

## **Inquiry into Museums and Galleries Hearing**

**12 September 2018**

### **Questions on Notice – Planning and Environment**

#### **Question**

**Mr DAVID SHOEBRIDGE:** Not everyone loves Harry Seidler, but the Theatre Royal is an extraordinary piece of architecture. Do you support heritage listing of the theatre and sufficient funding to go with that heritage listing so it can be sustainable? I am happy if you want to take it on notice. I think it is an important issue for the cultural heart of the city.

**The Hon. DON HARWIN:** I think I would take the issue of heritage listing on notice. I certainly agree that it is an outstanding building and an outstanding design but even heritage buildings need to be adaptively re-used even when the purpose is the same, if you know what I mean.

**Mr DAVID SHOEBRIDGE:** But heritage listing does not prevent adaptive re-use as you know.

**The Hon. DON HARWIN:** Correct, but I will take it on notice. I certainly am not in principle against it but I just want to think. I have not actually considered that issue further. What I can say is that I am in favour of the Theatre Royal being kept as a working theatre that can support these sorts of productions. If that was consistent with heritage listing and ensuring that that theatre could be kept I might consider it. But I will take it on notice to give you a proper answer.

#### **Answer**

The listing of buildings on the State Heritage Register is a matter for the consideration of the Heritage Council of NSW and the Minister for Heritage.

The Heritage Council of NSW considers nominations for listing on the State Heritage Register, based on an assessment of heritage significance and taking into account any submissions received from the public. Section 33 (3) of the NSW Heritage Act 1977 provides that the Heritage Council must be of the view that the item is of State heritage significance before it makes a recommendation to the Minister.

Upon receipt of a recommendation for listing from the Heritage Council of NSW, the Minister for Heritage has to consider that recommendation and decide whether to direct the listing of the item on the State Heritage Register under Section 32 (1) of the Heritage Act.

There is no automatic funding associated with becoming a listed building. However, if listed, the properties may be eligible for a heritage grant.

## Question

**Mr DAVID SHOEBRIDGE:** Minister, what went so horribly wrong at the institution that between 2012, when there was an analysis done of the condition of the buildings by your own Government and they were described as moderate to good, and two years later when suddenly it all needs to be knocked over because it is not fit for purpose and there is \$400 million to be spent? What kind of partying happened in the institution between the 2012 review and the 2014 assessment?

**The Hon. DON HARWIN:** I am happy to talk about that separately, but for you to try to say that the serious problems that they have with circulation at the museum, the fact that the building has not been properly upgraded since it was built, the fact that there are inadequate education spaces because of partying, just makes you look a bit superficial, frankly.

**Mr DAVID SHOEBRIDGE:** Minister, answer the question. What went on, what happened between the 2012 review by your own Government that found the facility to be moderate to good and 2014 where you were determined to bulldoze it and move it to Parramatta?

**The Hon. DON HARWIN:** As you know –

**Mr DAVID SHOEBRIDGE:** What changed between 2012 and 2014.

**The Hon. SCOTT FARLOW:** Let the Minister answer.

**The Hon. DON HARWIN:** As you know, David, I was sitting in the Chair and was President of the Legislative Council at the time. I will take that question on notice and provide you with a response.

## Answer

The Department has advised that the 2014 document was a Business Case prepared by the Museum of Applied Arts and Sciences in relation to the Ultimo site. The Business Case presented a case for the renewal of the Powerhouse Museum and evaluated four options (including the Base Case). It recommended an option that would offer the opportunity for the Museum to establish a sustainable operating model in the long term.

This report has been provided to the Committee. I am advised that the Committee has decided to make the document public and that it will be published on Parliament's website in due course.

## Question

**Mr DAVID SHOEBRIDGE:** Minister, there is very real concern that the client for the rebuild of this museum is the department and not the trustees, and therefore, that the museum itself will not have ownership and control over what is built. It is said that this is not replicated anywhere else, at any other significant cultural institution, and it is likely to lead to trouble.

**The Hon. DON HARWIN:** The concerns are unfounded, and let me explain why. Every one of these large projects is being dealt with the same. The Australian Museum refurbishment is being dealt with in the same way. Sydney Modern is being dealt with in the same way as well – that is, there will be a memorandum of understanding between the museum, the arts, screen and culture division of the department and Infrastructure NSW. The three jointly will manage all the processes to do with the project, just as they are with Sydney Modern and just as they are doing with the Australian Museum. Any suggestion to the contrary is just wrong.

