days before that press release.

**Mr PAUL SCULLY:** That doesn't mean the organisation—it's the people in the organisation. You would understand that your organisation, the Liberal Party—

**The Hon. SCOTT FARLOW:** So Troy Boldy—

**Mr PAUL SCULLY:** —is informed and—

**The Hon. SCOTT FARLOW:** Is that Troy Boldy, Minister?

**Mr PAUL SCULLY:** As I understand—

**The Hon. SCOTT FARLOW:** Is that undischarged bankrupt Troy Boldy?

**Mr PAUL SCULLY:** As I understand it, Mr Boldy is not a director of Sydney International Speedway.

**The Hon. SCOTT FARLOW:** You're going to contend to this Committee, like you contended to the media and Ray Hadley, that 76-year-old Yvonne Boldy is actually the one who is running this organisation?

**Mr PAUL SCULLY:** I am going to contend that that is the person who is the director of the organisation, yes. That is fact. Again, we can go back. Ms Hawyees has all the details in front of her, because it was her responsibility—her part of the department.

**The Hon. SCOTT FARLOW:** Isn't this purely a shadow directorship?

**Mr PAUL SCULLY:** That's your characterisation.

**The Hon. SCOTT FARLOW:** On the facts—

**Mr PAUL SCULLY:** If you've got evidence, table it.

**The Hon. SCOTT FARLOW:** I do have evidence, Minister.

**Mr PAUL SCULLY:** Table it.

**The Hon. SCOTT FARLOW:** You've got the evidence as well.

**Mr PAUL SCULLY:** Table it.

**The Hon. SCOTT FARLOW:** I'm very happy to table it, Minister.

**Mr PAUL SCULLY:** Come on. Share.

**The Hon. SCOTT FARLOW:** Do you know Mr Troy Boldy—

**Mr PAUL SCULLY:** Or is it a consistent approach with the Liberal Party—

**The Hon. SCOTT FARLOW:** —from his Wollongong kart days?

**Mr PAUL SCULLY:** —with anything slightly controversial—

**The Hon. ANTHONY D'ADAM:** Point of order—

**The Hon. SCOTT FARLOW:** Do you know Troy Boldy from his Wollongong kart days?

**The CHAIR:** We have a point of order.

**Mr PAUL SCULLY:** I've never met Mr Boldy, no.

**The Hon. SCOTT FARLOW:** You haven't been down to the Wollongong Kart Raceway?

**The Hon. ANTHONY D'ADAM:** Point of order—

**Mr PAUL SCULLY:** I have, in the mid-90s.

**The CHAIR:** Could you stop? We've got a point of order.

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**CORRECTED**

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**The Hon. ANTHONY D'ADAM:** There has been a request to table a document. The member has undertaken—

**The Hon. SCOTT FARLOW:** I will happily table the documents—

**The Hon. ANTHONY D'ADAM:** —to table the document.

**The Hon. SCOTT FARLOW:** —at the end of the session.

**The Hon. ANTHONY D'ADAM:** Can we have the document tabled?

**The Hon. SCOTT FARLOW:** I will happily table the documents at the end of the session.

**The CHAIR:** It's the member's prerogative if he wants to table the document.

**The Hon. ANTHONY D'ADAM:** He agreed to table it there and then.

**The Hon. SCOTT FARLOW:** I will happily table it at the end of the session. Minister, when we discussed the Wollongong Kart Raceway, are you aware that Mrs Yvonne Boldy became the director of that organisation four days before her son, Troy Boldy, who was the director of that organisation, went into bankruptcy?

**Mr PAUL SCULLY:** No, I'm not aware of that, because the Wollongong Kart Raceway is not a discussion here. As I said, Ms Hawyees can take you through the full detail of it. None of this stuff crossed my desk because it is not a lease beyond 25 years. It might disappoint you to find that out, but that's the fact.

**The Hon. SCOTT FARLOW:** You contend that Yvonne Boldy is the director of this company and that Troy Boldy has no involvement with this company, yet every public announcement on this has had Troy Boldy's name and hands all over it. Have you seen that, Minister?

**Mr PAUL SCULLY:** I don't know. Has my media release got Troy Boldy's name and hands all over it? As far as I'm aware, Garry Willmington, former Bathurst legend, is the one who is actually dealing with the day-to-day operation of racing on the site. He has gone to the trouble of extending the track and making the corners better. As I understand it, when the track was tested on Saturday—while I appreciate that a lot of people were concentrating, perhaps, more on the Taylor Swift concert—the track was almost setting new record times for speedways in Sydney.

**The Hon. SCOTT FARLOW:** What financial capabilities does Sydney International Speedway Pty Ltd have behind them?

**Mr PAUL SCULLY:** That is a matter, again, for Ms Hawyees. It's not one that I can answer, because it didn't come to my—

**The Hon. SCOTT FARLOW:** Isn't this something you should be across—

**Mr PAUL SCULLY:** No.

**The Hon. SCOTT FARLOW:** —as the Minister? You're handing over a \$110 million speedway—

**Mr PAUL SCULLY:** No, it's not.

**The Hon. SCOTT FARLOW:** —and you don't even bother—

**Mr PAUL SCULLY:** Have a look at the law.

**The Hon. SCOTT FARLOW:** —checking on the financial capability of the organisation running it.

**Mr PAUL SCULLY:** Have a look at the legislation. You would do well—

**The Hon. SCOTT FARLOW:** So it has been hands off from you completely?

**Mr PAUL SCULLY:** You would do well, shadow Minister—

**The Hon. SCOTT FARLOW:** Minister, it has been hands off from you completely?

**Mr PAUL SCULLY:** —to look at the legislation before you started going down these fantasies and flights and frolics. The Greater Sydney Parklands Trust legislation is quite good. It actually was bipartisan when it passed the last Parliament. It says that Ministers are involved when there's lease periods of more than 25 years, not less.

**The Hon. SCOTT FARLOW:** So, Minister, you just simply wash your hands of this? When this all blows up—

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**CORRECTED**

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**Mr PAUL SCULLY:** It's not my responsibility.

**The Hon. SCOTT FARLOW:** —in 12 months' time, it's, "There's nothing to see here. It's not my problem. Go back to the Western Sydney Parklands"? Throw Mr French under the bus—

**Mr PAUL SCULLY:** I'm not throwing anyone under the bus. I can only answer questions about decisions that I've actually made.

**The Hon. JACQUI MUNRO:** Now that you—

**The Hon. SCOTT FARLOW:** On that point—

**Mr PAUL SCULLY:** Who is answering—

**The Hon. SCOTT FARLOW:** —Minister, have you or your office met with Troy Boldy?

**Mr PAUL SCULLY:** I have never met him.

**The Hon. SCOTT FARLOW:** What about your office?

**Mr PAUL SCULLY:** To the best of my knowledge, they've never met him.

**The Hon. SCOTT FARLOW:** Have you or your office met with people who are interested in running the speedway?

**Mr PAUL SCULLY:** There are lots of people interested in running the speedway. There are multiple—

**The Hon. SCOTT FARLOW:** Have you or your office met with them?

**Mr PAUL SCULLY:** Yes, my office met with—

**The Hon. SCOTT FARLOW:** So it's hands off one second and then—

**Mr PAUL SCULLY:** Chair, could I actually answer questions? Is it too much to ask to finish an answer?

**The CHAIR:** You're very welcome to answer questions and finish answers.

**Mr PAUL SCULLY:** Thank you. My office met with people who are interested in the speedway. My office has responded or I've responded to correspondence in people interested in the speedway. The speedway is actually a surprisingly big industry. There are a lot of people who have small businesses generally who are attached to it who have been terribly frustrated by the fact that, since the previous Government stuffed up the speedway move to its new site, there's been no speedway racing. People were appealing to me because they couldn't get any racing time. They'd either have to travel to Canberra or to Victoria or to Brisbane in order to do that. Small businesses who were suppliers to speedway racing—

**The Hon. JACQUI MUNRO:** Minister, I think you've answered the question now.

**Mr PAUL SCULLY:** Can I finish?

**The Hon. SCOTT FARLOW:** No. We're redirecting now, Minister.

**The Hon. JACQUI MUNRO:** I think you've answered the question.

**Mr PAUL SCULLY:** No, I actually haven't.

**The Hon. SCOTT FARLOW:** We're redirecting now, Minister.

**Mr PAUL SCULLY:** You might be running out of time. You might not like the answer, but I'm entitled to give it.

**The Hon. JACQUI MUNRO:** Minister, now that you know all of this information that we've just presented to you, are you going to conduct investigations with your department about this matter?

**Mr PAUL SCULLY:** The secretary's already done it. It was in the paper. You should read a bit more.

**The Hon. JACQUI MUNRO:** Are you concerned about this, given—

**Mr PAUL SCULLY:** No. I'm satisfied that the secretary has investigated. She's spoken to me about it. I think it's important. Perhaps we hear from the—I know you don't want to hear from Ms Hawyes, but perhaps you can hear from Ms Fishburn about the process.

**The Hon. SCOTT FARLOW:** I'm happy to hear from Ms Fishburn on this. Ms Fishburn, has the investigation been completed into the Sydney International Speedway?

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**CORRECTED**

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**KIERSTEN FISHBURN:** We undertook a probity review to comfort ourselves obviously, when the comments came out, that all actions and decisions had been made in due process and following probity. And, yes, I'm satisfied that was the case.

**The Hon. SCOTT FARLOW:** Was this a probity adviser who was appointed during the process?

**KIERSTEN FISHBURN:** I'll refer to Ms Hawyes for the detail.

**MELANIE HAWYES:** I think it might be helpful for the Committee. As you referred to in your opening remarks and questions, there was an open process in 2021. The dragway submitted a compliant tender in that process, and the dragway has been located on that site for 20 years. We have an established lease relationship with the dragway. When negotiations broke down with the sitting tenant, they expressed a desire to withdraw from proceeding to a lease. The dragway approached us, expressing an interest in taking on the management of the speedway also at that site. We moved to a direct deal in accordance with guidelines and with the advice of an independent probity adviser, O'Connor Marsden. They walked us through the process and confirmed that the lease was consistent with the ICAC guidance because it had been the subject of an open market process. The dragway had been a respondent in that process. The terms and pricing had been determined through a market process, and they were well placed to take on a lease to run that site.

**The Hon. SCOTT FARLOW:** You engaged O'Connor Marsden for this process?

**MELANIE HAWYES:** For the process of a lease with the dragway over the speedway site, yes.

**The Hon. SCOTT FARLOW:** Are you aware that O'Connor Marsden has been telling the speedway community that they had no involvement whatsoever in respect of—

**MELANIE HAWYES:** I would be very concerned with that, and I'd be interested to know the source of that and to look into that further.

**The Hon. SCOTT FARLOW:** That is what O'Connor Marsden have been telling speedway participants when they've been requesting information as to whether O'Connor Marsden were involved, and they've said that they have had no involvement in this process.

**MELANIE HAWYES:** Perhaps you can provide me with the name of the person who's saying those things.

**The Hon. SCOTT FARLOW:** I will—offline, I will. Minister, are you aware of Western Sydney International Dragway meeting with any other potential sublessees in recent weeks to look for them to take over the speedway?

**Mr PAUL SCULLY:** No.

**The Hon. SCOTT FARLOW:** Would that be of concern to you, if they did?

**Mr PAUL SCULLY:** No.

**The Hon. SCOTT FARLOW:** No? You'd be happy for them to rip up the contract with Sydney International Speedway Pty Ltd?

**Mr PAUL SCULLY:** It's not my decision. That's their decision as the sublessee. What I really want to see is racing back, and all roads point to—pardon the pun—that racing should be back on 23 March, with an albeit limited season this year. But that will finally make sure that this \$110 million speedway track that risked being a boondoggle under the previous Government, that wasn't taken seriously under the previous Government—that there will be racing and competitive racing back there. That should truly be the test. That should be the test of success in this case.

**The Hon. SCOTT FARLOW:** Minister, are you aware that Mrs Yvonne Boldy, the director of Sydney International Speedway Pty Ltd—the one that you contend is the director, not a shadow director—was a discharged bankrupt?

**Mr PAUL SCULLY:** I don't know.

**The Hon. SCOTT FARLOW:** Does that concern you at all, Minister?

**Mr PAUL SCULLY:** Does it concern me? There's multiple—Alan Bond was a bankrupt at one time, wasn't he? He was a discharged bankrupt? He came back.

**The Hon. SCOTT FARLOW:** You've got Troy Boldy, the undischarged bankrupt, who hands over the company to his mother four days before he becomes a bankrupt, and then you've got no concerns, Minister. Alan Bond.

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**CORRECTED**

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**Mr PAUL SCULLY:** As Ms Hawyes just said, there was a check, a probity approach. There have been checks by the department that were done on the subleasing arrangements. What the test should be here is will racing occur in a reasonable space of time or not? Will that be done professionally?

Garry Willmington, who has a background in running speedways—his son, I think, is a speedway racer. He's done more activation of sites, making sure that young people are involved and understand how to control and drive motor vehicles. He's done some really interesting stuff.

**The Hon. SCOTT FARLOW:** Why isn't Garry Willmington the sublessee?

**Mr PAUL SCULLY:** He's done some really—well, I don't know why. You'd have to ask him that. What has happened is there is someone there who is working as late as Saturday afternoon and Saturday evening to make sure that racing is back in March of this year. That ultimately should be the test because otherwise we risk leaving that track idle for more time, as your Government previously did.

**The Hon. SCOTT FARLOW:** Minister, when did Western Sydney Parklands enter into a lease with Western Sydney drags?

**Mr PAUL SCULLY:** I'll defer to Ms Hawyes. She's got all the details, as we've said multiple times.

**MELANIE HAWYES:** Thank you, Minister. Our lease is with Sydney Dragway. It's a matter for them if they wish to sublease—to bring in, in this instance, people with industry experience in running speedway. I note there is a team of people at the speedway; it's not just one or two people.

**The Hon. SCOTT FARLOW:** Ms Hawyes, the question is when did you enter into the lease with the dragway?

**MELANIE HAWYES:** It was the—let me get the exact date. My recollection is that it's 22 December—the lease or the sublease?

**The Hon. SCOTT FARLOW:** The lease.

**MELANIE HAWYES:** The lease with dragway—22 December 2023.

**The Hon. SCOTT FARLOW:** The lease with the dragway?

**MELANIE HAWYES:** Sorry, that's the sublease. My apologies. The lease with the dragway—November 2023. We entered an agreement for lease on 6 November 2023 and finalised that on 22 December at the same point in time at which the sublease was finalised.

**The Hon. SCOTT FARLOW:** So, Minister, when in November 2023 you were already seeking an agreement with Western Sydney International Dragway, why wasn't that announced publicly?

**Mr PAUL SCULLY:** There was no particular reason. It wasn't announced. Not every decision of government is announced.

**The Hon. SCOTT FARLOW:** So you made no determination at that stage to release that information publicly? Give the community some assurance.

**Mr PAUL SCULLY:** Again, I made no positive or negative one. There was some other stuff going on in November that was being announced but that's not to say it happened. There was no announcement at the time.

**The Hon. SCOTT FARLOW:** Minister, given 13.4 (i) of the lease of the speedway to the Western Sydney International Dragway states, "The lessee has given the lessor at least one month's notice in writing a proposed sublease or license together with details of the proposed transaction and a copy of all the proposed documentation or other relevant information", how is it possible to comply with that lease when the Sydney International Speedway Pty Ltd was only formed nine days before that sublease was entered into?

**Mr PAUL SCULLY:** Again, I'll defer to Ms Hawyes about the process they've led there because, again, it was in accordance with the Act; it was not a decision of mine

**MELANIE HAWYES:** Thanks, Minister. There were obviously negotiations with the dragway as to their ability to move forward. You mentioned the agreement for lease. We wouldn't normally make an announcement at that point because it's marking a step towards a formal lease.

**The Hon. SCOTT FARLOW:** Ms Hawyes, I'm asking about the lease and the sublease now.

**MELANIE HAWYES:** So what was the question, specifically?

**The Hon. SCOTT FARLOW:** The question is that, given 13.4 (i) of the lease of the speedway to the Western Sydney International Speedway states, "The lessee has given the lessor at least one month's notice in



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**CORRECTED**

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writing a proposed sublease or license together with details of the proposed transaction and a copy of all proposed documentation and all other relevant information", how is this possible given that Sydney International Speedway Pty Ltd was only created nine days before they entered into the sublease?

**MELANIE HAWYES:** I'll need to take on notice the details of the documents that were provided in the lead-up to the formal application of final documents for the sublease but there was a period of negotiation with the dragway where they were looking at putting together the proposal for an operator.

**The Hon. SCOTT FARLOW:** How is that possible when the company didn't exist one month prior to that sublease?

**MELANIE HAWYES:** I will need to take on notice the exact details of the documents that were put to us and the dates on which that occurred.

**Mr PAUL SCULLY:** The big question when it comes to speedway, shadow Minister, is how it was allowed, from 2020 through to the change of government, for the speedway to actually be looked at as being used—\$110 million.

**The Hon. JACQUI MUNRO:** Point of order, Chair. There's no question in relation to this answer.

**The Hon. SCOTT FARLOW:** Minister, in three years' time you can come and ask some questions but now we are asking you the questions. Minister, I would ask that, given under the lease it is a requirement that Western Sydney Parklands Trust establishes that the lessee is "of good repute and has not been the subject of significant adverse publicity or the subject of any formal adverse finding by any authority that would cause a reasonable person to have concerns about reputational risk to the lessor or the fitness or ability of the lessee to perform its obligation and meet each of the assignment tests, and has demonstrable experience in successfully carrying on a business of the kind permitted under the permitted use, has funding available to fund its obligations under the sublease or license", will you now admit that your department have failed, at best, on this account, or simply not undertaken any assessment of this company formed nine days prior to the announcement?

**Mr PAUL SCULLY:** No, I won't. Nice grab, by the way.

**The Hon. SCOTT FARLOW:** Minister, this is a company formed nine days before the announcement—

**Mr PAUL SCULLY:** I know it is. I know.

**The Hon. SCOTT FARLOW:** —run by a discharged bankrupt, with an undischarged bankrupt as the shadow director, who's making all the announcements—

**Mr PAUL SCULLY:** Your words.

**The Hon. SCOTT FARLOW:** —who's the one standing in all the photos. He's the one standing in all the photos.

**Mr PAUL SCULLY:** You won't even table your documents.

**The Hon. SCOTT FARLOW:** It's not his mum.

**Mr PAUL SCULLY:** His mum might be photo shy; I don't know. I'm not going to go—

**The Hon. SCOTT FARLOW:** Where's Yvonne, Minister?

**Mr PAUL SCULLY:** You'd have to ask her that.

**The Hon. SCOTT FARLOW:** Minister, you should be asking this. You've handed a \$110 million speedway over to them.

**Mr PAUL SCULLY:** And? For all intents and purposes, we have a program of works in place that will get racing back again on 23 March this year, which I'm very much looking forward to after multiple years of you guys not giving a stuff about the speedway community and letting a \$110 million—

**The Hon. SCOTT FARLOW:** Minister, let me ask—

**Mr PAUL SCULLY:** Mr Ayres wouldn't even admit as to how much money had been spent on it.

**The Hon. SCOTT FARLOW:** —has any discount or rent-free period been offered with respect to the lease or the sublease.

**Mr PAUL SCULLY:** I'll refer you to Ms Hawyes, who has the detail of the leasing arrangements. It's not something that comes over my desk, in accordance with the Act.

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**CORRECTED**

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**MELANIE HAWYES:** There are obviously terms and conditions in terms of rent payable to us, and there's a period where it starts, which is after events have started, because their ability to raise revenue is when events begin.

**The Hon. SCOTT FARLOW:** What is that period of rent-free?

**MELANIE HAWYES:** One month, from memory, but let me get the details for you this afternoon.

**The Hon. SCOTT FARLOW:** One month after the first event or one month after the lease was entered into?

**MELANIE HAWYES:** Let me get the specifics for you this afternoon; I want the record to be accurate. You also raised concerns about Mr Boldy. It may be helpful for you to talk through the steps we've taken since concerns emerged about him—but later, if that's all right.

**The CHAIR:** We'll take that up later, thank you. I just want to finish up on one thing about the probity processes and the anti-corruption measures.

**Mr PAUL SCULLY:** Which one. We've got multiple probity processes in the department, which is great. The department of planning should have that.

**The CHAIR:** Absolutely it should. And you would remember, Minister, ICAC has made many recommendations for decades now—

**Mr PAUL SCULLY:** And we have been implementing them.

**The CHAIR:** —of how to safeguard the planning system from corruption, because it is the hotbed for that kind of activity.

**Mr PAUL SCULLY:** Indeed.

**The CHAIR:** I just wanted to know whether it's possible and perhaps to take on notice—I know that the secretary referred to ARC and the probity system or committee.

**KIERSTEN FISHBURN:** That's the Assessment Review Committee. That was the committee who undertook the analysis in relation to the transport orientated development.

**The CHAIR:** In relation to probity matters, you mean?

**KIERSTEN FISHBURN:** No, we had a probity adviser who sat on that ARC.

**The CHAIR:** On that committee.

**KIERSTEN FISHBURN:** That's correct.

**The CHAIR:** Are there details of who that probity expert is and—

**KIERSTEN FISHBURN:** It was Procure Group.

**The CHAIR:** Thank you. Minister, why do you continue to accept major expansions for coalmines which are increasing the amount of coal mined, the length of the mining and the area of mining as modifications instead of requiring a full and new environmental assessment?

**Mr PAUL SCULLY:** Because in most circumstances they are modifications, but I might defer to either Mr Preshaw—yes, Mr Preshaw is probably best placed.

**The CHAIR:** Thank you, Minister. I'll be taking it up with Mr Preshaw and Mr Gainsford, but my question is—

**Mr PAUL SCULLY:** Part of the reason is we accept planning proposals. That's the job of the planning department. We don't have to approve them, but we do have to accept and assess them.

**The CHAIR:** Minister, my question is this—if you could take time to listen to the question. These are modifications that are being approved by you under delegation. The test for those modifications is that they are substantially the same development.

**Mr PAUL SCULLY:** Correct.

**The CHAIR:** And the question really goes to why are you accepting that they are substantially the same when we know, for example, Mt Arthur Coal will mine an extra 90 megatonnes of coal and emit an additional 193 total life cycle emissions over the four years of operation? How can that substantially be the same as the mine that would otherwise have closed in 2026? How do you—

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**CORRECTED**

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**Mr PAUL SCULLY:** Which mine that you would have closed in 2026?

**The CHAIR:** This one's Mt Arthur. You are the decision-maker here.

**Mr PAUL SCULLY:** Yes.

**The CHAIR:** So how do you justify here, now, to this Committee that we are talking about substantially the same development. When we're talking about such an extension and increase in emissions, footprint and impact, it is not substantially the same development. Why have you not required a new application with a new assessment?

**Mr PAUL SCULLY:** Okay, so that comes—is that the end of the question, sorry?

**The CHAIR:** It is, thank you.

**Mr PAUL SCULLY:** Sorry, I thought you had a little bit more, that's all.

**The CHAIR:** No.

**Mr PAUL SCULLY:** It comes down to, in part, what's considered under the current Act and arrangements as a modification. Perhaps it's useful, again, when we've got technical experts around the table, to get that information upfront in terms of this conversation, so we can have a more informed conversation. Mr Preshaw may wish to take you through what is assessed by the experts, including the independent panel on mining, in terms of that—in terms of what is considered a modification whereas what might be considered a new project.

**The CHAIR:** Thank you for that. Minister, have you been—

**Mr PAUL SCULLY:** So you don't want the answer?

**The CHAIR:** No, I will take it up, as I said, with Mr Preshaw after my time with you.

**Mr PAUL SCULLY:** Sure.

**The CHAIR:** Have you been made aware of any legal advice that may have been circulating around that's been prepared on behalf of coalmining companies or that would go to this question of what is a modification and what is not?

**Mr PAUL SCULLY:** I'm not aware of any legal advice, no.

**The CHAIR:** Have you obtained your own legal advice about when you are required to answer these questions about whether it's substantially the same—

**Mr PAUL SCULLY:** I get advice from experts in the department all the time.

**The CHAIR:** Is that legal advice or technical advice?

**Mr PAUL SCULLY:** It can be legal advice. It can be planning advice. It can be a range of other advice.

**The CHAIR:** Have you received legal advice on these modifications of these major coalmines that are threatening us reaching our climate targets?

**Mr PAUL SCULLY:** I think, and I'll take this on notice for detail and Mr Gainsford might be able to offer some additional information here, generally, it's part of the suite of information that comes to me when a decision needs to be made.

**DAVID GAINSFORD:** Chair—

**The CHAIR:** So is it the fact then that—

**Mr PAUL SCULLY:** Sorry, did you want the additional information from Mr Gainsford about how it works?

**The CHAIR:** I get the feeling I know a bit how it works, and I'm asking you some questions, Minister.

**Mr PAUL SCULLY:** Sure, so you don't want to know.

**The CHAIR:** Have you requested legal advice about your powers to approve these modifications?

**Mr PAUL SCULLY:** I get advice from the department on a whole range of things and some of that—

**The CHAIR:** No, have you requested it?

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**CORRECTED**

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**Mr PAUL SCULLY:** The legal advice comes up in terms of how we're doing. It's part of the conversations that I have with my departmental officers all the time. Have I engaged a lawyer myself to go off and provide that advice? No. Is legal advice provided to me? Yes, on a range of matters.

**The CHAIR:** So I think the answer is no, you didn't specifically—

**Mr PAUL SCULLY:** Personally, I haven't sought my own legal advice, no.

**The CHAIR:** Do you mean personally as the Minister for planning making decisions to expand coalmines?

**Mr PAUL SCULLY:** I just mean personally.

**The CHAIR:** Sorry?

**Mr PAUL SCULLY:** I mean personally. I have not requested specific advice about the matter you're referring to. It is part and parcel of the considerations of the department when it comes to that. I consider the departmental procured advice and legal advice to be legal advice when it comes to me.

**The CHAIR:** So I take it, then, that you're very comfortable—I could be using the wrong term, but it sounds like you're comfortable—with the current process, that when you have a modification for expanding a coalmine significantly through the modification process you're happy that they're getting approved?

**Mr PAUL SCULLY:** The ones that have come to me so far, yes. You must recall that many of them are in the assessment process, so they don't come to me at that early stage of the process. However, when an issue is presented to me for decision, I do have the opportunity then to ask a series of questions, ask for additional advice, ask for legal, economic, environmental, whatever the advice may be to satisfy myself at the time, and I reserve the right to do that on any individual project or proposal.

**The CHAIR:** Moving to another mod—that was Mt Arthur—the Boggabri mod, on what basis did you satisfy yourself to put so much weight on the strategic statement on coal over and above the recently passed Climate Change (Net Zero Future) Act?

**Mr PAUL SCULLY:** Okay, now I know where we're going here. It might be worthwhile, before we get on to the specifics of Boggabri, which was not something that was approved by me and my signature—Mr Gainsford will be able to add details on that.

**The CHAIR:** Minister, can I get your view on your understanding of what delegation means to you as planning Minister?

**Mr PAUL SCULLY:** In what sense?

**The CHAIR:** When somebody is signing an approval as your delegate, what's your understanding of that?

**Mr PAUL SCULLY:** There are multiple levels of delegation within the planning system. If you've got a specific example, then I'm happy to—

**The CHAIR:** I'm referring to Boggabri.

**Mr PAUL SCULLY:** My delegation also extends to correcting typos in LEPs. Seriously, that's what it extends to.

**The CHAIR:** Minister, we're on shoddy ground here.

**Mr PAUL SCULLY:** We're not.

**The CHAIR:** We're talking about approving major coal developments and fixing typing errors. Are you suggesting that delegation—

**Mr PAUL SCULLY:** I'm not saying they're equivalent. But you're asking about delegation, and delegation does range to that full gamut of things.

**The CHAIR:** It does, and so my question to you is, what is your understanding of your delegation powers when you're providing approval to the continuation of projects that are literally contributing to climate change like nothing else right now—coal?

**Mr PAUL SCULLY:** I'm really not sure of your question. My understanding of delegation is there's delegated decision-making under the provisions of the Act. That doesn't mean, when there are large decisions, that I have no role in it, that I don't seek briefings or that I don't seek advice and further understanding of things. However, in terms of the technical detail, as you would imagine, there is a great deal of information that gets

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**CORRECTED**

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examined in these things. Mr Gainsford, in the Boggabri example that you cite, can provide some more information of that process and how that was undertaken and that decision-making process.

With respect to the Net Zero Commission, as you would be aware, the Net Zero Commission is to be established later this year. I expect that there will be a great deal of work done between the Department of Planning, Housing and Infrastructure and the Net Zero Commission through time, as the New South Wales Government seeks to achieve its now legislated greenhouse gas emissions targets—I'm pleased that that was supported. It's very important that we look at all parts of the planning system to help achieve that. That's why we've done great work through Mr Gainsford and Mr Preshaw in terms of the approvals, and the speed and accuracy of approvals, of renewable energy projects and the like, which are part and parcel. You can't look at one side of a coin without looking at the other in a lot of these circumstances. We're actually doing more work in terms of making sure that there is renewable energy. There's work being done to reduce greenhouse gas emissions in the system rather than produce them. But, again, if you want to get into the details of Boggabri and that decision-making process and the examination of facts, then that's Mr Gainsford.

**The CHAIR:** Once again, Minister, I will take it up with Mr Gainsford when you're not here.

**Mr PAUL SCULLY:** There you go. You know what you're up for this afternoon.

**The CHAIR:** It's very straightforward. Minister, is it fair for me now to take away from here that, in relation to those modifications, you are completely satisfied that they have been approved and with the way they've been approved—as modifications—and that you leave the detail to your delegate, and you don't engage with that detail?

**Mr PAUL SCULLY:** No, that's actually not what I said.

**The CHAIR:** I've heard incorrectly.

**Mr PAUL SCULLY:** Yes. What I said was, just because someone may hold the pen that signs the final piece of paper doesn't mean that I don't make inquiries, that there aren't regular briefings or that there aren't discussions.

**The CHAIR:** Going back to the very first part of the question on Boggabri, how did you reconcile, as the decision-maker, to place so much weight on the strategic statement on coal when your Government had just passed, with the support of the Parliament, the net zero future Act?

**Mr PAUL SCULLY:** As I outlined, the statement on coal at that point in time was the policy of the government of the day.

**The CHAIR:** But so was the climate change Act. You had an entire Act of Parliament that said what you had to do.

**Mr PAUL SCULLY:** You're assuming that the assessment of a very complex and very large project happens in an instant. The Net Zero Commission doesn't come into existence until later in the year. That work is being done.

**The CHAIR:** But the strategic statement on coal was drafted by the last Government.

**Mr PAUL SCULLY:** Yes, and I expect that the—

**The CHAIR:** And it's very dated.

**Mr PAUL SCULLY:** There may be a view of the Minister of resources to reconsider that. I don't know. That's one that you might have to ask her in her estimates session. However, what the planning department will do and what the planning system will do is make sure that it's working towards the achievement of the New South Wales Government's net zero goals. It considers and has to consider planning proposals that are put to it. The Net Zero Commission comes into effect and existence later this year. I expect and I hope—and I'm working closely with Minister Sharpe on a range of these things, but I would expect—that the department will be working closely with the Net Zero Commission to make sure that those arms of government, those decision-making arms of government, are lining up together and are synchronised, because we don't want a repeat of the internecine wars between various factions of the Liberal Party that existed under the previous Government when it came to addressing our climate change targets, which left us well behind the pack.

**The CHAIR:** From what I've been able to ascertain, under the former Coalition Government, the only projects where the Minister for planning—and I addressed this with you at the last estimates, so I'd like to carry this on just briefly—asked the IPC to undertake public hearings and remove those merit appeal rights of submitters were mining projects. As you know, this means that communities actually had merit appeal rights on, for example, solar projects and not coalmines. Do you think that's perverse?

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**CORRECTED**

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**Mr PAUL SCULLY:** I think many things under the previous Government were perverse.

**The CHAIR:** What is your approach going forward? Do you want communities to have—

**Mr PAUL SCULLY:** My answer hasn't changed from the last time, in that I will look at projects and examine them on a case-by-case basis in terms of referrals to the IPC. To be honest, that's the responsible approach of any Minister. Until there's a change of government policy that says otherwise, that's the approach I will take. I'm not announcing a change of government policy here today, Chair, you might appreciate.

**The CHAIR:** Is it perverse that communities would have rights to appeal the approval of a solar project but not a coalmine project?

**Mr PAUL SCULLY:** Perhaps it's worthwhile looking at what we're doing holistically in terms of renewable energy projects more generally. Recently we put out for discussion and feedback—and we've got some pretty reasonable feedback, I think, on the guidelines on a range of issues in terms of the approval and assessment of renewable energy projects—because these are important projects, whether they be on the coast or inland. And communities rightly become concerned about these things. Councils rightly become concerned about these things because they don't necessarily—a lot of councils feel that they don't have the skill set to negotiate a voluntary planning agreement with some of the organisations and the like. So we put out these guidelines for discussion and feedback—we've got some, and we're considering that at the moment—about how we can do this better, because there were holes in the system. I think you would know the sort of holes that we're referring to.

