

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

**Wednesday 11 September 2019**

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

## **PLANNING AND PUBLIC SPACES**

<b>UNCORRECTED</b>
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**The Committee met at 9:30**

### **MEMBERS**

Ms Cate Faehrmann (Chair)

The Hon. Catherine Cusack

The Hon. Ben Franklin

The Hon. Shayne Mallard

The Hon. Mark Pearson (Deputy Chair)

The Hon. Peter Primrose

The Hon. Adam Searle

The Hon. Penny Sharpe

Mr David Shoebridge

### **PRESENT**

**The Hon. Rob Stokes**, *Minister for Planning and Public Spaces*

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

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

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



**The CHAIR:** Welcome to the public hearing for the inquiry into the budget estimates 2019-2020. Before I commence, I would like to acknowledge the Gadigal people who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Rob Stokes and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Planning and Public Spaces. 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 would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if 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 advisors or member's 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 refer directly to your advisors seated at the table behind you.

Transcripts of this hearing will be available on the web from tomorrow morning. Finally, could 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 your office as a member of Parliament.

**JIM BETTS**, Secretary, Department of Planning, Industry and Environment, on former oath

**MARCUS RAY**, Group Deputy Secretary, Planning and Assessment, Department of Planning, Industry and Environment, affirmed and examined

**ALISON FRAME**, Group Deputy Secretary, Housing and Property, Department of Planning, Industry and Environment, sworn and examined

**ALEX O'MARA**, Group Deputy Secretary, Place, Design and Public Spaces, Department of Planning, Industry and Environment, sworn and examined

**SHAUN SMITH**, Deputy Secretary, Corporate Services, Department of Planning, Industry and Environment, affirmed and examined

**JOHN BROGDEN**, Chief Executive Officer, Landcom, sworn and examined

**SUZANNE JONES**, Chair, Landcom, affirmed and examined

**HUGH DURRANT-WHYTE**, New South Wales Chief Scientist & Engineer, affirmed and examined

**The CHAIR:** I declare the proposed expenditure for the portfolio of Planning and Public Spaces open for examination. All witnesses, including the Minister, will be questioned in the morning session. After a lunch break we will continue questioning Government witnesses. The Minister will not be questioned in the afternoon and evening sessions. The Committee has resolved to forego Government questions this morning, so this session will conclude at 11.30 a.m.. As there is no provision for any witness to make an opening statement before the Committee commences questioning we will begin with questions from the Opposition.

**The Hon. ADAM SEARLE:** Minister, how did Landcom come to enter a property arrangement with Dahua in relation to Menangle Park?

**Mr ROB STOKES:** In relation to commercial dealings by the corporation, that is not something that can be directed by the portfolio Minister directly. In relation to that question I will direct you to the secretary.

**Mr BETTS:** I might ask the CEO of Landcom to answer that.

**Mr BROGDEN:** On 5 November 2015 Landcom entered into a put and call option with Dahua Group Sydney Project 2 Pty Ltd, known as Dahua, for the sale of 362 hectares of land at Menangle Park for effectively \$300 million. The process was that the organisation, Landcom, put this land out to tender for sale in order to realise the cash receipts to at that point reinvest into urban renewal projects—we were Urban Growth at that stage—like the Bays and the fish markets. We received four tenders from four corporations and then worked that down to two bidders. The two bidders were asked to provide prices inclusive and exclusive of the Special Infrastructure Contribution [SIC].

The valuation we had on that land inclusive of the SIC was \$155 million. The successful bidder, as reported today in the media, paid \$300 million. The people of New South Wales, through Landcom, received double the valuation for that piece of land, which was a very significant outcome. It was also \$109 million larger than the next bidder. So it was the superior arrangement for the State. At that point we valued the State infrastructure contribution, based on both the method and the values of Special Infrastructure Contributions for that region as struck by the then Department of Planning and Environment, and proceeded with that process as a consequence. The memo that informs the member's question is now about 14 months old.