**Mr DAVID SHOEBRIDGE:** Minister, thank you for that answer. Has the memorandum of understanding been completed? It does seem remarkable that we are at this advanced stage –

**The Hon. DON HARWIN:** Yes, if it has not been completed it is imminent.

**Mr DAVID SHOEBRIDGE:** Again, will you make it public?

**The Hon. DON HARWIN:** I will take that on notice. I will have to think about that a little while.

## Answer

The Memorandum of Understanding is in the final stages of being negotiated between the parties. Once the terms of the Memorandum of Understanding (MoU) have been finalised, further consideration will be given to its release in the context of the *Government Information (Public Access) Act 2009*, paying particular attention to matters relating to information in the MoU which may be considered sensitive or commercial-in-confidence.

## **Question**

**Mr DAVID SHOEBRIDGE:** Is it true that there is another director position that is out for recruitment at the moment?

**The Hon. DON HARWIN:** We will take that on notice. Which particular director's position are you told is vacant?

**Mr DAVID SHOEBRIDGE:** I think it was to do with collections and exhibitions, but I could be wrong. I am going off memory, but I will put that on notice to you.

**The Hon. DON HARWIN:** We will take that on notice, yes.

## **Answer**

The Department has advised that recruitment action has recently been undertaken to fill the vacant role of Director, Communications and External Affairs at the Museum of Applied Arts and Sciences.

## Question

**Mr DAVID SHOEBRIDGE:** What development is envisaged above the museum on the Parramatta site? What are you looking at building? How many storeys of residential development and how many storeys of commercial development?

**The Hon. DON HARWIN:** I am going to invite Mr Limkin to give the answer to that.

**Mr CRAIG LIMKIN:** There will be none above the museum. If you look at the master planning documents within the extended final business case for Western Sydney, you will see that the proposed development is to the right-hand side, near Meriton towers.

As part of any standard process, once a decision is made, you look at the master planning work, because obviously at the business case you do block and stack enough work to get costings. We are currently doing more work, as required by good practice. I can assure you that work does not include any development over the museum. It is all as a separate starter that will not impact the museum.

**Mr DAVID SHOEBRIDGE:** Sorry, you are going to build a residential tower block on the western side of the site.

**Mr CRAIG LIMKIN:** In the business case – do you know where the existing Meriton buildings are?

**The Hon. DON HARWIN:** Yes. That is the western side.

**Mr DAVID SHOEBRIDGE:** That enormous tower.

**The Hon. DON HARWIN:** That is on the western side.

**Mr CRAIG LIMKIN:** It is on the western side of the site, yes.

**Mr DAVID SHOEBRIDGE:** It is not true that the whole site will be used for a museum. How much of the site is being proposed for the residential tower block?

**Mr CRAIG LIMKIN:** I will have to take that on notice and give you the gross floor area (GFA). I do not know off the top of my head, I am sorry.

## Answer

The total area of the Riverbank site in Parramatta is approximately 2 hectares. At this stage, the proposed footprint of the private development on the Riverbank site is 2100-2500 sqm, or around 10-12.5% of the total area.

However, the exact footprint of the residential development may be subject to some adjustment as the site acquisition, design process and final plan for the tower are developed further. The exact placement of the tower has not been finalised.

## **Question**

**Mr DAVID SHOEBRIDGE:** Well, Minister, I give you the opportunity on the record to respond on notice with another example where a premier existing cultural facility is relocated and on the same site there is a proposal for a 50-storey residential tower block. You can cross the globe and put us on notice where it has happened.

**The Hon. DON HARWIN:** I am happy to take up your challenge and respond on notice.

## **Answer**

The Museum of Modern Art (MoMA) in New York, one of the world's largest and most influential museums of modern art, provides an example where a premier cultural facility also incorporates residential tower blocks comparable in height to the proposed tower at Parramatta.

In 1984, MoMA embarked on a major expansion which included the construction of a residential tower using the air rights over new galleries. The 56-storey Museum Tower was built as a revenue-producing element to support the operating expenses of MoMA.

More recently, an 82-storey residential tower, known as 53W53 or the MoMA Tower, is being finalised adjacent to MoMA. Designed by acclaimed French architect Jean Nouvel, this new development also includes a MoMA expansion that will open in 2019.

## Question

**Mr DAVID SHOEBRIDGE:** Minister, to be clear, the three options that you have been asked to choose among are either that the contract came to an end under its own terms, it was a contract for a certain period –

**The Hon. DON HARWIN:** No, it was not that.

**Mr DAVID SHOEBRIDGE:** -she was terminated, a decision was made to terminate her employment, or she became redundant. We have got rid of the contract ending under her own terms. The choice is between a termination or a redundancy. Which was it?

**The Hon. DON HARWIN:** The position is that her contract came to an end through a statutory process set out in section 41 of the Government Sector Employment Act because she chose not to apply for the other position. That is what I said last week and that is what I am saying again today.

**Mr DAVID SHOEBRIDGE:** But if you go to section 41, it states that the contract can be terminated "... at any time, for any reason and without notice." That hardly helps. Tell us why.