**The CHAIR:** I do. Minister, if I could just redirect you briefly. Thank you—

**Mr PAUL SCULLY:** We're trying to improve what comes into the system in the first instance.

**The CHAIR:** We love the guidelines. We know how hard all of the department works on developing guidelines.

**Mr PAUL SCULLY:** I'm glad. I'm pleased. There you go, Mr Gainsford. That's well done. Well done, Mr Preshaw.

**The CHAIR:** We love the guidelines when they lead to consistency and certainty and—

**Mr PAUL SCULLY:** I think they will, but they haven't come into effect yet, as you'd appreciate.

**The CHAIR:** We love guidelines that don't stamp out communities' appeal rights to seek justice from bad decisions.

**Mr PAUL SCULLY:** We're working on that balance. It's an interesting balance because, arguably, the renewable energy zone process that has been undertaken and introduced under the previous Government, with the support of Labor, I have to say, because they basically nicked our policy from the 2019 election—but there's an argument that says that those renewable energy zones, because they've been identified for some time, there's not an unreasonable expectation of greater intensity in those areas. But that doesn't mean those renewable energy zones are to the exclusion of all other areas when it comes to good renewable energy projects. What we want to do is improve the entire system, not just improve it bit by bit.

**The CHAIR:** On that, if we're looking for improvement and better accountability and integrity in decision-making, will you be referring the renewable energy projects, as they are proposed, to the IPC for public hearings, like you have and other Ministers have coalmines?

**Mr PAUL SCULLY:** We will be looking at how we improve the system across the board. I'm not announcing any policy changes today, but we'll accept that—Mr Gainsford, I think you can take Ms Higginson's suggestion as part of that guidelines effort.

**DAVID GAINSFORD:** Consideration.

**Mr PAUL SCULLY:** We'll take that into consideration. Absolutely.

**The CHAIR:** Thank you.

**Mr PAUL SCULLY:** I think you'll find, when it comes to my views on this, that I'm actually quite keen not only to achieve things for renewable energy generation generally, but I really want to see local jobs created out of this. I represent a region that has the largest steel producing facility in it. It's a heavy-to-abate industry. It takes in a lot of concrete through the port of Port Kembla. I'm very conscious of that, but also very conscious of the need to not only do things with accuracy, with speed and with precision but also in a way that we achieve our shared goals. That shared goal should include increasing the general employment that comes as a result of this.

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**CORRECTED**

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**The CHAIR:** Are you also keen to stop giving the export coal industry a free kick under the planning system by providing approvals to modifications and referring their projects to the IPC for public hearings?

**Mr PAUL SCULLY:** I think we've explored that already today.

**The CHAIR:** I'm not certain. Are you at the point now where you are willing to stop doing these modification approvals and referring their projects to the IPC for public hearings?

**Mr PAUL SCULLY:** I'm at the point that projects continue to be considered on a case-by-case basis, as they should. That's what a merit assessment process is about. We'll continue that. Where there are changes in Government policy, whether that comes about as changes to the statement on coal or changes as a result of the introduction of the Net Zero Commission, we will, of course, take those into account in the system.

**The CHAIR:** When will we see you advocating for a change to the statement of coal?

**Mr PAUL SCULLY:** The future of the statement of coal is in the resources Minister's hands. I'd encourage you to ask her about it.

**The CHAIR:** No, your advocacy.

**Mr PAUL SCULLY:** My discussions with my Cabinet colleagues are just that: Cabinet discussions.

**The Hon. SCOTT FARLOW:** Ms Fishburn, you previously indicated some of the additional measures taken with respect to the TOD. As part of that, you outlined that those who are making suggestions on site selection were requested to sign a separate confidentiality agreement.

**KIERSTEN FISHBURN:** Correct.

**The Hon. SCOTT FARLOW:** How many of those confidentiality agreements were signed?

**KIERSTEN FISHBURN:** I'll have to take that on notice.

**The Hon. SCOTT FARLOW:** Was Ms Katie Joyner one of those people?

**KIERSTEN FISHBURN:** Ms Joyner was not involved in the TOD work.

**The Hon. SCOTT FARLOW:** You also indicated that a site selection was narrowed down, files were moved to secure storage with limited access and information was shared internal to government only on an as-needed basis. How many people had access to that file?

**KIERSTEN FISHBURN:** There isn't a single number. It would be dependent on who is required to have access to that information.

**The Hon. SCOTT FARLOW:** Can you take on notice how many people have access to that—

**KIERSTEN FISHBURN:** I can certainly take it on notice—

**The Hon. SCOTT FARLOW:** —file over the period?

**KIERSTEN FISHBURN:** —but there's not a single file either, Mr Farlow, as you can appreciate.

**The Hon. SCOTT FARLOW:** I can imagine it would be a folder and—

**KIERSTEN FISHBURN:** Yes.

**The Hon. SCOTT FARLOW:** —special files that have access rights—if we could have the number of how many people had access rights to anything under that. You also said that the department took targeted consultation with stakeholders during program development. Did these stakeholders include local government?

**KIERSTEN FISHBURN:** Yes, we did speak to some councils. It would not be every council. I'm sure we'd be able to furnish a list of the councils that we consulted.

**The Hon. SCOTT FARLOW:** When were the files moved to secure storage with limited access?

**KIERSTEN FISHBURN:** I would have to take that on notice. I suspect it was around August, because that was the point in time when the program became more defined. But I will take the date on notice.

**The Hon. SCOTT FARLOW:** On what date was the interagency assessment review committee established?

**KIERSTEN FISHBURN:** The committee commenced in July. Do we have the exact date, Ms Gibson?

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**CORRECTED**

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**MONICA GIBSON:** Mr Farlow, the assessment review committee met on two dates—7 and 8 August 2023.

**The Hon. SCOTT FARLOW:** Who were the members of that assessment review committee?

**KIERSTEN FISHBURN:** I don't have the specific names, but I can give you the departments that people came from: obviously the Department of Planning and Environment, as we were; the former Greater Cities Commission, as they were; Treasury; Transport for NSW; Infrastructure NSW; the Cabinet Office; the Office of Local Government; and the Department of Communities and Justice.

**The CHAIR:** Minister, in the short minute before we move to Government time, what do you say about the City of Sydney report that states, about the Minns Government's claim to be acting on the National Housing Accord:

The NSW Government has broken its commitment to the Accord as it did not work directly with local governments in preparing this planning and land use reform. As a result of the lack of collaboration the reforms are poorly constructed and need substantial change to achieve their intended aims.

**Mr PAUL SCULLY:** I disagree.

**The CHAIR:** Do you not think there's some merit in that?

**Mr PAUL SCULLY:** No, I disagree because you know why? The secretary—I think this has got to be a first. It certainly wasn't done under the previous Government. The secretary and Ms Gibson have been talking to councils and briefing them on the details. I speak to mayors and representatives of councils on a regular basis and the door remains open. The Premier and I have made this clear on multiple occasions in terms of working on the detail. That's exactly the process we're going through at the moment.

**The CHAIR:** Then why is there so much dissatisfaction? Is it your intention? Is it your view that you think all of this dissent and concern will just go away and that your plan is right and it will all just go away?

**Mr PAUL SCULLY:** I think there are some areas where there will always be more trees planted than houses created. However, most local governments and most mayors are beyond an initial reaction, which I appreciate. It's been much like the initial reaction of some in this place because until you start to understand the details—which is why I wanted to get people taken through that to begin with. When you hear that, it's changed. Let's take the Mayor of Canterbury-Bankstown, for instance. You would've seen, in the earliest days, he made some statements which were uncomplimentary—let's describe it that way—of what we were proposing. However, if you look at his mayoral minute recently, as reported in *The Daily Telegraph* today, there has been a considerable change once he's had further discussions about its impact and about how local areas—because it's not the one-size-fits-all characterisation that the Liberal Party might want to adopt—can work with the Government to come up with ways of best delivering the housing. He's actually quite critical, and rightly so, of councils around him that are not doing their share, meaning that other councils are having not only to pick up their part of the housing targets but also to do other people's work for them.

**The Hon. ANTHONY D'ADAM:** I just have one question to Ms Hawyes. Are there any conditions that have been included in the licence to operate the speedway in order to ensure that appropriate people are making decisions regarding the management of the venues?

**MELANIE HAWYES:** Thanks for the question. I think I've said before it would be helpful for the Committee to understand the steps we've taken since concerns were raised around Mr Boldy. I do note that our lease is with the dragway. The dragway is liable for the performance of the venue including the performance of its contractors. Since concerns emerged around Mr Boldy we exchanged correspondence with the dragway. We were provided with written assurance that he is not in an executive role. He is not in a role that involves financial management. They also took steps to prevent representations on social media that do not reflect that. Subsequently, the Office of Sport issued a licence for racing that was addressed to Mr Garry Willmington as the track manager. The licence is with the speedway and it, again, includes a safeguard that Mr Troy is not in a managerial role over the operation of events at the speedway. They are steps we've taken in conjunction with the Office of Sport since concerns were raised with us about him.

**Mr PAUL SCULLY:** Pretty comprehensive.

**The CHAIR:** Any more questions? We will take a short break. We'll reconvene at 11.15 a.m. Thank you, all.

**(Short adjournment)**



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**CORRECTED**

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**The CHAIR:** Thank you. Welcome back. There are some documents being tabled and then we will resume with questions from the Opposition.

**Mr PAUL SCULLY:** Chair, if I could, I just want to clarify and add to an answer I provided earlier. You asked about the assistance we're providing local government with development assessments.

**The CHAIR:** Yes.

**Mr PAUL SCULLY:** I indicated that our student planner grant program was between 60 and 70 councils. It's actually 74 councils who have taken it up, and the value of that program's \$1.85 million because there's \$25,000 per council. I just wanted to make sure that that was an accurate reflection. I had 64 in my head; turns out 74. There was an increase in demand in that one.

**The CHAIR:** Fantastic. Thank you, Minister.

**The Hon. SCOTT FARLOW:** Minister, when will the TOD SEPP commence?

**Mr PAUL SCULLY:** The TOD SEPP is planned to commence in April.

**The Hon. SCOTT FARLOW:** Is there a particular date?

**Mr PAUL SCULLY:** Just in April.

**The Hon. SCOTT FARLOW:** Okay. Minister, do you intend on publishing a draft TOD SEPP?

**Mr PAUL SCULLY:** Yes, perhaps Ms Gibson might wish to take us through the next steps in the process. Again, I think it's probably a good idea that we're all starting from a similar level of information.

**The Hon. SCOTT FARLOW:** I'm happy to hear from Ms Gibson on this one.

**MONICA GIBSON:** Happy to, Minister, and thank you, Mr Farlow, for the question. We have been consulting with councils about the proposals in the TOD SEPP as part of information that we've been providing in briefings and that's available on our website. We will produce a draft State environmental planning policy that outlines all of the specific details of the TOD and we will advise the Minister about how that consultation will occur. In the past we have had specific consultation with those who've made submissions and have a strong interest in the proposal.

**The Hon. SCOTT FARLOW:** Thank you. When do you intend to publish that draft SEPP?

**MONICA GIBSON:** We haven't provided a date about when that would be published.

**The Hon. SCOTT FARLOW:** Thank you. Minister, given the Environmental Planning and Assessment Act 1979 states at 3.30:

- (1) Before recommending the making of an environmental planning instrument by the Governor, the Minister is to take such steps, if any, as the Minister considers appropriate or necessary—
  - (a) to publicise an explanation of the intended effect of the proposed instrument, and
  - (b) to seek and consider submissions from the public on the matter.

why did you not consider it appropriate or necessary to either publicise an explanation of intended effect, or to consider public submission on the TOD?

**Mr PAUL SCULLY:** We have published documentation on the Transport Oriented Development Program.

**The Hon. SCOTT FARLOW:** It's not an EIE though. It's 12 pages.

**Mr PAUL SCULLY:** We have published information on the Transport Oriented Development Program. We are taking advice and feedback in consideration of councils and other stakeholders as it comes through. As Ms Gibson outlined with the TOD SEPP, there'll be a process going forward in the lead-up to an intended start in April.

**The Hon. SCOTT FARLOW:** Minister, when did you exercise your discretion to not exhibit or seek public submissions on the TOD SEPP?

**Mr PAUL SCULLY:** We're actually going through what is a—there are two types of public submission processes. There's the broader one, which, you know, we've got the low- and mid-rise plans that we've gone through, then we've got some more targeted stuff. We've been briefing and working with the councils particularly in those areas where there's 39 discretely identified sites, so it's a more targeted process.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Minister, can you explain to the people of those 31 areas that'll be covered by the TOD SEPP why you know their home and their area better than they do?

**Mr PAUL SCULLY:** I don't profess to know their home or area better than they do and that's why we're going through the process of talking to councils.

**The Hon. SCOTT FARLOW:** But you're not allowing them to make a submission.

**Mr PAUL SCULLY:** No. They're quite welcome to—many have.

**The Hon. SCOTT FARLOW:** But you've got no submission process open for them.

**Mr PAUL SCULLY:** That's the great thing about local members as well, and councils and others. There's plenty of information coming back to us. In terms of this, we do not profess to know any area better than anyone else and that's why we're actively engaged with local government, with councils as the representative body at the closest point to those areas, as part and parcel of this process, and it's been a good response so far from councils, to be honest.

**The Hon. SCOTT FARLOW:** Minister, was it the department's advice not to publicise either a draft SEPP originally or to exhibit an explanation of intended effect?

**Mr PAUL SCULLY:** There was an agreement and a set of decisions made to go down the path that we have done, because there were 39 discrete areas involved—and less if you actually count the number of local government areas.

**The Hon. SCOTT FARLOW:** Was there an explanation of intended effect that was prepared?

**Mr PAUL SCULLY:** We are working through the process of consulting with councils in relation to how that will work. There will be, for the eight large accelerated precincts. There's a master planning process which will be working hand in glove not only with local government but with other agencies, and that will be publicly exhibited.

**The Hon. SCOTT FARLOW:** We are talking about the TOD SEPP set at the moment. Was there an EIE prepared for the TOD SEPP?

**Mr PAUL SCULLY:** With the other 31 sites, there hasn't been an EIE published, but there has been a process—

**The Hon. SCOTT FARLOW:** Was there one prepared though?

**Mr PAUL SCULLY:** You'd have to ask the department. I don't believe there was.

**The Hon. SCOTT FARLOW:** Isn't it your responsibility to increase the opportunity for community participation?

**Mr PAUL SCULLY:** The opportunity for community consultation and community involvement exists and continues to. I receive emails regularly and correspondence about the Government's planning changes, both for—a lot for, actually—some against it and some a bit on the fence.

**The Hon. SCOTT FARLOW:** But you've determined, when it comes to this TOD SEPP, not to open public submissions?

**Mr PAUL SCULLY:** As Ms Gibson said, we are going through a process. We will have the draft SEPP published, and the process will be that we have taken a targeted approach because this is a targeted arrangement. It's around 39 sites; they're easily identifiable.

**The Hon. SCOTT FARLOW:** Let's do a compare and contrast. Given your changes to the infill affordable housing provisions, you made the announcement on 15 June 2023. You then went on in September to exhibit draft amendments to the housing SEPP, proposed amendments to the Environmental Planning and Assessment Amendment (Housing) Regulation 2023 and the draft infill affordable housing practice note. Then, from three weeks until Tuesday 17 October, before making any amendments to the draft, you introduced them on 14 December 2023. Why didn't you undergo the same process when it comes to the TOD?

**Mr PAUL SCULLY:** The process around—sorry, I think you're referring to the affordable housing bonus.

**The Hon. SCOTT FARLOW:** Yes—infill affordable housing provisions.

**Mr PAUL SCULLY:** Sorry, I thought you'd referred to the low- and mid-rise housing, so I just wanted to be clear. That's a much more technical piece of work. There is a lot of front-end work that has gone into the

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**CORRECTED**

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development of the Transport Oriented Development Program. That has been in conjunction with a range of departments. It looks at capacity; it looks at a whole range of other things. Perhaps Ms Gibson can take you through the process where we whittled down 305 locations to the 39 that were agreed. However, with the affordable housing bonus, it was a much more technical piece of work in terms of assessing feasibility, because we were applying this—it was not new. It's applying to areas where there were already existing housing transactions or land transactions that had been undertaken.

**The Hon. SCOTT FARLOW:** Were the 31 stations that formed the precinct to be governed under the TOD SEPP the stations that were identified by the department of planning to have the most capacity to support additional growth outside the eight selected as TOD-accelerated precincts?

**Mr PAUL SCULLY:** Do you want the list?

**The Hon. SCOTT FARLOW:** I know the list. I'm asking you, were they the precincts that were identified to have the most capacity from the department?

**Mr PAUL SCULLY:** It was a combination of things, but there was an assessment process. Perhaps Ms Gibson, again—

**The Hon. SCOTT FARLOW:** You say it's a combination of things. What was that assessment process? What was your role in that assessment process?

**Mr PAUL SCULLY:** That's why I'm seeking to answer the question. The process—and Ms Gibson can provide some additional detail to this. The department started out by assessing 305 sites throughout the six cities, from Newcastle to the Illawarra. That looked at a range of factors and ranked them—in addition to—on water and sewer capacity, land fragmentation, zoning around the areas, transport capacity and a range of other matters. That was then reduced down to those 31—and 39 if you include the eight accelerated precincts—that had the greatest capacity to take housing uplift.

**The Hon. SCOTT FARLOW:** Ms Gibson?

**MONICA GIBSON:** As the Minister has outlined, Mr Farlow, there were a number of matters that were considered in the identification of the sites for the TOD SEPP. We did start with 305 stations looking across the Sydney rail network. There were issues that were investigated about the capacity of water, sewer and public transport capacity in those locations, but there were also matters about the council's local planning and where council had identified areas around train stations for residential growth but hadn't completed that planning work or hadn't finished that planning work. There were also investigations about the size and fragmentation of land—areas where there might have been a lot of strata apartments were less preferred to areas where land was held in single ownership. There were also matters investigated about where we had information on flooding, bushfire and other planning constraints, and then there was investigation to understand how much government land might have been nearby train stations so that that could be considered in terms of government land being used to increase affordable housing in these well-located areas.

**The Hon. SCOTT FARLOW:** Ms Gibson, was this list of 31 the top-ranked list, in whole, that the department had put to the Minister?

**MONICA GIBSON:** There was a list of 31 that we put to the Minister and that was our recommendation to the Minister across all of those factors.

**The Hon. SCOTT FARLOW:** And so this list of 31 is the recommended list?

**MONICA GIBSON:** It was the recommended list.

**The Hon. SCOTT FARLOW:** There were no changes made to this list?

**MONICA GIBSON:** There were multiple changes made during the assessment process as we considered various factors, as we also took independent expert advice about development feasibility. All of that information fed into the final recommendation to the Minister.

**The Hon. SCOTT FARLOW:** Ms Gibson, let's take, for instance, Wiley Park. Why was Wiley Park chosen as a TOD site when every parcel of land within the precinct is either R3, R4 or B2 and B6, and would be captured under your changes to create low- and mid-rise housing?

**MONICA GIBSON:** There are interactions between the low- and mid-rise housing and the TOD SEPP, so I acknowledge that there are some places where either or both sets of controls would apply. In relation to Wiley Park—

**KIERSTEN FISHBURN:** You picked one at the end of the alphabet.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** It makes it easy.

**MONICA GIBSON:** My *Hard Quiz* special topic will be the 305 train stations of the Sydney rail network.

**The Hon. SCOTT FARLOW:** I'm a *Hard Quiz* fan too.

**Mr PAUL SCULLY:** Have you got a special topic?

**The Hon. SCOTT FARLOW:** You.

**The CHAIR:** The Minister for Planning and Public Spaces.

**Mr PAUL SCULLY:** God, that's a dull topic.

**MONICA GIBSON:** Wiley Park was identified because of its distance to a major centre—within 30 minutes on the rail—it had a number of existing residential dwellings within that area, there was capacity on the rail network, the zoning was more than 60 per cent residential within walking distance and it was identified as a growth area in local and State planning documents.

**The Hon. SCOTT FARLOW:** It's interesting you raise the 60 per cent residential as one of the criteria. Dapto, for instance, can I confirm that the SEPP doesn't apply to E3 and E4 zones? That's correct, isn't it?

**MONICA GIBSON:** That's correct.

**The Hon. SCOTT FARLOW:** So, given in Dapto there is 131,055 square metres of E3 and E4 land governed under the Dapto TOD and only 34,508 square metres of residential land, why was this chosen as a TOD location?

**MONICA GIBSON:** We might have slightly different information about how much land and how many dwellings there might be, and what the percentage of residential and industrial land might be. I'm happy to take on notice the information that we used.

**The Hon. SCOTT FARLOW:** Thank you. Why is there not one TOD precinct in a seat the Government holds by less than 10 per cent? I'll ask that to you, Minister.

**Mr PAUL SCULLY:** Well, as you just heard, there were 31 recommendations to the Government and 31 recommendations were agreed. We didn't put a political prism over this because—let's have a look at it. There are 31 locations; 77 per cent of those, or 24 of them, are in Labor-held or Government-held electorates. There are three in Independent-held and there are four in Liberal-held areas. But what we did, we didn't cast—unlike the previous Government, we didn't seek to play politics with this. If we wanted to play politics with housing, we wouldn't have done anything like the previous Government did. That wouldn't have addressed the problem that we're seeking to address. What we're seeking to address is making sure that we're lifting those restrictive planning changes that have crept into the system over many years that are disadvantaging young people, disadvantaging older people, locking people out of housing and locking people in a commute. We could have taken the easy approach—

**The Hon. JACQUI MUNRO:** Okay, Minister, I think we've heard the answer to the question.

**Mr PAUL SCULLY:** No, this is an important thing. You're trying to suggest there was—

**The Hon. SCOTT FARLOW:** Minister, you're being redirected by Ms Munro.

**Mr PAUL SCULLY:** You didn't like the answer.

**The Hon. JACQUI MUNRO:** I'd like to ask about the new dwellings. You say that the program will deliver 138,000 new dwellings. I'm wondering why you haven't put any infrastructure dollars on the table for these precincts when they're delivering nearly triple the number of dwellings than the accelerated precincts?

**Mr PAUL SCULLY:** The 138,000 dwellings you cite is over a 15-year period. There is less, obviously, under the housing accord area. But as you heard from Ms Gibson, the prioritisation of that list was based on capacity and that included infrastructure capacity, both the basics—because in order to build a house you need to be able to flush the toilet and have a shower—through to the capacity to be well located in terms of jobs and opportunities, as well as being in transport routes.

**The Hon. JACQUI MUNRO:** So you're saying it already exists.

**Mr PAUL SCULLY:** Well, that had been part of the assessment process.

**The Hon. JACQUI MUNRO:** Did you ask for 31 areas, or how many did you ask for?

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**CORRECTED**

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**Mr PAUL SCULLY:** I didn't ask for any amount. I looked at the recommendations that came to me, as did the Cabinet.

**The Hon. SCOTT FARLOW:** With respect to these reports, many councils have requested copies of this report and copies of the methodology behind these decisions and have been told that it's Cabinet in confidence. Will you release these reports and release this information?

**Mr PAUL SCULLY:** What we're doing is working with the councils in this sort of area. What's happened is that over recent weeks, we've had many councils, after they've received the briefing, give some thought to some of the work that they were already doing, knowing that there was an option to say, "Okay, you might think here is right. We think here is right. We can deliver the same housing numbers." Because that's the key point. The key point is that trigger of housing numbers. What we've found—and the secretary may wish to expand on this, given she's been in direct discussions with some of the councils—is that councils have been doing some substantial work that not a lot of people were aware of that is identifying those areas. We're working with councils directly on very localised, individualised and specific arrangements that relate to their area.

**The Hon. JACQUI MUNRO:** So where councils are asking for support for greater infrastructure, even if they have been identified and they haven't been given any information about why they've been identified in particular—

**Mr PAUL SCULLY:** They have been given some information.

**The Hon. JACQUI MUNRO:** —and they're asking for more support for infrastructure, will you commit to providing that additional infrastructure?

**Mr PAUL SCULLY:** There are a couple of things here. As you may recall, because you voted against it, we reformed infrastructure contributions as one of our earliest considerations.

**The Hon. JACQUI MUNRO:** Yes, and you made housing more expensive to build as a result, so I'm not really sure how that's going to fix the housing crisis.

**Mr PAUL SCULLY:** You did vote against it. You took it to the election and then, when we fixed it, you voted against it. That provides a revenue stream through time. In addition, we've already committed \$500 million around accelerated sites, out of a package of \$2.2 billion, including some money for Landcom, I concede.

**The Hon. JACQUI MUNRO:** But my question was around these precincts, Minister.

**Mr PAUL SCULLY:** You asked how it was going to be financed and how it was going to be funded.

**The Hon. JACQUI MUNRO:** No, actually, I asked if you would support councils in their calls for additional infrastructure if they're in those identified precincts.

**Mr PAUL SCULLY:** That's part of the conversation we're having with councils at the moment.

**The Hon. JACQUI MUNRO:** Is that a yes or a no?

**Mr PAUL SCULLY:** This is a whole-of-government approach. We're working with councils about their infrastructure needs.

**The Hon. JACQUI MUNRO:** Except when they're asking questions about details for the reasons the Government made the decision.

**Mr PAUL SCULLY:** Sure. I appreciate you might not like the answer you're getting but—

**The Hon. SCOTT FARLOW:** Minister, to that \$520 million, you put \$520 million on the table for the accelerated precincts. Where's that money coming from?

**Mr PAUL SCULLY:** That's coming from a range of sources including our infrastructure contributions reforms, which you voted against.

**The Hon. SCOTT FARLOW:** So it's coming from the Housing and Productivity Contribution?

**Mr PAUL SCULLY:** Not all of it, no.

**The Hon. SCOTT FARLOW:** What's that time period over that \$520 million?

**Mr PAUL SCULLY:** It's over the forward estimates.

**The Hon. SCOTT FARLOW:** So of that \$1.5 billion over the forward estimates—that was what you allocated in terms of the Housing and Productivity Contribution—how much is going to pay for that \$520 million?

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**Mr PAUL SCULLY:** Some of it will. The exact amount will be a matter for the finance Minister and the Treasurer and to be determined in terms of exact break-up. But what we've committed is an amount of money that goes to infrastructure around those TOD sites as part of a broader \$2.2 billion housing and infrastructure plan, which we announced in the budget.

**The Hon. SCOTT FARLOW:** With respect to those TOD sites—and these are the accelerated precincts, I should say—when you define high-rise buildings in those precincts, what are you envisaging for those precincts? How high?

**Mr PAUL SCULLY:** That's what the master plan process is about. It will vary by site to site because there are physical constraints on some. For instance, if you're in a flight path, the PRCUTS applies and you can't go over a certain height because you run into problems with CASA. It's just not possible to do that. In other areas, it will be different. That's why we're working and going through that master planning process to get the best possible outcomes in each of those eight sites that is not only a mix of housing but a mix of jobs and a mix of vibrancy. The special entertainment precincts plan applies in those areas near transport. We want to make sure that we're not doing housing monocultures but that we're building communities where people can have employment, access to services, access to open space and access to transport and the like. This is about the evolution of those sites and making sure that the large investment, which I acknowledge was done under the previous Government, actually generates some housing outcomes to get young people into homes where they want to be.

**The Hon. SCOTT FARLOW:** Minister, back to the assessments that were done by your department. Why are you still claiming that they're Cabinet in confidence? Why won't you release those to actually give the public confidence in your plans?

**Mr PAUL SCULLY:** That is because they were decisions of the Cabinet, and what we're going through now is a process through which we're working with the individual councils, contrary to the characterisation of this being a one-size-fits-all approach—

**The Hon. SCOTT FARLOW:** Minister, we're not getting this from the sky. Councils are telling us this. Councils are telling the public that they want to see the assessments, and they are councils from Burwood—Labor councils that are saying they want to see the assessment and don't understand why you're claiming that it's Cabinet in confidence.

**Mr PAUL SCULLY:** And we're working with those councils directly on how it might work. We also want to see information from councils. That's the information exchange that's going on at the moment. I think you'll find that—

**The Hon. SCOTT FARLOW:** Minister, the community wants confidence from your plans—they are actually done with proper methodology. Why won't you just release the assessments? They're technical assessments.

**Mr PAUL SCULLY:** We are working through a process where we're working directly with councils. If communities don't have confidence in their councils, they can address that in September.

**The Hon. SCOTT FARLOW:** They don't have confidence in you.

**Mr PAUL SCULLY:** Good grab.

**The CHAIR:** Thank you. Minister, just following up for my colleague on the housing and productivity contributions, they apply only to the six cities?

**Mr PAUL SCULLY:** Correct.

**The CHAIR:** What are we doing about regional councils that are going to carry more density?

**Mr PAUL SCULLY:** Part of what we announced at the budget was some money that is dedicated towards regional communities and supporting them doing more housing, which was \$100 million specifically but also a series of other programs that regional councils would be eligible for. I understand that, often times, in regional areas, it's the council who's running the water system, the sewer system, doing the stormwater system and the like, and that, for want of a local road or for want of an extension of the water system, they can deliver a lot more homes. That's something we're very conscious of.

In addition, though, in regional communities, we've also got two pilot programs going forward with Landcom, in terms of new build-to-rent sites, one really good site down at Bomaderry—we've extended the number of build-to-rent units we'll get out of that—and one in the Northern Rivers. We'll hope to have some more to say about that in due course. But we're equally working with regional communities because, as we've seen, the

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problem of housing shortages and housing availability as well as affordability is not the exclusive domain of Greater Sydney anymore, not the exclusive domain of Newcastle, Sydney or Wollongong. It now extends to all parts of the State.

**The CHAIR:** I just want to go back, for one moment, to the merit appeals and the appeal rights of communities. I had a look at the register and just realised that currently there's a wind farm project and it's up, literally, for a public meeting now, which would mean that it's gone for public meeting, which would mean that merit appeal rights survive. So anyone who wants to—

**Mr PAUL SCULLY:** Do you know—I don't know the particular proposal. Mr Preshaw might be able to provide some detail.

**The CHAIR:** It's a wind farm project at Kentucky, but the principle is this: It's, literally, a public meeting. If this was a coal project, literally, it would be a public hearing, and therefore no merit appeal rights apply. This is precisely the thing that you suggested was—I think, when I said, "Is it perverse?", you agreed that that's—

**Mr PAUL SCULLY:** No. I agreed that the previous Government was perverse in a range of things.

**The CHAIR:** Of the former Government.

**Mr PAUL SCULLY:** I didn't necessarily agree on that particular issue. I don't know the wind farm project you're referring to. And maybe Mr Preshaw, if you give us the name of it, could add more details of the assessment process.

**CLAY PRESHAW:** Thunderbolt Wind Farm.

**The CHAIR:** It is. It's the Thunderbolt. If you could take this on, Minister—we can't go down a path of having these perverse, manipulated outcomes as to who gets to challenge projects, which projects and where. What we know is that—and I'm fairly sure you're aware of this, Minister—every single coal project, going back to 2012, was referred to the Independent Planning Commission or the PAC, as it was, for a public hearing, which meant merits appeals are extinguished.

**Mr PAUL SCULLY:** I understand your point. And, as I said earlier, we are taking that on a case-by-case basis. But, if there are any changes to government policy, you'll be sure to know.

**The CHAIR:** But this is the thing, Minister. If you recall, in last budget estimates, you said there was no government policy on this, and there is no government policy. It is entirely your power, your discretion.

**Mr PAUL SCULLY:** It is entirely a case-by-case basis, as we've said. It also depends on the pathway of referral because sometimes it's not me who makes the referral.

**The CHAIR:** It is. It's your instrument that instructs whether there will be a public hearing.

**Mr PAUL SCULLY:** Yes, but there are thresholds as to whether or not projects end up at the IPC or not. That is my point.

**The CHAIR:** Will you make a commitment to all the young people and all those communities and all those farmers that, if there is ever another coal project, you won't sign it off to a public hearing, that you will leave it to communities to object, should they choose to?

**Mr PAUL SCULLY:** If and when there is a referral, I'll take your views into consideration.

**The CHAIR:** Thank you, Minister. I also want to bring you back to a matter, again, that we discussed at the last estimates. It's in relation to a particular project, which I now know you will have knowledge of, that is one of these dreadful zombie developments, but it's the one in particular in the Northern Rivers, which is referred to as the Wallum development. We have had so many members of the community appeal to you to exercise your unique special powers, and only you have them, Minister—

**Mr PAUL SCULLY:** Got to be lucky some days, don't you?

**The CHAIR:** —that's right—to assist the community and ask the Commonwealth Minister to call that project in, or for you to refer it, so that it can be properly and ably assessed for its environmental values, which are matters of national environmental significance. These are your powers. You explained on a previous occasion you just don't do that. That's just not something you do. I questioned you further on that. I got some answers on notice back but they still didn't provide a reason why you wouldn't look at the merits of that.

