

# **PORTFOLIO COMMITTEE NO. 5 – INDUSTRY AND TRANSPORT**

**Wednesday, 6 September 2017**

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

**LANDS AND FORESTRY, AND RACING**

**UNCORRECTED PROOF**

**The Committee met at 11.15 a.m.**

## **MEMBERS**

The Hon. Robert Brown (Chair)

The Hon. R. Colless

The Hon. W. Fang

Mr J. Field

The Hon. G. Pearce

The Hon. M. Pearson

The Hon. P. Sharpe

The Hon. M. Veitch

Ms D. Walker

## **PRESENT**

**The Hon. P. Toole**, *Minister for Lands and Forestry, and Minister for Racing*

## **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**



**The CHAIR:** Good morning ladies and gentlemen. Welcome to the public hearing for the inquiry into budget estimates 2017-18. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respect to elders, past and present, of the Eora nation, and extend that respect to other Aborigines present. I welcome Minister Toole and his accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Lands and Forestry, and Racing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could answer if only they had more time, or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and to refer directly to your advisers seated at the table behind you.

Transcripts of this hearing will be available on the web from tomorrow morning. Finally, would everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to office as a member of Parliament. I remind Mr Simon Smith from the Department of Industry that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing.

**PAUL NEWSON**, Deputy Secretary, Liquor, Gaming and Racing, Department of Industry, affirmed and examined

**ALISON STONE**, Deputy Director General, Lands and Forestry, Department of Industry, affirmed and examined

**NICHOLAS JOHN ROBERTS**, Chief Executive Officer, Forestry Corporation NSW, sworn and examined

**SARAH LEES**, Chief Executive Officer, Cemeteries and Crematoria NSW, Department of Industry, affirmed and examined

**SIMON SMITH**, Secretary, Department of Industry, on former affirmation

**The CHAIR:** Minister, as there is no opportunity for opening statements, I will proceed to questioning.

**The Hon. MICK VEITCH:** You are responsible for appointing Crown reserve trusts or reserve managers, is that right?

**Mr PAUL TOOLE:** That is correct.

**The Hon. MICK VEITCH:** If those Crown reserve trusts or managers have issues or problems, they can take it up with you or your office?

**Mr PAUL TOOLE:** If there are issues, I have the right to disallow those trusts to continue. Generally, the trusts that look after reserves across this State do a fantastic job. In a lot of cases, there are many volunteers in those communities who are managing parcels of land on behalf of their local communities. When we look at those parcels of land, they have a lot of value in those areas.

**The Hon. MICK VEITCH:** If they had any issues, they could take those up with you or your office? They could correspond with you or make appointments to see you?

**Mr PAUL TOOLE:** Generally we would refer them to the department. I would not deal with every trust. There are quite a number of trusts across the State. Every item and every issue would be put to the department in the first instance to consider. If they needed advice or assistance to help manage those trusts, whatever it might be, that is what we would be willing to do.

**The Hon. MICK VEITCH:** There would be no reason for a reserve trust or a reserve manager to engage a political lobbyist?

**Mr PAUL TOOLE:** I am not aware of the meaning of your question.

**The Hon. MICK VEITCH:** In light of what you have just said, if those people come to your office you would refer them to the department. They have access to the department so there would be no reason to engage a political lobbyist?

**Mr PAUL TOOLE:** I would expect them to act in the interests of the community. They are responsible for looking after those trusts. There are parcels of land such as showgrounds, parks and gardens, or sporting fields that they might be responsible for as a manager. As I said, some of the managers of those trusts that I have met have been there for decades. They have done a fantastic job to ensure that that parcel of land has been maintained and cared for by volunteers in their local areas.

**The Hon. MICK VEITCH:** Are you aware that Michael Photios's lobbying firm PremierState was engaged by a trust in 2016 to lobby the Government at a cost of \$10,000 a month?

**Mr PAUL TOOLE:** I am unaware of that. I came to this portfolio at the end of January 2017. I am unaware of those allegations that have been made against any individual.

**The Hon. MICK VEITCH:** It was the Rookwood General Cemeteries Reserve Trust. Is there a reason that public money should be going to PremierState to essentially lobby you when you have just said that they have access to you and your office, or your office would refer them to the department?

**Mr PAUL TOOLE:** You asked me a question about trusts. As I said, if requests come in from trusts we will refer them to the department to get the appropriate advice and assistance that they may need.

**The Hon. MICK VEITCH:** There would be no reason to spend \$10,000 a month on a lobbying firm?

**Mr PAUL TOOLE:** I am unaware of the details as to why and the circumstances relating to what you are talking about. I am happy for you to provide that information for me to have a look at it in more detail but that certainly has not come across my desk.

**The Hon. MICK VEITCH:** You are not aware of the engagement of Michael Photios at all?

**Mr PAUL TOOLE:** That is what I have said. Correct.

**The Hon. MICK VEITCH:** Now that you are aware of it, what are you going to do?

**Mr PAUL TOOLE:** I have asked you if you can provide me with that information that you seem to be holding there.

**The Hon. MICK VEITCH:** You should maybe ask some of the officials you have bussed in.

**Mr PAUL TOOLE:** I am happy to. If you would like to share a bit more detail I am happy to ask in a moment. But, as I said, if you have something more specific that you want to share about that engagement please let us know.

**The Hon. MICK VEITCH:** You reckon it is a waste of money though? Okay. Roughly how much does a standard burial plot and interment cost at Rookwood cemetery?

**Mr PAUL TOOLE:** I will ask Ms Lees to give you some of those figures but it is my understanding that it could be around \$10,000 per burial site. I will ask Ms Lees if she could clarify that and provide that information.

**Ms LEES:** That is correct. An average lawn burial at Rookwood General Cemeteries Reserve Trust is about \$10,300 but it depends on the location of the burial plot and there are a lot of added extras that people can pay for.

**The Hon. MICK VEITCH:** Minister, are you worried about the price of burials, particularly in Sydney?

**Mr PAUL TOOLE:** Absolutely. Of course I am worried because bereavement can be a difficult time for families and individuals who may have to look for the money to be able to bury a loved one. We know that in Sydney burial space is tight. We know that there will be a shortage of burial space in the future. That is why we are being proactive and looking at other parcels of land around the State that may be used for future burials. In saying that, there are hardship funds for individuals who have lost a loved one and who find it very difficult to pay for a plot. Certainly I will want those hardship measures to continue because people do suffer financially. It is a large cost that people have to find at some point in time.

**The Hon. MICK VEITCH:** You are talking about the hardship provisions and the fact that it is becoming quite expensive for people to bury their loved ones; \$10,000 is a lot of money. Why would Rookwood General Cemeteries Trust engage a lobbyist at \$10,000 a month? It is a lot of money.

**Mr PAUL TOOLE:** As I said to you, I am happy for you to provide that information. I go back to the point that you are right, \$10,000 is a lot of money. Sometimes these burial plots are purchased by individuals and family members well in advance. In saying that, whilst burial space is becoming tight in Sydney we need to make sure that we are looking for future burial plots because there are certain faiths and cultures that are going to run out of space quicker than some others. Importantly, we need to be looking at that to make sure that the cost will be kept minimal for people.

**The Hon. MICK VEITCH:** What sort of advice would a lobbying firm provide to you as the Minister? Have you ever met with Michael Photios in your capacity as Minister for Lands and Forestry?

**Mr PAUL TOOLE:** Not in my capacity as Minister for Lands and Forestry, no.

**The Hon. MICK VEITCH:** Do you think the administrator of the cemetery trust was aware that Michael Photios had been engaged as a lobbyist?