**The Hon. DON HARWIN:** I am going to take that question on notice and I will tell you why. It is necessary to do that to be in compliance with privacy obligations.

## Answer

Ms Merrillees chose not to apply for the new Director's role, and therefore, her contract came to an end through the statutory process set out in section 41 of the *Government Sector Employment Act 2013*.

## **Question**

**The Hon. WALT SECORD:** Minister, were any letters of reference or farewell letters, or anything to that effect, provided as part of her departure?

**The Hon. DON HARWIN:** I do not recall. I will take that on notice as well.

## **Answer**

The Department has advised that it does not provide letters of reference for staff when they leave the Department. If requested, referee checks are provided for former staff as part of recruitment processes for future positions.

The Museum of Applied Arts and Sciences has advised that no letters were prepared by the Museum or on behalf of the President of the Museum of Applied Arts and Sciences Trust.



## Question

**The Hon. WALT SECORD:** Minister, did Ms Merrillees decision to depart the Powerhouse Museum directorship occur before or after you gave your answer to questions without notice in the Parliament?

**The Hon. DON HARWIN:** I would have to check all of the days that I was asked. I will also have to check what –

**Mr DAVID SHOEBRIDGE:** Minister, I think we understand if you take that on notice.

**The Hon. DON HARWIN:** I might take that on notice so that I can check all the dates that I was asked questions and check the date on which the decision was made to reclassify the position rather than –

## Answer

Questions were asked on 6 and 7 March 2018 and on 14 August 2018 in relation to the Museum of Applied Arts and Sciences Fashion Ball. On 7 and 8 March 2018 and on 14 August 2018, responses were provided in Parliament in relation to questions about the Museum of Applied Arts and Sciences Fashion Ball.

The Department has advised that Ms Merrillees informed the Secretary of the Department of Planning and Environment on 25 July 2018 of her decision not to apply for the new role of Director, Museum of Applied Arts and Sciences. Ms Merrillees last day of service was 3 August 2018.

The Hansard transcript for these questions is reproduced below.

## Legislative Council Hansard – 07 March 2018 – Proof

### MUSEUM OF APPLIED ARTS AND SCIENCES CENTRE FOR FASHION BALL

**The Hon. ROBERT BORSAK (14:43):** My question without notice is directed to the Hon. Don Harwin in his capacity as Minister for the Arts and relates to my question yesterday about the inaugural Museum of Applied Arts and Sciences Centre for Fashion Ball 2018. I understand that the purpose of the fundraiser was to raise money for purchasing Australian fashion and that some 300 people attended this exclusive event at a cost of \$11,000 per table. I have received reports that the event raised less than \$300—or less than \$1 per guest. Will the Minister inform the House how much money was raised at the event, where did all the money go, and will he guarantee that no costs were met by the taxpayer?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:44):** The Hon. Robert Borsak has asked a question about fundraising from the Museum of Applied Arts and Sciences Centre for Fashion Ball. I am able to give him an immediate response. It was a successful event from the point of view of fundraising and I am advised more than \$70,000 in donations for the Australian Fashion Fund were raised at that particular function. His information is incorrect.

**The Hon. ROBERT BORSAK (14:44):** I ask a supplementary question. Will the Minister elucidate his answer specifically with regard to the net profit of this fundraising event after all costs were deducted?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:45):** I do not think I can be clearer. It was a fundraising function and there were donations of

\$70,000 to the Australian Fashion Fund. I will take the supplementary question on notice and consider it carefully. If further information needs to be provided to the House, I will do so.

## Legislative Council Hansard – 07 March 2018 – Proof

### POWERHOUSE MUSEUM CODE OF CONDUCT BREACH

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:31):** Today in question time I was asked a question by the Hon. Robert Borsak and yesterday I was asked a question by the Hon. Robert Borsak about a related matter. I have undertaken to the Hon. Robert Borsak that I will take on notice the question he asked today and provide him with further information after I have sought a full response from the museum. However, I am now in a position to be able to give a response in relation to the matters that he raised yesterday.

I am advised by the museum staff that staff from the Museum of Applied Arts and Sciences did host a small post-event function. Beverages served—which was a matter raised in the Hon. Robert Borsak's question yesterday—were not paid for by taxpayers, and claims to the contrary are incorrect. The museum has no record of a noise complaint being received, and neither security nor police were required to attend the function. I am further advised by the museum staff that no complaints about the post-event function were received. The museum strongly refutes the allegations of illegal activity at this post-event function.

