

**GENERAL PURPOSE STANDING COMMITTEE NO.6**  
**2017-18 Budget Estimates**  
**Answers to Questions on Notice – 1 September 2017**  
**Environment and Heritage Portfolio**  
**Local Government Portfolio**

**Question 1 (p6-7)**

**The Hon. PETER PRIMROSE:** The motion says, "To introduce a requirement for all local government authorities to have a suitably qualified engineer". I do not want to verbal your Parliamentary Secretary. This is a motion that he has put up. I presume he has discussed it with other members of the Government. I am asking your views as Minister for Local Government and as one of his parliamentary colleagues. It is not a backbencher, it is not the Opposition, it is not a crossbencher; it is one of your parliamentary secretaries. I am just asking your views, Minister. It is not a trap. It is your colleague. I am genuinely asking your views.

**Ms GABRIELLE UPTON:** He is not a Local Government parliamentary secretary. He is a colleague of mine, absolutely. I welcome all good ideas and he can put that forward. I make the point that he is also a local member, as am I, and I am always open to new ideas. I thank you for bringing that to my attention.

**The Hon. PETER PRIMROSE:** What is your view on his proposal?

**Ms GABRIELLE UPTON:** I have not fully considered it but I am happy to take it on notice.

**Answer**

While the Government certainly acknowledges the valuable contribution that qualified engineers make in assisting councils meet the infrastructure needs of their communities, it should be a matter for each council to identify its workforce skill requirements.

## Question 2 (p7)

**The Hon. PETER PRIMROSE:** I have learnt something about how you people operate today. Why have you not amended section 685 of the Local Government Act, as recommended by Chief Justice Tom Bathurst?

**Ms GABRIELLE UPTON:** Would you like to explain what your question means?

**The Hon. PETER PRIMROSE:** You are the Minister. I thought you would have been aware of the issue of signs in relation to certain allegations and information. The Chief Justice has made a specific recommendation. I am sure if you wish to take advice from Mr Orr or Mr Hurst they could advise you. This was a recommendation made by the Chief Justice to the Government.

**Ms GABRIELLE UPTON:** The Chief Justice makes lots of recommendations. He is a fine man; he leads our judiciary in New South Wales.

**The Hon. PETER PRIMROSE:** I agree, that is why we take his views seriously.

**Ms GABRIELLE UPTON:** Absolutely. I am happy to take that on notice.

**The Hon. PETER PRIMROSE:** You are not aware of that?

**Ms GABRIELLE UPTON:** I am happy to take that on notice.

## Answer

The Chief Justice of New South Wales the Hon T F Bathurst AC QC has not made known to the Minister any specific recommendation regarding the operation of section 685 of the *Local Government Act 1993*. The Minister notes that the comments attributed to His Honour by the member were made in the context of an address to lawyers on the occasion of the Opening of the Law Term Dinner in February 2016 on the topic: "The Nature of the Profession; the state of the law."

**Question 3 (p13)**

**The Hon. PENNY SHARPE:** Are you able to advise the Committee what the budget reduction will be? I am happy for you to take the question on notice.

**Mr LEAN:** I do not believe there has been a budget reduction.

**The Hon. PENNY SHARPE:** Are you saying that the efficiency dividends of \$3.4 million and \$2.2 million are incorrect, even though that is what you have provided to me through questions on notice?

**Mr LEAN:** No, that is not what I am saying at all. If you look at the budget numbers there is a significant decrease as a result of the reporting difference that I mentioned. We would be happy to take the question on notice.

**Answer**

Changes to the way NSW is budgeting from 2017-18 means that 2017-18 figures can't be compared with those reported in the budget papers from prior years.