**Mr PAUL SCULLY:** In terms of that specific case I've asked for advice and I'll consider the advice when I receive it.

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**The CHAIR:** Thank you. When you're doing that, Minister, would you please—

**Mr PAUL SCULLY:** I'll bear your views in mind.

**The CHAIR:** Thank you. Well, not my views; the views of many independent ecological experts.

**Mr PAUL SCULLY:** No, but I know that you've been making sure that people contact me and the like, so I appreciate that.

**The CHAIR:** Thank you, Minister. Can I just—

**Mr PAUL SCULLY:** Mind you, can I just say, in terms of that, there's a mixed view in some of the emails that are coming forward. Some people think it should just be approved and go ahead. The question of zombie DAs is a challenging policy one, as we've discussed before. I'm pleased that the lower House environment and planning committee will be starting work specifically on that area to examine this as a policy area. I really am looking forward to hearing what that committee has to say about it.

**The CHAIR:** And this Committee, in its broader planning inquiry, has already received lots of submissions about that.

**Mr PAUL SCULLY:** I'm sure. But that's why—yes, it's in the broader sense and there's a whole bunch of stuff that this Committee is examining, but there's a very discrete piece of work, led by the Chair, Mr Barr, that will be an interesting piece of policy and legal work.

**The CHAIR:** I think that's really good, Minister, and important. But the reality is it's communities on front lines right now dealing with those issues. It's not that some of these matters are in the pipeline and not moving because they're land banked but others—

**Mr PAUL SCULLY:** As I've said before, since day one of the EP&A Act there's been a provision for councils to overturn those decisions. To the best of my knowledge no council has acted on that, but the option remains. Councils can deal with it. Now, it might be worthwhile—I know Mr Farlow is a regular correspondent with council, but it may be that he, in his correspondence or the Committee in its correspondence, or maybe it's explored through the lower House committee—to find out exactly what is the fear for at least going down that path from local Government, when they have the head of power.

**The CHAIR:** I think that's pretty clear. I think it's been put. The fears are lack of support from the State and potential compensation moneys. They are the fears.

**Mr PAUL SCULLY:** Isn't that part and parcel of this discussion and this debate? That's why it makes it a very challenging issue. Because at some point in time someone has received an approval to do something on a parcel of land. At the time that that approval was received, the limits have changed—and I acknowledge the previous Government in making changes to what "substantive commencement" meant. At the time that person X received that approval, those provisions weren't in place, so there's a property right that continues on.

**The CHAIR:** What are your ideas now to stop it from happening? Regardless—I know that you are going to receive information and that's great, but what are your ideas as planning Minister?

**Mr PAUL SCULLY:** I would like councils to exercise their power. They have a head of power and they should exercise it.

**The CHAIR:** And they would have your support in doing that?

**Mr PAUL SCULLY:** The councils should exercise it. I'd like to know—and just fear of compensation, given they've got community views and they're politicians like the rest of us in this room—why councils aren't doing that. There's a local government election. Perhaps that's what these communities should be asking of those seeking public office at the local level, as to whether or not they will exercise that power.

**The CHAIR:** So the communities, at the moment, of Wallum—it's fair to say that I can go back to them and say that the Minister for planning is considering their requests—

**Mr PAUL SCULLY:** No.

**The CHAIR:** —about you exercising your powers?

**Mr PAUL SCULLY:** What I've said is that I've asked for advice. I'll receive that advice, I'll consider that advice and we'll go from there. I'm not predetermining any outcomes of that advice or what it might mean. That's where we're at on that one.

**The CHAIR:** Where are you seeking that advice from?



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**CORRECTED**

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**Mr PAUL SCULLY:** I've asked the department to provide me with some advice.

**The CHAIR:** In particular, which part of the department would you—

**Mr PAUL SCULLY:** The secretary. I start with her.

**KIERSTEN FISHBURN:** It always comes back to me, Ms Higginson.

**The CHAIR:** When is that advice due, Minister?

**Mr PAUL SCULLY:** I haven't got a time line.

**The CHAIR:** You understand—

**Mr PAUL SCULLY:** I understand that there is a particular interest in this one, and I appreciate that. As you might accept, getting the right advice is important, rather than just getting the right timetable.

**The CHAIR:** Can I just ask you about—

**Mr PAUL SCULLY:** Hopefully the two coincide, of course.

**The CHAIR:** I'll ask the secretary, perhaps, after the break, whether we can prosecute that understanding a bit more. One of the things to be cognisant of is the allegation that harm is happening to the environment now.

**Mr PAUL SCULLY:** I'm aware.

**The CHAIR:** There are threatened species listed nationally. You are the only person in the State who has this particular power to do anything.

**Mr PAUL SCULLY:** Let's go down the theoretical thing. Let's say I refer it. It doesn't mean that the Commonwealth has to do anything.

**The CHAIR:** It doesn't, Minister, but it is a very important step. One of the questions—

**Mr PAUL SCULLY:** But it should not be presented as the solution either. That's an important part.

**The CHAIR:** This is planning law. We know that every step is a step in a process.

**Mr PAUL SCULLY:** I think some of the people who might have emailed me over the course of the last few days don't necessarily see the actual path.

**The CHAIR:** I think you'll find that people are very desperate—

**Mr PAUL SCULLY:** Many are.

**The CHAIR:** —for some action.

**Mr PAUL SCULLY:** But you can see some of the commentary on planning issues more generally. I point to the member for Wairoona particularly, who really doesn't have an understanding of it.

**The CHAIR:** That's not a matter for me. Where are we with your Government's commitment to delivering the \$1.5 billion to the Resilient Homes Program?

**Mr PAUL SCULLY:** Let's start off with that, and Mr Draper might be able to add some more to this, if necessary. But the Government remains committed. I note that we are on the eve of the two-year anniversary of the disasters in the Northern Rivers. It's important that we acknowledge that, because that's going to be a confronting anniversary for a lot of people who are still looking to get back to life as normal, or incrementally move towards life as normal. The Government is in the process of undertaking all of the work in relation to the Resilient Lands Program. I'm trying to find the exact numbers to make sure that I inform the Committee correctly. There has been in the order of just over 1,000 buyback requests prioritised. There have been 721 buyback offers approved. Of those, 562 have been accepted, with 12 declined—because it is actually open to people to do that—and 309 have been settled.

In terms of the raising and retrofits program, there has been 370 indicatively prioritised. An additional 360 homes are under assessment. One raising and retrofit offer has been approved and one accepted, accepting that's only a recent part of the program. You would have seen, a couple of weeks ago, that I was with the Premier, the Minister for Housing and the Parliamentary Secretary for Disaster Recovery in Lismore to announce that, in conjunction with Landcom, the Reconstruction Authority and Southern Cross University, land has been allocated for just over 400 lots that will be part of that. That's the first announcement under that \$100 million program that was allocated to that. There will be more announcements with respect to opportunities under the Resilient Lands Program coming.

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We remain., and the Government remains, absolutely committed to working on the recoveries. Why? Premier Minns, the Minister for Emergency Services and I have been such regular visitors to the Northern Rivers since coming to Government. We know that when we got up there the first time, things weren't going well and in part that's because this is the largest disaster of its nature in the history of New South Wales. We're learning as we go along. The Reconstruction Authority is doing a fantastic job in terms of what's reset, getting those programs out and getting people back into homes, importantly, but also helping to rebuild communities, along with the likes of Resilient Lismore and other community organisations who are doing some really fine work up there. I look forward to continuing to work with them because we want to make sure that people are being put in homes, in jobs and communities recover.

**The CHAIR:** Are you aware that 195 excess pods have just left Lismore while people are still desperately looking for accommodation?

**Mr PAUL SCULLY:** I'm not aware of that number. I don't know if anyone else could add some information to that.

**JOANNA QUILTY:** The information I have is that 157 pods were transferred from the Northern Rivers to the Central West and that was a decision of the Expenditure Review Committee in December 2022.

**The CHAIR:** In 2022 those pods were deemed excess pods, then?

**JOANNA QUILTY:** They had been purchased at the time of the floods when investigations were underway to locate sites to set up the temporary villages. As that work progressed, it became apparent that it was going to be challenging to find sufficient sites. I think well over a hundred were identified in the first instance but progressively it was reduced down to a short list of 20, which then became 11. My understanding is that there were excess pods and the decision was taken by the Expenditure Review Committee in December 2022, which was after the devastating flooding that had occurred in the Central West, to transfer those pods to the Central West.

**The CHAIR:** Does that concern you, Minister? Are you aware that there are still people who are desperately looking for accommodation in and around Lismore in the Northern Rivers?

**Mr PAUL SCULLY:** Yes. There were people desperately looking for accommodation in the Central West. Having been to the Central West, a frustration of that community was that they didn't feel as though they'd been sufficiently cared for in their disaster recovery.

**The CHAIR:** So we'll take from the worst disaster most disadvantaged community and give from them to the other?

**Mr PAUL SCULLY:** We had, unfortunately, a finite amount of resources and no-one had actually done the preparatory work for a disaster, not of this size, but a disaster of any size, which is why it was really important that in the last 12 months the Reconstruction Authority has been doing the work on the State Disaster Mitigation Plan. There has been work across government on how we better deal with situations into the future because we are facing a climate where there's going to be an increasing frequency and an increasing order of magnitude of disasters, and we need to make sure that communities are ready to recover. Could we have done things better, or could Government? I say that in the broadest terms, and I'm saying that in a bipartisan fashion, because I think that disaster recovery should be above politics. But it is right to ask questions.

**The CHAIR:** On this, Minister—

**Mr PAUL SCULLY:** But we should be doing things better and we will do things better.

**The CHAIR:** In November—we are on the eve of two years—there was around about 700 or 724 on the list waiting for accommodation. Are you certain of what the current waiting list and the current list is now?

**Mr PAUL SCULLY:** I'll ask Mr Draper to add something to this, but that was the list and we are going through a process of identifying and checking that those people on the list—it's a regular process, I must say—are still in need of housing, or if they've gone and made other arrangements, which many have. Perhaps Mr Draper can add some more to that actual size and nature of the list and where we're up to.

**SIMON DRAPER:** Yes. I'll just acknowledge that my colleagues here are much more involved day to day in this than I am, but just as a general comment I'd say that Ms Quilty's comment was absolutely right. The main constraint for establishing further temporary housing in the Northern Rivers was not the availability of the physical pods but rather the sites to put them on. In fact, there's quite a lot of money invested in creating those pod villages.

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In the Central West, we had different circumstances. There was a new flood, which was really devastating there as well, but because of the nature of those townships and those homes, it was much more possible to put the pods on people's homes. That leads to a much better outcome for the people who can stay where they were living, and they can rebuild their homes while they're living there. We've had some really fantastic examples of that. There is a process for people who are experiencing homelessness or hardship in the Northern Rivers to go through. They go through a number of agencies to register for those purposes. We have a number of community housing providers who work for us, and that's the process by which—but unless there are other places for people to go, exiting the pod villages, there isn't capacity to take more people.

**The CHAIR:** On that, Minister, did the Auditor-General's report concern you, last week, where she said that agencies have not formalised the processes that were used by the 2022 floods, and there is no statewide process at this point to capture the knowledge gained by agencies that were involved in the disaster response?

**Mr PAUL SCULLY:** Yes. At the time that assessment was made, I think that's probably correct. I was a bit surprised that there hadn't been some work done under the previous Government to try and bring these elements together. We can only start with the position we start with.

**The CHAIR:** But I think she was saying that we are not capturing the learning.

**Mr PAUL SCULLY:** But we are. I would dispute that finding.

**The CHAIR:** You're content that's changed now?

**Mr PAUL SCULLY:** Has it changed perfectly? Perhaps not, but there are certainly elements that we've taken from what we've learnt in the Northern Rivers and picked up and taken to the Central West. For instance, the pods on people's homes is an important one. I met Grace who was camped out in her pod in her backyard. She could see the work that was going on, on her house. She was able then to move easily back in rather than us having to set up a whole new area with roads, water, sewerage, electricity and everything to accommodate people. That's an improvement.

The establishment of the Community Leaders Forum in the Northern Rivers has been transferred to the Central West, because that was an improvement we recognised worked up there, so we transferred it there. Every time we learn something, yes, we absolutely take it into account, whether it's good or bad. We don't repeat the bad—we try not to—but we do certainly look to take the good and improve upon it where we can. As I say, that work out of the State Disaster Mitigation Plan rolling down to the local disaster adaptation plans is an important piece of work in making sure we can be as prepared as possible for an event, should it occur, or actually when it likely occurs, in the future.

**The Hon. SCOTT FARLOW:** Minister, now moving back to your changes to low- and mid-rise housing, when will the changes to low- and mid-rise housing come into effect?

**Mr PAUL SCULLY:** We intend to have those brought into effect in time for the start of the housing accord.

**The Hon. SCOTT FARLOW:** By July?

**Mr PAUL SCULLY:** The housing accord period starts on 1 July.

**The Hon. SCOTT FARLOW:** Will you commit to exhibiting a draft SEPP?

**Mr PAUL SCULLY:** The draft is out there. We have been pretty clear on the way we intend to do—

**The Hon. SCOTT FARLOW:** You've got an EIE out, but a draft SEPP?

**Mr PAUL SCULLY:** What I will do is I might get Ms Gibson to take you through what the thoughts are on the next steps in that process.

**MONICA GIBSON:** We have exhibited an explanation of intended effect. That is typically the document that is used—instead of producing a draft SEPP with all the detail—so that it can explain both the reason and background behind proposed questions and for councils to provide submissions and comments back to help refine the policy. Then we would undertake the legal drafting process of producing a draft SEPP.

**The Hon. SCOTT FARLOW:** But when you undertook the provisions of infill affordable housing provisions—the Housing SEPP—you did actually issue draft changes to that SEPP. Why wouldn't you conduct a similar process when it comes to this change which has far-reaching impacts across New South Wales?

**MONICA GIBSON:** You are correct, we did produce a consultation document—a consultation version of the draft instrument for the infill affordable housing bonus. Because it had been some time since the explanation of intended effect had been publicly exhibited in relation to that infill affordable bonus, it was necessary to provide

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some more detail in response to those submissions. It may still be a step that we take—to produce a consultation version of the draft SEPP and to consult with various people who have made submissions and are making submissions so that we can show some of that detail. I've been making a recommendation to the Minister about that.

**The Hon. SCOTT FARLOW:** Thank you, Ms Gibson. I take it from that a draft SEPP could happen. It may not; it's not in the plans at the moment. Is that a fair summation?

**MONICA GIBSON:** That's a fair summation.

**Mr PAUL SCULLY:** That's a fair summation of what you've heard.

**The Hon. SCOTT FARLOW:** Minister, just to get these things on the record from the beginning, your changes to low- and mid-rise housing will have an impact on all R2 blocks across New South Wales. Is that correct?

**Mr PAUL SCULLY:** Only to the extent that dual occupancies will be permissible within R2 lots.

**The Hon. SCOTT FARLOW:** To clarify as well, while the changes permit dual occupancies in all R2 zones they only will implement non-refusal standards in Greater Sydney. Is that correct?

**Mr PAUL SCULLY:** There are minimum lot sizes and frontages that we're introducing in Greater Sydney and across the remainder of New South Wales. Councils will have the opportunity to set those through their local plans.

**The Hon. SCOTT FARLOW:** Okay, so it's only in Greater Sydney. Thank you. With respect to properties that are R2 and located within 800 metres of rail, E2 and SP5 zones and/or E1 MU1 zones that contain "a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants", these will all allow terraces, multi-dwelling houses and manor houses if they are in the Six Cities Region from Port Stephens Council to Shoalhaven City Council. Is that correct?

**Mr PAUL SCULLY:** Subject to there are some minimum lot sizes on multi-dwelling units, on terraces and on dual occupancies. But let's just go to some of this. In all circumstances—

**The Hon. SCOTT FARLOW:** No, we're just establishing a baseline here, Minister.

**Mr PAUL SCULLY:** Yes, I mean, this is part of my answer, right? In all circumstances—and I think this is important to make sure that everyone understands because there has been a clear misunderstanding of this—by providing permissibility we're asking councils to assess, subject to some limited non-refusal standards. Councils still do their merit-based assessments, councils still have the opportunity to refuse applications on a range of grounds, so what we're doing is allowing or making permissible things that should be permissible under various residential zonings.

**The Hon. SCOTT FARLOW:** Minister, this is your contention, isn't it, that—

**Mr PAUL SCULLY:** Well, it's not contention, it's fact.

**The Hon. SCOTT FARLOW:** —the policy simply allows what already should be allowed?

**Mr PAUL SCULLY:** Yes, it does.

**The Hon. SCOTT FARLOW:** But let me just draw to your attention, Minister, that this simply isn't true. Under the standard instrument for a principal local environmental plan described by the Standard Instrument (Local Environment Plans) Order 2006, multi-dwelling housing is permitted with consent in R3 zones. It does not include, in R3 zones, residential flat building.

**Mr PAUL SCULLY:** Sure.

**The Hon. SCOTT FARLOW:** And when it comes to R2 zones, it includes dwelling houses but it does not include multi-dwelling housing. So this simply isn't just allowing what should be allowed. The standard instrument actually doesn't have them as—

**Mr PAUL SCULLY:** No, that's—Ms Gibson will be able to provide you the technical detail, because I think it is important that we get this right, which is what we wanted to do from the beginning of this hearing today.

**MONICA GIBSON:** Thank you, Minister and thanks, Mr Farlow. You're correct in your reading of the standard instrument order and those uses that are specified there. That doesn't include all uses. Only some uses are specifically mentioned in the order.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** But that's the baseline, isn't it?

**MONICA GIBSON:** That has been the baseline, but the planning controls and the review of planning controls of councils across the six cities area has shown that there has been removal of uses like residential flat buildings, like manor homes, like dual occupancies from those zones where they are the expected land uses.

**The Hon. SCOTT FARLOW:** Okay. Are we introducing a new term here—"expected land uses" rather than "permitted land uses"?

**MONICA GIBSON:** The controls and changes that are proposed and that will occur as a result of the EIE are likely to include changes to the standard instrument order.

**The Hon. SCOTT FARLOW:** Okay, that's good to know. With respect to R3 zonings located in those station and town centre precincts, they will all have residential flat buildings permitted in those zones within the Six Cities Region. Is that correct?

**Mr PAUL SCULLY:** Yes, permitted, but permitted doesn't mean automatic approval either.

**The Hon. SCOTT FARLOW:** That's fine, but they will be permitted?

**Mr PAUL SCULLY:** Permission to do something—I was permitted to do many things as a child, it doesn't mean I didn't get into trouble when I did some of them.

**The Hon. SCOTT FARLOW:** Minister, the non-refusal standards, however, when it comes to this classification, are being applied wherever residential flat buildings are permitted. That will be more than the R3 zones. Is that correct?

**Mr PAUL SCULLY:** Sorry, could you just repeat the question?

**The Hon. SCOTT FARLOW:** When it comes to the non-refusal standards, they are being applied wherever residential flat buildings are permitted within these town centre and well-located zones, so will that be more than the R3 zones?

**Mr PAUL SCULLY:** No.

**The Hon. SCOTT FARLOW:** So that won't apply to R1 zones or R4 zones or E1 zones?

**Mr PAUL SCULLY:** No. I think it's important that we clarify this from the get-go so there is no confusion. I'll ask Ms Gibson to provide that technical advice.

**MONICA GIBSON:** Yes, thank you, Minister. Residential flat buildings will be permitted in a number of zones and where it is permitted in those zones those non-refusal standards will apply. That would include some of the employment zones and that may include the general residential zone where that has limited use. We are specifically consulting with the small number of councils that use the general residential zone—that's the R1 zone—about the location and their uses, the council's planning controls in those areas and the development standards that apply. It is quite unusually a small number of councils that use that general residential zone.

**The Hon. SCOTT FARLOW:** Closer to the city and further out, in a sense, it seems to me.

**MONICA GIBSON:** That's right. The City of Sydney and Inner West councils are two of those councils that use that zone. They tend not to have the other types of zones that we're talking about here—the R2 and the R3 zone. There are some very unique zoning schemes for the City of Sydney so we're engaging with them specifically about how the reforms would apply to their LEP.

**The Hon. SCOTT FARLOW:** So effectively, my premise there was correct, that it applies to more than the R3 zones. It applies to wherever residential flat buildings are permitted.

**MONICA GIBSON:** Correct.

**Mr PAUL SCULLY:** Yes, that's no secret; it's in the document.

**The Hon. SCOTT FARLOW:** After consideration of the infill affordable housing provisions, that height actually increases to 27.3 metres so under this provision you could have nine-storey buildings, isn't that correct?

**Mr PAUL SCULLY:** Probably not nine because you've actually got to leave some room for services—often they're contained on the roof line. However, the affordable housing bonus could apply. Again, it would be subject to the assessment process.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Well, Minister it's funny you say, "Probably not nine," because under the apartment design guidelines that are published by the department, nine storeys and above is defined as over 25 metres.

**Mr PAUL SCULLY:** Yes, but it doesn't necessarily mean that just because it's higher than 25 metres that it's going to be nine storeys.

**The Hon. SCOTT FARLOW:** Minister, what's the definition of a—

**Mr PAUL SCULLY:** There's a design element that you have to take into account.

**The Hon. SCOTT FARLOW:** Minister, what's the definition of a full-line supermarket?

**Mr PAUL SCULLY:** A full-line supermarket—and Ms Gibson might be able to provide clarity—is one that provides a full range of services. We're going through the process at the moment of identifying where those suitable retail areas might be. It's important that retail workers also get the opportunity to live close to where they work. Retail workers, cleaners of the supermarkets, packers of shelves—they all need homes too. Oftentimes those areas are also well serviced by other forms of transport—public transport such as buses.

**The Hon. SCOTT FARLOW:** So, Ms Gibson, the definition of a full-line supermarket?

**MONICA GIBSON:** The Department of planning has not specifically defined what a full-line supermarket would be. We know that some councils have. For example, the City of Sydney would consider a full-line supermarket to be one that includes packaged groceries, fresh meat, a bakery, a deli department, fresh fruit and vegetables and frozen foods. They also say that it should have a gross floor area greater than 2,500 square metres.

**The Hon. SCOTT FARLOW:** You're not adopting that definition?

**MONICA GIBSON:** No, we're not adopting that because know that across the Greater Sydney area there will be different types of supermarket services for different communities. We've asked council to specifically provide us with their thoughts about which types of supermarkets, which types E1 and MU1 zones the reform should apply to.

**The Hon. SCOTT FARLOW:** So is it necessary for a full-line supermarket to exist in an E1 zone for it to be classified as town centre precinct?

**MONICA GIBSON:** No, it's not.

**The Hon. SCOTT FARLOW:** So any E1 zone, whether it's got a full-line supermarket or not, could be included in these reforms as a town centre precinct?

**MONICA GIBSON:** That's what we're asking councils to provide us feedback on.

**The Hon. SCOTT FARLOW:** You've got no baseline for that?

**MONICA GIBSON:** We're asking councils to provide us that feedback to look at the issues that are unique to their communities—to provide issues about what services might apply in that area, what public transport applies in that area and what council is already planning for.

**The Hon. SCOTT FARLOW:** Let's turn to a couple of examples here. Southlands Shopping Centre, located in South Penrith—it's an E1 zone. It's got a Woolworths, Australia Post and 24 specialty retailers including food outlets. Is that a town centre precinct?

**MONICA GIBSON:** I'm looking forward reading Penrith council's submission about whether they consider that to be a place where the reforms should apply.

**The Hon. SCOTT FARLOW:** What about Winmalee Village—an E1 zone? It's got a Coles, Australia Post and 20 speciality retailers including food outlets. Is that a town centre?

**MONICA GIBSON:** Similarly, I'm looking forward to Blue Mountains council giving that feedback.

**The Hon. SCOTT FARLOW:** I think they've already done it on the radio, but anyways. Wattle Grove Shopping Village is an E1 zone. It's got a Coles and 19 speciality stores including food outlets. Is that a town centre precinct?

**MONICA GIBSON:** Mr Farlow, you've caught me out on which local government area that might be—

**The Hon. SCOTT FARLOW:** Liverpool. Kiersten knows; she used to be there.

**KIERSTEN FISHBURN:** It's Liverpool.

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**CORRECTED**

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**MONICA GIBSON:** —but an expert next to me has told me that that's in Liverpool. So likewise, we're asking every council to provide that feedback. I know that we've already received at least 40 written submissions from councils in the six cities area with their views.

**The Hon. SCOTT FARLOW:** With respect to this, in terms of that submission from council, is that the be-all and end-all? If council submits to you that something isn't an E1 zone that should be suitably included in the town centre precinct, is that the end of the matter, or will the department just make their own determinations?

**MONICA GIBSON:** We will assess council's submissions. We will talk to them further if there are any points that require clarification. We are looking at what alternatives they might be proposing and we'll provide recommendations to the Minister.

**The Hon. SCOTT FARLOW:** Okay. Let's look at the train stations as well, because not every train station is created equal. Let's take Bargo, for instance. You've got an R3 zone on Radnor Road and Great Southern Road and E1 alongside Rainside Avenue and Great Southern Road as well, all within 400 metres of the railway station. Will this be zoned for six-storey buildings?

**MONICA GIBSON:** We're looking forward to seeing Wollondilly council's submission in relation to that. I know that they have raised some concerns about the level of service to that train station as well as the level of service, water infrastructure and community services in that area.

**The Hon. SCOTT FARLOW:** Minister, I know you object to the "one size fits all" description, but this policy at the moment is a "one size fits all" description.

**Mr PAUL SCULLY:** It's the very definition of not one size fits all, isn't it?

**The Hon. SCOTT FARLOW:** But, Minister, you've gone out with your EIE saying, effectively, this applies everywhere on these requirements.

**Mr PAUL SCULLY:** No, what—

**The Hon. SCOTT FARLOW:** This is a station where it takes an hour and 49 minutes to get to the city. Should it have the same rules applied to it as what Marrickville station has applied to it?

**Mr PAUL SCULLY:** Sorry. You can't have it both ways. There's a lot of people trying to have it both ways in this discussion. I hear that cars are going to be flooding streets and people won't be able to move and then it'll be the death of the car on the other hand; that you can't have it at this train station because the previous Government didn't invest in rail services and left people high and dry; and then it's got to be in this station. The very definition of "one size fits all" was your version of low- and mid-rise housing reform, which made them all complying development, which frustrated the previous two Ministers for planning and the previous Premier. What we're going through is a process where we're actually discussing and actually working through with local government. The exact thing you've asked us to do, we're already doing and working through that with local government so that those local aspects can be reflected in the final instrument.

**The Hon. JACQUI MUNRO:** Minister, I think we've heard—

**Mr PAUL SCULLY:** But the bottom line is that we're trying to make increased permissibility so that more people have access to homes. I don't know what the great objection is with people having access to homes.

**The Hon. JACQUI MUNRO:** Minister, have you mapped the areas that will be affected by the low- and mid-rise housing program?

**Mr PAUL SCULLY:** I don't map areas. What I—

**The Hon. JACQUI MUNRO:** Have you seen a map?

**The Hon. SCOTT FARLOW:** Has the department?

**Mr PAUL SCULLY:** I've seen many, many drawings of maps and various—

**The Hon. SCOTT FARLOW:** Has the department?

**The Hon. JACQUI MUNRO:** Have you seen a map of the areas are going to be affected by low- and mid-rise housing?

**Mr PAUL SCULLY:** As I was saying, I don't personally sit there and map areas.

**The Hon. JACQUI MUNRO:** No, but do you see the maps?

**Mr PAUL SCULLY:** If you actually wait until I finish sentences, you can get answers to your questions.

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**CORRECTED**

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**The Hon. JACQUI MUNRO:** My question is have you seen any maps?

**Mr PAUL SCULLY:** I've seen maps. I've seen scribbled-on drawings from people online. I've seen whole versions of this.

**The Hon. JACQUI MUNRO:** This is a rambling answer that's not relating to my question, Minister.

**Mr PAUL SCULLY:** What I've seen is a lack of understanding generally.

**The Hon. SCOTT FARLOW:** Minister, specifically, has the department mapped the impacts of the low- and mid-rise SEPP?

**Mr PAUL SCULLY:** They've mapped options around the SEPP, yes.

**The Hon. SCOTT FARLOW:** Will you make those public?

**Mr PAUL SCULLY:** We're not making anything public at the moment. What we're doing is going through a version of working with councils so that we've got the instrument there and available. I mean, we've got a lot of information out there. There's been a lot of people responded to it.

**The Hon. JACQUI MUNRO:** It's just not the information that people are asking for.

**Mr PAUL SCULLY:** I appreciate that not everyone understands it, but we are going through the process of getting the instrument right.

**The Hon. SCOTT FARLOW:** Minister, before you identified that you're working through those full-line supermarkets and those E1 zones and the like. Do you have criteria that the department's assessing when it comes to those sites?

**Mr PAUL SCULLY:** I think you heard what Ms Gibson said. We're working with councils. We're waiting for their input. We'll consider their input. If there's more information and clarification that needs to be done, then we'll go back to those councils. But what we're trying to do is say to the councils, "Hey, we've all got to do something in this. We've all got a task. All three levels of government signed up to meeting a 377,000 target over the period of the housing accord. We believe that if we do make these changes to some restrictive zoning, some of which have been tried before, to do this then we believe that we're both in a good way of getting there in a mix of arrangements." Now, just because you change a permissibility on a lot doesn't mean that instantly there's going to be take-up of that. People own lots. They still have to sell them. They still have to be willing to go through a process. There still has to be a merits assessment by councils.

**The Hon. SCOTT FARLOW:** Okay. Minister, Bathurst Regional Council has requested—

**Mr PAUL SCULLY:** There still have to be an approval. There still needs to be a construction.

**The Hon. SCOTT FARLOW:** Minister, I'll redirect you now.

**Mr PAUL SCULLY:** There still needs to be financing.

**The Hon. SCOTT FARLOW:** Bathurst Regional Council has requested to be exempt from the R2 changes for a very reasonable reason: because R2 changes in Bathurst would only increase residential densities in close proximity to the Mount Panorama motor racing circuit and the sewage treatment plant. This changes the permissibility on that site. This is not a non-refusal clause. Don't you see how this is a one-size-fits-all solution that leads to adverse outcomes?

**Mr PAUL SCULLY:** But it's not. I really don't think you understand the concept of one size fits all. That's the sticking point here.

**The Hon. SCOTT FARLOW:** Dual occupancies will be permissible on there. What controls does Bathurst city council have to then refuse a dual occupancy if it compiles with everything else?

**Mr PAUL SCULLY:** Approvals. Just because it's permitted doesn't mean it's compulsory. I accept there's some confusion with what the previous Government did. The previous Government went through a process where not only was it changing permissibility but it was also essentially making it compulsory, in the true version of one size fits all, because it was doing it under complying development. We're not doing that. The merit assessment process remains. We will talk to Bathurst council about their concerns about where the R2 zoning is located. We don't want to just hear, "No, you can't do it." We would much prefer, and we think we're getting, the conversation with many councils, by saying, "Would you mind considering doing it this way so we meet the housing targets that we're trying to get to?"

**The Hon. SCOTT FARLOW:** So will you exempt Bathurst from the application of this policy?



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**CORRECTED**

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**Mr PAUL SCULLY:** We will look at what Bathurst is proposing and what their alternative is. Because just coming to us with no and trying to put a block on things doesn't achieve our overall objective, which is getting more people into homes.

**The Hon. JACQUI MUNRO:** I think you've answered the question, Minister. You've said what you would do.

**Mr PAUL SCULLY:** And I don't know why you object to more people in homes.

**The Hon. JACQUI MUNRO:** The property that you stood at in Cullen Close, Forest Lodge, to demonstrate density done well has a floor-space ratio of 1.15 to one, nearly one-third of what you're proposing. Doesn't this demonstrate how you're misleading the community?

**Mr PAUL SCULLY:** No, it demonstrates how you can do density well.

**The Hon. JACQUI MUNRO:** But are you aware that the mayors you stood with, who are purportedly backing your plan—their submission, like in Parramatta, has requested a two-year deferred commencement from your policy.

**Mr PAUL SCULLY:** Sure.

**The Hon. JACQUI MUNRO:** How is that support?

**Mr PAUL SCULLY:** Once again, it's either one size fits all or it's not.

**The Hon. SCOTT FARLOW:** How is that support?

**Mr PAUL SCULLY:** One minute you're criticising because it's one size fits all, which it is not by very definition.

**The Hon. SCOTT FARLOW:** Backing you in and saying we want out of the plan.

**Mr PAUL SCULLY:** And we're doing that. There will be a range—

**The Hon. JACQUI MUNRO:** Penrith's submissions say that the reforms are premature in the Penrith LGA context and the city needs a more nuanced, place-based approach to the planning of the city.