**Mr PAUL TOOLE:** That is a question for the trust that we could ask.

**The Hon. MICK VEITCH:** You can take it on notice.

**Mr PAUL TOOLE:** As you asked me the question, first of all as the Minister I have not met with Mr Photios in any way in relation to any work that he is engaged in with Rookwood.

**The Hon. MICK VEITCH:** What about your office?

**Mr PAUL TOOLE:** Not that I am aware of, but we can take it on notice.

**The Hon. MICK VEITCH:** Can you also take on notice what advice Mr Photios provided and what were the terms of his engagement?

**Mr PAUL TOOLE:** We can have a look at that. If he has met with my office I am happy to let you know what the content of that meeting may have been about. I have no problem in disclosing meetings that I have with individuals and stakeholders. As you are aware, my diary is published every quarter as well.

**The Hon. MICK VEITCH:** I am a diligent observer of your diary, Minister.

**Mr PAUL TOOLE:** Absolutely. You are following me.

**The Hon. MICK VEITCH:** We have agreed that \$10,000 or thereabouts is expensive and people should be concerned about the cost of burials.

**Mr PAUL TOOLE:** That is right.

**The Hon. MICK VEITCH:** How much is the administrator of the trust being paid?

**Mr PAUL TOOLE:** I would have to refer to Ms Lees. She may have that information available for you today.

**Ms LEES:** I do not have that information available. I am happy to take that on notice. In relation to affordability of burial plots, council operators also provide burial plots at a lower rate. We see Crown cemetery trusts as being in the mid-range of affordability for burial plots. For example, Penrith council would offer a burial plot at \$3,800. There is a range of affordability options available to people.

**The Hon. MICK VEITCH:** If you are taking things on notice, can you check to see if Mr Photios is still engaged by the Rookwood cemetery trust?

**Mr PAUL TOOLE:** We can have a look at that, yes.

**The Hon. MICK VEITCH:** A number of allegations were made in the *Four Corners* program "Pumped", some of which relate to areas for which you have responsibility. Have you received an application from Peter Harris to close and purchase the Crown road that was the subject of the *Four Corners* allegations?

**Mr PAUL TOOLE:** I have not but I might ask Mr Smith if we have any information about that.

**Mr SMITH:** As we have explained in an earlier hearing, that is one of the matters that was within the terms of reference for the investigation that was established into the matters raised by the program. We expect to receive the report from Ken Matthews on Friday. The Minister announced that the Government intends to release the report early next week.

**The Hon. MICK VEITCH:** As you are aware, one of the many issues that has been pursued in the Parliament is the retrospective approvals by Minister Blair. We discovered last week in Minister Blair's estimates hearing that three applications were made for retrospective approval, one of which belonged to Mr Harris. I think Minister Blair has taken it on notice to find out who the other two are.

**The Hon. GREG PEARCE:** Point of order: The evidence last week was not that Minister Blair was making decisions. The decisions were made by the water authority, which has the legislative power to do it. Minister Blair did not have any role whatsoever in relation to those.

**The CHAIR:** The point of order is noted. We will continue with the questioning.

**The Hon. MICK VEITCH:** In relation to the one retrospective application, we were told last week that in regard to the new provisions, "There were several objections received and we are currently waiting on Crown Lands consent before the application assessment can be finalised." Has the Department of Lands objected, or where is it up to with processing its part of that requirement?

**Mr PAUL TOOLE:** I will answer it in two parts before I ask Ms Stone to provide some information. The first point I think has been answered by Mr Smith already about the terms of reference for the report by Ken Matthews. That is a matter that will be done as an independent investigation. That report will be handed out, as has already been stated, at the end of the week. I will ask Ms Stone to talk about how compliance matters as a whole are met and dealt with rather than talking about an individual case at this point in relation to the matter that you have raised.

**Ms STONE:** For the Committee's purpose, yes, we have provided information to Ken Matthews on those matters. That will be in the report that is received later in the week. I can confirm that a number of activities occur on Crown land, either an illegal use or an illegal occupation. We often get reports of them from the general public. When they are out in their regional services roles our staff come across issues—

**The Hon. MICK VEITCH:** Specifically to this is what I am after.

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**Ms STONE:** If it is specific to this I will defer to the previous answer—namely, that it will be contained in the report that Mr Matthews is doing.

**The Hon. MICK VEITCH:** I take it, as per that answer, that the reason for the delay will also be contained in the Matthews report?

**Ms STONE:** All matters relating—

**The Hon. MICK VEITCH:** We were told, "Mr Harris advised us last week that there were several objections received and we are currently waiting on Crown Lands consent before the application assessment can be finalised."

**The Hon. GREG PEARCE:** He did not say there was any delay. He said that it was being processed.

**The Hon. MICK VEITCH:** You are saying that the reason Crown Lands is yet to provide the bit of information required for the approval will be contained in the Matthews report?

**Mr PAUL TOOLE:** We cannot predict what is going to be contained in the Matthews report. There are terms of reference that clearly articulate the terms of reference for that investigation. I cannot get into a situation today of conjecture as to what might be in and what might be out of that report.

**The Hon. MICK VEITCH:** Minister, have you ever met with Mr Harris?

**Mr PAUL TOOLE:** No.

**The Hon. MICK VEITCH:** You have never met with Mr Harris?

**Mr PAUL TOOLE:** Not that I am aware of, unless I have run into him somewhere.

**The Hon. MICK VEITCH:** Has your office?

**Mr PAUL TOOLE:** I do not believe that my office has either.

**The Hon. MICK VEITCH:** Have you been interviewed by Mr Matthews?

**Mr PAUL TOOLE:** No.

**The Hon. MICK VEITCH:** Has anyone in your office been interviewed by Mr Matthews?

**Mr PAUL TOOLE:** Not that I am aware of.

**The Hon. MICK VEITCH:** Travelling stock reserves [TSRs] are Crown land and as the Minister for Lands and Forestry you have oversight for the TSR estate in New South Wales. How often would a legal clearing of TSRs be investigated by the Department of Lands?

**Mr PAUL TOOLE:** As you are aware, New South Wales has more than two million hectares of travelling stock reserves—1.5 million hectares of travelling stock reserves in the western leases and about 500,000 hectares in the central and eastern divisions of the State. They cut through a number of reserves. They are responsibly managed by a lot of landholders, community groups and might even be used for environmental purposes. I am not aware of any matters relating to illegal activity so I will ask Ms Stone to comment.

**The Hon. MICK VEITCH:** Specifically illegal land clearing on travelling stock reserves.

**Ms STONE:** Could you repeat the question? Do you want to know how many?

**The Hon. MICK VEITCH:** Has the department conducted any prosecutions or been made aware of illegal land clearing on travelling stock reserves?

**Ms STONE:** I will answer quickly generally and then I will come back to the specific question. We do have a lot of land in New South Wales that is Crown land. As I said, we often do get compliance reports from our staff, as they are travelling, from neighbours or from concerned individuals. In the illegal activity area, the sorts of things we get reported are land clearing, illegal roadworks, construction of dams and the like. I can say that last year roughly 240 compliance breaches were reported to our office. We go through a risk-based assessment to see which are of significance—obviously anything that threatens life and health issues. Asbestos and those sort of things are often top of the list of things we pay attention to very quickly, and anything that provides material harm to the land or the environment. Land clearing would be considered a fairly high-risk activity. Then our compliance staff and our authorised officers—we have upward of 50 authorised officers



across the State—would go out to inspect and then look at what is the most appropriate course of action to remedy either the breach, for example, if a fence has been built on Crown land because people have not been aware of where the survey boundaries are.