**Question 4 (p14)**

**The Hon. PENNY SHARPE:** I am working off figures the department has given me.

**Mr LEAN:** The 240 reduction that you referred to again relates to the reporting arrangements around corporate services staff. They are no longer—

**The Hon. PENNY SHARPE:** Are you saying the whole 246 are corporate services staff?

**Mr LEAN:** Largely, yes.

**The Hon. PENNY SHARPE:** Do you want to provide a breakdown on notice to the Committee, please?

**Mr LEAN:** I can certainly do that.

**The Hon. PENNY SHARPE:** Can you confirm you have 49 fewer rangers, or 20 per cent fewer rangers, since 2011?

**Mr LEAN:** I would need to take that on notice.

**Answer**

I am advised there has not been a reduction of 246 staff members in the National Parks and Wildlife Service. The 2015-16 budget paper staff numbers cannot be compared to 2016-17 staff numbers as they include a notional distribution of corporate services staff.

**Question 5 (p15)**

**The Hon. PENNY SHARPE:** Your department has refused to provide me with information about how much is being spent on weeds and pests in national parks after my asking through Government Information (Public Access) Act requests and through questions on notice.

**Ms GABRIELLE UPTON:** We have spent \$35 million on the management of weeds and pests in this current financial year.

**The Hon. PENNY SHARPE:** Can you provide that broken down by area, please? You can take it on notice. I do not need it now.

**Ms GABRIELLE UPTON:** We are happy to take that on notice.

**Answer**

In 2017-18, \$35 million is allocated to this program up from total program expenditure of \$32.3 million in 2016-17.

**Question 6 (p16)**

**The Hon. PENNY SHARPE:** Under the new land clearing laws, would the Turnbull family's land clearing have been legal?

**Ms GABRIELLE UPTON:** You heard me say that Glen Turner was a valued member—

**The Hon. PENNY SHARPE:** I am not talking about Glen Turner. I am talking about the farmer who murdered him who was involved in illegal clearing. Would that clearing be legal under your new regime? You can take it on notice if you do not know.

**Ms GABRIELLE UPTON:** I would say that nothing that has been done diminishes the work that he did.

**The Hon. PENNY SHARPE:** Can you just take it on notice, Minister? You clearly do not know the answer.

**Ms GABRIELLE UPTON:** The fact that he died was an absolute tragedy. He died doing his job and making sure that the compliances, the monitoring and the enforcement under our biodiversity laws were enforced across the State.

**The Hon. PENNY SHARPE:** We are running out of time. If you do not know, would you agree to take on notice whether an assessment has been done and whether you can provide this Committee with information about whether the land clearing that Mr Turner was investigating on the land owned by the Turnbolls would be considered legal under the new regime?

**Ms GABRIELLE UPTON:** I am happy to take that on notice.

**Answer**

OEH has taken four sets of prosecution proceedings and one civil action against several members of the Turnbull family in respect of the clearing of around 1,400 ha of native vegetation on the "Colorado" and "Strathdoon" properties at Croppa Creek near Moree. One of these prosecutions has been successfully finalised and the Court is yet to deliver judgement on sentence in relation to two prosecutions. There is also one prosecution currently before the court which involves clearing of up to 500 ha of native vegetation between January and August 2014.

The new Code framework requires assessment and advice from Local Land Services, notification and certification in certain circumstances and allows for the use of set asides where appropriate.

**Question 7 (p16-17)**

**Dr MEHREEN FARUQI:** Is the New South Wales Government considering allowing hotels to be built adjacent to or within the Entertainment Quarter and Moore Park Sporting Precinct as part of the Moore Park Master Plan 2040?

**Ms GABRIELLE UPTON:** As you know, a master plan has been released. There were two years of consultation. The focus of that plan is to increase and add to the green space.

**Dr MEHREEN FARUQI:** What about hotels? Is there a plan to build hotels?

**Ms GABRIELLE UPTON:** Centennial Park and Moore Park are the lungs of our city. They are a great resource.

**Dr MEHREEN FARUQI:** This is a very simple question. I know they are the lungs of the city.

**The Hon. MATTHEW MASON-COX:** Point of order: The Minister should be given a chance to respond. If we deal with this respectfully it will go a lot better.