**Mr PAUL SCULLY:** Yes, and they've got the opportunity to propose that to us.

**The Hon. JACQUI MUNRO:** When can they do that with you?

**Mr PAUL SCULLY:** Right now. We've been getting submissions from councils the whole way through. We've been talking to councils the whole way through.

**The Hon. JACQUI MUNRO:** You're imposing these plans on them. Georges River has requested a deferral from the application of the policy. Are you applying the policy or not?

**Mr PAUL SCULLY:** You've got to understand, there's a little bit of politics being played by some councils, too.

**The Hon. SCOTT FARLOW:** You're playing the politics.

**Mr PAUL SCULLY:** Because local government councillors are politicians too, and they have their eyes on their election or re-election in September.

**The Hon. JACQUI MUNRO:** Labor councillors are quaking in their boots.

**Mr PAUL SCULLY:** Do you speak to any Labor councillors, because I do and they're not quaking in their boots.

**The Hon. SCOTT FARLOW:** They're all speaking to the media at the moment, Minister, and you know it.

**Mr PAUL SCULLY:** Oh, right. They didn't respond to your letter.

**The Hon. SCOTT FARLOW:** Mate, I got plenty of responses. Don't you worry. And from your councils, too.

**Mr PAUL SCULLY:** I know what some of them were, and they were "Get stuffed."

**The Hon. SCOTT FARLOW:** I think there was one of those, actually.

**The CHAIR:** Minister, can you indicate when the Central Coast deferred lands might be determined?

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**CORRECTED**

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**Mr PAUL SCULLY:** I have some information on that here. You're just going to have to bear with me a second while I find it, Chair.

**The CHAIR:** Have you taken into account all the things I identified in my letter?

**Mr PAUL SCULLY:** I recall you writing to me. I can't recall the exact content and wouldn't want to say that I've taken into account everything, because I would not want to suggest that if that's not the case.

**The CHAIR:** I think you said so in your response.

**Mr PAUL SCULLY:** I just can't remember everything you wrote. I'll run through it for the benefit of everyone in the Committee. Central Coast deferred lands planning proposal seeks to integrate deferred lands as set out in Interim Development Order No. 122 and Gosford Planning Scheme Ordinance in Central Coast Local Environmental Plan 2022. The lands are included in the exhibited version of the consolidated Central Coast LEP 2022, which has been made. During the consultation period, which ran under the previous Government from 6 December 2018 to 28 February 2019, of that Central Coast LEP, there were 156 submissions that raised objections to the former method of translating the deferred lands provisions and the methodology used in it to determine the zones. So the deferred lands were excluded from the finalisation of that consolidated LEP in response. The deferred lands planning proposal was exhibited late last year from 11 October to 15 November. It has received 327 submissions, including 192 objections and 77 in support, and the remaining are under review as at earlier this month. So it remains under review, and I look forward to receiving further advice.

**The CHAIR:** Just back to the question. Time line? So it's not yet made. What do you think is the time line to be expected?

**Mr PAUL SCULLY:** I'll defer to the secretary on that.

**KIERSTEN FISHBURN:** We are reviewing submissions. I'm disappointed—it was 13 February, not 14 February—for Mr Farlow. I couldn't give a time line. That's a reasonable number of submissions. And the department, obviously, takes very seriously reviewing them. So I'm reluctant to commit to a time line.

**The CHAIR:** Is it something on your radar, that there were some really significant, just basic errors as well?

**Mr PAUL SCULLY:** Yes. I'm aware of it, and my colleagues in the Central Coast have raised it with me. As I say, I look forward to the further advice from the department, once they've had an opportunity to fully assess all of those.

**KIERSTEN FISHBURN:** We need to get it back from council first.

**The CHAIR:** Thank you. I really, genuinely appreciate that consideration. It's an enormous proposal, and I think there's some real flaws in what was put out there.

**Mr PAUL SCULLY:** Chair, the department takes everything that gets to it very seriously.

**The CHAIR:** I think the actual overarching question there was—the commitment was that there would be a like for like. I think most of the evidence that I saw going into the submission process was highlighting how it really, genuinely isn't like for like. Is the commitment from you, as the final determination authority, that it is like for like that you are genuinely working to achieve?

**Mr PAUL SCULLY:** I'll take some advice from—probably, Ms Gibson is best placed on this one.

**MONICA GIBSON:** Absolutely. It's quite a unique zone that existed for the Central Coast. As the Minister pointed out, interim development orders and planning ordinances are ones that precede the 1979 planning Act. So we're talking about some planning controls and some unusual and unique controls that have existed for some time.

**The CHAIR:** Some of them are incredible when you read through them.

**MONICA GIBSON:** Absolutely.

**The CHAIR:** I was close to Kyogle, so I remember seeing the ordinance.

**MONICA GIBSON:** An ordinance there. Yes, there have been a couple of attempts to move this into a standard instrument zoning.

**The CHAIR:** But, Ms Gibson, just respectfully—no disrespect at all—is it fair to say that your task at the moment is to ensure like for like?

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**CORRECTED**

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**MONICA GIBSON:** That's what we are working towards, the like for like, as best as possible. There are going to be some situations, though, because there's quite a lot of land affected by this—

**The CHAIR:** It's an enormous amount.

**MONICA GIBSON:** —where the land use and some of the conditions of the land use may have changed from the way that it had been zoned under these old schemes, into how the land is being used now. So the like for like might not always be like for that previous zone to the same equivalent zone. It will look more closely in some situations at how the land is currently being used and what is the best match to that zone.

**The CHAIR:** Is there any consideration about where there is a blur around what is like for like? Is there consideration for a kind of review process once that—I know that we've got an exhibition now, but I think fundamentally it's fair to say, whilst an attempt's been made, there's a lot of errors. Will there be another process, after this initial process, to look at what it finally looks like and challenge any genuinely unintended consequences or environmentally adverse decisions?

**MONICA GIBSON:** Chair, we would like to have a look at all of the submissions to see the submissions from individual landowners about what that means, to discuss with council, as it is council's planning proposal, how they might want to progress that and what avenues there might be for any other specific consultation with affected landowners or consultation more broadly on the instrument.

**KIERSTEN FISHBURN:** I think it would be a bit premature for us to say we're going to challenge the outcomes until we've actually seen the assessment process through.

**The CHAIR:** Minister, are you committed to implementing the recommendation, which I actually don't have in front of me, from Operation Tolosa? It was the recommendation number—I did have it in front of me. It was ICAC's recommendation. It was a directly relevant recommendation to you. It's recommendation 4:

That the Department of Planning and Environment limits the ability of a council to make decisions to advance planning matters at meetings in the absence of an assessment report considering relevant matters and an associated recommendation.

My understanding is that you are, literally, meant to respond to this report by now.

**KIERSTEN FISHBURN:** Can I take that on notice? I don't have a note on it, and I know we gave quite a detailed response to that particular operation. I'll get some information from—

**The CHAIR:** To the ICAC?

**KIERSTEN FISHBURN:** Yes. I'm pretty sure we have finalised our response on that particular operation, but I would like to check with my general counsel before I provide an answer back to you.

**The CHAIR:** More generally on that, Minister, if the ICAC is making recommendations, is your—

**Mr PAUL SCULLY:** It's a general process. I think governments of all persuasions have been inclined to implement ICAC recommendations in the most effective way possible. The department works and sometimes clarifies with the ICAC what it means by some of its recommendations, because there are some practical things. But since coming into office, we've already introduced the changes to the section 4.6 requirements that were recommended as a result of the Maguire—was it Maguire?

**KIERSTEN FISHBURN:** No, I don't think so. Canterbury-Bankstown.

**Mr PAUL SCULLY:** Canterbury-Bankstown, yes. It has been the history of planning, generally, to implement ICAC recommendations, even though in some instances we might have to work with the ICAC a little bit on determining the most practical method of doing that.

**The CHAIR:** What are you doing in relation to Aboriginal landowners and the work that the department is doing, if any, to assist Aboriginal landowners to activate lands, including for housing? I know that there's the SEPP, and the SEPP has been there for some time now, but, in operational real terms, what is the department doing to assist?

**Mr PAUL SCULLY:** I might get Ms Fishburn to add to this. Since coming to office, there have been a couple of things. The New South Wales Government, as a Cabinet, works with NSW CAPO in regular meetings on Closing the Gap requirements. We've introduced some changes to self-assessment powers, which provide assistance to the Aboriginal Housing Office in getting more housing provisions out of the ground. In a contrary position to the previous Government, which wanted to ban any consideration of options on Lizard Rock in the northern beaches, I have taken the view that proposals should rise and fall on their merits, the same as any other proposal.

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**CORRECTED**

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It's important that as we work through this as a government—this is my personal view—that we resolve a lot of land rights claims. There are a lot of them still in the system and some of them are very, very complex. As we resolve those, we don't hand over land under that basis and then cut off opportunity and leave organisations with a huge liability and with no potential stream of revenue, in whatever form it may come from, into the future. We have introduced the Caring for Country guidelines, along with the New South Wales Government Architect, which are foundational in the work that we do. I have the view that we should be, as I say, not handing over massive liabilities to organisations that couldn't possibly sustain it without a revenue base. People should have the opportunity, sympathetically, as with everything and with every other merit-based consideration, to put forward proposals for that land and have them considered on their merit, rather than ruling them out because of local political pressures. Ms Fishburn may wish to add some more detail to some of the other measures.

**KIERSTEN FISHBURN:** That was quite comprehensive, Minister. There's just two things I'd like to pick up on there. Firstly, through the Crown lands space—which is a different Minister, but the department works very collaboratively and holistically—we've been working to resolve land claims, but doing it in a way where we're working very actively with the LALCs to understand what their economic outcome for their own lands is, including that which would be suitable for housing or to generate an income for the LALC. We're not just determining land claims in a taxi-rank system; we're doing it with genuine consultation within community.

**Mr PAUL SCULLY:** You've got a concierge.

**KIERSTEN FISHBURN:** Secondly—thank you—we also, in the planning space, have an Aboriginal Planning Concierge who works directly with the LALCs as well for when a land claim might enter the planning system and they need advice on how to get it through the planning environment. This is, literally, a concierge service to help them. If I give an example of where that's been working wonderfully, recent proposals at Darkinjung have put up—terrific land council, very ambitious and very mature in their way of managing their lands. The Aboriginal concierge helped work with them to develop a training program to allow them to put forward their case and respond while things were on public exhibition. So it's not a one-size-fits-all—sorry, I feel that's the leitmotif for the day—it is very much a bespoke service that is provided both through the Crown Lands and the planning environment for the LALCs.

**The CHAIR:** Because the ownership of land is inextricably linked to the grants system and the land rights system, if the land is incredibly environmentally constrained and the merits of a development proposal would not likely get through the planning system in earnest, is there scope for a LALC to actually engage in a potential land swap or a land transaction of sorts? Is that something that is within your purview?

**KIERSTEN FISHBURN:** You're steering into Crown Lands and Minister Kamper's territory, but, because we do that work and have those conversations, I'm happy—despite the fact it's not Minister Scully's—to say, yes, we do have those engagements.

**Mr PAUL SCULLY:** Sorry, when I say "a development", I don't necessarily mean a physical, built development or a housing or employment development. It could be a development in the sense of allowing an ecotourism venture or some sort of thing that is sympathetic in keeping with, particularly, environmentally sensitive areas. So I use "development" in the broader sense of activity, if you like.

**The CHAIR:** I appreciate that. I suppose what I'm trying to get an understanding of is, if there is a LALC that is feeling very compelled and that it's necessary to develop the land that they own for housing and to deliver on their housing obligations and responsibilities but that land is not appropriate, is there a pathway of engagement to be looking. I think the answer is yes.

**KIERSTEN FISHBURN:** In blunt words, the answer is yes.

**Mr PAUL SCULLY:** I suppose, yes.

**KIERSTEN FISHBURN:** And we are very proud of the work we do in the department in that area.

**The CHAIR:** And that is happening directly between Planning and Lands?

**KIERSTEN FISHBURN:** Correct.

**The CHAIR:** And this concierge service would be a place that could navigate that kind of engagement?

**KIERSTEN FISHBURN:** That is correct. It is one of the areas where, while I'm saying I'm very proud of what we do in the department—and I am; I think we're nation-leading in terms of being able to engage with some real complex issues around land management and land ownership—nonetheless, it can always be sharpened. It's one of the things with the establishment of the department as a new entity which really has a focus on land management and land planning—how we engage with the LALCs and Aboriginal communities in a way that

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**CORRECTED**

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doesn't mean they have 20 transactional points through the department. That's something I'm really passionate about resolving.

My executive and I are working to, firstly, establish an executive director Aboriginal outcomes position to be a point of guidance—that is a designated position; but then also to look at how do we handshake between the work that might happen in Crown Lands and the work that might then go into Planning—it might go into public spaces and Office of Local Government. There's intersect points across the whole department. While I think the transactions that we have with the LALCs are strong and good, making sure we get those handshakes right is probably our priority as an executive in terms of that particular piece of work over the coming months. You can tell I'm happy to talk about this as long as—this is my passion.

**The CHAIR:** We'll do some more after lunch. Wonderful. It's great to see other people get so excited about planning, frankly.

**KIERSTEN FISHBURN:** We are the department of planning, you know.

**Mr PAUL SCULLY:** You'd hope they were a bit excited about planning.

**The CHAIR:** On this and the absolute love I have with all of this, through the TOD SEPP and through the increased density, what are we doing genuinely to ensure that we are improving green space, we are building on green space and we are improving natural environmental outcomes for all of the communities that you are currently focused on in these densification areas.

**Mr PAUL SCULLY:** Look, part of the assessment process was what land was available for green and open space in the areas and what land the Government may have held that could be turned into green and open space. Part of the money that has been allocated to those accelerated sites has been about making sure that we can add value and embellish those green spaces, along with local government, to make sure that that is working well. As I said earlier, we're not in the business of creating great housing monocultures, if you like, where it's only housing alone and there is nothing else around it, and you have to leave. That's for too long been an approach to housing development and that's what has locked people into cars in some of our urban fringes.

I think we all saw during COVID a city divided around green space. In terms of Sydney, even in the Illawarra, even in my home town of Wollongong, we were slightly divided around green space in that those lower socio-economic communities in some areas simply weren't having the access to it that they deserved. So through the combination of the money allocated around the accelerated TODs, through the infrastructure investments and the remaining funds under the other precincts, the access to green and open space is certainly part and parcel of our considerations. I mean, in fact, on the weekend, I released the discussion paper around what we should do with 20 hectares of new parkland at Moore Park—taking some of that golf course back and turning it into parkland, and actively engaging the nearly one million people that will be living in that part, or having an area for that part, in what they want to see out of that parkland.

But our environmental considerations extend beyond just the parkland and open space and how we might do drainage and the like, and landscaping is part of it. We've also got the pattern book work that will be underway, which will be important in terms of good design and how that comes into and influences environmental outcomes in terms of energy, thermal and other efficiencies. We've introduced a higher standard of BASIX—which has been welcomed by the Leader of the Opposition; I note his support—recognising that we do need to improve thermal and energy efficiency outcomes. So those good designs, good landscaping, the good changes to building standards, along with consideration of open spaces, is all part and parcel of making sure we deliver better communities, because we're actually in the business of building communities not just in building houses.

**The CHAIR:** Finally, has the department got a policy or a planning instrument that will ensure the impacts from microplastic derived from synthetic surfacing—that's the synthetic turf et cetera. Have you got an approach and a policy that will take into account all of the sites that we're starting to see come on, about the impacts?

**Mr PAUL SCULLY:** Since the chief scientist's report—and I released it early upon coming to office because it had been sat on for far too long—there has been some work across government, and Mr Gainsford has been involved in that, about how we address some of those things. He may wish to add to that answer.

**DAVID GAINSFORD:** Yes, thank you, Minister, and thank you, Chair. The Minister is correct that we have been helping to coordinate the preparation of the response to the Chief Scientist and Engineer's report. We're hoping to furnish that response to government soon and then make that available. The other thing that we've been working on is also some guidance for councils going forward. Again, we're hoping to have that released in the very near future.

**The CHAIR:** All right. I might take you up on some things after the lunch break.

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**CORRECTED**

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**DAVID GAINSFORD:** Sure.

**The Hon. JACQUI MUNRO:** I have two quick questions for the Minister. Did you receive probity advice or seek probity advice in relation to the Rosehill racecourse ATC MOU or announcement?

**Mr PAUL SCULLY:** The MOU is not something within the planning department's responsibility. What the planning department will assess, if there is a proposal—

**The Hon. JACQUI MUNRO:** No, sorry, it was a very specific question, Minister.

**Mr PAUL SCULLY:** The Government had probity advice—

**The Hon. JACQUI MUNRO:** Minister, did you or did you not receive or request probity advice in relation to the announcement? That's the question—yes or no?

**Mr PAUL SCULLY:** The Government received probity advice with respect to the MOU. As I said—

**The Hon. JACQUI MUNRO:** Did you receive that advice?

**Mr PAUL SCULLY:** The MOU process has nothing to do with me as the planning Minister.

**The Hon. JACQUI MUNRO:** Okay, so, no is the answer?

**Mr PAUL SCULLY:** The Government received it—

**The Hon. JACQUI MUNRO:** No, is the answer?

**Mr PAUL SCULLY:** —so, indirectly, I received it as part of the Government.

**The Hon. JACQUI MUNRO:** So you did receive probity advice in relation to the MOU?

**Mr PAUL SCULLY:** The Government has received probity advice, yes. I think that was—

**The Hon. JACQUI MUNRO:** Have you read that?

**Mr PAUL SCULLY:** —the Premier's testimony.

**The Hon. SCOTT FARLOW:** Minister, when did you—

**The Hon. MARK BUTTIGIEG:** Point of order—

**The Hon. SCOTT FARLOW:** —receive that advice?

**The Hon. MARK BUTTIGIEG:** The Minister has directly answered the question.

**The Hon. JACQUI MUNRO:** This is wasting our time, actually.

**The Hon. MARK BUTTIGIEG:** I fail to see what the point of going on and on about the same iteration is. He has answered the question. The Government received it; therefore, indirectly, the Minister received it.

**The Hon. JACQUI MUNRO:** This is wasting our time.

**The Hon. MARK BUTTIGIEG:** I don't understand what the confusion is.

**The CHAIR:** I don't think there's a point of order. This Minister is very capable of answering the question once, twice or three times. Carry on.

**The Hon. SCOTT FARLOW:** Minister, when did you receive that advice?

**Mr PAUL SCULLY:** Mr Draper can add some insight. I don't have the exact date available to me, but he is well aware of the process.

**SIMON DRAPER:** I want to clarify first, the memorandum of understanding that you're referring to is in itself an instrument designed to protect probity. It's a process document that supports the unsolicited proposals process and refers to the unsolicited proposals guidelines. It is not an agreement between government and another party to do anything, other than to govern the nature of the engagement between those parties.

**The Hon. JACQUI MUNRO:** I understand that, Mr Draper.

**SIMON DRAPER:** That memorandum—

**The Hon. JACQUI MUNRO:** Maybe we can get to this in the afternoon.

**SIMON DRAPER:** I'm getting to your point about the probity advice.

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**CORRECTED**

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**The Hon. JACQUI MUNRO:** Could I ask this question in the afternoon, if there's an explanation? We've got a minute and a half with the Minister, so if we can do that afterwards, that would be good.

**SIMON DRAPER:** I just wanted to make sure you understood that this—

**The Hon. JACQUI MUNRO:** I understand it very clearly. Minister Harris has been kind enough to elucidate that too.

**The Hon. SCOTT FARLOW:** Do we have a date, Mr Draper?

**SIMON DRAPER:** I was about to get to that. The memorandum of understanding was entered into by officials and by the Government. As part of that, they have probity advisers who work with them regularly. They would have had advice as part of that process. It's an absolutely normal process to enter into these sorts of arrangements and to—

**The Hon. SCOTT FARLOW:** So no date. We'll move on, Minister.

**SIMON DRAPER:** —have probity around the unsolicited proposals process.

**The Hon. JACQUI MUNRO:** Minister, do you know how many homes you'll be able to build by the end of this financial year?

**Mr PAUL SCULLY:** We're not putting a number on it. What we're doing is setting up the system to keep delivering homes. It has often been the criticism of Premiers, of Ministers and the like—

**The Hon. JACQUI MUNRO:** I think that's the answer to the question.

**Mr PAUL SCULLY:** —that we're not up-front and honest with people. The Premier and I have both—

**The Hon. JACQUI MUNRO:** It's very easy to be up-front—

**Mr PAUL SCULLY:** —been up-front and honest with people about that exact fact.

**The Hon. JACQUI MUNRO:** —when you say, "We don't know."

**Mr PAUL SCULLY:** It has been explored in great detail in the Premier's estimates hearing. He has made some comments in *The Daily Telegraph* about it. I did a lengthy press conference about it. It's important. We're setting up the system—

**The Hon. JACQUI MUNRO:** Thank you.

**Mr PAUL SCULLY:** —so that it continues to deliver housing—

**The Hon. SCOTT FARLOW:** So no number, Minister?

**Mr PAUL SCULLY:** —during the housing accord and well beyond it. That's the important thing to do.

**The Hon. SCOTT FARLOW:** Will you rule out any conversations with either the Premier or your colleagues about moving to the police portfolio?

**Mr PAUL SCULLY:** I don't think that refers to my remit as the planning Minister.

**The Hon. ANTHONY D'ADAM:** Point of order—

**Mr PAUL SCULLY:** But I tell you what, I really enjoy—

**The Hon. JACQUI MUNRO:** He won't rule it out.

**The Hon. SCOTT FARLOW:** He won't rule it out.

**Mr PAUL SCULLY:** —the planning portfolio, and I'm not pursuing any other portfolios.

**The Hon. JACQUI MUNRO:** If it's so peculiar, you should rule it out.

**The CHAIR:** There's a point of order, Minister. I can see you're thoroughly enjoying this, but there is a point of order.

**The Hon. ANTHONY D'ADAM:** This is the planning estimates. It's not a relevant question—

**Mr PAUL SCULLY:** I could ask the shadow Minister—

**The Hon. ANTHONY D'ADAM:** —within the remit of this Committee's inquiry and should be ruled out of order.

**Mr PAUL SCULLY:** —if he's ruling out backing in Alister Henskens for the leadership.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Won't rule it out.

**Mr PAUL SCULLY:** You won't rule it out? You're a numbers man—

**The Hon. SCOTT FARLOW:** No, you won't rule it out.

**Mr PAUL SCULLY:** —for Alister, are you? There you have it, folks!

**The Hon. SCOTT FARLOW:** You won't rule it out.

**Mr PAUL SCULLY:** Revelation of the day.

**The Hon. SCOTT FARLOW:** You won't rule it out.

**The Hon. MARK BUTTIGIEG:** He's on a winner there.

**The CHAIR:** Minister, will you happily appear before the TOD inquiry that we're going to hold if you are invited?

**Mr PAUL SCULLY:** I'll have a look at it and see. I've appeared in front of inquiries before. It's often cited—the fact that I appeared in front of inquiries before—as some sort of criticism that I appeared in front of an inquiry about infrastructure contributions.

**The Hon. SCOTT FARLOW:** No, we extolled your virtues.

**The Hon. JACQUI MUNRO:** That's right.

**The CHAIR:** No—

**The Hon. SCOTT FARLOW:** We just criticised your colleagues.

**The CHAIR:** —in the upper House, we love it when Ministers attend.

**Mr PAUL SCULLY:** It will depend, in part, on the attitude of the Committee. The attitude of the Committee today—or at least some members of it—has been not to want to deal with fact, not to want to deal with baseline information and not to want to explore that in thorough detail. If that's the sort of attitude, and it's going to be a hatchet job and a political stitch-up, then I probably won't. I think that's what the—

**The CHAIR:** I'm not sure how I'm going to take that as the Chair of this Committee.

**Mr PAUL SCULLY:** —proponents might have in mind. That's not a criticism of you, Chair. But I think the proponents of this Committee might have had a political hatchet job in mind.

**The Hon. SCOTT FARLOW:** How dare you impugn Mr Ruddick.

**The CHAIR:** I'll take that as you'll consider the invitation when and if you receive one.

**Mr PAUL SCULLY:** If I receive it.

**The CHAIR:** That's right. Minister, have you personally visited some of the sites around your electorate area of the zombie DA areas? Have you actually been to any of those yet?

**Mr PAUL SCULLY:** I have in a personal capacity, not as a Minister.

**The CHAIR:** I realise that.

**Mr PAUL SCULLY:** And I've been, in opposition, to some of those as well.

**The CHAIR:** I assume so.

**Mr PAUL SCULLY:** I can understand the frustration of communities, but I refer them back. They have a local government election on 14 September. They should be asking every single one of their candidates what they intend to do, because the head of power exists already with local government.

**The CHAIR:** Minister, also some of those DAs were State-significant DAs or part 3A DAs.

**Mr PAUL SCULLY:** But the head of power exists with local government at the moment and local government shouldn't be looking to somewhere else to deal with it. They always want to deal with local issues so they should be able to.

**The CHAIR:** Minister, respectfully, it's really important that local government and State Government work together. I think communities really want to see that.



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**CORRECTED**

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**Mr PAUL SCULLY:** Which is why I helped establish that lower House inquiry. Because this has been a frustration for too many communities for too long. I understand it. I genuinely understand it.

**The CHAIR:** Would you agree to—

**Mr PAUL SCULLY:** I'd like to come up with a policy solution that actually works so that we're not doing this in however many years time that I'm hoping to be in this role.

**The CHAIR:** Thank you. I take that in absolute good faith.

**Mr PAUL SCULLY:** See, that's confirmation I'm not looking for the police Minister's role.

**The Hon. SCOTT FARLOW:** Conversations, though—don't rule out conversations.

**Mr PAUL SCULLY:** Confirmation.

**The CHAIR:** Minister, would you be willing to meet with an organisation called Coastal Residents United? They're an incredible group that represent communities from Tweed to Bega.

**Mr PAUL SCULLY:** Look, I'm happy to meet with anyone, but I'd also encourage them to have a good look at the Legislative Assembly Environment and Planning Committee's inquiry to the zombie DA process—

**The CHAIR:** Absolutely they'll participate.

**Mr PAUL SCULLY:** —and actively engage in that because I'm looking for good work out of that committee that will help inform this process going forward.

**The CHAIR:** And also those communities—

**Mr PAUL SCULLY:** They should also ask their council candidates what they intend to do.

**The CHAIR:** Of course they will. Do you accept, Minister, that you are looking now to councils to deliver the densification agenda you have so it's fair for them to look to you for resolutions on historic planning errors?

**Mr PAUL SCULLY:** Well, by the same token, I'm looking to the Federal Government to help assist us with funding infrastructure works and the like so you could argue that you could look to them. What I'm looking to is a shared responsibility to tackle the challenges that we have in front of us, no matter what they might be.

**The Hon. ANTHONY D'ADAM:** Minister, there seems to be some confusion, particularly with the Opposition, about what non-refusal standards are and how they operate, specifically in relation to low- and mid-rise reforms. Can you explain to the Opposition on this issue?

**Mr PAUL SCULLY:** Sure, I'm happy to—and I'll ask Ms Gibson to add some more to this, being an incredible technical expert as she is. Non-refusal standards are a type of provision used in the planning system to set constraints and consistent standards for certain types of development and provide certainty and flexibility for councils and proponents. In the context of the reform proposals that we're proposing—perhaps it's good for Ms Gibson to run through just how they would work and also to maybe slay the myth of how they don't work.

**MONICA GIBSON:** Thank you, Minister, and thanks for the question. As the Minister's outlined, non-refusal standards are a particular part of the planning system. They do help with providing certainty—so set expectation and provide flexibility—so that there can be some site-specific outcomes achieved through particular controls. In the EIE, or the explanation of intended effect, for the low- and mid-rise housing, we've outlined a number of non-refusal standards that we are proposing and we're asking for feedback on those non-refusal standards. What happens there—for example, a non-refusal standard might relate to the height of building and so a control is set about the height of building—is that that sets an expectation that that would be a height that would be appropriate in that area and could be assessed by council.

If a taller height is proposed there is still a mechanism for council to assess that. If a lower height is desired in that area because it is more appropriate—because there are overshadowing issues or other impacts that come from that height—then council can work with the proponent to either change the design or, in a circumstance where that change can't be met, council can refuse a development application on the basis of overshadowing, privacy or other implications from those standards. It does not mean that all developments that come in at that height must be approved; it means that it is a matter where there's a standard set and there's an expectation around that height that can be assessed. If there are impacts from that development that create traffic issues or overshadowing, that restrict the amount of landscaping or that might even affect the heritage value of that location, then council is entitled to refuse the development application and they would explain the reason for that.

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**CORRECTED**

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**The Hon. ANTHONY D'ADAM:** Thank you. Ms Gibson, there was a suggestion that the reforms were going to impact tree cover. Can you perhaps speak to that and if there are protections that would prevent that from occurring?

**MONICA GIBSON:** Happy to. Again in the explanation of intended effect for low- and mid-rise, there's some detail about the landscaping requirements and how they would apply. Most councils have a landscaping requirement set out in a development control plan, a DCP. And they will continue to apply, in addition to the reforms that are proposed. There is also some specific detail in some design guides that the department has previously produced, that set out landscaping targets. I've outlined those landscaping targets for every type—terrace housing, residential flat buildings—and in the different types of zones: the R2, the R3 zones. For example, a manor home on a lot that is smaller than 300 square metres would need to provide a minimum tree canopy of 20 per cent, a deep-soil target of 20 per cent and, for every 200 square metres of the site area, at least one tree planted. There's detail included in the guidelines around that. That is to support councils' current controls but also to add to new standards and set new expectations about tree canopy and landscaping with new development occurring.

**The Hon. ANTHONY D'ADAM:** Thank you.

**The CHAIR:** Thank you, Minister, for attending this hearing.

**Mr PAUL SCULLY:** Thanks, folks. Good to be with you.

**The CHAIR:** We are finished with your questioning. The Committee will now break for lunch, and we'll return at 2.00 p.m. for further questioning. Thank you all.

**(The Minister withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** Welcome back for this afternoon's session. Secretary?

**KIERSTEN FISHBURN:** Thank you. I took on notice, Chair, a question about Operation Tolosa. It somewhat threw me because I was absolutely positive I had responded but not through the planning context, which is correct. The department has responded to all four recommendations made by the ICAC relevant to our department for Operation Tolosa. However, all four of them are to be enacted by the Office of Local Government. So I can confirm we accepted them all, but any detailed question would be for Minister Hoenig or my relevant deputy secretary when we meet next week.

**The Hon. SCOTT FARLOW:** Back to Rosehill, when did the department first become aware of the Rosehill proposal?

**KIERSTEN FISHBURN:** I think not much before the announcement. It would have been simultaneous with the time the Minister was aware or slightly afterwards. Ministers often tend to know things prior to departments. I am not sure of the date of the notice. We don't have a note on Rosehill but I would say not much before there was a public statement made about it.

**The Hon. SCOTT FARLOW:** Was it always intended that Rosehill would be the site to announce the Transport Oriented Development Program?

**KIERSTEN FISHBURN:** I have no idea about that. It is not in the department's gift to determine where announcements are made.

**The Hon. SCOTT FARLOW:** Was the department involved in planning for the announcement of the Transport Oriented Development Program?

**KIERSTEN FISHBURN:** No.

**The Hon. SCOTT FARLOW:** Not at all?

**KIERSTEN FISHBURN:** Sorry, I should correct that. Obviously, we provided information about the TOD program to enable media releases and/or any speeches to be written, but we didn't determine when or where it was to be made.

**The Hon. SCOTT FARLOW:** Was that date the date that the TOD program was always intended to be announced?

**KIERSTEN FISHBURN:** I don't have an answer to that because it's not for me to determine what date announcements are made by Government.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** But surely you would have some understanding of when information is uploaded, for instance, to the website and the like. And I know there was a mistake in the uploading of information to the website.

**KIERSTEN FISHBURN:** There was a mistake, yes.

**The Hon. SCOTT FARLOW:** There would have been a time frame, wouldn't there, of when to upload that information and when to get that information ready?

**KIERSTEN FISHBURN:** Obviously, we were working towards a general time, not a specific date. What would usually occur—noting that in this instance we did have an accidental upload—is that a date would be determined by the Minister and/or Premier, depending on what the announcement was, and rapidly after that we would update our websites. We would have stuff ready to go in the background, but we don't make the date decision. We just make sure we prep towards it.

**The Hon. JACQUI MUNRO:** I'm wondering what the department of planning's role is in the consideration of any unsolicited proposal for residential or commercial development.

**KIERSTEN FISHBURN:** Any USP?

**The Hon. JACQUI MUNRO:** Yes.

**KIERSTEN FISHBURN:** We are asked for technical and planning advice on USPs when they potentially are going to intersect with planning matters. We do that through our Planning Concierge, which is part of the Planning Delivery Unit generally. We also would draw on, if required, expertise from other areas of the department. It would really depend on the nature of the USP.