**The Hon. MICK VEITCH:** I have a specific one that I want to ask about.

**Ms STONE:** They are easy to address through a show cause notice and we will fix that. Some of the other actions will require immediate action to make good or clean-up. Then other decisions are taken as to whether you would prosecute. At the moment our prosecution penalties are quite low.

**The Hon. MICK VEITCH:** The specific one I wish to ask about relates to Peter and Jane Harris. North West Local Land Services wrote to Mr and Mrs Harris on 2 July 2014 requesting that over a two-year period they peg the boundary for the TSR, allow the area to recover "and actively revegetate the area if natural recovery of the grassland does not occur in that two-year period". Has there been any follow-up by the Department of Lands since 2014 about the TSR that was illegally cleared on Peter Harris's property?

**Ms STONE:** I do not have those details in front of me. I will take that on notice.

**The Hon. MICK VEITCH:** If you were to go to Mr Harris's place and have a look, what would you expect two years later?

**Ms STONE:** That there would be some level of natural revegetation.

**The Hon. MICK VEITCH:** If that was not the case, what would happen?

**Ms STONE:** We would go through a process of looking at whether the breaches are able to be rectified and made good or we would make a decision as to whether prosecution would be an appropriate course of action.

**The Hon. MICK VEITCH:** How many successful prosecutions did the Department of Lands secure last year?

**Ms STONE:** In 2016-17, 15 penalty notices and two prosecutions were issued.

**The Hon. MICK VEITCH:** What was the average of those penalty notices?

**Ms STONE:** I will just make sure that I have the—

**The Hon. MICK VEITCH:** What was the average penalty?

**Ms STONE:** I would not know the average number but the maximum penalty is \$2,200.

**The Hon. MICK VEITCH:** Are you able to provide the Committee with a list?

**Mr SMITH:** Can I just assist? In cases like this the much more meaningful penalties are under different legislation administered by the environment Minister. Often it is just not sensible for Lands to undertake prosecutions because the maximum penalties are very low under our legislation. I am aware that—

**The Hon. MICK VEITCH:** Are you saying that it is inadequate?

**Mr SMITH:** The penalty is very low, but the penalties for land clearing under the laws administered by other Ministers and departments are much stronger and would be set up to enable dealing with matters of the type you describe.

**Mr JUSTIN FIELD:** In 2013 the Office of Liquor, Gaming and Racing awarded a tender for research into the harm caused by various types of gambling, the report was handed to the Government in December 2015. Why has the report not been released?

**Mr PAUL TOOLE:** There are a number of reports. Gambling is an issue for any individual in our communities and I consider the harm caused by gambling to be a serious matter. As the responsible Minister I want to ensure that reasonable and balanced measures are being put in place to look at the impacts of gambling in our communities. The Government receives many reports. The Cabinet determines the appropriate time for any report to be released.

**Mr JUSTIN FIELD:** Minister, I appreciate your concern about the harm caused by gambling but you are very aware of this report. It has been the subject of media reports and of many requests to make this document public. Why has it not been released? It was commissioned for a particular purpose. You are undertaking reviews that go to the heart of these questions about harm. Does not the public deserve to have this report whilst those reviews are being undertaken?

**Mr PAUL TOOLE:** That is exactly what you and I both want to see. From the reviews that are being undertaken we want to look at how we can address these situations in a more mindful way. We want to make sure that there is not just a review and that is the end of it. Obviously we are seeing various reports being shared with the public, which allows the public to make comment as well. There are a number of reviews currently underway that are seeking feedback from the community.

**Mr JUSTIN FIELD:** They are government processes. This report was commissioned for a particular purpose and the Government has refused to release it. I am just trying to understand why. What does that report say?

**Mr PAUL TOOLE:** It will be a decision by the Government at the appropriate time; a decision by the Cabinet. When it is released it be available to be seen then.

**Mr JUSTIN FIELD:** In this year's budget the Government is anticipating a significant increase in gambling tax revenue over the forward estimates—to the tune of \$271 million between 2016-17 and 2020-21. That will equate to a significant increase in loss to the community from gambling, poker machines being the greatest. How can you take the position of being seriously concerned about the harm, in particular from gambling on poker machines, when you are forecasting a significant tax revenue increase?

**Mr PAUL TOOLE:** I want to put a few things in perspective before I ask Mr Newson to make comment. As I stated before, gambling does impact on a small number of people. I want to make sure that as the responsible Minister we have measures in place to support those who may need help.

I also point out that 65 per cent of people gamble—that is, all types of gambling—whether it be on the poker machines, through lotto, betting on the horses or betting on the dogs. Sixty-five per cent of people in this State enjoy a punt. A harm minimisation report that came out a number of years ago shows that 0.8 per cent of people are impacted by gambling. That is why we have our Responsible Gambling Fund to support those people in our communities who may be vulnerable and who may need support. I will ask Mr Newson whether he would like to add a little more in relation to that.

**Mr NEWSON:** If it assists the Committee, affirming what the Minister has said around the measure for problem gambling harm, the popularly accepted measure is the problem gambling prevalence surveys. The last two surveys that have been conducted in New South Wales have shown, as the Minister said, a 0.8 per cent rate of adult problem gamblers in New South Wales. This is a serious issue. I think the work of the Responsible Gambling Fund demonstrates the seriousness with which the Government takes this matter. These studies are done every five years. Over the past 10 years there has been stark stability in the rate of problem gambling in New South Wales.

**Mr JUSTIN FIELD:** I appreciate that. I appreciate you quoting the figures. However, whilst there is a harm report that has been hidden now for a couple of years, the community is right to be questioning whether or not those figures are current and whether or not the true extent of harm is being reported. Minister, under your watch, you have withheld this report. You have withheld Justice Callinan's report into three-strike provisions—we had to force that out of you. By all accounts you have ignored community submissions into the three-strike review and developed reform that was consistent only with the submission from the Australian Hotels Association. You have banked on an increase in revenue from gambling while advocating a harm minimisation policy. Besides calling me an inner city snob on a regular basis, what response do you have to the complete neglect that the community sees, including health and welfare professionals? This Government has a clear bias in favour of the liquor and gaming lobby.

**Mr PAUL TOOLE:** I am not going to get into name calling with you today. We are dealing with budget estimates.

**Mr JUSTIN FIELD:** It would be the first time.

**Ms DAWN WALKER:** You are just doing it for the media.

**Mr PAUL TOOLE:** I am happy to confront the media at any time. I am also happy to answer budget questions. In relation to that, we do have a Responsible Gambling Fund; \$18 million has been allocated in this financial year. As a component of that, \$4 million is for education, awareness and marketing programs. Another \$13 million has been set aside and is available for online and face-to-face counselling. We have 276 locations in this State to which people can go and receive support. We also have our 24 hour gambling online service, which is in different languages. There is support for Aboriginal people and for women through this program. We also have another \$1 million that has been set aside for research. This week I will be launching a "betiquette" program which informs young males between the ages of 18 to 35 about responsible gambling.

**Mr JUSTIN FIELD:** I appreciate that \$18 million allocation. My question relates to the \$8 billion lost in the community on poker machines. Last week I hosted an event at Fairfield. There were a number of contributors to that event, including the chief executive officer of the Mounties Group which is a member of the Alliance for Gambling Reform. The Mounties Group chief executive officer recognised that his business is reliant on revenue from poker machines. We had a disagreement over the percentage but he recognised that a large chunk of that revenue came from people who were addicted to gambling. That seems to be consistent with what we see in all the gambling clubs in New South Wales. Is that a business model that is sustainable when it is recognised that they are built on harming the community?