Since that point we have progressed the matter somewhat significantly. What we have done is made a commitment through a draft voluntary planning agreement [VPA] with the Department of Planning, Infrastructure and Environment to provide a significant amount of infrastructure. That VPA will go on public exhibition in the next month or so, as I have been advised this morning by the department. Within that VPA Landcom will provide, as part of the arrangement with Dahua, a significant amount of infrastructure, including an upgrade to the Spring Farm Parkway and other areas of infrastructure. The critical point I want to make here, is that we are doing better than the Government's expectation of the delivery of infrastructure with the rollout of land or housing. What we are doing is delivering, in this case upfront, things like the upgrade of the Spring Farm Parkway. This will be a 10-15 year development and the parkway will be upgraded in the first three years or so. There is a significant benefit to taxpayers as a consequence of this.

**The Hon. ADAM SEARLE:** Did you say that the SIC liability was budgeted at being about \$37 million, is that right?

**Mr BROGDEN:** No, I did not say that.

**The Hon. ADAM SEARLE:** Can you tell us what the budgeted figure is for the SIC liability was?

**Mr BROGDEN:** It was about \$33 million.

**The Hon. ADAM SEARLE:** Exactly what was that based on?

**Mr BROGDEN:** What we based that on, as I said in my previous answer, is the formula at the time that the department was using and the values associated with the SIC at the time. The formula back then was a per hectare formula. The department later adopted a per dwelling formula. We were confident that there would not be more hectares because we sold a certain amount of hectares. When it was changed to dwellings, it changed the way the formula was calculated because there could be any number of dwellings, within reason, based on the rezone.

**The Hon. ADAM SEARLE:** You said that since that memo things had moved on and now Landcom was committed to providing some infrastructure. But it was always part of the agreement, was it not, that you would part fund stage one of the Spring Farm Parkway to the tune of about \$68 million? That is correct, is it not?

**Mr BROGDEN:** The difference in the arrangement is that if a developer chooses to, they can provide infrastructure as each lot is developed, so you drip-feed it over 10 or 15 years. On this occasion, the upgrade of the parkway will happen in one lot. There, a contribution will make through a transport infrastructure deed a contribution yet to be determined, in terms yet to be formulated and signed. Formally signed, that will follow the voluntary planning agreement.

**The Hon. ADAM SEARLE:** So what you have is an agreement to have an agreement but you do not have any details around that at present?

**Mr BROGDEN:** No, we have a draft agreement base that is awaiting the exhibition of the VPA in the next month or so and that will be on exhibition for, understandably, 28 days. Once the document is back off exhibition the department will put it through the usual process, the instrument will be made and at that point we will move to formalise the transport infrastructure contribution.

**The Hon. ADAM SEARLE:** When Landcom entered into the Menangle Park transport infrastructure contribution deed and you were discussing the VPA, your organisation agreed with the department, Roads and Maritime Services and the company to, "provide satisfactory arrangements for State infrastructure for a minimum 3,500 lots". That is correct, isn't it?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** So this memo expresses alarm or concern on the part of Landcom when a mere 3,114 were being proposed. If you always knew that it was going to be a minimum of 3,500 lots being developed, why were you concerned that it was getting over 3,000?

**Mr BROGDEN:** Because the Special Infrastructure Contributions were set with an expectation of a different formula—the formula being per hectare, not per lot—and with the value being lower than was being discussed at the time. Both the value and the formula changed post our purchase. That is what led to our concern about a significant increase in the Special Infrastructure Contributions.

**The Hon. ADAM SEARLE:** The developer is now talking about nearly 4,400 homes on that land, is that your understanding?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** No? Those media reports are incorrect?

**Mr BROGDEN:** I have not seen the report you are referring to.

**The Hon. ADAM SEARLE:** What do you understand the developer to be proposing for that site, presently?

**Mr BROGDEN:** I am not aware of what their long-term expectation is. There is a current zoning in place and the developer, who will have the site for 10 or 15 years, may seek to achieve a greater density in the future once we have sold the site.

**The Hon. ADAM SEARLE:** Mr Betts, at the end of May last year the then department released details of the proposed special infrastructure charges to apply to Menangle Park, Mount Gilead and Appin at three

different possible rates—around \$40,000, around \$50,000 and just a bit over \$70,000. Can you tell us where that is up to?