**The Hon. JACQUI MUNRO:** What's your understanding of the proposal or non-proposal for Rosehill?

**KIERSTEN FISHBURN:** It's not a proposal. We don't have a planning proposal at hand for Rosehill. My understanding is that there are discussions through an MOU, which I'm not a signatory to, but as a public servant I would abide by any requirements to discuss with Government the potential for a USP for Rosehill. We will, as we would with any other USP, provide that planning advice as and if it's needed.

**The Hon. JACQUI MUNRO:** Do you know who is a signatory to the MOU?

**KIERSTEN FISHBURN:** No, I have not seen the MOU. If you've got a copy of it, feel free to table it and I'll have a look through, but I'm not a signatory to it.

**The Hon. JACQUI MUNRO:** In terms of the proposal for 25,000 homes, does that in any way include houses that you're tallying up for delivery?

**KIERSTEN FISHBURN:** There are really two parts to that question to answer. Firstly, it's not a planning proposal at this point in time. Until a planning proposal came into the department, I couldn't give you an answer one way or the other about the number of dwellings that a particular subject site might be able to equal. Secondly, no, we have not counted any potential—and I'm using this word very cautiously because I don't have a planning proposal. We have not counted any of what might be available out of Rosehill towards the figures that we are working towards.

**The Hon. JACQUI MUNRO:** So that figure was arrived at without any oversight from the planning department?

**KIERSTEN FISHBURN:** If I recall correctly, I did ask for some advice on what density to the size of Green Square might look like, and you would be able to—

**The Hon. JACQUI MUNRO:** Rosehill?

**KIERSTEN FISHBURN:** No.

**The Hon. SCOTT FARLOW:** No, density. The size of Green Square.

**The Hon. JACQUI MUNRO:** I've got it. I understand, sorry.

**KIERSTEN FISHBURN:** I was trying to determine in my own head what a level of density might be like. As I said, without a planning proposal on hand, it would be very difficult to determine it. If I was using that as a ready reckoner, you would probably look at more than 25,000. You can pull a figure out—and we have all seen this—and then, when you go into the planning system through a planning proposal and then through DA, the figures may vary considerably. I understand what you are asking. You are trying to ask whether there is any sense behind those figures. Broadly, yes, because you can look at other density in the areas. But, without a planning

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**CORRECTED**

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proposal, at best, it's a guesstimate using the tools that are broadly available within planning to understand what a certain level of density might yield.

**The Hon. SCOTT FARLOW:** Ms Fishburn, to that point, the Premier indicated that there would be 25,000 homes on the site. When were you requested for information about what that site could actually hold?

**KIERSTEN FISHBURN:** I was not formally requested for information about what that site might hold. I had the figure on hand, and I can't further discuss that because it goes into matters which were discussed in Cabinet.

**The Hon. SCOTT FARLOW:** How did you have the figures on hand if you only learnt about this just before the announcement?

**KIERSTEN FISHBURN:** I really can't detail any further without breaching—I have concerns I would breach a formal Cabinet in confidence then.

**The Hon. JACQUI MUNRO:** Just to clarify, when did that Cabinet in confidence trigger come in to place?

**KIERSTEN FISHBURN:** I can't discuss that, and you know I can't discuss that.

**The Hon. JACQUI MUNRO:** Was it prior to the announcement?

**KIERSTEN FISHBURN:** Can I please get some assistance. I can't discuss this.

**The Hon. ANTHONY D'ADAM:** Point of order: This is a question that has been put in relation to Cabinet deliberations. That is not something that a public servant should be asked about and can be asked about in this forum.

**The Hon. JACQUI MUNRO:** I am happy to move on.

**The Hon. SCOTT FARLOW:** I might ask about the leaking of that TOD information. It has been publicly reported that there was a person who was sacked over that incident. Is that correct or not?

**KIERSTEN FISHBURN:** That's not correct.

**The Hon. SCOTT FARLOW:** That's not correct. So nobody lost their job over that incident?

**KIERSTEN FISHBURN:** Directly over that incident, no.

**The Hon. SCOTT FARLOW:** You say "directly over that incident". That seems to be that somebody who may have been involved in that process did lose their employment. Did they?

**KIERSTEN FISHBURN:** There have been a number of changes made in the department because of a range of issues—predominantly the machinery-of-government changes.

**The Hon. SCOTT FARLOW:** That person who was responsible for that is no longer with the department. Is that correct?

**KIERSTEN FISHBURN:** No, that is not correct. Sorry, it has been confused by reporting in the media that's inaccurate. You're drawing an inference that is not accurate.

**The Hon. SCOTT FARLOW:** That's what I am trying to get to the bottom of here. What steps did you take following the release of that information to look at how that information was released at an inappropriate time?

**KIERSTEN FISHBURN:** As you can imagine, it was not the finest day in the department, and it was a pretty stressful experience. If I take you through the steps, the first thing that we did was look at what was out there publicly and where it was out there. It was quite apparent that it was not the complete document. It was a draft document. It had lorem ipsum all through it. We made sure that the information that we thought had been accidentally released had been accidentally released. Monica is just reminding me that it wasn't a leak; it was an accidental release. As quickly as we could, we got that information taken down off the website. Then we went through a process of determining who could have had access to that material in the first instance. It was a pretty narrow number. Then we looked at when and how the material got out into the public domain. It was actually a bit earlier than was reported in the first date in the media, as I am sure has come to light in the meantime. We looked at how—literally, physically how—it could have got out there. The information that got out was using a particular website which is used for community consultation. It is not the normal DPHI website that we use. We do use it for the community consultation of ours, but it's not the normal—

**The Hon. SCOTT FARLOW:** So it was on the Planning Portal website, was it?

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**CORRECTED**

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**KIERSTEN FISHBURN:** It was not on the Planning Portal, no. It was a different part of a website. I'll get you the exact name about it. That actually is a system where it is much easier to accidentally hit "go"—and I'm not being flippant about this, it was literally that accidental. We had information there; it was being edited. Instead of shutting it down from editing, it accidentally got publicly released—not a conspiracy, a complete and utter accident, no intent to do anything other than somebody trying to do their work and, essentially, through a series of mistakes, they hit the wrong button. The clarity is that the particular website we were using is called Social Pinpoint, so it isn't the normal DPHI website.

**The Hon. SCOTT FARLOW:** With respect, you said it was up there for a longer period than was reported. What was the period that it was up there for?

**KIERSTEN FISHBURN:** From memory, and I'll check this, it came out on the Monday and it had been up there since the Thursday, I believe—the Thursday before.

**The Hon. SCOTT FARLOW:** With respect to that period and that information, what have you done since to change the process so that a leak like this—an accidental upload, I'll say—can't upload again?

**KIERSTEN FISHBURN:** Thank you, I appreciate the clarification. Firstly, we're looking to not use that Social Pinpoint service. We've changed the approval pathway for our own website. I might add, we haven't had any issues on our own website, so I feel pretty confident that the system of checks and balances we've put into play are effective, and we've made sure that we've sharpened those as well. That's a process of continuous review and improvement. We've also looked at how we release digital information generally as well and looked at process improvements there. I do want to stress—because this was really quite distressing for the department and this is work that we had done, we stand behind, we're really proud of—this really was entirely an accident. It was one of those things that just occasionally happens. We wish it didn't happen, but it was not malicious in intent. It wasn't an enormous systems failure that has happened a hundred times before in the department; it was a one-off incident. It was unfortunate, but I feel pretty confident, through the systems that we use day to day, every single day, our processes—they're not foolproof; no process ever is. But are they are fairly robust? Yes, I'm pretty confident in them.

**The Hon. JACQUI MUNRO:** Going Back to Rosehill, the Premier's December media release stated, "Several sites across Sydney will be earmarked and investigated for a new, world-class racecourse track and facilities." Have you been given any requests or directives to investigate sites?

**KIERSTEN FISHBURN:** No, not at this point.

**The Hon. JACQUI MUNRO:** So no work is being done at all to earmark or investigate new sites?

**KIERSTEN FISHBURN:** Not to my knowledge. I am looking at the rest of my team. It's probably not something that would initially come to the department of planning. I have had conversations with the ATC about their current sites, to understand what they're interested in doing in Warwick Farm or Canterbury-Bankstown, but in relation to new sites my department hasn't been—I'm just looking to double-check, but I don't think so.

**DAVID GAINSFORD:** Horsley Park.

**KIERSTEN FISHBURN:** Horsley Park—have we been requested to provide any information there, Mr Gainsford? As you can see, this is not something that we're working on on a daily basis.

**DAVID GAINSFORD:** Thanks, Ms Fishburn. Just to clarify, yes, there has been some discussion with the ATC around investigations that they're looking into for Horsley Park, but at this point in time we haven't been asked—

**KIERSTEN FISHBURN:** No, but we haven't been asked to do that.

**DAVID GAINSFORD:** We haven't been asked to run the ruler over any of those.

**The Hon. JACQUI MUNRO:** So the ATC has approached you directly to have those conversations without the knowledge of the Minister?

**KIERSTEN FISHBURN:** I think the way—

**The Hon. JACQUI MUNRO:** Or how does the ATC—

**KIERSTEN FISHBURN:** The way you've asked that question is a kind of leading question.

**The Hon. JACQUI MUNRO:** How is the ATC getting meetings with the department?

**KIERSTEN FISHBURN:** They are a significant proponent in general. We've been meeting with the ATC for many years in relation to their Canterbury racecourse. We've had discussions with them in relation to

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Warwick Farm. I understand they've got a mod coming in for Randwick as well. They are a proponent whom the department would meet on many occasions. They've had an interest in the work we've done around the Camellia rezoning. That's why I'm a little surprised by your question because, as such a large proponent, it would be exceptionally unusual if the department didn't meet with them to discuss those things. In the context of discussing their interest in potentially upgrading, I think, Warwick Farm, they discussed—Mr Gainsford and Canterbury-Bankstown. That was at the time that they said they were looking at Horsley Park but, as we've both answered, it's not something that the department's been directed but, as with any other proponent, we're interested in hearing what they're doing.

**The Hon. JACQUI MUNRO:** Is the department doing work on those areas at the moment to rezone them or investigate any different type of use or an expansion of use?

**KIERSTEN FISHBURN:** The areas that are managed by the ATC?

**The Hon. JACQUI MUNRO:** Yes, Warwick Farm and Horsley Park.

**KIERSTEN FISHBURN:** I'll take you through each of them because it is quite interesting. ATC Randwick have a modification that—is it in with us yet, Mr Gainsford?

**DAVID GAINSFORD:** I'd probably need to take that on notice, Ms Fishburn. But, yes, there has been a series of applications and modifications at Randwick racecourse that we've been dealing with.

**KIERSTEN FISHBURN:** Canterbury ATC have been interested for some period of time about using some of their land that they believe is surplus to needs for, I think, residential housing. I believe, Ms Gibson, they will have been speaking to your team about that?

**MONICA GIBSON:** That's right. It's in an area that Canterbury-Bankstown council are planning for in their precinct around the Canterbury metro site.

**KIERSTEN FISHBURN:** Warwick Farm—obviously we've had discussions with them but there's nothing currently in our system. Rosehill—there's nothing currently in our system, as I detailed, but we have had discussions with them in relation to their aspirations for some of their land outside of the racecourse environment, so I just want to make that distinction but there is nothing formally in the system.

**The Hon. JACQUI MUNRO:** The Minister has never asked you for any briefings on this information?

**KIERSTEN FISHBURN:** I'd have to take that on notice, but off the top of my head, no. We may well have discussed some of these matters with the Minister at some stage, particularly, I am thinking, Camellia, as we've been discussing looking at the rezoning there, but I can't recall that we've been formally asked for any information.

**MONICA GIBSON:** No.

**KIERSTEN FISHBURN:** We'll take it on notice.

**The Hon. JACQUI MUNRO:** Thank you.

**The Hon. SCOTT FARLOW:** With respect to Canterbury, outside the surplus land, has any assessment been done on converting all of Canterbury racecourse to housing?

**KIERSTEN FISHBURN:** I'll have to ask Ms Gibson. I think there were some discussions about that but, again, I don't think we've looked at it formally.

**MONICA GIBSON:** Nothing that we are currently looking at and nothing that we have looked at for any of the planning system reforms. I couldn't speak for work that might have been done more than two years ago.

**The Hon. SCOTT FARLOW:** Thank you.

**The Hon. JACQUI MUNRO:** Thank you. I wanted to clarify finally that you, Ms Fishburn, didn't provide the Minister with any independent probity advice relating to ATC and the 25,000 home announcement?

**KIERSTEN FISHBURN:** Sorry, let me just—any independent probity advice?

**The Hon. JACQUI MUNRO:** That was unrelated to the general MOU probity advice that was provided.

**KIERSTEN FISHBURN:** I was not involved, and nor was the Minister, in the MOU discussions.

**The Hon. JACQUI MUNRO:** This is separate though.

**KIERSTEN FISHBURN:** There was never a point at which I would have been asking for probity advice because it's an ouroboros—a snake eating its tail. I wouldn't have asked for probity advice because I wasn't

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involved in discussions around what the MOU might be involved in. Were I involved in those MOU discussions—actually, I can't even answer that question because I haven't seen the MOU so I don't know whether I would have sought probity advice.

**The Hon. JACQUI MUNRO:** The reason I ask is because Ms Mildwater responded last week, in relation to Minister Harris, that she had sought independent probity advice for the Minister because she was concerned about the public nature of the announcement and the matter such that the Minister should be specifically advised on his responsibilities and he said that even before that he made the decision not to be involved with the announcement. I'm curious to understand if that is a general process that secretaries engage in or anticipate?

**KIERSTEN FISHBURN:** There's not—I can't believe I'm using this again—a one-size-fits-all answer to that question. The point where I would feel that we would want to have a probity process undertaken would be if the USP translated into a planning proposal. At that point, in much the same way as I detailed the probity for the TODs, we would have a very similar process in play for that. But the Minister is not a signatory, and neither am I, to that particular MOU and will not be involved formally until the point at which it might translate into a planning proposal in the department. I agree with you. At that point, absolutely, we would want to make sure we had a very clear probity plan put in place.

**The Hon. SCOTT FARLOW:** Ms Fishburn, you raised Camellia previously. What work must be done to the land in Camellia to revitalise it for the purpose of housing, or anything other than sitting idle, effectively?

**KIERSTEN FISHBURN:** Are you asking specifically about the racecourse area—

**The Hon. SCOTT FARLOW:** No, I'm asking about Camellia—

**KIERSTEN FISHBURN:** —or Camellia generally?

**The Hon. SCOTT FARLOW:** —separate to the racecourse.

**KIERSTEN FISHBURN:** We'll take the racecourse away because, I will repeat again, I don't have a planning proposal on hand. There are some significant constraints in the Camellia area—some of them are flood; some of them are contamination—and we have been looking at that in the development of the master plan. I will throw to Ms Gibson, who will be able to give you much more detail.

**MONICA GIBSON:** Thanks, Ms Fishburn and Mr Farlow. The department has worked on a place strategy for the Camellia-Rosehill precinct. It was finalised in November 2022. It was to help guide the renewal of that precinct over about 20 years—the potential in that precinct for 10,000 dwellings and 15,000 or so jobs. The department is currently working through a rezoning on part of that land to implement that place strategy. The rezoning is investigating issues, as Ms Fishburn has mentioned, around flooding, contamination and also hazards. There are existing industrial uses and a fuel pipeline through that area—a gas pipeline—that are hazards that we would need to plan around. The work is underway. We would be exhibiting a draft planning scheme when that work is ready for public consultation. And we've been working with landowners in that area, as well as Parramatta council and a number of other State agencies.

**The CHAIR:** I've got a couple of questions. I think these may be for you, Mr Gainsford, but I'm happy for you to work out where they go. Since the IPC was established in 2018, there have been 13 public hearings out of 635 determinations. All public hearings, as we know, which extinguish merit appeal rights have been for State significant development and involving the extractive industry—mainly coal, except for one gold and one silver mine. The only projects where communities have been denied merit appeal rights were, ultimately, for coal and the Narrabri Gas Project. That is since 2018. Is there a policy, or some kind of published or unpublished record or document, to routinely ask the New South Wales IPC to hold a public hearing when a mining project has been referred, but not for all other projects, including renewable projects?

**DAVID GAINSFORD:** Picking up on some of the questions that you were asking this morning, it's probably worth talking a little bit more about the public hearing process, which I know we've had the opportunity to talk a bit about in the past. You're right to identify that the public hearing process is something that has actually been in the system since we've had planning assessment commissions and IPCs. I won't dispute your analysis of the data there, except to say that it has been something that has been in place for a long period of time. You're also right in characterising that, on a case-by-case basis, the Minister of the day makes a decision and directs the IPC, in this case, to hold public hearings. What I would also say to you is that there haven't been any public hearings directed in over 12 months. To that extent, it is a case-by-case basis. There is no guiding policy as such that you're referring to.

**The CHAIR:** Mr Gainsford, you have been in your role for some time now. My understanding of the process is that the Minister will always take advice.

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**DAVID GAINSFORD:** Yes.

**The CHAIR:** Why has your advice consistently been to the Minister of the day that he or she should request a public hearing in relation to coal and extractive projects?

**DAVID GAINSFORD:** Since I've been in this role, I can only recall a couple of recommendations that the department has made to the Minister. So I wouldn't necessarily characterise it as me having the history of all of those recommendations that have gone up over—

**The CHAIR:** Apologies if that's how it sounded. You or your predecessor—this is not you, personally.

**DAVID GAINSFORD:** I understand.

**The CHAIR:** I'm trying to understand why those recommendations have been made by routine since, I would say, going back to 2012 when the last merits appeal was challenging a coal project, when a public hearing wasn't recommended.

**DAVID GAINSFORD:** The other thing I would draw your attention to in answering this question is the differences—and I know we've talked about some of these things in the past—between a public meeting and a public hearing. Certainly, if you look at the Independent Planning Commission's guidance on how they conduct a public hearing, they talk to the fact that in a public hearing—and I might ask Mr Preshaw to help me with this answer—there is the ability to compel witnesses.

**The CHAIR:** Can I interrupt there? Thank you. I'm not trying to be rude here, but my understanding is that power has never been exercised once. I think I asked that in the last estimates and got that answer. So if we're looking at why we do it, the substance of that procedural, possible benefit has never, ever once been exercised.

**DAVID GAINSFORD:** I was going to refer to the fact that the IPC also—and routinely does so for public hearings in my experience—gets expert witnesses to come in and be part of those public hearings. They also certainly involve all of the groups and organisations, including the department, requesting that we are not just there to present some evidence at the start but we're also there to answer questions. Again, looking at the IPC's guidance on this, they acknowledge the fact that a public hearing means that those merit appeals are turned off and, in effect, they're making sure that that scrutiny happens to the extent that it can by making sure that all of those aspects from their perspective have been—

**The CHAIR:** So am I right in saying that nothing precludes all of those functions being exercised by the IPC in a public meeting either?

**DAVID GAINSFORD:** You'd have to ask the IPC about how they conduct these things.

**The CHAIR:** That's what I'm saying: There's nothing written in the law, though, that says during a public meeting the IPC can't do the things that it would want to do. I've seen many public meetings that look exactly like a public hearing.

**DAVID GAINSFORD:** Mr Preshaw, I wonder if you could talk to some recent public meetings?

**CLAY PRESHAW:** Yes, a couple of points I would make are, firstly, my understanding from the IPC's website and their guidance around this is, with a hearing, they can actually require people to provide evidence. And, as I understand it from their own guidance, they can't do that for a meeting. So that is one difference. Another thing is that when a public hearing is directed by a Minister, it must be held, whereas for some projects that go to the IPC, a public meeting is not actually held. It's not a requirement to happen. If the Minister asks for a hearing, it must happen. If a project is referred to the IPC, it may not involve a public meeting. In terms of the actual process when you get there, there are some similarities but there are some differences.

The only other thing I'd add, very quickly, is that, typically, with a public hearing, the time frame in which the department expects to receive the determination back is much longer, and in practice the determinations take longer when it's a public hearing, which I think reflects the concept that public hearings are a more comprehensive, inquisitorial, robust-type process.

**The CHAIR:** In your experience, does anything much change from the outcomes of a public hearing to what the department recommends?

**CLAY PRESHAW:** It's an interesting question because it depends on which point in time we're talking about. Going back the 10 or 12 years you were talking about, certainly hearings often led to a lot of questions coming back from the commission, which we would respond to. I would say that's still the case—that we receive more material questions about our assessment when a project goes for a hearing as opposed to a meeting. That's still the case for mine projects. Usually we have to respond to more things than if we were going to the IPC and they held a public meeting.



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**The CHAIR:** But you can't know that, because that's never happened in relation to a mining project. I'm not trying to be funny, but you can't know that. You are making those assumptions.

**CLAY PRESHAW:** No, I'm just comparing a public hearing for a mining project against a public meeting for other projects which my area deals with.

**The CHAIR:** I'll stick to the same topic. In relation to the modifications I raised with the Minister earlier—and these are the most recent coal modification expansions—why are you assessing these projects as modifications and declaring them? It is your assessment that they are substantially the same development. Notwithstanding the evidence of impact et cetera, and the expansion of the footprint, the life span and the amount of emission and the harm, why are we still considering these mods substantially the same development?

**DAVID GAINSFORD:** I might, again, pick up some of the questions that you asked in the morning session and refer to Mr Preshaw for some of the specific modifications that you also mentioned this morning. With regard to modifications that are received, it is often the case that the modifications that are being proposed by applicants that come in—and this goes across the range of projects that we assess, not just mining projects, which is obviously your interest. Those applicants would often bring their own legal advice to demonstrate that something is substantially the same. Often we will test that. As you would know, we have internal legal advice that we rely upon to assist us with the processing of these types of applications. What I would say is that there certainly are instances where we have had applicants come to us and want to pursue modifications with us which we have found would not meet the test of substantially the same, so those projects often don't progress and don't come into the system. I guess, to your original question, there is certainly a thoroughness to the way that we go about determining whether these projects are substantially the same and can progress as modifications.

**The CHAIR:** I think what you are saying is perhaps in relation to Mt Arthur and Boggabri mining, those proponents did provide legal advice to you saying that they are modifications?

**DAVID GAINSFORD:** Mr Preshaw?

**CLAY PRESHAW:** The answer is slightly different for both those modifications. In the case of Boggabri—and this reflects the process that we have in place within the department—we asked the company to provide their legal advice supporting the fact that it was, in their view, substantially the same development.

**The CHAIR:** Sorry, is this Boggabri?

**CLAY PRESHAW:** Yes. So the answer to Boggabri is yes. We run that through our legal team for review, and it was agreed that it was certainly within the range of substantially the same. The reason for that—

**The CHAIR:** Did you provide that legal advice as part of the assessment? Is that publicly available now?

**CLAY PRESHAW:** No. That's a legal decision as to the pathway and not a part of the assessment of the merits of the modification.

**KIERSTEN FISHBURN:** Presumably it is legally privileged as well.

**CLAY PRESHAW:** Correct. To pick up on what David was saying, the reason we did that in that instance was that there were some physical changes to the project. There were aspects of the modification that we wanted to confirm were not outside the bounds of substantially the same. We deal with a lot of modifications. I think last year we determined 95 modifications, so we don't go through this process on every single modification. We do it where we think there might be some question. I think we were probably quite conservative in the case of the Boggabri mod. In the case of the Mt Arthur mod, we haven't required the company to provide that legal advice. In that case they're actually seeking to extract the same coal resource that has previously been approved, but they've reached a point where the consent is going to expire before they could extract some of the coal which has previously been approved.

Importantly, I guess, for that modification, as you probably know, that's part of BHP's plans to actually stop mining coal and to provide an orderly transition to allow their workers to find other options and to work out to what to do with their land. We certainly don't have the types of questions around the Mt Arthur modification in terms of whether it's substantially the same, given it's exactly the same type of activity. Yes, it's an additional time period, but we haven't got the same questions that we did in, for example, the Boggabri mod. Of the 95 modifications that we looked at last year, I can tell you that we went through the process of checking legally with advice from the proponent and then checking within our own legal branch whether they were substantially the same.

**The CHAIR:** On Boggabri then, if you were questioning the legalities and the parameters around substantially the same and then the proponent has given you legal advice, is that not something that in the public

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interest the department should be pushing back on and challenging? Is there a litigation fear in amongst the department or is there a desire to defend your initial decision? If I am a big company and I get legal advice and throw it your way, is it that clear that you were wrong? That is not my understanding of how legal advice works. It is normally very neck and neck. I am curious. What is the deciding factor on whose legal advice we would prefer?

**DAVID GAINSFORD:** I might try to take that question, Chair. I certainly wouldn't characterise it as we take on legal advice that comes in with an applicant as gospel. Certainly, that's why we've got capacity within the department to provide us with independent advice, and I am certainly aware of instances where we have disagreed with the legal advice that has come in. I guess my response to that would be, I would have confidence in the advice that we receive from our internal legal advisors.

**The CHAIR:** Would you brief out? Would you then get an external senior counsel opinion, and did you do so in the Boggabri scenario?

**DAVID GAINSFORD:** In general terms, yes, certainly when our legal counsel feels that that's appropriate, they may well brief out. With regard to Boggabri—

**CLAY PRESHAW:** Not in relation to Boggabri, but we have recently on another proposed modification. In response to your question around what we put into our assessment, there is certainly a difference in the question of what is the correct pathway for an application versus what are the merits of that application. So we do cover in our assessment report why it's taken a particular pathway and we'll explain in our own words, which is informed by legal advice, as to why it's a modification and, therefore, as to why it's substantially the same. But the focus of our assessment report, as you'd understand, is on the merits of the application.

**The CHAIR:** Yes. Let's get there. In relation to Boggabri, I asked this of the Minister and perhaps it's too granular. Why was there so much weight on the strategic statement on coal in that assessment for that Boggabri modification?

**DAVID GAINSFORD:** Thank you, Chair. Following on from those questions that you asked this morning, I think that it would be wrong to characterise the assessment—which was a comprehensive assessment and, obviously, that's been published and is available for people to digest—that in effect it was a weighing up between the strategic statement on coal and the greenhouse gas emissions. There were many factors that we took into account as part of that assessment process. Certainly, the scope 1 and scope 2 emissions associated with that project were part of those considerations. So I don't think it would be right to characterise that assessment as a weighing up directly between the strategic statement on coal. We're required, whether we are assessing applications or modifications, as you would be aware, to consider government policies of the day as part of our assessment, but that doesn't form the whole part of our merit-based assessment.

**The CHAIR:** And so how now do you take into account the Climate Change (Net Zero Future) Act? I accept we don't yet have a net zero commission but, clearly, there is more than government policy. There is law on the table and one of those requirements is to look at the right to a clean, healthy and sustainable environment, and we're belching coal into the atmosphere. How do we do this?

**DAVID GAINSFORD:** Thank you again, Chair, for the question. Prior to the net zero legislation coming into effect, I think as we've talked about in the past, the assessment of greenhouse gas emissions was already part of the merit-based assessment that we do for these types of projects. The department doesn't do that by itself. It seeks advice from various experts in this area, including the Environment Protection Authority, the climate and atmospheric sciences area and also from our independent panel on mining, who also have some expertise in this area.

And so, with the passing of that legislation, obviously, that is also a factor that we've needed to take into account. And, again, I'd draw your attention to our assessment report, which does talk to the way that we have looked at that legislation and again sought that advice from some of those agencies that I mentioned before. Importantly, when we're assessing these types of impacts, in seeking that advice from some of those other government agencies, one of the key bits of advice that we look for is whether, in the forecasting that's been done for the State to reach net zero and some of the interim targets, these sorts of mining projects have been taken into account. The advice that we got from Boggabri, I understand, was that this had been taken into account in terms of that modification.

**The CHAIR:** We were talking about the public hearings and we were looking at this idea that it can provide more scrutiny, can provide more detail, can compel witnesses. Why have we only done that in relation to coal projects? Why do we not require that standard for anything else—obviously, right now, the wind farms, for example? Why are we not suggesting that level of scrutiny, remembering that it then extinguishes communities' appeal rights? What is the thinking in the department?

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**DAVID GAINSFORD:** Chair, I really can't speak to what's happened a decade ago with regard to advice we provided to government and decisions that previous Ministers have made in directing the IPC. I'm happy to take it on notice in terms of those projects that I've been party to in terms of making recommendations to Ministers, but I think it's a very limited number with regard to public hearings. But certainly some of the factors that we take into account are how controversial those projects are, how many submissions are received, the public interest in those projects—

**The CHAIR:** I think, Mr Gainsford—and I've done that analysis—the only common thing I can find is that they're coal projects and they extinguish third-party merit appeal rights. Honestly, that's the only common thread in all of these projects. I would love to find something else, but there just isn't. Just before I hand over, are you suggesting with what you're just saying there that we have now got a different direction and we won't be referring projects to public hearings?

**DAVID GAINSFORD:** I don't think I've suggested that. I guess what I would say, Chair, is that there hasn't been any directions for public hearings in the last 12 months.

**The CHAIR:** No. I'm aware of that.

**DAVID GAINSFORD:** That's just a matter of fact.

**The CHAIR:** There have been no coalmines—new ones—proposed. They're all modifications. I'll just hand over.

**The Hon. SCOTT FARLOW:** Just returning to some of the measures around the TOD. This morning we discussed the declarations required under the code of ethics and conduct and the additional declarations that were required. As part of those declarations, do you hold a register of private holdings as a result of those declarations?

**KIERSTEN FISHBURN:** As a result of the declarations on the TOD for the people working on the—

**The Hon. SCOTT FARLOW:** On the TOD or the typical declarations that are required under the code of ethics and conduct.

**KIERSTEN FISHBURN:** We hold people's conflict of interest declarations, yes.

**The Hon. SCOTT FARLOW:** Is it held as a register? Are those documents uploaded onto some sort of database management tool, for instance? Or are they just kept as the files?

**KIERSTEN FISHBURN:** I'll have to take those details on notice and get back to you.

**The Hon. SCOTT FARLOW:** That's fine. Following the announcement of the TOD program, was any assessment conducted by the department to see if any interests of employees were held within those 39 precincts?

**KIERSTEN FISHBURN:** No. However, as I detailed, the staff who worked on the project had already had to detail their conflicts of interest. Once it became a public matter, your normal requirements to declare your conflicts of interest, obviously, would be available then.

**The Hon. SCOTT FARLOW:** Has the department undertaken any assessment of those interests over the last month?

**KIERSTEN FISHBURN:** Do you mean have we gone through and reviewed those?

**The Hon. SCOTT FARLOW:** Yes.

**KIERSTEN FISHBURN:** At this point in time, what we have done is again remind people of their conflict of interest requirements, and I can assure you I have reminded them in every forum that is available to me. Within the TOD working teams as well, I understand Ms Gibson has had further conversations, including those discussions with the staff who are relevantly working on the projects too.

**MONICA GIBSON:** That's right.

**The Hon. SCOTT FARLOW:** How many staff within the department of planning own property within one of the TOD precincts?

**KIERSTEN FISHBURN:** I'd have to take that on notice.

**The Hon. SCOTT FARLOW:** Okay. Thank you.

**KIERSTEN FISHBURN:** I don't.

**The Hon. SCOTT FARLOW:** You don't.

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**CORRECTED**

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**KIERSTEN FISHBURN:** No.

**The Hon. SCOTT FARLOW:** That's fine. Neither do I, for that matter. Funnily enough, I sold one just prior.

**KIERSTEN FISHBURN:** I'm sorry. Bad luck.

**The Hon. SCOTT FARLOW:** Indeed. With respect to the additional declaration of senior executive private interests, what level of executive do these disclosure requirements relate to?

**KIERSTEN FISHBURN:** It's all levels of senior executives, so SEB 1 to 4.

**The Hon. SCOTT FARLOW:** Were any changes notified to property purchases within the TOD regions by department of planning officials?

**KIERSTEN FISHBURN:** Are you saying did anyone update their conflict of interest?

**The Hon. SCOTT FARLOW:** Yes.

**KIERSTEN FISHBURN:** I'll have to take that on notice.

**The Hon. SCOTT FARLOW:** How many people were working on the TOD project development team?

**KIERSTEN FISHBURN:** On the team prior to the announcement of the TODs or post the TODs?

**The Hon. SCOTT FARLOW:** Both, I guess.

**KIERSTEN FISHBURN:** They're two different matters. Working on the—

**The Hon. SCOTT FARLOW:** It's the project development team, so as you were working on the project and then subsequent to it being announced.

**KIERSTEN FISHBURN:** Approximately 130 people, over the course of the work from July to December to determine what the TOD sites were going to be, were involved. They were not just department of planning staff. As we detailed, there was staff from other areas, all of whom, I should add, were also required to go through this probity. I don't want to disparage any of my colleagues from other areas. I'll have to ask Ms Gibson how many staff are currently working on the—it's a bit hard to determine because people, obviously, work in and out of things. But the TOD team, if you have a number—

**MONICA GIBSON:** I would need to take the specific number on notice. But we have a dedicated team stood up to do the accelerated precinct work—so that's to start the master planning on the eight precincts. We have a team that is dedicated to the preparation of the TOD SEPP. We also have a team that is being put together to prepare for future State significant development applications that would come in in the accelerated TOD locations.