## Legislative Council Hansard – 08 March 2018 – Proof

### MUSEUM OF APPLIED ARTS AND SCIENCES CENTRE FOR FASHION BALL

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:31):** I have a response to a question asked yesterday by the Hon. Robert Borsak. I am advised that the Museum of Applied Arts and Sciences has not finalised the finance report from the MAAS ball as it is finalising a number of invoices and donations. However, the event is budgeted for as part of the annual MAAS budget and is supplemented by sponsorship funding. The inaugural MAAS ball was a strategic event to raise awareness of the Australian fashion industry, promote the museum's world-class fashion collection and launch the Australian Fashion Fund. As I informed the House yesterday, the event raised more than \$70,000 in seed funding for the Australian Fashion Fund, which will be used to acquire Australian fashion for the museum.

The event achieved its five main objectives: first, to raise awareness of the significant MAAS fashion collection, which was achieved in the showcasing of rarely seen garments throughout the evening; secondly, to build the MAAS fashion collection, which was achieved by the significant and notable donation of the Akira Isogawa archive; thirdly, to build MAAS' reputation as the leading public centre for fashion in Australia, which was evidenced through considerable positive media coverage around the event valued at the equivalent of \$1.2 million; fourthly, to further its relationships across the sector, which was evidenced by new corporate partnerships and donors that were secured as a result of the event; and, fifthly, to build strong industry support and raise awareness of the importance of fashion as a contributor to the Australian economy.

The success of the evening speaks to the museum's commitment and strong relationships with designers, industry, government and education operators from across the fashion sector. Feedback from attendees across the sector was overwhelmingly positive and revealed strong support for the museum and the Centre for Fashion. It is disappointing that the success of the event has been overshadowed by allegations that are unsubstantiated.

## POWERHOUSE MUSEUM FASHION BALL

**The Hon. WALT SECORD (16:11):** I direct my question to the Minister for the Arts and Leader of the Government. In light of the Minister's 7 March statements in the House that the Powerhouse Museum Fashion Ball 2018 raised \$70,000 for charity, will the Minister explain to the House how information in a freedom of information request from ABC broadcaster Michaela Boland reveals that the fundraiser cost New South Wales taxpayers \$215,000? Will the Minister explain why he misled the House and why he is refusing to correct the record?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:12):** There has been so much interchange.

**The Hon. Walt Secord:** Why did you mislead? Why did you lie?

**The Hon. DON HARWIN:** First of all, I will not take the point of order that accusing a member of lying is unparliamentary. I have not misled this Chamber. I gave advice to this Chamber based on the advice I received from the director of the Museum of Applied Arts and Sciences Trust, Dolla Merrillees, about every aspect of the answer I gave. My comments were quite clear about the \$70,000: At no stage did I say it was a profit. What I said was the \$70,000 came through donations and was put into the Australian Fashion Fund and that is exactly what happened. The honourable member asks about the cost of the function. Let us be quite clear: at the time I was asked those questions not all of the accounts had been received and it was not possible to give a final figure on that function. At no stage have I misled the House.

**The Hon. WALT SECORD (16:14):** Would the Minister elucidate his answer in relation to the outgoing Powerhouse Museum director, Dolla Merrillees? Was her departure directly related to providing the Minister with so-called incorrect information in relation to the fashion ball 2018?

**The Hon. Don Harwin:** Point of order: I am perfectly happy to answer questions about those matters, but that question is not asking for elucidation of part of the answer; it is a new question.

**The Hon. Walt Secord:** To the point of order: The Minister directly raised in his answer the outgoing Powerhouse Museum director Dolla Merrillees. Her name was introduced into the answer to the House by the Minister.

**The Hon. Don Harwin:** To the point of order: I might have mentioned the Hon. Shaoquett Moselmane in my answer but that would not give the member opposite licence to ask a question about his function with Vic Alhadeff last night.

**The PRESIDENT:** I refer members to the ruling of former President Burgmann in 2000:

Supplementary questions are allowed in order to elucidate further information on a question which a member feels has not been effectively answered. They must be actually and accurately related to the original question and must relate to or arise from the answer given to the original question. They are not an opportunity to ask another question.

In my view the Deputy Leader of the Opposition was simply asking another question. The supplementary question was out of order.

## **Question**

**Mr DAVID SHOEBRIDGE:** But Minister, there is a hard figure of \$325 million in revenue benefits. That must have had some assumptions under it, including the proportion of the site that is going to be handed over for private development. That is what I am asking you about. You can answer that. I would ask you to provide it.

**The Hon. DON HARWIN:** I think we will just take that on notice.

## **Answer**

The total area of the Riverbank site in Parramatta is approximately 2 hectares. At this stage, the proposed footprint of the private development on the Riverbank site is 2100-2500 sqm or around 10-12.5% of the total area. However, the exact footprint of the residential development may be subject to some adjustment as the site acquisition, design process and final plan for the tower are developed further.