**The Hon. PENNY SHARPE:** If the Minister could get within a bull's roar of answering the question it would help.

**Mr. DAVID SHOEBRIDGE:** She can tell us how she is going to build a hotel on the lungs of the city.

**The Hon. MATTHEW MASON-COX:** Give her a chance to respond. Hansard cannot follow it when you are screaming over the top.

**The Hon. PETER PRIMROSE:** We cannot follow the Minister either.

**Ms GABRIELLE UPTON:** The purpose with the master plan, which was released in May this year, was delivering more passive green space. A number of things are raised there for consideration but, as I say, that is a wonderful resource. The focus of it should be providing passive green space for the benefit of our community.

**Dr MEHREEN FARUQI:** As I understand it, it opens up that precinct for hotels to be built. That is how I understand it. You have not said no, so I will go on with that presumption.

**Ms GABRIELLE UPTON:** I am happy to take on notice your question. I am not sure whether you have interpreted it correctly. I am happy to come back to you. But the purpose of that master plan was to open up more passive green space. That is the purpose of the master plan.

**Answer**

There are no current proposals.

**Question 8 (p18)**

**Dr MEHREEN FARUQI:** The Wallerawang Power Station, which was permanently retired in 2014, had an ash dam which, as I understand it, has never been cleaned up. A NSW Environment Protection Authority [EPA] report of July 2016 found that there was still water, with acid and sulphur, being discharged into the Cocks River, which flows into Sydney's drinking water catchment. My question is, what is being done to clean that up?

**Mr BUFFIER:** I am aware of the situation up there but I am not aware of the detail. I will take the question on notice.

**Answer**

Energy Australia are currently completing a Decommissioning, Demolition and Restoration Plan for the entire Wallerawang power station site, including the ash dam. This document will be part of a planning application submitted to Department of Planning and Environment for the decommissioning of the premises.



#### **Question 9 (p20)**

**The CHAIR:** Can you provide an update on the status of field trials with 1080 cyanide for the control of deer and feral goats including what welfare issues have been identified by the Office of Environment and Heritage Animal Ethics Committee? What secondary poisoning risks are there to humans and animals, and does the department intend to undertake widespread use of 1080 cyanide for controlling deer and feral goats and, if so, when? I am happy to reiterate those questions as you need them.

**Ms GABRIELLE UPTON:** I will ask Anthony Lean to comment.

**Mr LEAN:** We do use 1080, as I understand it, as part of our pest control program. We obviously have an animal ethics committee within the agency that provides us with advice on ethics issues in relation to animal welfare. I would need to take on notice whether they have been consulted in relation to that particular program, but it is part of our program. We obviously act in accordance with all legal requirements in running those programs, and I would be happy to provide more detail on notice.

**The CHAIR:** Are you aware that a release gained under the Government Information (Public Access) Act noted in the response about feral goats that "ingestion of small amounts of cyanide paste may also pose risks for non-targeted species. Goats were observed shaking their heads, coughing and salivating once exposed to the cyanide paste. The cyanide paste is present in gel form coated with highly palatable feed". Are you aware of that document?

**Mr LEAN:** Not that specific document, no, but I am happy to have a look at that.

**The CHAIR:** Obviously there is a great concern about the implications it is having and, particularly, further on the document talks about "if poisoned animals are experiencing pain whether the symptoms simply reflect central nervous system disturbances". So there is obviously a bit of a concern there. Can you take that on notice and get back to us? I note that that question is on behalf of the Shooters, Fishers and Farmers Party.

#### **Answer**

The project is developing a system to safely bait feral goats and deer without impacting native species, and has been approved by the Office of Environment and Heritage Animal Ethics Committee.

Several studies have concluded that there is little to no risk of secondary poisoning of non-targets from 1080 baiting programs. Further trials are being conducted to ensure the effectiveness for feral goats and deer, and to ensure there are no impacts on native species. A decision on the future use of the program will be made once the research is completed.