**Mr PAUL TOOLE:** I go back to what I stated before: 0.8 per cent of people are impacted by gambling.

**Mr JUSTIN FIELD:** Up to 40 per cent of losses though.

**Mr PAUL TOOLE:** That takes in all forms of gambling. I point out to you, Mr Field, that our clubs give a lot back to our local communities. I am happy for you to pick up the phone and ring the clubs to find out what they are contributing.

**Mr JUSTIN FIELD:** I am doing that.

**Mr PAUL TOOLE:** Some of the clubs are providing sporting opportunities for young people. There are also opportunities to support groups like Meals on Wheels. Schools have been supported by our clubs; they have programs in schools to enable children who do not get fed at home to have breakfast. Money from clubs goes into providing community transport and to support communities. There are a host of good things that clubs put back into our communities. You would also be aware that our ClubGrants category 3 program, a significant statewide program, is delivering immeasurable benefits to communities across this State.

**Mr JUSTIN FIELD:** A percentage of club profits do; that is an important point. In the recent regulations ClubGrants committee funding has been cut. I believe the decisions about how club grants will be made will be determined by the department. Does this not go to transparency issues? I have asked questions on notice to establish what grants have been approved and what grants have been rejected. There is a lack of transparency when it comes to what those club grants are directed to and who benefits from them. Should that not be a more open and transparent process, considering the fact that clubs rely on that as a public relations exercise to justify their business models?

**Mr PAUL TOOLE:** I point out to you that \$12.5 million is available through the ClubGrants program. You may be aware that I have made changes—

**Mr JUSTIN FIELD:** From \$8 billion profit.

**Mr PAUL TOOLE:** There is \$12.5 million available through that program. There have been some changes but they are available for you to see. Over the past four years there have been 2,200 applications for this statewide program and 136 of those 2,200 applications have been delivered to communities across this State. Whether it be for the three different categories, whether it be for sport and recreation, whether it be for emergency preparedness or whether it be for cultural events they are making a huge impact and a difference in these local communities. There is joy and excitement when I go into those communities to announce those projects. They are glad that they are being delivered.

**The Hon. MARK PEARSON:** I refer to the use of whips in horse racing. Dr Bidda Jones is the senior scientific adviser to the RSPCA. In speaking to a report put out by the RSPCA he said that horses will turn around to push away flies on their rump, so surely whips will cause considerable pain in that same area of high nerve enrichment. As we know, the purpose of the jockey's whip is to make horses run faster and to keep them moving, even when they are exhausted. In 1991 the independent Senate Select Committee on Animal Welfare said in its report on the racing industry that the committee would like to see the use of whips as a means of making a horse run faster eliminated from horse racing.

Even though this comes under the Prevention of Cruelty to Animals Act, it is an offence to abuse or override or cause unnecessary distress and pain. The key word is "unnecessary" as this is a sport. If you were to take your dog out onto the street or into your backyard and whip it in the same way as horses are whipped on the final stretch of a race you would be prosecuted. The use of the whip is to make a horse run fast even though it is exhausted. However, if any other animals were exposed to that same routine treatment the perpetrators almost certainly would be prosecuted. What exemptions, if any, does the racing industry operate under that allow the continued use of the whip?

**Mr PAUL TOOLE:** When I was appointed racing Minister I met with Racing NSW and I have been to a number of race tracks across this State. Certain measures and controls are in place relating to whip use and

to the number of times a horse is to be whipped over the last 100 metres of an event. I will get Mr Newson to provide the detail, if he has it here.

**Mr NEWSON:** I would say at the outset, and I am sure Mr Pearson understands, that the controlling bodies, Racing NSW, Harness Racing New South Wales and Greyhound Racing NSW, but for the new integrity commission, supervise, regulate and control the commercial functions of the industry. Racing Australia sets the standards for thoroughbred racing around Australia. So I do not have the immediate details of the different measures that are put in place. But what I can say—and I can certainly take that on notice—is that I think clearly through some of the policies that are being implemented the controlling bodies are alive to this issue, the controlling bodies are alive to this contention, this commentary amongst the community that racing must evolve its practice over time to respond to community expectations. I am certainly aware that with the different codes, the Harness Racing board is considering this very issue: how should they use the whip in future?

**The Hon. MARK PEARSON:** The question is that the whipping that is happening today is really not accepted by the community in terms of animal welfare. Racing NSW is under your watch and this could well be something that could become very serious if the police decided to take on the issue in terms of it being a breach. So less whipping, padded whips—whipping is causing distress and harm to an animal unnecessarily and unjustifiably, that is the issue; it is alive right now before us. Should a civilised society be allowing these amazing animals to be whipped? That is the question.

**Mr NEWSON:** If I could briefly respond? The controlling bodies supervise the industries. The controlling bodies are clearly alive to and responding to community concern around this issue. Is there an abrupt and immediate change? Is it appropriate that there is an abrupt and immediate change? That is a question that they are looking into. They have certainly, as the Minister said, implemented different policies to lessen the amount—fewer strikes and the like—and, as I think you referred to, the different structure of the whips. We can certainly take on notice what those specific policies are and how it has moved over time.

**Mr PAUL TOOLE:** Mr Pearson, whilst you might be focusing here today on the whip, I point out that Racing NSW has made an incredible investment over the past couple of months. I am not sure if you are aware that they have just purchased a 2,600-hectare property around Capertee. This is a property that is going to rehome, retrain and rehabilitate horses that have finished racing or horses that do not make the racetrack. They will be put onto this property where they will be looked after, ensuring that some of them may be used in the future for the Police Force, maybe for equestrian events, polo events, or they might become a family pet at the end of the day.

**The Hon. MARK PEARSON:** Thank you, Minister, that goes to my next question, and I acknowledge that that is the case. As you say, reportedly, the number of horses going direct from racing to the knackery is very low—apparently just 34 in 2015-16. But is this not possibly misleading and deceptive, because the industry does not track what happens when they move into the breeding, sporting or horseriding facilities. Given that about 8,500 race horses are retired each year, can the industry ensure, can you as Minister ensure, that those horses that are not tracked in the sporting sector and otherwise do not end up at the knackery?

**Mr PAUL TOOLE:** I go back to where I started: I applaud the initiatives that have been taken by Racing NSW. Not only have they purchased this property to ensure that horses are now going to be given a home into the future and be used for other purposes, but also 2 per cent of their prize money goes back towards animal welfare. Racing NSW is taking initiatives and taking the steps forward to ensure that community expectations around animal welfare are being met. These are significant changes that have been made by Racing NSW over the past 18 months in total.

**The Hon. MARK PEARSON:** I acknowledge that, but do you not see that there is a concern here in relation to the tracking of the horses that are sold off into another area where we can no longer track them down—trace them and find out what has happened to them? Is the Minister also aware that young horses are transported very long distances to horse abattoirs for human consumption, to Caboolture in Queensland and Peterborough in South Australia, which is a very long journey for horses, and it is for slaughter for human consumption? Are you aware that these horses are travelling this far and being killed?

**Mr PAUL TOOLE:** No, I am not aware, but, as I said to you, I applaud the initiatives that have been taken by Racing NSW. They may be the first initial steps, but they are significant steps when it comes to looking after these horses to ensure that they are rehomed, rehabilitated or retrained, and I think those initiatives that have been taken over the past couple of months need to be applauded.

**The Hon. MARK PEARSON:** I do applaud them. A final question. Given that horses are not skeletally mature until around the age of four or five years and young horses risk serious injury each time they are made to run at high speed, what is the industry doing to ensure the welfare of those young racehorses, in

particular two-year-olds, and that this does not happen? Is the Minister willing to encourage Racing NSW to not allow horses to be raced until the age of four or five, which is the case in the United Kingdom and New Zealand?