**KIERSTEN FISHBURN:** That will be Mr Gainsford's area.

**The Hon. SCOTT FARLOW:** So there were 130 people from July to December as part of that project development team. That was when the team was stood up in July. Is that correct?

**KIERSTEN FISHBURN:** Yes, that is correct. Not all of those people would have been involved at any given time, and there's different levels of involvement. I think we talked about this earlier this morning. As the 305 got narrowed down, a lot of information was on a need-to-know basis. It wasn't broadly available to absolutely everyone. Indeed, I wasn't fully briefed on many aspects of it until it got to a further stage in the process. It was that shut down.

**The Hon. SCOTT FARLOW:** With respect to that, were there any external consultants who advised the Government on the development of the program?

**KIERSTEN FISHBURN:** Yes, there were. I'll have to hand to Ms Gibson to give the details.

**MONICA GIBSON:** Thanks, Ms Fishburn. We did have several external-to-government contracts supporting the TOD development program. It included the probity adviser.

**KIERSTEN FISHBURN:** Procure Group.

**MONICA GIBSON:** I think Ms Fishburn mentioned that earlier today. We had the Centre for International Economics, which assisted with the independent feasibility analysis that helped with the review of the 305 sites. We also had a firm called BDO, which assisted us with some of the program set-up.

**The Hon. SCOTT FARLOW:** What information was shared to those parties?

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**CORRECTED**

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**MONICA GIBSON:** Information relevant to the particular work that they were doing, again, with probity measures in place relating to the confidentiality of that information. They didn't have full access to all program information and it was discussed with our independent probity adviser how we would share that information outside of government.

**The Hon. JACQUI MUNRO:** On the eight stations that formed the TOD accelerated precincts, were they identified by the department of planning to have the most capacity to support additional growth? Is that how they were chosen?

**MONICA GIBSON:** As I mentioned earlier today, it wasn't just about the amount of potential development capacity. It also related to factors of the distribution of these around our local government areas. There were some parameters set up so that there was a distribution of the TOD locations. There were also factors relating to how advanced some of the planning work was in various locations. For example, if I talk about Hornsby, which is an accelerated precinct, the excellent work that Hornsby council had done in preparing a master plan for the Hornsby town centre and around the station was a significant factor in identifying Hornsby as an accelerated precinct.

**KIERSTEN FISHBURN:** Strathfield is another excellent example. Council has done extraordinary work there and this is really just able to bring forward some of their aspirations.

**The Hon. SCOTT FARLOW:** To short cut on that question a little bit, in terms of those, will you be picking up their master plans effectively and implementing those?

**MONICA GIBSON:** In the example of Hornsby, yes, and meeting with Hornsby council and councillors last week, that was a question that was asked and we answered in that session. The work is significantly advanced by council, so we would like to be able to complete that work with them.

**The Hon. JACQUI MUNRO:** Do you have reports that you're giving on these precincts to the Minister? What information have you provided around these precincts to the Minister?

**MONICA GIBSON:** We've provided a lot of information to the Minister during the period of time in planning for the TOD program. There was a lot of policy development and program development with him from about May last year.

**The Hon. JACQUI MUNRO:** So he had input to the metrics, for example, that were used to determine the eight precincts?

**MONICA GIBSON:** We provided some advice to the Minister about the types of ways that we could go about identifying locations for the accelerated precincts.

**The Hon. JACQUI MUNRO:** And he agreed with all of your recommendations?

**MONICA GIBSON:** Turning my mind to the number of conversations that we had—and there were many conversations—I think that we probably came to some matters with an open mind. There were the views of the Minister about options that we might take in identifying the parameters for choosing sites.

**KIERSTEN FISHBURN:** I recall there was some discussion about bringing in government-owned land and had we weighted that enough considering government policy. It was certainly iterative like any policy development is within a department and then with a Minister.

**The Hon. JACQUI MUNRO:** How did you narrow down the metrics in the end?

**MONICA GIBSON:** Through a series of testing different matters and—

**The Hon. JACQUI MUNRO:** Testing?

**MONICA GIBSON:** Testing whether we had a complete set of parameters, testing whether those parameters would give us sufficient information to be able to make choices and then testing through some preliminary investigation that we undertook within teams within the department. It helped us refine what the final parameters were. We made those as recommendations. They were considered by the assessment review committee, as Ms Fishburn outlined earlier today. It included representatives from a number of different government departments. Then those matters were also considered by the Minister and by the Cabinet.

**The Hon. SCOTT FARLOW:** In your assessment of government-owned land, were you looking at things like commuter car parks, for instance? Do you have plans to be able to transition those into housing as part of those TOD SEPP locations in particular?

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**CORRECTED**

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**MONICA GIBSON:** We were looking for land that was in government ownership and that was the factor that we were looking for—land that was in government ownership. I couldn't talk to a hypothetical about a commuter car park.

**The Hon. SCOTT FARLOW:** But there are several commuter car parks within these TOD SEPP areas.

**MONICA GIBSON:** There is a lot of government land in these precincts that are used for different types of purposes.

**The Hon. JACQUI MUNRO:** Did you go into this process knowing that you would come out with eight sites?

**MONICA GIBSON:** No.

**KIERSTEN FISHBURN:** No.

**The Hon. JACQUI MUNRO:** You obviously went through this iterative process of finding out which parameters best spat out a suitable list, the question being, what is considered suitable, and how you get to eight rather than 10 or rather than four?

**MONICA GIBSON:** The multi-criteria assessment across all of those factors followed by a review by senior executives across multiple agencies really helped us refine that list. We wanted to make sure that we were meeting so many different outcomes, so making sure that there was going to be homes built, completed, constructed during the accord period was a key factor. Things like water and sewer availability became really important.

**The Hon. JACQUI MUNRO:** Just on that, just to clarify, with those eight precincts, do you have an amount of housing that you are expecting to get out of those by the end of the housing accord time period?

**MONICA GIBSON:** We've certainly had a look at what the capacity over the long term would be in those areas and then what might be—

**The Hon. JACQUI MUNRO:** What is that?

**MONICA GIBSON:** That's the 47,800 homes in those precincts.

**The Hon. JACQUI MUNRO:** And the long term being?

**MONICA GIBSON:** That's in the long term. We expect that to be over about a 15-year period.

**The Hon. JACQUI MUNRO:** Okay, 15 years. Is that in addition to what was already zoned for, or is that just the total amount with the new zoning?

**MONICA GIBSON:** That would be for that precinct. It is generally considered to be the uplift, but it would include in some of those locations that they might have already had a planning control for, say, a 10-storey building and the master planning might suggest that it becomes a 15-storey building, so the numbers are based on it being a 15-storey building.

**The Hon. JACQUI MUNRO:** Is there a number that reflects the additional capacity compared to what was available prior to the plan?

**MONICA GIBSON:** I would need to take on notice to see if we've done that calculation.

**The Hon. JACQUI MUNRO:** That would be helpful, thank you—and what that calculation is, if you can, please.

**MONICA GIBSON:** Yes.

**The Hon. SCOTT FARLOW:** Further to that, just returning to the government land component of this, let's say the accelerated precincts is one category because you have to master plan it, but in terms of the TOD SEPP, the application is to the residential land and the mixed use and employment zones, E1 and E2. But when it comes to the government land—let's say, for instance, a commuter car park—that would be railway land current zoning. Is that correct—or railway infrastructure, I think it's called?

**MONICA GIBSON:** There's probably a lot of different zones across government land in these precincts. So it would vary from perhaps being land that is in a rail corridor that might be in a rail zone to land that might be already zoned residential or employment.

**The Hon. SCOTT FARLOW:** In terms of that land in the rail corridor, would there be a process for which the Government would be looking at embarking on a rezoning of those properties?

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**CORRECTED**

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**KIERSTEN FISHBURN:** I think you're asking a little bit outside of the scope of this discussion. This feels more like the conversation about Minister Kamper's land audit. I do believe, if I recall, in that budget estimates hearing the Minister and my senior staff did detail that all elements of government-owned land that could potentially be used for residential are actually subject to the land audit; otherwise, you're starting to ask down a hypothetical line. I just wanted to—

**The Hon. SCOTT FARLOW:** That's fine, but that has been part of the consideration that you made in terms of the assessment of those sites.

**KIERSTEN FISHBURN:** As Ms Gibson detailed, yes. Whether there was government-owned land, I mean, obviously the Government has to have our own skin in the game in terms of delivering of housing, so that's obviously a consideration. It's also somewhere where, through our government partner agencies like Landcom or LAHC, you would be able to realise housing potentially faster than you could through private development.

**The Hon. SCOTT FARLOW:** Thank you.

**The Hon. JACQUI MUNRO:** I just wanted to clarify, with that time period, how many of those homes are expected to be built within the National Housing Accord time frame?

**MONICA GIBSON:** We have done some modelling to make some estimates on what that might be. We've done that work across a range of different housing reforms as well in order to be able to provide some advice to the Minister and to Cabinet about how 377,000 homes could be constructed and completed in New South Wales during the period of the accord. It's not starting from zero. There were already more than 200,000 homes forecast to be constructed and complete during the period of the accord. The net additional homes from the TOD program and the low- and mid-rise would be adding to that. We haven't published the information yet about our modelling. It's going through some review at the moment.

**The Hon. JACQUI MUNRO:** But it's the intention to publish that modelling?

**KIERSTEN FISHBURN:** That's a question for the Minister to determine.

**The Hon. JACQUI MUNRO:** Have you provided that modelling to the Minister?

**MONICA GIBSON:** No.

**The Hon. JACQUI MUNRO:** Has he asked for that?

**MONICA GIBSON:** Sorry, we have provided our internal work to the Minister, yes. We haven't provided the reviewed work to the Minister yet or that report.

**The Hon. SCOTT FARLOW:** Are you conducting that review internally or is there an external consultant working on that?

**MONICA GIBSON:** We've asked for external advice.

**The Hon. JACQUI MUNRO:** Going back to my question about the amount of homes to be built within that accord period, is there an amount that's expected?

**MONICA GIBSON:** There is an amount that we would like to be working on with councils, with landowners, with the development industry and with all the parties that have a role to play in the construction of homes. There are a lot of variables and it's quite a complex estimation. The crystal balls aren't perfect in this situation. There's a little bit of cloud in that. In terms of the exact number and where we might be, because it's going through review, I'd prefer to take it on notice so that we could give you a number that we have.

**The Hon. SCOTT FARLOW:** With respect to the TOD SEPP, you indicated 11,400 homes to councils in their briefings, and this has been published on websites, within the accord period. Is that a correct figure?

**MONICA GIBSON:** No. In relation to the TOD SEPP, we've said 138,000 within the TOD SEPP over a 15-year period and 47,800 for the eight precincts. That's what we've said for the two TODs.

**The Hon. SCOTT FARLOW:** But with respect to the accord period—and this was your briefing that was published on Ku-ring-gai Council's website—it says the TOD SEPP is creating capacity for 138,000 homes, 11,400 homes estimated to be completed within the accord period.

**MONICA GIBSON:** That is some information that we are having reviewed at the moment.

**The Hon. JACQUI MUNRO:** You've indicated that high- and mid-rise housing will be developed within 1,200 metres of the eight accelerated precincts. High- and mid-rise housing capturing all of that 1,200-metre radius—

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**CORRECTED**

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**MONICA GIBSON:** Could I correct that?

**The Hon. JACQUI MUNRO:** Yes. My question is, is it a tapering approach?

**MONICA GIBSON:** My apologies for jumping in before you'd finished your question.

**The Hon. JACQUI MUNRO:** That's okay. You're very knowledgeable about this area.

**The Hon. SCOTT FARLOW:** It's your *Hard Quiz* topic.

**MONICA GIBSON:** In relation to the accelerated precincts, we did initially start looking at a 1.2-kilometre radius around train stations. We looked at and chose that number in relation to a walking distance that's used internationally for major transit-oriented development locations. Within that we have clarified, through our policy development, that not all land within 1.2 kilometres would be upzoned for high-density or medium-density housing. In fact, it would be the master planning work particularly led by councils like Hornsby, the work led by Strathfield Council and the work that Canterbury-Bankstown have done in the Bankstown area et cetera for the precincts—those locations. That's probably more like 400 or maybe in some instances a little further than 400 and out to 800 where suitable sites, through a master planning process, would be identified, and they would be zoned. So it's not a fixed distance and that all land in that location would be zoned.

**The CHAIR:** You mentioned—I think it was you, Mr Gainsford—ATC and Randwick racecourse. Was it right that there had been some discussions?

**DAVID GAINSFORD:** With—

**KIERSTEN FISHBURN:** They submitted a modification. I've got the details. The department assesses the SSD applications at Royal Randwick Racecourse for development over \$10 million and non-race day events such as music festivals. For the point of full disclosure, Randwick racecourse is a Crown Lands asset on a leasehold. The department is currently assessing an SSD application lodged by ATC on 20 September seeking consent for a seven-storey hotel at Royal Randwick Racecourse. The application was exhibited in October 2023. Council did not object to the proposal but has requested some designer detail changes and some additional information. The department received seven public submissions of objection with some key issues. I'm happy to go into detail if you wish me to. The department is currently awaiting the applicant to lodge a response to the submission, so it's back with the applicant at this point in time. Once a response is received the department will finalise its assessment and determine the proposal under delegation—a pretty straightforward SSD application.

**The CHAIR:** Is the racecourse being considered in the land audit, given it is Crown land?

**KIERSTEN FISHBURN:** That's an interesting question. I'll have to take it on notice and check with my relevant staff.

**The CHAIR:** I just want to turn to the Reconstruction Authority, if we could, to follow up on some things earlier about the pods. But also—and apologies if you did explain this earlier—the list of members of the community waiting for housing was identified as being 724 in November. Is that the working understanding you have currently? Sorry, I'm not sure who to address the question to. Is it you, Mr Draper?

**SIMON DRAPER:** I don't have that number. One of my colleagues may have it.

**JOANNA QUILTY:** As at January 2024 it was down to 645, but we do need to undertake an audit of that list to really understand if people whose names are still on it are actually in need of housing. Our assumption is that a number of them will have sorted themselves out. We know that they were living with family and friends. They could still be in that situation or perhaps have moved on. So we do need to undertake that audit, and, as part of that, we will also be looking at, where they are experiencing housing challenges, referring them to appropriate services and supports.

**The CHAIR:** Do you have time lines on when you would do that, or is there some way of knowing when we would have certainty around that?

**JOANNA QUILTY:** We are engaging a community housing provider to undertake that process on our behalf. That engagement is underway and the preparatory work is happening, so we would expect that the actual reaching out to people on the wait list will occur in a couple of weeks—or will commence.

**The CHAIR:** Who is the provider?

**JOANNA QUILTY:** I think it is Uniting, off the top of my head, and I think I am right on that.

**The CHAIR:** Just with the 157 pods and the decision to relocate those, as I understand from your answer earlier, the reason for that was there was no land to put those pods and they were needed somewhere else. Is it the



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**CORRECTED**

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case that we've made a decision that there is no more looking for other land for pods for temporary housing? Have we finished doing that, or are we still looking for appropriate lands for pods?

**JOANNA QUILTY:** At the time, a review had been undertaken of the temporary housing arrangements in the Northern Rivers. The findings of the review, which were considered by government and supported, were that, in view of the considerable cost of the program and the land shortages, which meant that there were 11 sites established but it was proving to be very difficult to set up more sites, those pods should be relocated to the Central West where there was an absolute need. The funding arrangements behind those 11 villages come to an end in the middle of next year, so our focus now is very much on planning for the transition of residents on a village-by-village basis into permanent accommodation, recognising that the villages were only ever intended to be temporary in nature.

**The CHAIR:** That goes to my next question. There was some reporting that the pods have a two-year life span. Is that your operating understanding?

**JOANNA QUILTY:** No. The pods are in good working order. They will be able to be re-used again. They obviously do have a defined life span, but, yes, there is more use in them yet.

**The CHAIR:** At this point, then, the funding ends by mid next year, and it is your intention that all of the residents of those 11 villages will have somewhere else to go?

**JOANNA QUILTY:** We are working very closely with the Department of Communities and Justice, Homes NSW and our community housing provider partners in the region to look at, on a village-by-village basis, what are the options for these residents given their circumstances and needs, and to really explore what available programs there are and what might be there that is going to be their next step.

**The CHAIR:** So that's the residents of the 11 villages plus, potentially, 645 members who are still on the list, and we think by mid next year they'll all have some kind of housing plan?

**JOANNA QUILTY:** I expect the 645 to be a lesser number. But, certainly, it is a significant challenge, which is why we have convened this regional committee with all of the right experts around the table to apply our efforts to find that longer term accommodation for those residents.

**The CHAIR:** With the current sites where there has been an agreement for a buyback—let's just say those current sites at the moment, the former housing lots—who is currently responsible for maintaining those, particularly the ones where the buyback has happened or there is an agreement to an acceptance of a buyback? Who is maintaining those places?

**JOANNA QUILTY:** I will defer to my colleague Ms Leck on that one.

**AMANDA LECK:** Thank you very much. Good afternoon. With regard to those properties that have settled as part of the buyback program, those properties are maintained on behalf of the Reconstruction Authority by Public Works. That includes dealing with regular maintenance issues, mowing grass, tidying shrubbery and the like so that there is an ongoing maintenance schedule occurring on a monthly basis for those properties.

**The CHAIR:** Is that work being outsourced? Are there contracts for that work?

**AMANDA LECK:** We have engaged Public Works to do that work, but I'll have to take that on notice if you want to know if they've subcontracted that work further.

**The CHAIR:** There are communities trying to understand who's doing what, who's getting the work and what's happening in this program, so I would appreciate that. With the work that you are doing in terms of the adaptation work and that more strategic work, how is that applying, at an operational level, to areas where we are currently continuing to develop that are at threat, at real risk, particularly the floodplain developments that are actually happening across the Northern Rivers as we speak? How is your adaptation work feeding in, at an operational level, to prevent any more communities at significant risk of harm from these disasters?

**AMANDA LECK:** If I may, I might start at the strategic level and go down to the more operational level. The State Disaster Mitigation Plan was released last Friday. That calls for disaster adaptation planning to be done in priority areas. One of those is in the Northern Rivers. That work has commenced. There are several pieces of work underway at the moment. In that operational sense—

**The CHAIR:** Can I interrupt, sorry. When you say "Northern Rivers", is that all of those LGAs that we—

**AMANDA LECK:** Those seven LGAs.

**The CHAIR:** The seven. Thank you.

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**CORRECTED**

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**AMANDA LECK:** It covers those seven LGAs. Some of the operational work underway that will underpin the thinking for the disaster adaptation plans includes such things as floor-level surveys across the region to understand floor levels in respect of potential flood heights, some flood awareness and engagement campaigns and some flood evacuation modelling work. In addition to that, we're working closely with CSIRO, who are undertaking one of the largest catchment flood modelling exercises ever completed in Australia. All of those pieces together will underpin the work for a disaster adaptation plan, which will consider a range of options for mitigation across those seven LGAs, or that northern region of New South Wales. Those options will consider such things as reducing both vulnerability through future disaster, but also exposure to future disasters.

There could be a range of mitigation measures from, for example, flood evacuation modelling that I spoke to, warning systems, infrastructure and the like. In terms of operationalising, if you like, that Disaster Adaptation Planning, that will identify the options that are most likely to have the most beneficial outcomes in a future disaster event, acknowledging that this is the first time we will have done a DAP that is multi-hazard, so it's not just focused on flood. It also includes bushfire and coastal hazard.

**The CHAIR:** Yes. Does it include all the landslips as well?

**AMANDA LECK:** It will look at all hazards across the region. Landslips aren't specifically in scope; however, as we know as occurred in February 2022 there were many landslips as a result of those floods.

**The CHAIR:** I think it was one of the things that we experienced and many of the climate scientists and others and planners, it took us all by complete surprise. I don't think it was something we had firmly in scope as one of the outcomes and it's been fairly catastrophic for many communities. With the CSIRO work and your interaction, how active is that interaction? Are you currently aware of some of the early indications and findings that the CSIRO would be considering—in particular, mitigation proposals.

**AMANDA LECK:** There're two answers to that question. As I believe you would be aware, CSIRO identified some early mitigation programs—some 36—as part of what we call the NRRRP program, so there's been close engagement with CSIRO in the development and scoping of those programs. All of those programs are either in early concept design and the like, and some have now moved into delivery. So there's been close engagement with CSIRO to determine that mix of programs and to secure appropriate funding envelopes for each of those programs and the like. I attended a briefing with key senior staff in the region just two weeks ago as part of the NRJO meeting where CSIRO presented on the flood modelling and where they're up to. I would suggest it's an ongoing dialogue.

**The CHAIR:** Is there any indication that we are looking at, for safe places like Lismore, increased levees and dams? Are we looking at those sort of hard, concrete mitigation things, or have we moved on from that?

**AMANDA LECK:** I don't think it's appropriate to comment on the outcomes of the CSIRO study until it is delivered. We've seen nothing specific from CSIRO on their modelling and I think it's important that we wait until that is delivered.

**The CHAIR:** Oh, we're waiting—don't worry.

**AMANDA LECK:** I believe their anticipated date is June.

**SIMON DRAPER:** Can I just jump in perhaps just to say not so much directly on CSIRO because I've had some discussions with some of the leaders in the Northern Rivers about this.

**The CHAIR:** Yes.

**SIMON DRAPER:** We've tried to use the example of the Hawkesbury-Nepean and the model that we did there for the Disaster Adaptation Planning that Amanda and that team are leading. One thing we have tried to reassure people is that, having done the hazard risk assessment, the options for mitigation and adaptation, we should be agnostic about those because you end up probably using a portfolio of solutions. Some of them we certainly would consider what people would call hard engineering type solutions, but that's just one category of things that can be done.

The buyback program we've got going on in the Northern Rivers at the moment is another example of an adaptation program as well. There's a whole suite of things that could be used. It's unlikely that you'll have a single solution but we are trying to keep an open mind and be agnostic and be led by both the impact in reducing the exposure and vulnerability, as Amanda said, but also the economic analysis that goes with that.

**The CHAIR:** I think one of the concerns from the communities impacted in the Northern Rivers is the idea there may then be dumped on the agnostic table of options things that would cause, may cause, have potentially good mitigation impacts but would have significant environmental impacts that would really go to the

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**CORRECTED**

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heart of part of the community's concerns. I think there is that genuine concern about whether—how do you say it?—I think it's fair to acknowledge we've got an incredibly traumatised community that has been standing up for community-led, community-led, community-led outcomes and there is a bit of a fear of we've got the RA. You're a \$1.5 billion government agency and the CSIRO, and I think there is some of that coming through. Is there a program for really early and ongoing engagement about the outcomes, and that dialogue happening?

**SIMON DRAPER:** Yes. Amanda can expand, but that's one of the comments we have provided to all the leaders in the Northern Rivers and the community. There are lots of trade-offs in all of these things. There are no straightforward solutions. Some of those infrastructure or engineering-oriented solutions can be both very expensive and also, if they involve the construction of new assets like levees and other dams that you referred to, they are subject to assessment by the planning agencies.

**KIERSTEN FISHBURN:** Correct.

**SIMON DRAPER:** There are a lot of hurdles to get through—both environmental, Aboriginal cultural heritage, a whole range of things that have to be considered as part of that.

**The CHAIR:** Finishing on the current situation, is the RA undertaking proactive work at the moment to understand how many people are still camping in tents in their gutted homes? Is that something that you've got a clear lens on and you feel confident that you understand what is going on on the ground?

**JOANNA QUILTY:** We have recovery support services, we have partnerships with the community housing providers up there, there is the Community Leaders Forum which has all the councils represented on it, and we have a regional recovery committee that's in place as well. So we would hope that, through those different mechanisms, we do have a reasonable sense of what is going on on the ground. We've also recently undertaken doorknocks. There have been eight doorknocking operations undertaken towards the end of last year and early this year to just really check in on how people are faring, what their circumstances are, are they aware of supports and services that they're able to access. It is a process that we need to continually engage with the community through these different mechanisms, but we're certainly doing that.

**The CHAIR:** Just going to the Auditor-General's comments about how we're recording the experiences, is there a place where we can go to say, "Hey, as a result of those eight doorknocks over this period of time, these are the things that we heard"? Obviously, we're respecting people's privacy. Is there a way of understanding what we're going through as a collective community?

**JOANNA QUILTY:** We certainly have identified some key themes that have come out of those doorknocks and I believe that we do have regular communications back to the community through a variety of different mechanisms. I'm certainly sharing that information with the community leaders. There have been some regular newsletters going out to the community and we do understand that there is a desire for that kind of information and for that transparency.

**SIMONE WALKER:** I'm sorry to interrupt. A part of it is about the community education that we want to continue, which is also about checking in with your neighbours where you're able to. I think in the last doorknock series there were 40 individual households that were then referred on for greater support services, be that mental health or other support. So there still is a cohort of people who have either not felt able to come forward or who have been waiting for the right time to come forward—to really come to the RA or previous iterations to say that they need more help. We need to spend more time reaching in rather than expecting people to come out.

**The CHAIR:** My memory is the evidence suggests that this is the period of time, two years on, when we will see some incredibly broken people who have just held up and held up. Thank you, all.

**The Hon. SCOTT FARLOW:** Mr Wendler, were you or Landcom involved at all in the identification of the 31 TOD SEPP sites or the eight accelerated precincts?

**ALEX WENDLER:** No, we have not been involved in identifying these sites.

**The Hon. SCOTT FARLOW:** Were you consulted at all in terms of the sites before they were published?

**ALEX WENDLER:** No, not to my knowledge. But two of the priority sites, Bella Vista and Kellyville, are sites that we are developing as part of our partnership with Sydney Metro.

**The Hon. SCOTT FARLOW:** With respect to the TOD project team, Ms Fishburn and Ms Gibson, is that a continuing project team in terms of identifying new sites? Are you looking at any new sites to the TOD project at all?

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**CORRECTED**

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**KIERSTEN FISHBURN:** We haven't been asked to look at new sites at present. However, I can confirm that some councils have asked us to look at additional sites, so that's obviously something that we'll provide advice to the Minister about.

**The Hon. SCOTT FARLOW:** With the TOD project, you've been very specific in outlining that it will apply in heritage conservation areas.

**KIERSTEN FISHBURN:** We were wondering when we would get to the heritage conservation area. Thank you, Mr Farlow.

**The Hon. SCOTT FARLOW:** You've indicated it will apply in heritage conservation areas but it would not apply to heritage items. Is that correct?

**KIERSTEN FISHBURN:** That is correct, yes.

**The Hon. SCOTT FARLOW:** With respect to the low- and mid-rise changes, does that have the same application?

**KIERSTEN FISHBURN:** I'll ask Ms Gibson to speak to the detail.

**MONICA GIBSON:** The low- and mid-rise reforms do apply to heritage conservation areas and heritage listings.

**The Hon. SCOTT FARLOW:** It applies to heritage listings as well?

**MONICA GIBSON:** It does.

**The Hon. SCOTT FARLOW:** So it will be different to the TOD SEPP. Is that correct?

**MONICA GIBSON:** That's right. As we have outlined the reforms, there currently is a difference between the two of them.

**The Hon. SCOTT FARLOW:** Just let me get this straight: There will be more heritage protections under the TOD SEPP rather than the low- and mid-rise. Is that correct?

**MONICA GIBSON:** I wouldn't characterise it in that way. I would say that they just are applying in different ways. We are seeking feedback from councils, from stakeholders and from the community about all elements of the reforms. I know that we are receiving a lot of submissions about the way the reforms apply to heritage areas and heritage items.

**KIERSTEN FISHBURN:** I just want to back in not on the question of heritage. None of these SEPPs have actually been made at this point in time.

**The Hon. SCOTT FARLOW:** Yes, I understand.

**KIERSTEN FISHBURN:** They are all either subject to really quite rigorous and in-depth consultation with local government; the EIE process, which we've discussed; and consultation with a range of stakeholders. What we are describing is what is proposed. That may well change. Planners love to consult and love to read submissions, as Ms Gibson assures me. Obviously, depending on the content of those submissions, the discussions with councils—sometimes the questions can imply that this is a done deal. What I want to emphasise, and I know the Minister did this as well, is that we are talking to councils every single day in various different formats—different governance, at the very senior level—to engage on these topics.

**The Hon. SCOTT FARLOW:** The Minister indicated on 30 November that the changes to low- and mid-rise housing wouldn't apply in heritage conservation areas. So the Minister wasn't correct in making that statement on 30 November?

**KIERSTEN FISHBURN:** I'm not aware of that statement. If you could give me where that statement was made.

**The Hon. SCOTT FARLOW:** I am happy to hand up the article.

**KIERSTEN FISHBURN:** Yes, that's fine. But let me repeat again: We put an EIE out, and the whole point of an EIE is really—it's the equivalent of testing the market. You discover what people want to make comment on, what they have concerns or opportunities about, and that's the whole point of the EIE. So we haven't actually made these changes. They have not been brought into effect yet.

**The CHAIR:** Do you think you might put out an explanation of unintended effect as well?

**KIERSTEN FISHBURN:** I'll take that as a comment, Chair.

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**CORRECTED**

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**The CHAIR:** Sorry, that was a terrible, terrible joke.

**KIERSTEN FISHBURN:** Always in a joke, yes.

**The CHAIR:** Sorry.

**KIERSTEN FISHBURN:** That's okay.

**The CHAIR:** They're very good, important documents. In terms of the approach that we are taking, going on to the TOD and the low- and mid-rise density, is it fair to say from your perspective that your brief is to drive something now that is very much about a market-focused approach? It is about proponents that will build and will provide housing through market opportunity.

**KIERSTEN FISHBURN:** I want to take that question a step back, if I may. The brief of the department is really quite clear. The State Government as well as local government and the Commonwealth have all signed up to the National Housing Accord. We have a responsibility to do what we can within our powers. I'm happy to talk about the areas of influence within Housing that are outside of the remit of Planning, if that's useful.

**The CHAIR:** In terms of the housing accord and what we were looking to achieve—it's a broad achievement in terms of what we're trying to do—why is it that we are now, in New South Wales, focused on these instruments to deliver the housing that we apparently need, but that the affordable housing component, which aims for 15 per cent under the TOD will in fact only guarantee 2 per cent of affordable housing? How is that remotely—I see you're shaking your head, Ms Gibson. Explain to me how it provides affordable housing more so than that.

**MONICA GIBSON:** To indicate, Chair, I was shaking my head about the difference in the way that the 2 per cent and the 15 per cent might be considered.

**KIERSTEN FISHBURN:** They work in two different areas.

**MONICA GIBSON:** As we have been briefing councils, and as we've been explaining the policy, what we are proposing is that, in the TOD SEPP, affordable housing would be a 2 per cent in-perpetuity affordable housing for the housing change in that area. The Minister indicated this morning that he expects that that will change over time and to a published schedule. In the accelerated precincts, because the uplift of development potential, we expect it will be much higher than it would be in the TOD SEPP locations. We would expect that there would be more potential for affordable housing in those areas—so a percentage of in perpetuity affordable housing up to 15 per cent. It won't be the same for every one of the accelerated precincts because we know that the feasibility of development and the amount of uplift for new growth in those locations will vary place to place but the principle of affordable housing in perpetuity in these locations has been included because of the well-located nature of these precincts.

**The CHAIR:** Why is it so low?

**MONICA GIBSON:** There will be different perspectives about whether that number is low or not. I certainly am receiving some representations to suggest that that number is high and will be difficult to achieve.

**The CHAIR:** I could certainly guess where that's coming from. In earnest if we are seeking to achieve housing, surely affordable housing is one of the really big goals under the accord.

**MONICA GIBSON:** I think—

**KIERSTEN FISHBURN:** You go, Ms Gibson.

**MONICA GIBSON:** It's never good to speak over somebody asking a question or the secretary trying to answer, so two strikes today. The number—the 2 per cent or the up to 15 per cent—in these precincts is coming from places where the number is usually zero, so this is a start. This is progress and the Minister's indicated that there would be intention to increase that over time. The affordable housing infill bonus could also apply in addition so that is a 15-year, time-limited affordable housing component. There's progress towards the task. The National Housing Accord does include a number of affordable homes and there is work being undertaken by a number of State agencies in relation to that, primarily Homes NSW, who is typically the Government's provider of affordable and social homes and—my colleague sitting further down the table—with Landcom, who also have been tasked with providing more affordable housing. We also know that the industry will provide more and we're certainly looking to work with community housing providers about their reforms that would be useful in the planning system to help increase how they could work towards delivering affordable housing.

**The CHAIR:** Thank you. We'll come back to that. It is now time to have a 15-minute break.

**(James Hebron withdrew.)**

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**CORRECTED**

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**(Short adjournment)**

**The CHAIR:** Thank you, and welcome back. The Committee will note that Mr Hebron has been excused. We will now continue with further questions from the Opposition.