**Question 10 (p21-22)**

**The CHAIR:** Some of these children are potentially unsupervised from what I understand. In October 2016 Minister Speakman wrote to the Clerk of the Legislative Assembly that Safety in Focus was engaged to undertake a risk assessment of operational controls on the horse track crossing. The NSW Office of Premier and Cabinet wrote to the stakeholders on 1 August 2017, saying:

*Following the March stakeholder meeting at Moore Park Golf, the Trust has been working with an independent safety control consultant to carefully review the recommendations and feedback in relation to the crossing.*

How can this be true when the independent consultant for safety controls has not provided any advice to the Centennial Park Trust since submitting her report dated 27 January 2017 and given the fact that not only will some of these children not be supervised but also many of them would have no previous dealings with horses, which is a real concern for their safety. You can take that on notice if you like.

**Ms GABRIELLE UPTON:** I will take that on notice. But let me be clear: This is a recreational facility with shared uses. It is important that anybody who is there feels safe, and their safety is not in any way compromised. The new facility there was to provide another dimension of enjoyment and recreational play and facilities for young people. There is existing use, of course, for horses and other recreational activities. Sorting through that is very important because it is such a magnificent, wonderful recreational facility, but no-one should feel as though their safety is going to be compromised. On the specific details you have raised, I am happy to take that on notice on behalf of the Office of Environment and Heritage.

**Answer**

Following community consultation and independent advice, a number of safety controls have been implemented and will be monitored over the next three months. Safety in Focus has been advised of the measures and I am advised is satisfied with the implementation.

**Question 11 (p23)**

**The Hon. PETER PRIMROSE:** Mr Overall, can I ask you the same questions in relation to your time as administrator. How many people have lost their jobs in your council, a regional council?

**Mr OVERALL:** I am not sure of the exact number. I have a recollection that the general manager indicated to me, perhaps a month or two ago, that it was in the order of between five and six at that time. But the offer of voluntary redundancy was continuing.

**The Hon. PETER PRIMROSE:** Could you take that on notice please—to give us an exact figure when you talk to the general manager?

**Mr OVERALL:** Certainly.

**The Hon. PETER PRIMROSE:** Over the next two or three years, in terms of your forward planning— the same as I have just asked Mr May—how many voluntary redundancies or other staff cuts do you expect the council to be making? Please feel free to take that on notice too.

**Mr OVERALL:** As far as I am aware with the forward planning, we do not have numbers as such but I will take that on notice. The point I would make is that Queanbeyan is a high-growth area from a residential development point of view, as are parts of the former Palerang. So, looking forward, we have always approached it on the basis that we are going to need more staff rather than less, being a high-growth area.

**Answer**

Not all staff have lost their jobs as a result of the merger. There's been some natural attrition through resignations and retirements.

As reported to council in the Merger Report in August 2017, 11 voluntary redundancies have been processed, including three former executive staff and three managers. Ten new positions have been established to enable redeployment or recruitment of staff into new front line roles.

#### Question 12 (p23-24)

**The Hon. PETER PRIMROSE:** Minister, notorious developer and Liberal Party councillor Tony Doueihi was fined almost \$60,000 after Burwood Council, where he was deputy mayor, took him to court for building an extra floor at a Burwood Road property without council consent. More recently, he twice failed to declare a pecuniary interest and voted to approve a \$26 million development in Victoria Street, Burwood, in which his son purchased a unit. Mr Doueihi has obviously decided to diversify his property interest and has now nominated for Strathfield Council and has again been endorsed by the Liberal Party. I have a copy of his candidate information sheet here and he has ticked that he is neither a developer nor a close associate of a corporation that is a property developer. As the Liberal Minister for Local Government, you must surely think this whole thing stinks and Mr Doueihi should stand down, do you not?

**Ms GABRIELLE UPTON:** Mr Primrose, you are making allegations. I have not seen the candidate information sheet you are talking about.

**The Hon. PETER PRIMROSE:** I will provide it.

**Ms GABRIELLE UPTON:** I would like to see that and take it on notice. With regard to expectations of people standing for council and serving as councillors, as I said on the record this morning, the expectations and what has been the motivating force behind the series of integrity measures introduced across our period of government is to increase the expectation and make very strong laws that enable the Office of Local Government, or the Minister and others, to act where there are breaches. They set codes of conduct to ensure that when people stand as councillors they have the highest expectations placed on them about serving the interests of their whole community and not their own private interests.