**Mr PAUL TOOLE:** I am not going to give you guarantees at all here today. I will continue to talk to Racing NSW about the measures that they are undertaking in relation to animal welfare and I certainly will continue to work closely with them to ensure that community expectations are being met when it comes to addressing this very important situation.

**The Hon. MARK PEARSON:** Is this issue being looked at during the review of the racing industries that you referred to?

**Mr PAUL TOOLE:** Animal welfare is looked at by all three codes. In relation to the specific matter that you have mentioned, that will be something for ongoing discussion and I am not giving you a commitment here today that that is something that is going to happen in the near future.

**The Hon. MICK VEITCH:** Minister, the Premier State contract refers to renewable tenure. Where is this issue up to?

**Mr PAUL TOOLE:** I might ask Ms Lees if she has an update in relation to that.

**Ms LEES:** You are referring to renewable interment in cemetery space?

**The Hon. MICK VEITCH:** Yes.

**Ms LEES:** We are working towards commencement of part 4 of the Cemeteries and Crematoria Act early in 2018, which will allow for renewable interment, which will be a voluntary option provided by cemetery operators. People can choose to bury a loved one in perpetuity or on a renewable interment.

**The Hon. MICK VEITCH:** The date was March 2018?

**Ms LEES:** We have not set a date yet; it will be early 2018. There is a process that we need to go through, which we have commenced, which is the development of a draft Better Regulation Statement, which will go out for consultation with industry in the coming months.

**The Hon. MICK VEITCH:** Minister, are you supportive of the renewable tenure of interment?

**Mr PAUL TOOLE:** I am supportive of going out and doing that work to get comment in relation to it.

**The Hon. MICK VEITCH:** Why has the section of the Act not been switched on by now? What has been the hold-up?

**Mr PAUL TOOLE:** In relation to any new system that is going to be turned on we want to make sure that it is right, we want to make sure that all information is being provided and we are in a situation where we are able to manage that. But there are going to be regulations and there are going to be guidelines around all aspects of renewable rights as well as easy-to-understand consumer advice on the interment rights and administrative assistance to smaller cemetery operators to assist in the implementation. There is no point in going out unless we are going to have all that information available and ready to go in a professional manner.

**The Hon. MICK VEITCH:** Ms Lees, have you met Mr Photios over this matter?

**Ms LEES:** No, I have not.

**The Hon. MICK VEITCH:** Were you aware that Mr Photios had been engaged as a lobbyist?

**Ms LEES:** No, I was not.

**The Hon. MICK VEITCH:** Minister, do you agree with the Rookwood General Cemeteries Reserve Trust purchasing land for a new cemetery in Western Sydney?

**Mr PAUL TOOLE:** As the Minister for cemeteries I point out that burial space is tight here in Sydney. I go back to my earlier statement: There are some faiths, some cultures, for which we are going to run out of burial space over the coming years. As Minister, I will not wait until the last minute to decide that we need to be purchasing land.

**The Hon. MICK VEITCH:** So you do support that?

**Mr PAUL TOOLE:** As I said, there are investigations; work is being done and we are looking at various sites around the State. It will be my role, as Minister, to determine whether that land is suitable and

whether it fits in with local environmental plans. It is not my role to determine whether it will be a cemetery in the future; that has to go through a comprehensive planning process.

**The Hon. MICK VEITCH:** If the Rookwood General Cemeteries Reserve Trust was looking at buying land in Western Sydney would it need ministerial approval?

**Mr PAUL TOOLE:** It would need my approval, yes.

**The Hon. MICK VEITCH:** What about if there was a requirement to extend funds for that purchase? Does that also require your approval?

**Mr PAUL TOOLE:** It would depend. Generally I would have to approve that those funds be spent in the purchasing of that property.

**The Hon. MICK VEITCH:** What is the turnaround time for that approval, Minister? Is there a statutory requirement for you to turn that around within a certain number of days or months, or is it a matter that you need to give consideration to in determining your own time frame?

**Mr PAUL TOOLE:** Information comes to my desk relating to those exchanges and that settlement. At the end of the day it really is a matter for the trust to determine what negotiations may be taking place and to establish whether it is good use of public money to be able to purchase that land.

**The Hon. MICK VEITCH:** Are you aware of the Fernhill proposal?

**Mr PAUL TOOLE:** I am aware of the Fernhill proposal.

**The Hon. MICK VEITCH:** Where is that up to, Minister?

**Mr PAUL TOOLE:** Rookwood Cemetery has been holding numerous community consultation meetings. I think it has held more than 40 meetings with the community relating to the proposal for a cemetery at Fernhill. In saying that, a proposal is now in my office for consideration. I will be going through that and looking at it very closely.

**The Hon. MICK VEITCH:** So it is in your office. Does that proposal involve an extension of funds to assist the Rookwood General Cemeteries Reserve Trust to purchase?

**Mr PAUL TOOLE:** It is there; I will have to just double-check.

**The Hon. MICK VEITCH:** I do not want to know how much; I just want to know whether there is a request for funds.

**Ms LEES:** It does not involve a request for funds; it involves a request to use funds that the Rookwood General Cemeteries Reserve Trust has. The Minister is required to give approval for it to use the funds that it has.

**The Hon. MICK VEITCH:** Minister, what is the value of Crown land sold by the Coalition Government since 2011?

**Mr PAUL TOOLE:** I do not have that figure.

**The Hon. MICK VEITCH:** I am happy for you to take that on notice.

**Mr PAUL TOOLE:** I will check with Ms Stone to see whether we have those figures here.

**Ms STONE:** We do have them; I will just find it.

**Mr PAUL TOOLE:** We are talking about Crown lands and we are talking about the sale of Crown land. I think on average about 40 parcels of land a year are sold.

**The Hon. MICK VEITCH:** Yes, I am after the value.

**Mr PAUL TOOLE:** I am happy to give you a value. Ms Stone will get that in a moment.

**The Hon. MICK VEITCH:** Whilst Ms Stone is looking for that, what is the anticipated value of Crown land to be sold this financial year? What is the budget that you are looking to?

**Ms STONE:** The sales figures for 2016-17—there were a total of 43 sales. The total value was \$6,656,000.

**Mr SMITH:** So the average value is about \$150,000 per sale.

**Ms STONE:** We do not set a sales target every year but we do, within our resources, look at what sales are achievable. We have a three-year rolling sales program. We get a number of requests every week, month and year, from individuals who express interest in purchasing Crown land from the State. We have a large number of requests for that. Generally we sell land specifically in accordance with the Crown Lands Act when it is of no further strategic purpose or use to the Crown and sometimes when we have a liability on Crown land and the incumbent tenant can deal with that piece of land more efficiently.

**The Hon. MICK VEITCH:** Are you able to take on notice and give us a breakdown on Crown land sales going back to 2011?

**Ms STONE:** I may have that information.

**The Hon. MICK VEITCH:** You can take that question on notice. Based on the response to my first question I suspect that there may be a list, so I am happy for you to take that on notice.

**Mr PAUL TOOLE:** We will take it on notice.

**The Hon. MICK VEITCH:** Minister, ClubsNSW and CrownBet have an agreement to provide digital wagering offerings to club members in clubs. Both parties are now seeking declaratory relief in the Supreme Court in relation to the legal status of their offering because the Government would not or has not provided them with the advice and clarity that they sought on behalf of registered clubs in New South Wales. Why is it that the Government would not simply provide written advice and certainty to those parties, rather than allow them to go to court?