**The Hon. SCOTT FARLOW:** Thank you very much. Just returning back to the heritage question, with respect to the explanation of intended effect, the only reference I can see in it is, with respect to heritage—and this is on page 34:

All other applicable planning controls and Local Environment Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent that they are not inconsistent with these new standards.

Is that correct in terms of what's been put out on the EIE or is there something that I'm missing?

**MONICA GIBSON:** Mr Farlow, we might have slightly different page numbering in our EIEs, but there is mention of heritage in the document. We haven't put out any other public information at this point in time, though I have spoken in some council forums to say that we will be providing some additional guidance around this matter because there've been a number of questions from councils during our briefing sessions.

**The Hon. SCOTT FARLOW:** With respect to that and the additional guidance, do we expect to see that as public or they will just be shared with councils?

**MONICA GIBSON:** I would expect that they'll be made public.

**The Hon. SCOTT FARLOW:** With respect to some of the controls, what are we talking about in terms of how far they will go? Will they start to impact on local LEPs, for instance, around—and this is with the TOD, not the changes to low- and mid-rise. Will it override things like controls under part 8 of the Marrickville DCP, for instance, around the Dulwich Hill TOD?

**MONICA GIBSON:** I haven't read in full the Marrickville development control plan. But, looking at some of the other inner west development control plans, particularly around Haberfield, because council's recently exhibited some changes in the Haberfield area—the reforms are not proposing to make changes to development control plans. They're not proposing to make changes to heritage listings or heritage conservation areas that are outlined in councils' local environmental plans. The reforms are talking about permissibility of land use. So, where council has an R2 zone, like some of the heritage conservation areas that exist in suburbs like Croydon or in other parts of Sydney, the permissibility around low-rise development would be changed through the SEPP. The non-refusal standards would also apply.

But I want to reiterate something the Minister said earlier today. The development applications for that type of housing would continue to be lodged with council and assessed by council. Council are very well placed to assess applications for the impact in heritage conservation areas and often encourage new development to occur in those areas where it's contributing to the heritage values of those locations. That might involve the removal of a non-contributory building to the heritage value of that area. That new development would improve and enhance the heritage values of those locations.

**The Hon. SCOTT FARLOW:** For instance—and I think this was the case in Croydon and the Malvern area—there are controls at the moment regarding the demolition of contributory buildings within that HCA. They would be overridden by that SEPP, would they?

**MONICA GIBSON:** No. Those demolition provisions might say that only non-contributory items could be demolished. Other demolitions would not be allowed. There would be no change to that through the reforms that we are proposing. But where a demolition is allowed and encouraged in order to remove something that is not adding to the heritage value of that area, the replacement of that non-contributory item with a well-designed new building—new home—is something that council could definitely assess and consider.

**The Hon. SCOTT FARLOW:** I'll put to you—and it's been published on Ku-ring-gai Council's website—that heritage adviser Lisa Trueman has written:

As the new standards seek height and density that is entirely inconsistent with the significance of each of the HCAs, it is very unclear how Clause 5.10 could be applied to protect the heritage values of Ku-ring-gai's HCAs.

How would 5.10 be applied in this instance?

**MONICA GIBSON:** Mr Farlow, clause 5.10 of the standard LEP is the heritage conservation clause. That clause outlines the matters that council would consider in assessing development applications in those areas. We're not proposing any change to that. In fact, they are the matters that council would be referring to when they'd be assessing any application. If council considered that the height of a development application that had come in

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**CORRECTED**

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for a heritage conservation area was going to significantly detract from the heritage value of an area, that would be a matter that council would be assessing and working with a proponent to make sure that that was either modified in some way so that it was consistent with the heritage value or, in the case where council couldn't reach that decision, they might choose to refuse that development application.

**The Hon. SCOTT FARLOW:** Let's take, for instance, somewhere outside of the TOD set area like Beecroft, which has got a heritage conservation area within both the 400- and the 800-metre zone of the station. In that area, would each of those R2 properties therefore be allowed to have a permissible use of multi-dwelling housing, terraces and manor houses?

**MONICA GIBSON:** Regardless of whether it's in a heritage conservation area or not, the permissibility is based on the zone, not on the heritage conservation area. The zone would mean those uses would apply, in what we're proposing. Council would continue to assess the heritage conservation area, which we are not changing. That would involve, usually, a heritage impact assessment that would need to come in with a development application. As the Minister mentioned this morning, this is the reason why it's a development application and not a complying development pathway.

**The Hon. SCOTT FARLOW:** Then further to that, the non-refusal standards would also apply within those precincts?

**MONICA GIBSON:** That's right.

**The Hon. SCOTT FARLOW:** So whether it's a TOD SEPP area or whether it's changes to low- and mid-rise housing, the non-refusal standards under both would apply?

**MONICA GIBSON:** That's what's proposed in the EIE.

**The Hon. SCOTT FARLOW:** Turning to some further questions with respect to the changes to low- and mid-rise housing, we had a regional example before in terms of Bathurst. Also, indications have been made from Tamworth as to where they have limited sewer capacity in their R2 zones. Is this something that the department will take into consideration in looking at exemptions from any application of the code?

**MONICA GIBSON:** We're really looking forward to reading the submissions from every council and the reasons and their suggestions about how the policy will best work in their area. I think the Minister used a quote earlier this morning that, "It's no good having a building if you can't flush the toilet or turn the lights on." Because the intention of these reforms is to see more homes completed and constructed, I want to make sure that those essential services are available in those areas. Typically, councils have a provision in their LEP, their local environmental plan, that says that they need to consider whether essential services are available onsite and that that would be a matter that council could refuse a development application on.

**The Hon. SCOTT FARLOW:** So that would effectively go back to the councils in terms of their assessment? Is that correct?

**MONICA GIBSON:** That is one of the options that we would be considering, but I'd really like to have a read of Tamworth's submission in detail and see what they're proposing and then seek any clarification from them before we make a final decision about how the policy might apply in Tamworth's R2 zones.

**The Hon. SCOTT FARLOW:** With respect to the ability to be able to flush a toilet, which I think we all agree makes for habitable living, was the age of sewerage infrastructure taken into consideration when assessing the TOD locations?

**MONICA GIBSON:** Mr Farlow, I'm assuming that what you mean by age, you're talking about how capable it is—

**The Hon. SCOTT FARLOW:** How long they've been there for, yes.

**MONICA GIBSON:** —what capacity is available. Yes, that was certainly a consideration. Thankfully, age doesn't mean that things are not as good as they are when they're young, which I'm pleased about. But the capacity is what's relevant. That was the question that we asked and sought detailed information from Sydney Water about.

**The Hon. SCOTT FARLOW:** With respect to that as well, did you ask questions with respect to the amount of sewerage sites that had burst within a period?

**MONICA GIBSON:** We asked Sydney Water to provide their expert advice on the capacity for additional homes to be in an area. I think the factors that they considered and whether there were maintenance issues or other matters related to their sewer would be questions for them.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Luckily we've got them tomorrow. There was some media reporting that indicated that sites like Edgecliff, for instance, weren't included because they were "currently limited in additional growth because of limited sewer and water infrastructure." Were there other sites that were eliminated on similar grounds?

**MONICA GIBSON:** Yes, there were.

**The Hon. SCOTT FARLOW:** Can you provide us a list of those sites at all?

**MONICA GIBSON:** I'll need to take that on notice. The reason for that is some of those matters were specifically discussed in Cabinet settings and are included in sensitive documents. I'd just like to take advice.

**KIERSTEN FISHBURN:** We'll just take some advice about what we can provide.

**The Hon. SCOTT FARLOW:** I'm happy for you to do that. Turning to the changes to low- and mid-rise housing and the controls that are coming in place, with respect of dual occupancies and the non-refusal standards that will apply in Greater Sydney, is there any council currently that allows a height higher than 9.5 metres for dual occupancies?

**MONICA GIBSON:** I would need to take that on notice.

**The Hon. SCOTT FARLOW:** If you can also take at the same time which councils allow a height of 9.5 metres or above.

**MONICA GIBSON:** I will do.

**The Hon. SCOTT FARLOW:** Does any council currently allow an FSR of higher than 0.65:1 for dual occupancies?

**MONICA GIBSON:** Again, that's something that I would need to take on notice and am happy to do.

**The Hon. SCOTT FARLOW:** I might put a few of these on notice because I suspect that is where we're going to head. This question you may be able to answer to me now. If you have a block of 1,000 metres squared, can you then go through a process of subdividing it into two blocks of 500 metres squared and then build a dual occupancy on the resultant block, thereby allowing for four residences?

**MONICA GIBSON:** It's a bit of a hypothetical question, because every site will be different and it would be merits assessment about that subdivision of the land in most situations. That would take into account the dimensions of that site, the resultant lots that would be created from that. It would consider things like the access to the road, what the frontage of that would be. It would also consider the slope of the land, vegetation that might be on the land, bushfire hazard, flooding issues. Without a specific example, without talking about a particular application, I probably couldn't give you a completely accurate answer.

**The Hon. SCOTT FARLOW:** But in the sense of if you were to subdivide a site into two 500-metre square blocks, it would then be assessed not on the original site but it would be assessed on the resultant blocks. Is that correct?

**MONICA GIBSON:** Yes, absolutely.

**The Hon. SCOTT FARLOW:** Thank you for clarifying that. Also, with respect to the TOD SEPP, you have talked about maximum parking requirements. What is envisaged in terms of maximum parking requirements?

**MONICA GIBSON:** We are working through the policy settings in relation to maximum parking in the TOD areas. That's likely to be different in the accelerated precincts, as well as in the TOD SEPP area. We are consulting on maximum parking rates in the lower- and mid-rise reform, and there have been a number of submissions in relation to that. We will use that feedback to work through any details and provide recommendations to the Minister about maximum parking rates.

**The Hon. JACQUI MUNRO:** I wanted to turn to the Planning Portal. I'm wondering in the last 12 months how many complaints you have received about the NSW Planning Portal.

**KIERSTEN FISHBURN:** I'd have to take that question on notice.

**The Hon. JACQUI MUNRO:** Could you also, on that—

**The Hon. SCOTT FARLOW:** There might be a few on that.

**The Hon. JACQUI MUNRO:** —provide a breakdown of the different types and sources of complaints, with the number of each?



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**CORRECTED**

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**KIERSTEN FISHBURN:** Yes. Obviously I will have to take that on notice. That's detail I don't have at my fingertips.

**The Hon. JACQUI MUNRO:** Yes, I understand. Do you track the response time for Planning Portal inquiries from councils and certifiers?

**KIERSTEN FISHBURN:** What we do do is categorise the inquiries we get through the Planning Portal and I want to distinguish some of those legitimate complaints. No system is perfect; some of them are just genuine inquiries. We do categorise them in terms of urgency and need and the type of inquiry that we've got. Yes, we are able to broadly track those. I will say—because I suspect I know where you are going here as well—that we are aware there have been issues with the Planning Portal, and we are working overtime to remediate them. Part of that process has been being more strategic with the way we deal with inquiries into the system and the way we get them back out again as well.

**The Hon. JACQUI MUNRO:** Is there a percentage of inquiries resolved?

**KIERSTEN FISHBURN:** Yes, we do track that.

**The Hon. JACQUI MUNRO:** Is that information able to be made public?

**KIERSTEN FISHBURN:** I don't see any reason why it couldn't be made public, but let me take that one on notice and have a look for you.

**The Hon. JACQUI MUNRO:** That would be helpful to get that information. I'm wondering what the department's response was to published comments of Michael Comminos of the Astrolabe Group that "the NSW Planning Portal is under-resourced, not a mature product, unnecessarily complex and not designed with a customer focus".

**KIERSTEN FISHBURN:** My first comment back to that is that I have already stated that I think the Planning Portal needs some improvement. I don't want to throw out what is ultimately a process that has allowed for greater transparency in the planning system, both in terms of data but in terms of proponents being able to understand where their things are, what is required, who is looking at what and at whom. That's a really, really positive outcome. The data analytics piece in terms of us understanding what's going on in the world of planning is immeasurable. So there are wonderful things that the Planning Portal has brought to us.

Can we have a sharper customer focus on it? Yes, I would agree that that is the case. I believe I'm on the public record of having said that that is something I would like to see, but I don't want to walk out of this room saying, "I have absolutely critiqued the portal." I think the portal is an excellent part of the New South Wales planning system and, like any tool that we have brought into play, it is still fairly young. It is part of the reason we can't give good data from earlier than two years ago, because we didn't have that portal there. Can we improve it? Of course we can. But it is ultimately a tool that has added an enormous amount of value into New South Wales planning as well.

**The Hon. JACQUI MUNRO:** Are you aware of concerns that have been raised about the correct legislation not being available and also concerns around staff not having adequate training to actually be useful to consumers?

**KIERSTEN FISHBURN:** I have not heard that comment about legislation but, if you have anything, please give it to me. I'm being absolutely open by saying I want to make system improvements here. In relation to staff, I am aware—as is not uncommon with anything that you would say would be in the start-up phase—that there has been reliance on contractors coming in because they understand what they are doing. We need to transition that into permanency in the department now, and we are working through that process. If there have been some hiccups over the course of that while we handshake out of that more start-up early start phase to embed it, sure, that might have occurred. But I'm happy to take any specific examples. You are welcome to email them to me and I will try and get you a response very quickly.

**The Hon. JACQUI MUNRO:** Is there a time line on that transition from staff being contractors to being staff within the department?

**KIERSTEN FISHBURN:** We are working on it over a six- to nine-month period.

**The Hon. JACQUI MUNRO:** And that started when?

**KIERSTEN FISHBURN:** We started some system improvements on the portal at the end of last year and I believe, certainly from the comments I've got, that people have been able to see them as well. There can be things that can frustrate people that are actually really simple fixes. They are not fixes that require money. They are not fixes even that require resourcing. If I give an example of one that we have brought into play this year,

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**CORRECTED**

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one of the things that frustrated councils—and I can legitimately see why it frustrated them—was that we would make changes to the Planning Portal fairly often to keep up with new things that have been introduced, changes to legislation or system improvements that we had identified or that councils had improved for us. But that meant councils were having to continuously change their system.

We heard last year, through excellent work done with the then deputy secretary with the councils, that that was one of their biggest points of frustration. We were able to commit to councils, "Actually, we will only change the system three times a year and we'll tell you what we are changing at that point in time so you have got predictability, you can plan your business around that and you can understand what we are doing." That's a process improvement that councils are saying to me will make an enormous difference. That is actually not something that has cost the Government any money. If anything, it will save us money a bit because we will be bundling all of the changes together in one hit.

**The Hon. JACQUI MUNRO:** Are you consulting regularly with stakeholders about the operation of the portal? I see you nodding yes, Mr Gainsford.

**KIERSTEN FISHBURN:** Yes, we are. Do you want to talk about the stakeholder groups, Mr Gainsford?

**DAVID GAINSFORD:** Thank you for the question, Ms Munro.

**The Hon. JACQUI MUNRO:** Maybe just to follow on from that, there were concerns that the portal failed to distinguish between exempt development and complying development. Is that something that you might have heard through your stakeholder engagement?

**DAVID GAINSFORD:** I may need to take that one on notice. But with regard to the stakeholder groups, we actually operate three reference groups. Importantly, those three reference groups include government agencies, which include the building commissioner and various other government agencies that we deal with on a day-to-day basis. It includes councils, and we actually have 94 members. We've split those into two different groups: one that has a high volume of development applications and those that have a medium or low volume. Last but not least, it includes an industry group as well. Certainly, that is a very key component in terms of getting the feedback on the portal. We take that sort of engagement with those reference groups very seriously.

**The CHAIR:** Mr Conrow or perhaps Mr Draper, in terms of the RA's finances and in particular the Northern Rivers recovery and the various program streams, is your overview of that that we are currently engaging fiscally responsibly or are you seeing any red flags along the lines, in terms of your budgetary allocations?

**MATT CONROW:** Thank you for the question. I would just say that definitely we are engaging fiscally responsibly. What I would highlight, though, is—

**The CHAIR:** Somehow I didn't think you were going to say otherwise.

**MATT CONROW:** It is true. I would start by highlighting that there has been, over the course of the last five years, on an average annual basis, a 1,300 per cent increase in the amount of money being spent under Disaster Recovery Funding Arrangements that are part of a bilateral agreement with the Commonwealth that we administer in response to extraordinary disaster events that we have had in repeat times. There is no doubt, from an administration perspective, that that's put the system under incredible strain, not just at a State level but at a Commonwealth level and also a council level, local government level. So we've had to really scramble to evolve our systems, processes and capability across all levels of government to cater for that volume of expenditure. I think what you are seeing is some challenges around how we best equip administrative arrangements under the DRFA, but that's not having an impact, in my perspective, on money getting to communities in need and the speed of the recovery.

The way that the DRFA—the Disaster Recovery Funding Arrangements—operates is that the State makes the commitment of funding under various categories to disaster-impacted communities, businesses et cetera and that money will flow, and it is flowing. The acquittal of that expenditure under the DRFA with the Commonwealth and the administrative arrangements between the State and Federal governments, that, in my opinion, could do with some improving, but that is not impacting on the speed at which the recovery money is making its way to those in need.

**The CHAIR:** From your understanding and your visibility of the flow of money, is there an adequate ability to say that the money that's being sourced is coming from community demand or community request, or do we not have that lens fully? It's fine to say the money is going to the community but is it going to the community in the way they've asked for it?

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**CORRECTED**

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**MATT CONROW:** I'm happy to invite other colleagues into this conversation as well, but probably there are at least two parts of the process at which that definitely takes place. At the initiation stage of a program, under Disaster Recovery Funding Arrangements there'll be an impact analysis done on the ground for various inputs of that impact analysis that tells us the extremity of the event, what kind of measures might need to be activated. That's also when we would look at extraordinary programs that might need to be set up outside of the standard provisions of the Disaster Recovery Funding Arrangements, and that would involve extensive community consultation, as we're seeing in the recent announcements around the Central West and the stand-up of those new programs in the Central West.

So definitely, the community being part of the design of the programs in the first place is a critical part of that. Then when we move into the delivery of those programs, there is obviously monitoring throughout and that data capture around monitoring and evaluation of outcomes is a really critical piece of that. What I would say is that it's incredibly important that you design that monitoring and evaluation framework upfront so that when you're trying to measure whether those outcomes have been achieved, you're measuring it against a baseline that's reliable and been set in advance as opposed to trying to measure something that you haven't actually defined in the first place.

**The CHAIR:** So from where you sit, there was the announcement of the—and I did address the Minister earlier this morning, but it all turned into fire, really. There was the original announcement that there was going to be a \$1.5 billion investment in the Resilient Homes Program. I think, from what the Minister was saying, we're kind of redefining that. That was perhaps an announcement then and we're redefining what the costs are and the allocation as we go. Is it your view then that the money that we have and the money that is committed is adequate to resource the program as the community has understood the Resilient Homes Program?

**MATT CONROW:** I might invite Ms Leck to comment on that.

**AMANDA LECK:** I would say, with regard to the Resilient Homes Program, that we are still actively working through that initial \$700 million tranche of funding. To date, we have been able to buy back—we've made 721 offers, 562 of those offers have been accepted and 309 have settled. So we are making good and, I would suggest, rapid progress. If anyone has bought a house they would realise how involved it is to settle a house. We've settled some 309 in the past few months. I would say that there is still a significant allocation within that program budget and we are working through that on a daily basis, working directly with community around prioritisation.

There are some community members who do not want a buyback who have expressed interest in the raising and retrofit program that will allow them to stay in their home. And we've started the early community engagement around that and reaching out to those communities as well. I think it's important to see the RHP as a broad program. The focus has been on buybacks but, ultimately, the program will help in the order of 1,400 people. As I've suggested, we are still working through that on a daily basis. It's probably too early to make definite remarks with regard to that funding envelope.

**The CHAIR:** Can I just ask, and it's probably relative, why has the raising and resilience arm taken so long?

**AMANDA LECK:** I think it's fair to say that the program prioritised the buybacks in the initial work that was done, so those offers, if you like, and the negotiations around those offers—and there's a significant amount of work that goes into that, from understanding the valuations of those properties and working with home owners on those valuations. They have to provide a range of documents. As you earlier reflected, this is a deeply traumatised community, so we go at their pace. It sometimes takes people a length of time to make a decision to accept a buyback. We have many offers that we've made that have not yet been accepted. That all takes time.

We also wanted to ensure that we were delivering the raising and retrofit program in a way that best met the needs of the community. We've been very fortunate to learn some lessons—we talked about lessons learnt earlier—from the program that rolled out in South East Queensland. We have secured the services of Dr James Davidson, an architect who is the leading flood-resilience architect in Australia, to support the implementation of that program. The program resources have been adapted from the Queensland model but, as he said, we've learnt a lot from that model in the last five years and all of those learnings are now being applied in the Northern Rivers as that program rolls out.

**The CHAIR:** From the visibility you have, including the adaptation work, the work with the CSIRO, the funding et cetera, do you think it's a wise decision that the New South Wales Government is re-establishing the TAFE site in Lismore where it is?

**AMANDA LECK:** I'm not able to comment on the TAFE site. I have had no involvement in that decision. I would suggest that would be a matter for the government agency responsible.

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**CORRECTED**

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**The CHAIR:** So then it's fair to say that the work that you're doing in RA is not feeding in? Or is it feeding into those very important strategic asset considerations and decisions that are being made in completely affected communities that are going to flood again and again and again?

**AMANDA LECK:** I think that there is significant engagement by the RA with other government departments, including with the department of planning and Landcom, for example—with the establishment of the resilient lands site that the Minister spoke to earlier—with School Infrastructure NSW, with the Department of Regional NSW and the like. But with regard to the specifics that you went to about the TAFE site, I'm not able to comment on that.

**The CHAIR:** No problem. I think this is what I was getting at earlier. Perhaps this is for Ms Fishburn. We are investing such good money and doing good work and some incredible discovery of how we need to adapt. How is it working at that operational level where we literally are continuing to place people and assets, for what its worth, in the line of significant harm from floods? Again, even the continued development on flood-prone land, the brand-new development, let alone recovery development—I'm trying really hard to understand the investment, the operational relationship and the work so that we don't just keep doing the same things.

**KIERSTEN FISHBURN:** I have some comments there, Chair, but, from my perspective, this isn't a black-and-white issue. There is a community who have, essentially, existing use rights who wish to exercise them, and we, obviously, are respectful of those, while still trying to work to look towards mitigation. Mr Draper talked about the fact that mitigation falls many different ways. It's not just a hard engineering solution.

**The CHAIR:** But that's precisely why I used a government property, a government asset. It's our TAFE in the middle of Lismore, in the most flood-prone area, and we are pouring millions of dollars in fixing it all up so that it's a TAFE again. Don't get me wrong—love the TAFE. But I'm trying to reconcile this investment, this knowledge, this collection of data, and then we go and make these strategic financial decisions. I think communities are wanting to understand where is this connect or disconnect, for a better term, happening.

**KIERSTEN FISHBURN:** I can hear your frustration in not understanding how that plays out. I can't speak to the TAFE decision. Obviously, that's outside of my portfolio and I suspect, if it's a rebuild, it has just been done as—we'll get some details, but I suspect it's just been done as the complying--

**The CHAIR:** It's more literally trying to understand, if the Reconstruction Authority doesn't have a pivotal voice role in that, why it doesn't and should it. That's all I'm trying to understand.

**SIMON DRAPER:** Maybe one thing to say is that the roll of the Reconstruction Authority is to work with the councils, including the Regional Organisation of Councils, to develop an adaptation plan for the region and then at local government area.

**The CHAIR:** It's a State government asset, that's all.

**SIMON DRAPER:** Sure. What I was going to say is that that planning is long term and there were existing development controls in Lismore and other LGAs in the area. I know that Lismore City Council has been looking at their development controls and I think probably Ms Fishburn is right; they're probably operating under existing consents. But the decisions about putting assets back into, effectively, the centre of Lismore—bearing in mind we're not talking about homes; we're talking about other uses. There is no decision to withdraw or abandon the Lismore CBD; that's not a decision that's been made. Again, I'm with the others: I'm not familiar enough with the decision by TAFE to do that—

**The CHAIR:** It's no problem.

**SIMON DRAPER:** —to comment on that specifically, but at a general level I'd say there are people reinvesting in Lismore. Putting people in residential areas, in residential premises in those areas, I think we'd worry about. We've got a program trying to move people out. But there will be potentially other uses for that land that is more flood affected, which is acceptable, depending on the evacuation arrangements they have in place.

**The CHAIR:** If I could talk about coastal planning and what's happening in the coastal planning space, particularly in relation to coastal erosion, whether the department's looking at planned retreats, or whether we're heading down the continued seawall proposals.

**KIERSTEN FISHBURN:** I'll ask Mr Gainsford to make some comment there.

**DAVID GAINSFORD:** I'm wondering, Chair, if you can be a little bit more specific in terms of—

**The CHAIR:** Does the State consider that the current settings are adequate for councils to be planning for this enormous climate coastal erosion issue that we're facing, with increasing sea swells and possible sea level

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**CORRECTED**

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risers and so on? Do you, as the team responsible for the State settings, think that we are right or are we doing work in that?

**DAVID GAINSFORD:** Yes, my understanding—and I might take some of that question on notice in terms of where we're up to with various guidelines, because I have recently taken on responsibility for some of these areas. But my understanding is that we are working closely with councils on updated guidance with regard to coastal planning. I know there's been a series of guidelines that we have produced and worked with councils on over the years. Yes, my understanding is that we are constantly talking to councils about these types of matters.

**The CHAIR:** Will that include where we are looking at seawall proposals for affected parts of the coast?

**DAVID GAINSFORD:** I might need to take that on notice as well. I know certainly there has been a couple of examples of seawalls that obviously have had a large amount of media. My understanding is that those seawalls themselves have actually been going through local development application processes. Other than taking it on notice, I'm not familiar with those specific ones.

**SIMONE WALKER:** Chair, could I jump in? The State Disaster Mitigation Plan that Ms Leck mentioned earlier was released on Friday, and coastal hazards is one of five hazards that we're looking at in the multi-hazard view and that we would expect to see recognised in the disaster adaptation plans as well. It certainly gets called out in that plan, when we look at 2023 through to 2060, as something that has a broad impact, and that's outlined there. In the consultation pieces that we did, communities that are impacted by coastal hazards were pleased to see that reflected because this is their lived experience and their lived concerns. So we'll see that flow through to their adaptation plan.

**The CHAIR:** How, then, does that help—for example, at the moment, we've got northern beaches that have essentially been overridden by the planning panel in relation to extending the seawall there. That's despite a plethora of evidence suggesting more harm is going to happen. What is the department's role and where do you see an opportunity to prevent any more of this from happening, rather than in four years' time us sitting here saying, "Gosh, what did our adaptation plan say? It said in theory we should be doing these things, but we haven't actually done any of them." I'm just curious. Is the State department willing to get a bit more muscle in this space and protect people? Or are we just going to carry on for now?

**KIERSTEN FISHBURN:** The implication that we are not committed to protecting people is one that I take relatively seriously. We obviously work within the planning framework that exists at the given time. As Ms Walker has detailed, coastal management is something that has been identified. Knowing that it has been identified, and the fact that good practice would indicate that you look at your guidelines on a fairly regular basis and certainly when there is new information available—as Mr Gainsford said, this is our opportunity—therefore, to review them. I obviously can't commit to a Government position because it's not mine to commit to, but we've got two significant pieces of information that this has been identified by the Reconstruction Authority. We work exceptionally closely with them. As we would in any space, we do review our guidelines on a fairly regular basis or as requested, and we're clearly in the process of doing that now. If that can give you some comfort, there is a joined-up view and what will end up being a piece of work, because what is advised by the Reconstruction Authority has to be actualised into the planning system as well. So we'll make sure that there's that line of sight.

**AMANDA LECK:** I think it's important to note seawalls are not the only mitigation solution around coastal hazard risk. That's what the DAPs are designed to do: to look at the range of options. It could be sand regeneration. It can be nature-based solutions. It can be retreat from the coastline. There is a range of options. The disaster adaptation plans are designed to understand, for any given risk in any given location—because for every location the solution may be somewhat different—how those options can best be put into place and, if you like, the interface between those options as well.

**The CHAIR:** That's where I started: planned retreat. Is the State actually looking at retreat as a safety and viable necessity and, if so, when does that become an instruction, prescriptive or regulatory, around the different systems of governance, whether it's a planning panel or whether it's a council making a decision on the ground with the focus? At what point does the disaster plan become a required thing to implement to protect people? I'm going beyond property now. We know we'll lose property—people. Is this built into the system?

**MONICA GIBSON:** For the planning system, perhaps I could help answer. The coastal management framework and, in particular, the Coastal Management Act is a matter that the Minister for the Environment has responsibility for. How the Coastal Management Act turns into coastal management plans that councils prepare and supported by the environment department—

**The CHAIR:** How will this feed into—is the RA then—

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**CORRECTED**

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**SIMON DRAPER:** Maybe as a simple way to point this out, section 38 of the NSW Reconstruction Authority Act requires relevant authorities—i.e., councils and other agencies—to take account of the State Disaster Mitigation Plan and any disaster adaptation plan in exercising their functions, which include their planning functions.

**The CHAIR:** Is that something that will be monitored and exercised? Will there be a function within the RA in that regard?

**AMANDA LECK:** The disaster adaptation plans are not operational plans that would be exercised, per se. They are more longer term, I think, as Mr Draper outlined earlier. They are longer term adaptation plans that identify appropriate mitigation options for any given local government area or regional area, for example. They also do the analysis about which of those options for mitigation are going to have the best effect. It is, according to the phrase, not a one-size-fits-all-approach to this. It will be a range or a mix of options for any given location and we need to model which of those options are going to have the best effect in terms of mitigating the risk for communities.

**The CHAIR:** Thank you. I am very much hearing a concern here about the operations.

**The Hon. JACQUI MUNRO:** Mr Draper, I'm sorry that I interrupted you earlier talking about the MOU and the plan about Rosehill racecourse.

**SIMON DRAPER:** That's okay, I know you have limited time.

**The Hon. JACQUI MUNRO:** We're finally circling back, to use another desperately overused phrase. I wanted to really understand what the definition of a proposal is because I understand that there are planning proposals in a formal sense and I understand that the Government is not treating the ATC proposal as an unsolicited proposal. But in their press release it very clearly states:

The proposal, which was brought to the NSW Government by the ATC, centres around the potential to build more than 25,000 new homes on the Rosehill Racecourse site.

What is the definition of a proposal in this context for the Government?

**SIMON DRAPER:** We use that phrase interchangeably between different things. When they're talking about a planning proposal, that is really an application under the EP&A Act.

**KIERSTEN FISHBURN:** For a rezoning.

**SIMON DRAPER:** We're nowhere near that at the moment.

**The Hon. JACQUI MUNRO:** I understand.

**SIMON DRAPER:** We're talking about an unsolicited proposal.

**The Hon. JACQUI MUNRO:** But it's not an unsolicited proposal yet, is it?

**SIMON DRAPER:** They haven't submitted the documentation for it to be assessed under stage one of the unsolicited proposals guidelines, but they advised us that they were going to, so we entered into an MOU—and when I say "we", I mean government officials, not me personally. Government officials entered into an MOU with the Australian Turf Club acknowledging that they had advised us that they were going to submit an unsolicited proposal and setting out a number of procedural guidelines on steps that would be taken in the development of that proposal. The unsolicited proposals guideline does recognise that there is a period before the submission of a formal proposal where the parties might engage so they can discuss what is needed in that proposal and provide advice and feedback on the types of materials that might be needed. They certainly said they were going to submit a proposal. We entered into an MOU to facilitate them engaging with us on that and we are expecting to receive an unsolicited proposal over the course of the next weeks or maybe month.

**The Hon. JACQUI MUNRO:** When it says, "The proposal, which was brought to the NSW Government by the ATC"—that was not a document, per se?

**SIMON DRAPER:** I think there was a document. I don't think it was a very detailed document, but I think there was a document behind it and it set out the various elements that they wanted to discuss. One was the Rosehill site, there was Warwick Farm and there was Horsley Park. They were the three primary elements, and I think there might be a fourth, but they were the three primary ones, and I believe they did provide some sort of documentation about that. That is clearly not enough for the Government to make what we call a stage one assessment under the unsolicited proposal guidelines, so we entered into a process to explain to them what we would need.

**The Hon. JACQUI MUNRO:** That included the 25,000 new homes, potentially?

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**CORRECTED**

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**SIMON DRAPER:** Yes. I don't know how far it went on the number of homes that could be developed on the site, but it certainly involved the idea that there would be development on the site supported by, I believe, the idea of a metro station nearby—that was something that had been explored by the Government in any case—and the developments at Warwick Farm and Horsley Park.