#### Answer

As a result of amendments made by the Government last year, under clause 290 of the Local Government (General) Regulation 2005 (the Regulation), candidates at council elections are required to disclose in candidate information sheets submitted with their nominations whether they are a property developer or a close associate of a corporation that is a property developer.

As candidate information sheets are made in the form of a statutory declaration, it is an offence under the Oaths Act 1900 to make a false declaration. It is also an offence under clause 359 of the Regulation to knowingly make a false statement in a paper relating to an election. The NSW Electoral Commission is responsible for enforcement of these requirements. The Government has recently legislated to confer new powers on the NSW Electoral Commission to investigate and prosecute breaches.

Any allegations that a candidate at a council election has made false statements in their candidate information sheet should be reported to the NSW Electoral Commission so that they can be properly investigated.

### Question 13 (p30)

**Mr DAVID SHOEBRIDGE:** What about the other costs for council amalgamations, including staffing costs, KPMG and the consultants? I am not interested in only the \$375 million; I am also interested in the entire cost of the forced amalgamations.

**Mr HURST:** All of the amounts are reflected in the annual reports of the respective agencies, for example, the consultancy reports and so on.

**Mr DAVID SHOEBRIDGE:** How much is it?

**Mr HURST:** All that information has been published and is publicly available. **Mr DAVID SHOEBRIDGE:** We are in budget estimates, so how much is it? **Mr HURST:** You can go to the annual report.

**Mr DAVID SHOEBRIDGE:** No, I am asking you. You are the acting chief executive. I do not expect to hunt through the annual reports. You are in charge of it all, so how much is it?

**Mr HURST:** With your indulgence, I would be happy to add up those amounts now from the annual reports.

**Mr DAVID SHOEBRIDGE:** I am happy for you to take the question on notice, or you can add them up while we ask some questions and then come back to me when you have the figure. Mr Hurst, how long have you now been acting chief executive?

### Answer

From October 2015 to 1 July 2017, the Department of Premier and Cabinet supported the Premier and the Minister for Local Government to deliver council mergers.

The council merger program was overseen by the Local Government Reform Taskforce from May 2015 to April 2017.

The Local Government Reform Taskforce was chaired by the Department of Premier and Cabinet and included representatives from the Premier's Office, the Deputy Premier's Office, the Office of the Minister for Local Government and the Office of Local Government.

The Department of Premier and Cabinet incurred costs in the amount of \$15,879,601.66 on local council mergers from 1 December 2015.

**Question 14 (p30-31)**

**Mr DAVID SHOEBRIDGE:** How much did you spend in the last year on legal costs, and why will you not tell us?

**Ms GABRIELLE UPTON:** There were councils that contested the mergers. There are multiple cases before the courts. They were council decisions to take those cases to court. The Government was a respondent to those actions. Legal costs were incurred as a result of being respondents to the court actions that have been taken. I am happy to take the question on notice.

**Mr DAVID SHOEBRIDGE:** How much have you spent this financial year and how much have you budgeted to spend this financial year on legal costs?

**Ms GABRIELLE UPTON:** I am happy to take those questions on notice.

**Mr DAVID SHOEBRIDGE:** Why did you not come to budget estimates prepared with that obvious piece of information?

**Ms GABRIELLE UPTON:** I have taken some questions on notice.

**Mr DAVID SHOEBRIDGE:** Why did you come here without the most obvious piece of information?

You knew you would be asked about the legal costs. Is it because you are uninterested?

**Ms GABRIELLE UPTON:** I am focused on delivering better local councils in New South Wales for the benefit of ratepayers. There is publicly available information in the annual report of the Office of Local Government, the office for which I am the Minister, that refers to some of the questions you have asked. The Acting Chief Executive of the Office of Local Government has committed to provide you with some of the information you have requested. Your questions will be answered on notice.