**Mr BETTS:** I might ask Ms O'Mara to update us on that.

**Ms O'MARA:** The draft for social infrastructure contributions for Greater Macarthur was released for comment in November 2018. I might just explain, Special Infrastructure Contributions for State and regional infrastructure are given effect through the process under the Environmental Planning and Assessment Act [EP&A Act], which includes requirements to consult on draft rates and determinations. There were Special Infrastructure Contributions created for the north-west and south-west growth areas in 2006 and they were updated again in 2008. With those areas, to encourage the new Greenfield development in the areas, the Government only collects 50 per cent of the cost of that infrastructure. The current contribution rate in those areas is set at around \$13,000 per dwelling, although the recently exhibited update for the north-west growth centre increased that to \$15,000 per dwelling. Without the Government contribution to infrastructure, the cost per dwelling would be around \$26,000 to \$30,000.

In September the Government announced a change in policy for Special Infrastructure Contributions, shifting from a rate per developable hectare to a rate per dwelling. That was done to improve the simplicity of collections but also because it was a simpler method and better reflected demand for infrastructure. That was put out as a draft. The way a SIC is prepared involves projecting the amount of development and therefore its required infrastructure, establishing the cost to deliver that infrastructure and then allocating the cost back to the development industry.

So there was a change, as I said, from per developable hectare to a rate per dwelling. That draft for Greater Macarthur was released for comment in November 2018 and it was linked to the release of the interim land use plan for the Greater Macarthur growth area. The draft Special Infrastructure Contribution for Greater Macarthur was also based on the developers paying the full amount for infrastructure because when planning began for that area, it was done on the basis that there would be no net cost to the Government. That was made clear at the time that that work began.

The decision of the Government reflected its focus on delivering Greenfield areas in the south-west and north-west growth areas, but also being open to the possibility of Greenfield development coming from other locations, provided that it did not impact on the infrastructure delivery programs of the Government. The costs for infrastructure in the Greater Macarthur area are higher than those of the south-west and north-west growth areas because of the extent of new roads and transport infrastructure necessary to connect the growth areas to the Hume freeway.

**The Hon. ADAM SEARLE:** What is the proposed per dwelling contribution in the draft consultation document for the Menangle Park area?

**Ms O'MARA:** It was between \$39,000 to \$49,000 per dwelling.

**The Hon. ADAM SEARLE:** When does that exhibition period end, or has it ended?

**Ms O'MARA:** It has ended.

**The Hon. ADAM SEARLE:** When do you expect a decision to be made by the department?

**Ms O'MARA:** I would say that there was quite a lot of feedback about the change in approach, including from stakeholders such as the Property Council of Australia, Urban Development Institute of Australia, a range of developers and councils. Because it was such a significant change, we have taken some time to consider whether that is the best way forward. We are looking at that in the context of the strategic planning work we are doing in that part of Sydney. At this stage we are looking at the feedback and providing advice to the Government on its options going forward.

**The Hon. ADAM SEARLE:** So you do not have a particular time frame?

**Ms O'MARA:** No.

**The Hon. ADAM SEARLE:** Mr Brogden, based on the information, what is Landcom's liability for the SIC for Menangle Park likely to be?

**Mr BROGDEN:** The voluntary planning agreement informs the way in which the SIC will be delivered and the VPA is a matter we have been discussing in the department now for a number of months. I am not in a position to comment on what the overall infrastructure contribution would be until the VPA comes back off exhibition following the 28 days and comment from stakeholders and a determination by the department.

**The Hon. ADAM SEARLE:** But based on what the development company says it wants to develop, which is around about 4,400 dwellings on the land that it is purchased from Landcom, if the \$39,000 SIC charge per dwelling is what is settled on by the department, that still puts Landcom's liability way beyond what it budgeted for at over \$170 million, does it not?

**Mr BROGDEN:** As I said before, I do not accept the number you put forward by the developer, so therefore your formula does not work.

**The Hon. CATHERINE CUSACK:** Just to assist, could I ask you to say what report you are referring to?

**Mr DAVID SHOEBRIDGE:** He is not required to.

**The Hon. ADAM SEARLE:** I am not required to.

**The Hon. CATHERINE CUSACK:** It has been quoted twice now and I—

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** Mr Brogden has been referring to a memo.

**The Hon. CATHERINE CUSACK:** We are entitled to ask this question.

**The Hon. ADAM SEARLE:** Well, no, you are not because it is not Government members' question time.

**The Hon. CATHERINE CUSACK:** No, of you, when you are quoting from a document. The question is: What is the document referring to?

**The Hon. ADAM SEARLE:** You are not entitled to ask.

**The CHAIR:** Order! Members are not entitled to ask other members questions. If the witnesses have a clarifying question, they can seek clarification. The Hon. Adam Searle will continue.