**Mr PAUL TOOLE:** I will ask Mr Newson to provide some information relating to that matter.

**Mr NEWSON:** I will be cautious in my comments. As you have said, Mr Veitch, this is a matter on foot; this is litigation to which the State is a defendant, so I think it is appropriate that comments are limited. Liquor and Gaming NSW has worked with all parties that are involved in this matter. Liquor and Gaming NSW has sought legal advice, informed by senior counsel and counsel assisting. That legal advice, subject to some confidentiality provisions, has been shared with all parties. It is not a fair representation to say that the Government has not given advice. Our advice has gone to what we think is the core issue. We have shared that advice with ClubsNSW, with CrownBet and also Tabcorp, the other interested party in this matter.

The State has a deed with Tabcorp. Tabcorp has exclusive arrangements for its offer in this space. The State needs to be respectful of that agreement and it needs to be respectful of the significant amount of money that was paid for that exclusivity. That is what we are doing. Ultimately ClubsNSW and CrownBet took their own legal advice, I think from a very eminent senior counsel, Brett Walker. They made their own decision that they wanted to get declaratory relief. They wanted the Supreme Court to tell them whether or not what they were doing was lawful. That is entirely available to them and they have chosen that course of action.

**The Hon. MICK VEITCH:** Thank you, Mr Newson. If the court grants ClubsNSW and CrownBet the remedy they seek, will the Government allow clubs to offer the product to their members?

**Mr NEWSON:** I will continue with that. Again, keeping the remarks reasonably cautious. ClubsNSW and CrownBet are seeking declaratory relief from the court. The documents spell out what that relief is. I think it goes without saying that if the court determines to issue that relief in the terms that they are seeking, the Government, Liquor and Gaming NSW, would abide by the court's judgement.

**The Hon. MICK VEITCH:** If it went the other way, if the judgement is against ClubsNSW and CrownBet, would the Government prosecute a local club that offers the product?

**Mr NEWSON:** I think what you are saying there Mr Veitch is that if the court finds that something is unlawful, that is a criminal offence, would the Government act? Would Liquor and Gaming NSW act on that offence?

**The Hon. MICK VEITCH:** Yes, that is exactly what I am asking.

**Mr NEWSON:** I think the expectation from the community would be that when there is unlawful conduct and criminal offences are being conducted the relevant body in this case—a regulator or it could be a law enforcement body—would take the matter seriously and examine it. It is not for me to prejudge and to say what action we would or would not take. I suggest to you that if the court says that this conduct is unlawful under the Unlawful Gambling Act it would be unlikely that any entity, let alone ClubsNSW which is respectful of the laws, would implement such an offer.

**The Hon. MICK VEITCH:** Thank you, Mr Newson. Minister, what is the plan regarding the closure of greyhound tracks in New South Wales?



**Mr PAUL TOOLE:** There are no plans to close greyhound tracks. The decision concerning greyhound tracks will be taken by the commercial board. You are aware of the Greyhound Industry Reform Panel report. There were 122 recommendations at the start of the year. We have now appointed a commercial board which is led by former Premier Morris Iemma. If there is any change to the status of tracks in the State that decision would be made by the commercial board. There are more than 30 tracks across this State. I make the point that a lot of people and volunteers are employed at these tracks. These tracks are important in regional communities.

**The Hon. MICK VEITCH:** Absolutely.

**Mr PAUL TOOLE:** I know the commercial board is very much aware of that. I look forward to the investment the Government has made by announcing \$30 million this year funding track upgrades and that will be significant in ensuring that these tracks will meet animal welfare standards into the future.

**The Hon. MICK VEITCH:** Are you aware of any plans to rationalise the number of greyhound tracks in New South Wales?

**Mr PAUL TOOLE:** Mr Iemma and the commercial board know the importance and value of those tracks across the State. I am excited that around Tweed there is also the opportunity for another track to open. There are some investigations taking place there about a track and we have heard of rumours across the border as to what may happen in the future. I cannot speculate. It is exciting that they may come across the border into our State and we will see another track opening up.

**The Hon. MICK VEITCH:** To clarify: If the commercial board and Mr Iemma decide to close a greyhound track in New South Wales at what point do you advise that decision? What is your role? Do they have to advise you first? What is the process?

**Mr PAUL TOOLE:** They are an independent body; it would be an independent decision that would be made by the industry itself. The industry would determine whether or not those tracks were to close. I am confident that those tracks are going to continue to operate in this State. I am confident that the board will do a fantastic job for greyhound racing in New South Wales.

**The Hon. MICK VEITCH:** Minister, will you suspend the rationalisation process of travelling stock reserves [TSRs] in New South Wales pending the Matthews inquiry report being delivered and implementation of any recommendations by government?

**Mr PAUL TOOLE:** I am not going to get into what may or may not be in the Ken Matthews report. This week we will all be looking at that with interest. Regarding TSRs, you are aware that the Government has done a comprehensive review as to where TSRs are in this State, what they are being used for and who actually uses them. Some of the uses for TSRs have changed over time. We are no longer seeing them used in certain areas. Some are on landholders' properties and they are managing them environmentally.

**The Hon. MICK VEITCH:** Some of them are clear-felling them.

**Mr PAUL TOOLE:** That is the first step. We will continue the process of mapping to determine where the TSR network is, which will give us a better understanding of how it works.

**The Hon. MICK VEITCH:** What about the conversion of TSRs into freehold land? Where is the process up to with those TSRs on pastoralists' or graziers' properties?

**Mr PAUL TOOLE:** That is not a decision we are going to make today in relation to TSRs. What we are presently doing is looking at a comprehensive review to do the mapping to determine where they are, who uses them and what they are being used for. I have no doubt that in some places they will still be very relevant. I am sure once we have finished this process we will have a better understanding as to the importance of TSRs. There are two million hectares of TSRs in this State and they cross over 65,000 reserves.

**The Hon. MICK VEITCH:** The Hon. Rick Colless and I are the only two characters in the Parliament, including both Houses, who have worked on TSRs following the tails of stock and eating dust.

**Mr PAUL TOOLE:** Your age is showing.

**The CHAIR:** I have hunted on them.

**The Hon. MICK VEITCH:** Will you rule out converting TSRs to freehold and selling them?

**Mr PAUL TOOLE:** No, I am saying that I am not making a decision until we see all of the mapping. I want to make sure that all the information has been provided.



**The Hon. MICK VEITCH:** You cannot rule out selling them in the future?

**Mr PAUL TOOLE:** We have gone to the community and held workshops in various parts of the State. We have had over 865 submissions for TSRs. We extended the consultation period by an extra two weeks to give communities and individuals an opportunity to have their say about TSRs. It is not an overnight exercise, as you would be aware.

**The Hon. MICK VEITCH:** You cannot rule out selling them?

**Mr PAUL TOOLE:** What is sensible is to have all the information on the table and have a look at where the network is, does it connect and does it work and then we will have a better understanding of it.

**The Hon. PENNY SHARPE:** Minister, tomorrow is Threatened Species Day. Can you confirm that under the proposed changes to the Integrated Forestry Operations Approvals and the Threatened Species Licence you are scrapping pre-logging surveys for 326 species of threatened plants and for 23 animal species? Will 32 plant areas and about 26 animals have their protection significantly reduced?

**Mr PAUL TOOLE:** I am unaware of having any areas reduced. I make the point that when forestry operation occur in this State I see a lot of detailed work and planning to identify the threatened species, the flora and the fauna.

**The Hon. PENNY SHARPE:** Is it not the case that you reduced the protection for koalas in the current arrangements?

**Mr PAUL TOOLE:** I make the point that koalas are regulated in forestry operations and we have clearly seen, through science and research, that koala habitat continues to be strong where we have seen forestry operations for the past 100 years.