**Answer**

The Crown Solicitor has acted for the government in each of these matters. As the Crown Solicitor's office is funded through the Department of Justice, this question should be directed to the Attorney General.

#### Question 15 (p32)

**The CHAIR:** Pending the High Court decision there will be an upcoming plebiscite on same-sex marriage. Have you issued any instructions to councils across New South Wales that they need to be fair and equal in granting access to local buildings and whether they can or cannot contribute to either side of the campaign?

**Ms GABRIELLE UPTON:** I am happy to take that question and to ask whether the chief executive has any comments to offer.

**Mr HURST:** Each year prior to local government elections the Office of Local Government provides detailed guidance to councils and to candidates. That includes their use of facilities. Irrespective of whether they are used by a candidate who is a current councillor or seeking to become a councillor that has to be at full market value and negotiated at arms-length from the council.

#### Answer

The Office of Local Government has issued no guidance to councils about the use of resources in support of either side of the same sex marriage plebiscite. Under the *Local Government Act 1993* councils are largely independent and self-governing bodies with rights and powers conferred by law. It is a matter for individual councils to decide how they allocate their resources in compliance with the law. Ultimately councils are accountable to their communities for decisions on the allocation of council resources.

**Question 16 (p32)**

**The CHAIR:** The budget included \$44 million to be invested into facilitating biodiversity on private land in New South Wales. The Christian Democratic Party supports improvement of biodiversity throughout New South Wales, as long as we are not just locking up land for the sake of it. The National Vegetation Information System (NVIS) is supposed to assist with identifying key areas of biodiversity and is to be completed by 2018. What is the role of the Office of Environment and Heritage in this process, how accurate is the completed mapping and is it possible to get an accurate picture of native vegetation through aerial images, given that a recent research papers suggested the accuracy was as low as 17 per cent?

**Ms GABRIELLE UPTON:** I will have Anthony Lean comment as the chief executive officer.

**Mr LEAN:** I am not sure I followed all aspects of the question, but certainly the native vegetation regulatory maps that we are developing as part of the biodiversity reforms have been developed in accordance with a rigorous scientific methodology. They use satellite imagery. That methodology has been peer reviewed. We are also going through the process of consulting on the outcomes of that mapping process with individual landholders to ensure that it is valid. As part of the reforms we are also doing work to establish a baseline for biodiversity which will be able to be used to measure the impacts of the reforms. I will need to take on notice the part of the question about the native vegetation.

**Answer**

OEH provides updates of flora survey and mapping data to the National Vegetation Information System.

Accuracy of the type mapping varies from 65 to 85 per cent depending on the type of vegetation sampled and survey data.

The Vegetation Type mapping is not explicitly used for regulatory decisions. Biodiversity assessments for developments or offsets require field survey and more precise mapping.



**Question 17 (p33)**

**The CHAIR:** Minister, thank you for your recent visit to Collingwood Beach. Can you advise if the Bellerive plan was considered and why it cannot perhaps be applied to Collingwood Beach?

**Ms GABRIELLE UPTON:** I am happy to take that question on notice but there may be something that Mr Lean wants to offer as chief executive.

**Mr LEAN:** We will take that on notice.

**Answer**

The 'Bellerive-Howrah coastal reserve – reserve activity plan 2015-2019' plan is a guide to future works on a reserve on the eastern shore in Hobart, Tasmania. The plan has limited application to the management of NSW beaches, including Collingwood Beach.

**Question 18 (p33)**

**The Hon. MARK PEARSON:** If it is considered not to make a broad classification across New South Wales it has been communicated to my office that some livestock farmers would support a pilot program for protecting the dingo in national parks adjacent to their land. Would the Minister consider conducting such pilot programs to analyse the impact in those areas?

**The CHAIR:** Order! The Minister might wish to give a short answer but then we will have to move on because of time allocations.

**Ms GABRIELLE UPTON:** I am happy to take that question on notice.

**Answer**

National Parks and Wildlife Service is currently undertaking research in conjunction with the Department of Primary Industries, the University of New England and the Centre for Invasive Species Solutions to analyse the impacts in areas with and without wild dog control.