**The Hon. JACQUI MUNRO:** Where did that 25,000 number come from?

**SIMON DRAPER:** I don't know exactly where that came from, but it was probably some assessment of how many homes, under a particular zoning, might be able to fit on to that site. I'm not sure exactly where that number came from.

**The Hon. JACQUI MUNRO:** It wasn't necessarily the ATC that came up with that number?

**SIMON DRAPER:** I can't answer that question.

**The Hon. JACQUI MUNRO:** Ms Fishburn, just going back to what you were saying before about investigating, to some degree, that 25,000, can you remind me how you got to that calculation or why that—

**KIERSTEN FISHBURN:** I don't think I've ever stated 25,000. I'm just trying to recall, but I don't think that's a number I have ever put out there. What I did was seek to understand, if you applied approximately the same density that you would see at Green Square on the hectares that make up Randwick racecourse—and I really have to tell you, that is—

**SIMON DRAPER:** Rosehill.

**KIERSTEN FISHBURN:** Sorry, Rosehill. Oh no, I've already shut that one down!

**The Hon. SCOTT FARLOW:** Some more questions on Randwick!

**KIERSTEN FISHBURN:** That could fill the rest of the time until we corrected it. You should have let it run, Simon—to Rosehill. I really want to stress that is a very inexact science because every site is different, every environment is different, but you want to come up with something. Then, where would you get to? But I cannot recall that 25,000 was ever the number that I got to.

**The Hon. SCOTT FARLOW:** Ms Fishburn, this number didn't come from you or your department?

**KIERSTEN FISHBURN:** It would have only been myself, I believe, who would have given a figure, and I don't think I said 25,000.

**The Hon. JACQUI MUNRO:** Do you remember what you did say?

**KIERSTEN FISHBURN:** I think it was a little higher than that. I think it was more in the realm 30,000. But can I stress again that is like a random number generator, to some extent. You don't fully understand what you are going to get until you have done some detailed thinking about what could actually occur on a site and, really, until you have got a planning proposal in front of you. Honestly, you are not going to get an exact figure until you get to the DA stage. I want to stress, absolutely, that you could say 25,000, you could say 15,000, and you could say 30,000. They may all be applicable, but we just haven't done that work yet because it's far too soon to start commencing that type of work. We don't have a planning proposal. The USP, as Mr Draper said, is not even at that stage one process, so a number is just a number at this point.

**The Hon. JACQUI MUNRO:** Mr Draper, do we know who signed that MOU?

**SIMON DRAPER:** Yes, that was signed by an official within the department of enterprise, industry and trade, because they are the governing agency for unsolicited proposals. They manage that process.

**The Hon. JACQUI MUNRO:** It was just one staff member within the department with—

**SIMON DRAPER:** With the ATC—whoever is their authorised officer.

**The Hon. SCOTT FARLOW:** Turning back to housing targets, which we had a brief discussion about previously, last time before estimates the Minister indicated to us that the Greater Cities Commission had important work to do. Of course, we then saw the Greater Cities Commission Repeal Bill. If that hadn't gone through, is it the case there would have been draft regional plans that would have been conducted by the end of last year?

**KIERSTEN FISHBURN:** The timing for the draft regional plans didn't have to be at the end of last year. The requirement under the GCC Act, which is, as you noted now, repealed, would have had the draft plans finalised by 1 July, I think—30 June. I will double-check that for you because, obviously, I don't have the Act to hand anymore.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Can you take that on notice because I thought the former one was 2018, so five years from then would be 2023. That being said, had the Greater Cities Commission done work on the targets before its abolition?

**KIERSTEN FISHBURN:** Yes.

**The Hon. SCOTT FARLOW:** It has been reported that there was a view that these targets were too low. Is that the view of the department?

**KIERSTEN FISHBURN:** Sorry, whose opinion was it that the targets—

**The Hon. SCOTT FARLOW:** It was reported in media articles that the target was seen as too low, which was part of the reason for the axing of the commission.

**KIERSTEN FISHBURN:** I can't comment on that. That's pure speculation. The GCC were working on the housing targets with the department of planning. The strategic planners are now rolled into the department of planning, and we continue the work on the housing targets. One of the things that we're doing with the housing targets is making sure—much in the same ways as we've done with the TODs—that they're credible in terms of infrastructure requirements. So there is some testing that's done for the housing outcomes network around what targets might be applicable for each area. Any speculation in the papers—that's speculation.

**The Hon. SCOTT FARLOW:** Ms Fishburn, when will councils receive these targets?

**KIERSTEN FISHBURN:** We're working through them now. It's our hope to be able to release them sooner rather than later. Ultimately, though, that's not my decision to make. That's a decision for the Minister.

**The Hon. SCOTT FARLOW:** Are you working to any time line in particular—before the housing accord commences, perhaps?

**KIERSTEN FISHBURN:** We are working to a time line before the housing accord, yes.

**The Hon. SCOTT FARLOW:** What's the New South Wales Government's plan to work with local government to deliver planning and land use reforms that will make housing supply more responsive to demand?

**KIERSTEN FISHBURN:** That's a very large question, Mr Farlow. We have a number of programs of work that occur with local government. People seem to get the impression that it's local government and there's the planning department over here. We are literally in and out of councils every day, all day, across the whole State. It is a completely symbiotic relationship between the State and local government when it comes to planning matters. Obviously we've got a range of State planning policies that have been announced and that we're working towards. All of those only become better, richer and more meaningful if local government works with us and if we are able to shape the outcomes together, so we wish to do that. We're also looking at a range of ways that we can assist councils in how they can make development assessments faster and easier. I'm not going to gazump my own Minister by announcing them, but that is something the department will do.

**The Hon. SCOTT FARLOW:** We welcome you to that, if you'd like. With respect to the development of LEPs and the like from local government, Fairfield City Council—I'm sure this will be one of the submissions you read as well with respect to low- and mid-rise housing—complained they've had their accelerated LEP, which has been sitting on the desk of the department for two years. Are there any concerns in terms of Fairfield's LEP? Why hasn't it progressed further?

**KIERSTEN FISHBURN:** Fairfield's LEP is progressing through the department. In fact, I got a briefing from Ms Gibson and her team on it, I believe, just last week. Not saying anything that hasn't been publicly aired, there are issues around flooding in relationship to Fairfield but we've made significant progress on that LEP. Again, I can't pre-empt what my Minister might decide to do in terms of timing but it's been briefed up to the secretary so it's moving.

**The Hon. SCOTT FARLOW:** Back to the TODs, and Ms Higginson shares my obsession of the TODs—

**The CHAIR:** So it's your *Hard Quiz* topic?

**The Hon. SCOTT FARLOW:** It's been suggested in the briefing to councils that the SEPP will be in place until precinct strategic planning is completed. How long, from the department's view, could that process take?

**KIERSTEN FISHBURN:** It's council to council. I think Ms Gibson was very clear to say that some councils are well and truly advanced and I would see them as probably being able to make their LEP at the same



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**CORRECTED**

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speed that we would make an accelerated SEPP, so we would just go straight into LEP under those circumstances. Every council is different so that's really a question—

**The Hon. SCOTT FARLOW:** So a council that's starting from scratch, how long would that process take?

**KIERSTEN FISHBURN:** I'd be very surprised if any of the councils would actually be starting from complete scratch. I think, Monica, the eight precincts have all had some planning work done.

**The Hon. SCOTT FARLOW:** Outside the eight precincts—but the 31.

**MONICA GIBSON:** In the eight precincts there's been substantial work done. As I outlined earlier, Mr Farlow, with the identification of the 31 TOD sites one of the matters that we looked into was work that council had already identified or that the department of planning might have supported council to identify. There was a preference to those locations where some planning work had already been done, so in most of those 31 sites there is already some work that council has done.

**The Hon. SCOTT FARLOW:** I understand, from Lake Macquarie's contentions, there's no planning work that's been done on Booragul. It doesn't have any shops or the like there. They never actually considered it. I know they're one of the councils that have submitted to you. I think Cardiff is another location, and the like, where they'd like to see it. Something like that, how would you be able to do a precinct strategic planning in that area?

**MONICA GIBSON:** Booragul, as one of the locations in the Lake Macquarie local government area, has significant residential development nearby. It includes a number of schools and lots of kids travelling to those schools every day. There's a location there where there is some more planning work to be done—and I appreciate that council might need to progress some further planning work if they chose to—or that the TOD SEPP could come in and instead provide that upzoning in that location. The option is really there for councils about whether they want to undertake the strategic planning work and replace the TOD SEPP or for the TOD SEPP to take effect.

**The Hon. SCOTT FARLOW:** Would that only mechanism be by a planning proposal, now getting back to the term of "planning proposal", and, effectively, an update to the LEP or the like?

**MONICA GIBSON:** That's typically how the work would be undertaken. There are some other options. For example, if council asks that the department undertake that work, we would do it without a planning proposal, using a SEPP amendment.

**The Hon. SCOTT FARLOW:** Would that be similar to what's happening in Parramatta North, for instance, at the moment?

**MONICA GIBSON:** Yes, that would be an example of how that might happen.

**The Hon. SCOTT FARLOW:** With respect to that, does that strategic plan require the same amount of yield within that 400-metre radius? If council could demonstrate, for instance, that within 800 metres they could get similar yield levels, would you consider that?

**MONICA GIBSON:** I think what's really important in our reforms is the outcome of more homes built in well-located areas. If that area is not exactly 400 metres—and we are certainly not intending to go out with a tin of white paint and mark a line in the middle of a block of land and say, "This area for uplift and this area not for uplift." The 400 metres is code for a 10-minute walk. If a slightly different area better accommodates additional homes and it is well serviced with water, sewer and good access into the public transport, and it isn't constrained by flooding or bushfire issues, then we're certainly open to considering those. We fully expect and have seen some submissions from councils suggesting those sorts of change, so that it's more of a fluid line rather than a fixed line.

**The Hon. SCOTT FARLOW:** Thank you, Ms Gibson. I don't want to disappoint Ms Hawyes, so I do have some questions for you.

**KIERSTEN FISHBURN:** Can I just round out two things before you do?

**The Hon. SCOTT FARLOW:** Yes, Ms Fishburn.

**KIERSTEN FISHBURN:** Firstly, as I said—and we have just double-checked for you—if the GCC remained in existence, then their plans would need to have been finalised mid-this year. Then the other thing, you asked the question of where did the 25,000 figure for Rosehill come from and I said it wasn't me. No, it wasn't me; it was the ATC. I presume they would have got a planning consultant to do exactly what I did, which is to take a similar style density and get to a figure that way, but they have come up with that number.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Thank you very much. Ms Hawyes, with respect to the Speedway, we discussed before in terms of the lease and that it's a requirement that Western Sydney Parklands Trust establishes that the lessee is "of good repute and has not been the subject of significant adverse publicity or the subject of any formal adverse finding by any authority that would cause a reasonable person to have concerns about reputational risk to the lessor or the fitness or ability of the lessee to perform its obligations and meet each of the assignment tests, and has demonstrable experience in successfully carrying on a business of the kind permitted under the permitted use, has funding available to fund its obligations under the sublease or licence". Was there an assessment done under all these grounds before the sublease was entered into on 22 December?

**MELANIE HAWYES:** As I talked the Committee through before, since concerns were raised about Mr Boldy, controls have been put in place around his role. There is an assignment test, as you just alluded to. Neither Speedway nor Yvonne Boldy, the director of Speedway, are insolvent, so that was checked. We did ASIC credit searches on the company and on Ms Boldy. That did not demonstrate any evidence of concern and demonstrated that there are assets in her possession—further evidence of her financial capacity. The test of criminal offence—neither the company nor the director have any record of criminal offence. I'm not aware of any suggestion others in that team have either. Not subject to a formal adverse finding by the ICAC, there was no such finding. Their ability to carry out the activity, the actual hosting of speedway events, we were comfortable that the team that they were putting together had that, and we were reliant on the advice, obviously, of Dragway as the head lessee, knowing that they have knowledge of the industry. But the licence from the Office of Sport, we would put forward as further evidence of their ability to conduct race events.

**The Hon. SCOTT FARLOW:** With respect to those assessments, what date were they completed on or undertaken?

**MELANIE HAWYES:** I think I have it. If I don't, I'll take it on notice.

**The Hon. SCOTT FARLOW:** Yes.

**MELANIE HAWYES:** I did also want to add—you asked me this morning about the rent.

**The Hon. SCOTT FARLOW:** Yes.

**MELANIE HAWYES:** Rent commences on 22 April this year. Obviously they've been doing works to ready the track, and the rent period is designed to coincide when racing gets going so that they've got revenue coming in. Racing is scheduled to start on 23 March.

**The Hon. SCOTT FARLOW:** So it's effectively a one-month rent free period, is it?

**MELANIE HAWYES:** Yes, effectively. So obviously that make sense, right? They're working on the track, they're investing in the track and then they're able to actually schedule events and get going. You asked me about what date did we do our checks. I might take it on notice because they'll be on different dates. I'll get you the series of when each check was performed, if that's okay.

**The Hon. SCOTT FARLOW:** Thank you very much, with respect to that. Did Western Sydney Parklands have any input into the media release that was issued by the Minister on 22 December?

**MELANIE HAWYES:** I don't know. I'd have to take that on notice.

**The Hon. SCOTT FARLOW:** Okay.

**MELANIE HAWYES:** I was actually on leave at the time, so can I take that one on notice?

**The Hon. SCOTT FARLOW:** Fair enough. You can indeed. With respect to the speedway, is there a database of all the assets held by Sydney speedway—when it needs to be maintained by and how much it's all worth, in terms of the speedway, not the company?

**MELANIE HAWYES:** So the actual facility itself?

**The Hon. SCOTT FARLOW:** Yes.

**MELANIE HAWYES:** Yes, there is a value, and I think we have a schedule of—

**The Hon. SCOTT FARLOW:** Maintenance as well?

**MELANIE HAWYES:** —estimated maintenance costs, which I'm happy to provide on notice. I know certain figures have been put forward in the media. Our arrangement is with the dragway, and they pay rent to the Government. So the figure of the value of the contract afforded to the speedway is incorrect. Our relationship is with the dragway. They are the venue manager from our perspective and they pay the Government rent for that, as a part of being able to exercise that function.

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**CORRECTED**

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**The Hon. SCOTT FARLOW:** Thank you, Ms Hawyes.

**The CHAIR:** Secretary, the Minister said, I think, that it was his intention to have the SEPPs in place by April. I'm pretty sure that's what he said.

**KIERSTEN FISHBURN:** For TOD 2?

**The CHAIR:** For TOD 2. Notwithstanding that there's a short inquiry that's going to look into it, is it your understanding that that is a very clear, firm directive or is there some flexibility in that?

**KIERSTEN FISHBURN:** That's the directive we've been given by the Minister. I note, of course, though, that we are out talking to councils, we're engaging with local government and we're looking at work that they are doing as well. I'm providing that feedback to the Minister. But, at this point in time, that's the direction we've been given by the Minister. We'll continue to work towards that direction and continue to provide feedback from what we're getting from local government as well.

**The CHAIR:** Thank you. Is there any work being undertaken—and this may be in your area, Mr Gainsford—to develop any sort of guidelines now that the climate change net zero futures legislation has passed through the Parliament?

**DAVID GAINSFORD:** Guidelines—sorry, Chair, with regard to development assessment?

**The CHAIR:** Yes, development assessment specifically.

**DAVID GAINSFORD:** No, not at this stage. There are no plans at this stage, but obviously we'll continue to monitor as the Net Zero Commission comes on board. Obviously I know that part of the legislation is they're tasked with producing annual statements and also they've got some powers to provide advice to the department and to the Independent Planning Commission, so we look forward to that engagement once they're established.

**The CHAIR:** So currently there's no proactive or pre-emptive work around looking at what it means to take into account that new legislation in planning decisions?

**DAVID GAINSFORD:** Chair, I wouldn't necessarily say—the first question you asked was around guidelines. We're not preparing any guidelines. With regard to the implications of the establishment of the Net Zero Commission, and obviously the legislation that backs that, as we mentioned with regard to some of the questions you had earlier for coalmining modifications, that was certainly something that we have taken into account, and certainly will continue to do so. And, as things adapt, as the Net Zero Commission comes on board, we will obviously make sure that we update the information that we have as part of that assessment process.

**The CHAIR:** I think this is to you, Mr Gainsford. I saw you nodding earlier. I go back to the synthetic turf and the Chief Scientist and Engineer's report. My advice around that is there are knowledge gaps and some uncertainty that comes out of that. What is the approach? What is the work the department is doing around that report and the guidance around synthetic turf, whether it's local councils or Crown lands? Does the department take a lead role? What's happening there?

**DAVID GAINSFORD:** As I mentioned this morning, there are two elements to the work that we are doing. The first is leading the response to the Chief Scientist and Engineer's report that you mentioned earlier that was released mid-last year. In preparing that response, we did form a working group and involved a number of different government agencies, including the Environment Protection Authority, Office of Sport, Office of Local Government and NSW Health. Our role there is to coordinate the response, of which we are at a very advanced stage and looking to prepare for the Minister and for Cabinet ultimately to make a decision around that release. The second main bit of work that we're involved in is preparing some guidance, particularly for local councils to assist them in interpreting the right parameters around making decisions with regard to consideration of synthetic turf. Again, we are quite advanced with that work and hoping to release that very soon.

**The CHAIR:** So I'm clear about that, the process is that will go to the Minister, it's a Cabinet process, and then it will be released or will there be a draft released before that, in terms of the Government response?

**DAVID GAINSFORD:** The Government response will go through the usual ministerial and Cabinet processes. As to whether it's a draft response, I'm not sure at this stage in terms of what the Government's intentions are.

**The CHAIR:** In terms of timing, with you finishing your part and you saying you are very advanced, are we talking days, weeks, months? What are we thinking? What does "very advanced" mean?

**DAVID GAINSFORD:** Very advanced is that we have effectively completed that work.

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**CORRECTED**

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**The CHAIR:** Have you passed it on yet? Is it sitting on someone else's table?

**DAVID GAINSFORD:** Yes, we are in the process of finalising that work and discussing that with the Minister.

**The CHAIR:** Is there a funding implication to that? Is there advice about more work that would need to be done to gain a better understanding of some of the knowledge gaps or are you satisfied at this point with the Chief Scientist and Engineer's report and you believe that now we are in a position to have a policy response?

**DAVID GAINSFORD:** As you would be aware, Chair, the Chief Scientist and Engineer's report was very comprehensive. There were a number of recommendations in there. Our response talks to the implications of the response to those recommendations. I probably wouldn't want to speculate at this stage around what the potential implications are from a funding perspective because, as I say, they are subject to ministerial and Cabinet processes.

**The CHAIR:** This question may be to you, Secretary. In relation to work that's happening through the planning side of things for State significant farmland or agricultural land, is that work being undertaken to update that system?

**KIERSTEN FISHBURN:** In relation to the metropolitan lands for the region plan—

**MONICA GIBSON:** Chair, are you referring to the declaration of State significant farmland that might be included—

**KIERSTEN FISHBURN:** Well done.

**MONICA GIBSON:** —particularly which might only apply in the northern part of New South Wales at the moment?

**The CHAIR:** Yes.

**MONICA GIBSON:** In the schedule to the SEPP?

**The CHAIR:** The SEPP, yes.

**MONICA GIBSON:** The Department of Planning, Housing and Infrastructure—I am still getting used to those new letters and words—isn't the lead on that work. That is work that is being led by our colleagues in the agriculture department.

**The CHAIR:** Do you have a lens on what's happening because it's the SEPP, ultimately?

**MONICA GIBSON:** We will, absolutely, because the amendment to a SEPP can only be made by the Minister for Planning and Public Spaces, so that would be something that we would need to be party to. But the investigation, or the consideration, of how land is defined and mapped is coming initially from Agriculture colleagues.

**The CHAIR:** When we're assessing the renewable energy projects at the moment, what are you currently working with, Mr Gainsford, in terms of the farmland or State significant agricultural land? Have you got a feed into that, or does it come straight from DPI?

**DAVID GAINSFORD:** I might ask Mr Preshaw to give some advice here, but certainly one of the considerations as part of the assessment of those renewable energy projects that you're referring to is around the agricultural land status and the capacity of that agricultural land.

**CLAY PRESHAW:** Yes, the simple answer is that we assess it on a case-by-case basis. We send it to DPI Ag and we request their advice on each project. A couple of things we're looking for in particular are BSAL, biophysical strategic agricultural land.

**The CHAIR:** Just on that, are you satisfied that the BSAL identification is contemporary, consistent and still relevant?

**CLAY PRESHAW:** From our assessment point of view, it's just one indicator.

**The CHAIR:** Yes.

**CLAY PRESHAW:** There's a map, but then we want a site-specific assessment of the soil quality based on if the land is mapped, or if there's concerns raised by Agriculture about the quality of that soil. In a recent example, for instance, we had a solar farm where there was a dispute around the quality of the soils. We actually required the applicant to go out and do sampling and actually give us evidence as to the quality of the soils and the quality of the agricultural land.

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**CORRECTED**

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**The CHAIR:** Again, are you satisfied that the analysis and the assessment of that is contemporary, adequate and consistent at the moment and that you have everything you need when you're doing it? Is it coming from a particular laboratory or a particular expert? How do you know what you're being given to take as an assessment is what it is and that we're considering whether that is in fact State significant farmland, agricultural land et cetera?

**CLAY PRESHAW:** Again, it's a case-by-case sort of situation. The BSAL mapping is one tool. The advice we get from the expert agency is another important tool. We also have requirements for all of these projects for the applicant to provide scientific evidence to the capability of the land. As I said, if we have questions around that, we can actually get experts involved as well—independent experts—or ask the applicant to do more work. I think, case by case, we're comfortable that there's plenty of evidence out there as to the quality of the land.

**The CHAIR:** Thank you. I'm just curious. This is going back a couple of years, but a particular council was asking for controls in their local environment plan around horticulture and intensive horticulture, and then a pushback from the department, say, suggested that, no, it's not the place to do it. It's agriculture; it's a State issue. Blueberries was the example. This was an ongoing issue for, I think, Bellinghen council originally, and now it's kind of lifting its head again. Is it the department's view that it's not appropriate for local councils to be able to have certain controls and requirements in their LEP in relation to controlling some of these intensive horticulture projects?

**MONICA GIBSON:** Chair, it's a really interesting question and I know that the blueberries issue has been topical at about five years ago. The regional planners—excellent planners that we have that work in these communities—are really aware and working very closely with these councils to understand the changes that are occurring in their agricultural activities, what's happening in those local areas, and how that changes. We work very closely with colleagues in the Department of Agriculture around this as well. I've not seen any representations about issues in the last 12 months that I can think of where there has been an LEP concern.

**The CHAIR:** I think there is—well, I know that there is. In local communities and within certain councillors there's a reluctance now, because of what happened in Bellinghen, to seek to try to engage the local planning process. I suppose what I'm looking for is how does the department continue to communicate with some of our regional councils about "Hey, just because something happened there it doesn't necessarily mean it will happen again, or will it?" Are we working in a system where because something happened under the former Government it would necessarily happen again? Or it might be different?

**KIERSTEN FISHBURN:** The planning system is not static; it is fluid and it changes in response to changing environment, changing policy and things like the change of use in agriculture. If councils feel that they can't have that discussion with the department, firstly, I would be disappointed because I feel our regional directors do an excellent job in engaging with the councils. But I put the call out to any council general manager who wishes to discuss changes like that with myself and Ms Gibson. We are open to having the conversation—not pre-empting any determination there but open to having a conversation.

**The CHAIR:** Thank you. I'll communicate that back. In terms of the climate legislation, are you looking at a possible climate SEPP? I know that you were saying you are looking forward to those conversations. Have you given that any thought at this point?

**DAVID GAINSFORD:** Look, Chair, we haven't. What I would say, in addition to the comments that I made before, is we know that this is an area where there's a lot of regulation coming in. Obviously, the Commonwealth is looking to get involved, with work that they're doing. The Environment Protection Authority is obviously looking to regulate in this space as well. Whilst we will continue to conduct our assessments and ensure that these things are part of the merit-based assessment, there's no intention from our perspective to be developing a SEPP, given there is so much other regulation coming into this space.

**The CHAIR:** It just seems a bit curious that you guys are the ones making these decisions and doing these assessments and waiting for everyone else to do the work around it. Maybe that's not a fair assessment but thank you. Going to the TOD SEPP, was there at all any direction that public housing isn't to be considered under the TOD SEPP?

**KIERSTEN FISHBURN:** On the contrary. Public housing is applicable in the TOD SEPP and we have been working very closely with our colleagues at LAHC and AHO—now Homes NSW—to engage them in the process so that as they're looking for site renewal they can also take advantage of uplift that might occur in the TOD zones.

**The CHAIR:** So why are we not seeing any of that at this—

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**CORRECTED**

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**KIERSTEN FISHBURN:** We haven't made the SEPPs yet and I would say as well this is quite early in the piece in relation to LAHC and AHO being able to undertake land identification. I know that Mr Wendler, Landcom, has started that process of looking at potential sites, parcels of land, that are applicable within the TODs. You'd have to ask Homes NSW, but it is my understanding—Monica, correct me if I'm wrong—that LAHC and AHO have also been doing the same thing.

**MONICA GIBSON:** That's right, and our colleagues from those agencies were members of the assessment review committee for the identification of the TODs, so their input was really important to us in selecting the sites and evaluating the sites.

**The CHAIR:** Mr Wendler, what's your engagement been in terms of the TOD SEPP and identifying those lands?

**ALEX WENDLER:** I think that's a question that I got before from Mr Farlow.

**The CHAIR:** Apologies.

**ALEX WENDLER:** We have not been involved with the identification of the sites, but what we are doing now, as was just outlined, we are looking at the sites and what opportunities they bring because we have a very active acquisition function.

**The CHAIR:** Would it have been better if you were at the very, very front of it all? What is the reason for the timing?

**ALEX WENDLER:** We have really different functions. We are a developer. We are business. We are a government-owned business. We will then work within the planning constraints or within the new opportunities, similar to the planning pathways that we have been given last year. As I mentioned before, we have a very active acquisition function, so we are now looking at different sites. Some sites may be government owned, and there's the government audit that's going on. But as well we're engaging with private sector owners to see if there are any acquisitions we can undertake and then housing projects we can develop.

**KIERSTEN FISHBURN:** Can I just add, for absolute clarity, that while Landcom weren't involved in that granular detailing of sites, Landcom does have a role on the housing outcomes network, which is chaired through the Cabinet Office. I don't want you to think they're excluded from the conversations. On the contrary, they can provide insight into that market-led process, as Alex has just detailed, that is very useful for us.

**The CHAIR:** You're satisfied, Secretary, that the public housing component of the Government's program has been front and centre and prioritised, including in the development of the TOD SEPP?

**KIERSTEN FISHBURN:** I think we've put in place the governance to allow that to happen. It's certainly been one of the key considerations. But the TODs are there to deliver on a number of outcomes, and that includes market, affordable and social. I would be misleading you if I said the social housing element was weighted higher than the other three, but absolutely it's been a consideration—and Homes NSW, as the agencies have now become, has been involved actively.

**MONICA GIBSON:** Perhaps to add to that, in looking at the housing reforms—and how we might work towards addressing the New South Wales commitment towards the housing accord for 377,000 homes to be built in New South Wales towards the end of the decade—it won't just be the TOD or the low- and mid-rise program; there will be many things. The Minister outlined—I think it's been mentioned a couple of times today—that the infill affordable housing bonus was one of the first initiatives in the New South Wales response to the National Housing Accord, started with a social housing and affordable housing element. That has been included as an element of increasing that supply and looking for government sites where more public land could be used for social and affordable housing through the new programs that have been announced. We'll continue to work with colleagues in Landcom and colleagues in Homes NSW about other things that might support them, including how we might fast-track their rezoning proposals. We are monitoring their self-assessment opportunities and making sure that that is facilitating faster assessments and proper assessments. As the secretary has reminded me—

**KIERSTEN FISHBURN:** Sorry, I just thought we'd round out the piece of work that we've been doing.

**MONICA GIBSON:** There's also a new concierge function—I think mentioned earlier today—for Aboriginal landholders. We have a similar one for community housing providers. I think we are taking something like 15 community housing providers into that concierge function.

**The Hon. SCOTT FARLOW:** I think I've got one more question. Mr Wendler, following on from that and your answer with respect to the analysis of sites following the TOD SEPP, off the top of my head Ashfield,

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**CORRECTED**

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Gordon, Gosford and Killara all have commuter parking sites around that TOD SEPP location. Have you done an assessment in turning those properties into potential housing developments?

**ALEX WENDLER:** We have not. This is really the analysis about what government-owned sites would be part of the land audit, really going through the land audit. That's not a Landcom decision.

**The Hon. JACQUI MUNRO:** Very quickly, perhaps to the secretary: Are you aware of the Verdant Earth project in the Hunter Valley?

**KIERSTEN FISHBURN:** No. Can you repeat the name again?

**The Hon. JACQUI MUNRO:** Verdant Earth. It's a clean energy project. They claim that they fulfilled all the department's criteria to proceed but are still sitting idle.

**KIERSTEN FISHBURN:** I'm going to refer that to Mr Gainsford.

**DAVID GAINSFORD:** I might refer it to Mr Preshaw.

**KIERSTEN FISHBURN:** We'll knock it down the line—and we can't go any further!

**The CHAIR:** I can tell you all about it, if you like.

**The Hon. JACQUI MUNRO:** Are there plans to progress the application? Is there a time line?

**CLAY PRESHAW:** This is the Redbank Power Station project that you're referring to?

**The Hon. JACQUI MUNRO:** Yes, it is.

**CLAY PRESHAW:** This has been working its way through the system for a while, as you've alluded to. There have been a lot of discussions between ourselves and a number of other agencies, including the EPA. We understand that the company Verdant has spoken to EPA about how the material they're looking to source fits the EPA's policies. I believe that we're at the point now where we can progress the application to the next stage, but we need to have that discussion with the EPA before we can confirm that.

**The Hon. JACQUI MUNRO:** So it's imminent, possibly?

**CLAY PRESHAW:** To the next stage of the process, which is the very beginning of the process.

**The CHAIR:** It's a biomass project; it's not necessarily clean energy—but anyway. Can I just ask one thing. Why do we not talk about public housing in terms of publicly owned and managed housing? Why is everything you are saying "social housing"?

**KIERSTEN FISHBURN:** I think that's a question for the Government. I use the nomenclature that I'm provided by the government of the day.

**The CHAIR:** That's my question. So you were given that?

**KIERSTEN FISHBURN:** It's pretty standard terminology.

**The CHAIR:** Have you been specifically asked not to talk about public housing?

**KIERSTEN FISHBURN:** No. Nobody has ever asked me to not talk about public housing.

**The CHAIR:** But you have been specifically told—

**KIERSTEN FISHBURN:** No.

**The CHAIR:** —that to reference public housing, we now refer to it as "social housing"?

**KIERSTEN FISHBURN:** No, I have never been given that direction. Social housing is a fairly standard term that's used. I have simply adopted it because I have heard Ministers and the Premier use it. I don't think anyone in the department has ever been instructed to not use a term or to use a particular term. I like it. It's social. It's about engaging with the community at every point. That's the term that's used.

**The CHAIR:** Can I ask one final thing. Has Planning conducted any assessment of regional hubs and their capacity to support more integrated public transport? Obviously, Transport would be, I'm assuming, doing their thing. But has Planning done anything, in particular, with the Casino-Queensland connection?

**KIERSTEN FISHBURN:** That really is a matter for Transport.

**The CHAIR:** So Planning has done none of that or hasn't looked—

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**CORRECTED**

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**KIERSTEN FISHBURN:** As much as I'd love to expand my portfolio, Transport is responsible for integrated transport plans. We would provide input into those plans.

**The CHAIR:** Have you been asked for any input?

**The Hon. ANTHONY D'ADAM:** It's Government time now.

**The CHAIR:** I'm just finishing. Have you been asked for any input?

**MONICA GIBSON:** I can't think of anything that is specific. I know that there are a number of land-use plans happening around the Casino area. I think that is really—

**KIERSTEN FISHBURN:** We might take that on notice, because it may well have occurred at a director level, and there's no particular reason why either Ms Gibson or myself would know about that.

**The CHAIR:** We're up to the final part of the hearing, which is Government time.

**The Hon. ANTHONY D'ADAM:** No questions from the Government.

**The CHAIR:** Thank you, government officers, for your attendance today. The Committee secretariat will be in touch in the near future regarding questions taken on notice and any supplementary questions. We are all incredibly grateful to every one of you and the staff who prepare and assist you. Thank you very much.

**KIERSTEN FISHBURN:** Thank you very much, Chair. As Ms Gibson said, she's happy to talk about TODs for hours, so we will see you at some other stage, I'm sure.

**The CHAIR:** See you on *Hard Quiz*.

**The Hon. SCOTT FARLOW:** I look forward to seeing you on *Hard Quiz*.

**KIERSTEN FISHBURN:** Thank you for your time. And thank you to my staff for all their work in preparation.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**