**The Hon. PENNY SHARPE:** Koalas are heading towards extinction.

**Mr PAUL TOOLE:** That is your opinion.

**The Hon. PENNY SHARPE:** That would be science.

**Ms DAWN WALKER:** I will continue with that line of questioning. Can the Minister confirm that no koalas are killed or maimed as a result of native forestry operations in New South Wales?

**Mr PAUL TOOLE:** Let us put it in perspective: when we talk about native and private forests in this State we are talking about 22 million hectares. There are 7.5 million hectares on Crown land. The Forestry Corporation of NSW operates two million hectares, but they harvest only one million hectares. One million hectares of that is set aside for environmental protection. Forestry operations have been going on in this State for over 100 years. I point out that this Government, Forestry Corporation, and the operations I have seen in the industry show that they are also concerned about making sure that koala habitat, threatened species, and flora and fauna are protected and looked after.

**Ms DAWN WALKER:** What is an acceptable number of koala deaths tolerated by your Government as a result of native forestry operations? What would you consider acceptable?

**Mr PAUL TOOLE:** I will ask Mr Roberts to answer that question. This Government is continuing to support koala habitats.

**Ms DAWN WALKER:** The question is, what would you consider acceptable? What would be an acceptable number of koala deaths through Forestry Corporation's logging of native public forests?

**Mr PAUL TOOLE:** I will say that there is a clear record that shows co-existence can occur.

**Ms DAWN WALKER:** The records show that koala numbers are plummeting. As the Minister for Forests, what do you consider is an acceptable number of koala deaths due to forestry operations in our public native forests?

**Mr PAUL TOOLE:** I make the point again that koalas are killed by bushfires, vehicle strikes, wild dogs and feral cat attacks.

**Ms DAWN WALKER:** And koalas are killed through logging. As the Minister for Forests, what do you accept is an acceptable number of koala deaths from your logging operations?

**Mr PAUL TOOLE:** As I said, we will continue to do the planning. Extensive work is undertaken in our operations to ensure that the koala habitat is acknowledged. I will hand over to Mr Roberts.

**Ms DAWN WALKER:** Rather than handing over to Mr Roberts, I would like to pursue this further. Quite frankly, the population of New South Wales does not find this to be a laughing matter. If you are concerned about the number of koalas, as you say you are, does the New South Wales Government believe that more protected areas, such as national parks, would stop the decline of koala populations in New South Wales?

**Mr PAUL TOOLE:** I know there are some people who would love to see State forests shut down and no operations occurring. I point out to you that as the Minister I care about the jobs operating in those forestry operations. I care about—

**Ms DAWN WALKER:** I am asking about the koalas. Let us focus for a moment on the koalas because that is what I am interested in. Do you believe that more protected areas, such as national parks, will contribute to stopping the decline of koala populations in New South Wales.

**Mr PAUL TOOLE:** I go back to the point that I am concerned about jobs in these forests. As I said, some people have the view that they would like to see no forestry operations occurring in this State.

**Ms DAWN WALKER:** I will ask about forestry as the question about koalas is obviously making you uncomfortable. What percentage of the Forestry Corporation's timber sales came from native State forests and what percentage came from plantations in the last financial year?

**Mr ROBERTS:** I cannot give you an accurate number but I can give you an approximation. We harvested about 3.5 million cubic metres in our plantation business, across the board, and the number in hardwood forests would be just over one million cubic metre or tonnes in total.

**Ms DAWN WALKER:** A million cubic metres out of our native State forests?

**Mr ROBERTS:** Yes.

**Ms DAWN WALKER:** How much has the Forestry Corporation's native State forestry operation lost in the past five years?

**Mr ROBERTS:** The financial position of the hardwood business is something on which we have focused a lot of attention since corporatisation in 2013 and 2013. I am pleased to say that over the last two financial years—2015 and 2016—we made a positive earner before interest and tax in our business. It was a positive profit figure. We are in the process of finalising our financial accounts and they will see us in the black. This year we will make a positive operating profit in total after tax.

**Ms DAWN WALKER:** Is that purely from logging State native forests?

**Mr ROBERTS:** Yes, it is purely from the harvesting and commercial activities we do in the native forests operations.

**Ms DAWN WALKER:** Are you aware that from 2011 to 2015 New South Wales lost more than \$40 million from logging State public forests?

**Mr ROBERTS:** I could not talk specifically to the numbers. I do not have that list of numbers in front of me at the moment. I can say that we have turned that business around from a position where it was losing money a number of years ago to the position now where it is profitable.

**Ms DAWN WALKER:** Why do you think that is? Is that from a change in logging procedures?

**Mr ROBERTS:** No, it is from a fairly thorough examination of the business, assisted by the board that was appointed in 2013. We have been through a restructure of the business. We have looked at our overheads, in particular, and we have taken away back-office functions that were not deemed to be necessary. We have worked on our community service obligation funding with Treasury. Those combined activities have allowed us to turn that business around.

**Ms DAWN WALKER:** Has intensive harvesting had anything to do with that turnaround?

**Mr ROBERTS:** No, I would not say so.

**Ms DAWN WALKER:** Minister, on intensive harvesting, are the clear-felling practices currently in place on the South Coast going to be introduced to the mid North Coast and the North Coast under the Integrated Forestry Operations Approvals [IFOAs] remake?

**Mr PAUL TOOLE:** As you would be aware, a draft consultation on the IFOA will be coming out at the end of the year. That will be available for comment at that point in time.

**Ms DAWN WALKER:** With that coming out, I am sure that you have been looking at this in great detail. I am interested in which forests the Forestry Corporation currently uses regeneration harvesting.

**Mr ROBERTS:** I cannot give you a list of the specific forests, but it tends to be the coastal forests on the North Coast of New South Wales. The rationale for that technique is that the species we are harvesting in those areas, in particular Blackbutt, is a shade intolerant species. One of the issues that we have had historically is the regeneration of the forest. In an endeavour to make sure that we get good regeneration, we have to have light spilling into the area that is being harvested and we need soil disturbance for the seedbed to grow into young seedlings. When we go back to visit the areas where we have applied this technique we find that it is called regeneration harvesting for that reason and we get very good regeneration. We get a very healthy and thriving forest as a consequence.

**The Hon. PENNY SHARPE:** I understand that the Environment Protection Authority [EPA] is thrilled.

**Ms DAWN WALKER:** Minister, are you aware that the EPA is concerned that regeneration harvesting is illegal and is an intensive and destructive form of harvesting that goes beyond the permitted forestry practices?

**Mr PAUL TOOLE:** I will ask Mr Roberts to comment, but before I do—

**Ms DAWN WALKER:** Before you do that, I would like to confirm whether you are aware that the EPA is concerned about this?

**Mr PAUL TOOLE:** You asked me a question and my answer is I am aware that guidelines are set out by the EPA. I am also of the understanding that audits are undertaken through harvesting processes as well. I understand that there is a strong compliance record in the way in which operations occur within our State forests.

**Ms DAWN WALKER:** Are you aware that the EPA is concerned that regeneration harvesting is in fact illegal?

**Mr PAUL TOOLE:** I said that I am aware of the EPA's guidelines and that forestry operations must work within that.

**Mr ROBERTS:** We do not believe that they are illegal. I am aware of a letter that was written by one officer in the EPA who made an allegation—I forget the wording but it might have been about the spirit of IFOA. We have been undertaking this technique since about 2007. When it was first implemented it was done in close consultation with the regulator at the time. Our harvest plans are constantly put up on the website for people to observe how we plan to harvest particular compartments in State forests. There is very good visibility and transparency around our techniques. We are subjects to tens of audits a year by the EPA, which has been examining the way in which we have been harvesting forests. We believe that we are compliant. We leave significant set asides when we go into compartments to undertake this form of harvesting. As I said with regard to the name convention for it, we are pleased with the regeneration that we are getting as a consequence.