**Question 19 (p34)**

**The Hon. PENNY SHARPE:** There is an issue up in the Tweed as well. My specific question is: What is happening outside the red zone at Williamtown? I am happy for you to take it on notice if you can tell us the testing regime the EPA is taking outside the red zone in Williamtown.

**Mr BUFFIER:** What I would point out to you is that the polluter in Williamtown is Defence.

**The Hon. PENNY SHARPE:** We are well aware of that.

**Mr BUFFIER:** We have worked assiduously to make sure that Defence is doing the human health risk assessment—

**The Hon. PENNY SHARPE:** Just to clarify, EPA is not doing that testing on the areas outside the base?

**Mr BUFFIER:** Are you asking me are we doing that today? In what time period?

**The Hon. PENNY SHARPE:** At all.

**Mr BUFFIER:** Certainly in the early stages we stepped in and did testing. I have to take on notice—.

**Answer**

The EPA has no regulatory power over Department of Defence. As the polluter, the Department of Defence is responsible for addressing both on and off site contamination.

**Question 20 (p35)**

**The Hon. PENNY SHARPE:** What remediation is being done to stop stormwater coming off the RAAF base since you have known about this? Since 2012?

**Mr BUFFIER:** What we have been talking with Defence about is what remediation can be done.

**The Hon. PENNY SHARPE:** You are still talking about it? You have known about this since 2012—

**Mr BUFFIER:** I am trying to demonstrate—

**The Hon. PENNY SHARPE:** —and there is still contaminated water coming off that base.

**The Hon. SHAYNE MALLARD:** Point of order: Mr Buffier is trying to answer the question but he is not being given a fair chance to do so.

**Mr BUFFIER:** I am trying to indicate to you that we do not have any powers to direct; despite that, there is water remediation occurring on Lake Cochran.

**The Hon. PENNY SHARPE:** Can you provide on notice to the Committee what is happening there?

**Mr BUFFIER:** I can provide what Defence is doing, yes.

**The Hon. PENNY SHARPE:** Can you provide what the EPA is doing to stop contaminated water in the areas where it is flowing outside the base—

**Mr BUFFIER:** I certainly can.

**Answer**

As the polluter, the Department of Defence is responsible for addressing both on and off site contamination.

**Question 21 (p37)**

**The Hon. PENNY SHARPE:** Minister, how are you going to address the backlog? You can take it on notice. I do not want a long blurb about how great the council is. I like the council too. I want to know how you are going to deal with the 10 year backlog that has been given to you as advice.

**Ms GABRIELLE UPTON:** I am happy to take on notice the first part of your question, but I would say that any proposal for heritage listing or modifications that has been put to me for decisions has already been gazetted.

**Answer:**

The State Heritage Register Committee of the Heritage Council is meeting to review all the assessed deferred nominations and prioritise them for progression.

**Question 22 (p38)**

**Mr MAY:** The council is not in court. The councils have agreed to binding arbitration. That arbitration concluded yesterday. The arbitrator reserved his decision.

**Mr DAVID SHOEBRIDGE:** Can you give us on notice the costs of that arbitration? Unless you know it off the top of your head now can you tell us what the costs have been to the council for that arbitration?

**Mr MAY:** I do not know the costs of the arbitration.

**Mr DAVID SHOEBRIDGE:** Will you give it to us on notice?

**Mr MAY:** I can.

**Answer**

Final invoices have not been received. The costs are made up of expert independent accounting advice, senior counsel and associated legal costs and the actual cost of the arbitration.

**Question 23 (p39-40)**

**The CHAIR:** I refer to the Ian Potter Children's Wild Play Garden. In late 2016 the Safety in Focus assessor confirmed that the capacity is 253,000 and prepared a full risk assessment and stakeholders were advised by phone that there would be a recommendation to eliminate risk by moving the entrance away from the horse track and to face Loch Avenue. Why was Safety in Focus "directed" in late 2016 not to submit its comprehensive risk assessment that would meet the requirements of the Work Health and Safety Act 2011?

**Ms GABRIELLE UPTON:** I will have to take that on notice, it is not within my knowledge.

**The CHAIR:** The second question you may also want to take on notice is: Why was Safety in Focus restricted to merely suggesting controls to mitigate the newly introduced dangers on the horse track when the playground opened?

**Ms GABRIELLE UPTON:** I will take that on notice, thank you.

**The CHAIR:** Further to that, in response to a query about unsafe and modern horse track chicanes and fences, correspondence from the Office of Premier on 12 July said:

*The construction of the Children's Wild Play Garden in Centennial Park has been carried out in full accordance with conditions approved by the NSW Heritage Council in 2015.*

The Premier's office was unable to cite any heritage assessment for the construction of fences and chicanes stretching across the historic horse track. Senior Assessment Officer Ed Beebe of the NSW Office of Environment and Heritage [OEH], admitted to stakeholders during a phone call a fortnight ago that the NSW Office of Environment and Heritage had not received any documents about the chicanes and fences constructed across the horse track from Centennial Trust. At no stage has there been an approval for significant changes to the heritage horse track, a facility which is essential for proper exercise of Centennial Park horses and which is one of only two such facilities left in the world. At no stage has there been consideration of the impact on the horse track which is officially listed as "exceptional heritage". Do you have a comment on that? Or does the heritage side have a comment?

**Ms GABRIELLE UPTON:** Not at this time, unless there is any comment to be offered up through Mr Lean or Ms McKenzie.

**Mr LEAN:** No, I think, given the detail of the question we will have to take that on notice and look into it.

**Answer**

Safety in Focus was engaged to review proposed safety controls for the Ian Potter Children's Wild Play Garden and undertake a risk assessment for the proposed entrance to the site.

Safety in Focus did submit its full risk assessment, which complied with the *Work Health and Safety Act 2011*, for the Children's Garden in its report of January 2017.

The horse track is not a listed heritage item.

The Ian Potter Children's Wild Play Garden was approved by the Heritage Council of NSW as a s60 application in May 2016.

#### Question 24 (p40)

**The Hon. MARK PEARSON:** I have been traveling around regional areas of New South Wales looking at local councils and their pounds. Some are excellent and have a very good relationship with organisations that are willing to adopt and hopefully rehome companion animals. My concern is that some of the council pounds may, at times, be in breach of the Prevention of Cruelty to Animals Act. For example, section 9 is about exercise and says that a person in charge of an animal must provide exercise for that animal each day. Some of the council pounds stated clearly to me that the dogs that were impounded in quite small enclosures were not exercised each day. They were hoping for them to be rehomed soon. Some were there as part of a police investigation into attack on stock.

In the meantime I ask the Minister to turn her mind to the fact that these councils could be in breach of aspects of the Prevention of Cruelty to Animals Act [POCTA] also in relation to exposing animals to excessive heat or excessive cold. I have pointed this out to the council managers. It has been a bit of an alarming situation for them because it seemed to me that they were not aware of their requirements to protect these animals in this way or care for them in that way under POCTA, as opposed to the Companion Animals Act.

**Ms GABRIELLE UPTON:** As you will appreciate well, the Minister for Primary Industries looks after POCTA and companion animals come under the local government Minister. If you are concerned, I urge you to take up some of those matters with Minister Blair. From the council side, if there is anything we need to do to ensure councils are better educated to understand their responsibilities, I am happy to take that on notice and ensure that they are informed about that and also if there are specific concerns that you have about specific pounds and councils, to raise that with me.

#### Answer

The NSW Government is strongly committed to safeguarding animal welfare and expects that all pounds and shelters comply with all relevant legislation and take appropriate care of animals for which they are responsible.

The Minister for Primary Industries is responsible for administering the Prevention of Cruelty to Animals Act 1979. Anyone who suspects or witnesses cruelty to an animal, should directly contact one of the following enforcement agencies: RSPCA, Animal Welfare League NSW and NSW Police.