**Ms DAWN WALKER:** Will regeneration harvesting be included in the IFOA remakes?

**Mr PAUL TOOLE:** That will be part of the draft consultation. That is something that is done between the Minister for the Environment and me.

**Ms DAWN WALKER:** It was recently reported that the EPA stated that with the Forestry Corporation's structure there was an "inherent conflict of interest for a corporation in having a concurrency role for negotiating, revoking or changing the terms of their licence" on behalf of the then Minister for Primary Industries, who is now the Minister for Lands and Forestry. Do you agree with the EPA that that is an usual circumstance?

**Mr ROBERTS:** I do not believe there is conflict of interest and I do not believe it is an unusual circumstance either. As an operator we are very involved in the operational and technical aspects of the implementation of the licence. It would seem to me to be appropriate in reviewing the licence and, in particular, in moving away from a licence that at the moment is highly prescriptive as to the way we undertake our operations, and moving towards a more contemporary format where we are looking at environmental effects and outcomes. It would be very strange, in my view, not to engage with and talk to the operation, given the technicalities that are involved in the kinds of operations we undertake.

**Ms DAWN WALKER:** Minister, the EPA has also stated that the removal of third-party legal rights exists nowhere else in New South Wales legislation or regulation. Is that your understanding?

**Mr PAUL TOOLE:** That would be a question to put to the Minister for the Environment.

**Ms DAWN WALKER:** Does it not relate to your ministry?

**Mr PAUL TOOLE:** It may relate to my ministry, but it would be question that you have to ask the Minister for the Environment.

**Ms DAWN WALKER:** It is relevant to the Forestry Act, with all due respect.

**Mr PAUL TOOLE:** With all due respect, as I said, the EPA conducts a number of audits of forestry operations. Compliance and guidelines exist for how harvesting operations must occur and those guidelines continue to be kept.

**Ms DAWN WALKER:** Are you aware that under the Forestry Act there is no ability for a third party to take any legal action against breaches by the Forestry Corporation?

**Mr PAUL TOOLE:** As I said to you, and I think Mr Roberts has made it very clear, when any harvesting occurs in a forest in this State, a detailed plan outlines exactly what—

**Ms DAWN WALKER:** I understand that, Minister.

**Mr PAUL TOOLE:** I do not think you do.

**Ms DAWN WALKER:** Excuse me, with all due respect, we are talking about when a breach occurs under the Act for which you are responsible there is no ability for a third party to take legal action; it has to go through the EPA. Are you aware that is in the Forestry Act?

**Mr PAUL TOOLE:** I am aware that some people would love to see—

**Ms DAWN WALKER:** Are you aware that is in the Forestry Act?

**The Hon. RICK COLLESS:** Point of order—

**The Hon. WES FANG:** Point of order—

**The Hon. RICK COLLESS:** The Minister is attempting to answer this question but he is continually being interrupted by Ms Walker. I ask you to ask the member to allow the Minister to answer the question in full.

**The CHAIR:** I uphold the point of order only in so far as the Minister is capable of answering the question. Please do so as quickly and directly as you can, Minister.

**Mr PAUL TOOLE:** Mr Smith has indicated he can add more to this as well.

**Mr SMITH:** The structure that puts the EPA as the sole body that can commence proceedings has been in place for decades in New South Wales. It is a fundamental part of the framework.

**Ms DAWN WALKER:** For clarity, the question was: Are you aware that is in the Forestry Act?

**The Hon. PENNY SHARPE:** No. He is now.

**Ms DAWN WALKER:** It is unfortunate because it is an unusual circumstance in New South Wales. I am surprised you are not aware of it.

**The Hon. RICK COLLESS:** It has been there for decades.

**Ms DAWN WALKER:** Let us move on. Will any of the reform under the New South Wales forestry industry road map, including the draft forestry bill, address this anomaly in the Forestry Act that deals with legal rights of third parties so it is consistent with other State-owned corporations?

**Mr PAUL TOOLE:** That is the forestry bill that will be enacted and obviously through the draft IFOA.

**The Hon. PENNY SHARPE:** Through Parliament.

**Mr PAUL TOOLE:** It will be an opportunity for consultation and I look forward to feedback through that process. I am not going to pre-empt what is in and what is out today. It will be a measured response. It will deal with forestry operations. It will be balanced. As you would understand, forestry measures are complicated. They are not easy, but it is also about making sure that there is a balance between forestry operations and protecting the environment.

**Ms DAWN WALKER:** As the Minister for Forestry, do you know how many audits and investigations the Forestry Corporation was subject to in the last financial year?

**Mr PAUL TOOLE:** I do not have those figures with me. I will ask Mr Roberts if he has those figures available.

**Mr ROBERTS:** I do not have the number of audits. I can provide that on notice. My recollection is that there would have been more than 100 audits during the last financial year.

**Ms DAWN WALKER:** How many of those resulted in penalty notices?

**Mr ROBERTS:** We did not have any penalty infringement notices served on us in the last financial year.

**Ms DAWN WALKER:** None?

**Mr ROBERTS:** None.

**The Hon. GREG PEARCE:** Excellent management.

**The Hon. RICK COLLESS:** Good work.

**The Hon. GREG PEARCE:** Great Minister.

**The Hon. MICK VEITCH:** He will not be able to walk out the door.

**Ms DAWN WALKER:** Can we then assume that there were no breaches?

**Mr ROBERTS:** No, I do not think you could say that because there is a period of time for the EPA to issue an action against us. If something comes to its notice in subsequent audits after the end of the financial year, it is possible that it may identify something that it raised with us. In respect of your question, we did not have any penalties served against us last year.

**The Hon. MICK VEITCH:** Have you read the Federal Court judgement in *Western Bundjalung People v Attorney General of New South Wales*, dated 29 August 2017.

**Mr PAUL TOOLE:** No. Have you?

**The Hon. MICK VEITCH:** Yes. In his ruling the judge stated:

I am not satisfied that the overarching purpose of the civil procedure rules in the Court Act has been met in this case, indeed I believe it has not, and I currently have no confidence that we can continue down our present path and comply with the duties to which we are all subject for many matters which remain to be resolved unless there is a change of approach within the State of New South Wales in dealing with native title claims.

That is a pretty scathing statement from the judge.

**The Hon. GREG PEARCE:** Point of order: The question is clearly seeking a legal opinion.

**The Hon. MICK VEITCH:** No, it is not. I want to know what the Minister is doing.

**The Hon. GREG PEARCE:** You are not entitled do that.

**The Hon. PENNY SHARPE:** To the point of order: This is the outcome of a case.

**The Hon. GREG PEARCE:** He has read from a case.

**The Hon. PENNY SHARPE:** He is asking a policy—

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** You can take up the time or not.

**The Hon. GREG PEARCE:** He is asking for a legal opinion.

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** You are trying to cover up that the Minister has no idea. He is not asking for a legal opinion; he is asking for the policy response.

**The CHAIR:** When I call for order everybody else shuts up. That is the rule. I do not uphold the point of order.

**The Hon. MICK VEITCH:** Minister, in light of that statement by the judge, what are you going to do?

**Mr PAUL TOOLE:** I make the point that there have been more native title determinations in New South Wales in the past four years than in the 20 years preceding.

**The Hon. MICK VEITCH:** So the judge is wrong?

**The CHAIR:** We are out of time, Minister. Thank you very much for providing your time and that of your public servants. Any questions on notice will be sent to you. We would like to receive answers within 21 days.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**