**The Hon. CATHERINE CUSACK:** I can ask him to source the document that he is quoting from, with respect, Madam Chair.

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** To assist the Committee and of course Mr Brogden, I am quoting from a press release of 23 July put out by the developer about Menangle Park.

**The Hon. CATHERINE CUSACK:** Thank you.

**The Hon. ADAM SEARLE:** The developer specifies how many lots it is seeking to develop. Does that refresh your memory Mr Brogden?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** Why did Landcom guarantee the SIC for that area? Was it to provide an incentive to the company to buy your land?

**Mr BROGDEN:** As I said before—and I am happy to repeat this matter for clarification—when we went to market on this land we asked for prices inclusive of infrastructure contributions and exclusive of infrastructure contributions. We did this in order to test the market for the best price available for the taxpayer. The price we took, at \$300 million, against a valuation of \$155 million, was inclusive of the State infrastructure contribution. Other tenderers provided both figures and the assessment committee, which is the usual process Landcom goes through—quite a thorough process we go through—recommended the Dahua tender at \$300 million, inclusive of infrastructure.

**The Hon. ADAM SEARLE:** Why did you not lock in your maximum exposure in the contractual arrangements? The arrangement you have entered into essentially puts your organisation at the mercy of the developer, does it not?

**Mr BROGDEN:** No. It puts our organisation at the mercy of the department, as it happens, in terms of the SIC.

**The Hon. ADAM SEARLE:** Well you are at the mercy of both then Mr Brogden, are not you?

**Mr BROGDEN:** Neither Landcom nor Dahua set the SIC.



**The Hon. ADAM SEARLE:** I understand that. By not locking in a maximum exposure for your organisation, you have put yourself at the mercy of changes, which you have described. That was unwise, wasn't it?

**Mr BROGDEN:** It was our view from the beginning that because we were selling a set number of hectares and because the formula was per hectare, that we were capped in terms of the amount of hectares.

**The Hon. ADAM SEARLE:** Did the board sign off on the proposal?

**Mr BROGDEN:** The board approved the process. It was recommended by staff, the board approved the purchase and the shareholding Minister has also approved the purchase.

**The Hon. ADAM SEARLE:** Minister Stokes, that was you. Were you the shareholding Minister at the time?

**Mr ROB STOKES:** No, I am not a voting shareholder.

**The Hon. ADAM SEARLE:** But you were the portfolio Minister at the time.

**Mr ROB STOKES:** Yes.

**The Hon. ADAM SEARLE:** Were you informed by the board about this arrangement at the time?

**Mr ROB STOKES:** Generally in relation to these sorts of commercial matters, the portfolio Minister is appropriately at arms-length. I cannot recall any specific discussions in relation to this tender process. The tender process itself was initiated before my time as Minister, I understand. It was concluded in November 2015.

**The Hon. ADAM SEARLE:** Mr Brogden does that accord with your recollection? You were the chairman of the board at the time, were you not?

**Mr BROGDEN:** It would have been a matter for the CEO to deal with at the time, not the chairman.

**The Hon. ADAM SEARLE:** But you do not accept that by not locking in a maximum exposure for the organisation, you do not accept that was a mistake?

**Mr BROGDEN:** It was a commercial arrangement.

**The Hon. ADAM SEARLE:** It was a commercial risk though, was it not?

**Mr BROGDEN:** Of course. We are a property development company owned by the Government. We take commercial risks. That is appropriate for this organisation. They are risks within parameters. On this occasion we achieved the best price through that process.

**The Hon. ADAM SEARLE:** But the arrangement you have put in place now, you are at the mercy of the department but also the developer, depending on how many lots the developer wants to develop. That could significantly impact your liability.

**Mr BROGDEN:** It does not matter how many lots the developer wants to develop. It is how many lots the developer is allowed to develop.

**The Hon. ADAM SEARLE:** I understand that but they actually have a planning proposal at the moment to increase the amount they are allowed to develop. They have signalled they want to make more than 4,000 dwellings. If that is allowed to occur, your liability will be many times more than you have budgeted for, won't it?

**Mr BROGDEN:** We are presently in a commercial arrangement with Dahua with respect to those matters. Those matters are connected directly to the VPA and because they are currently commercial matters I cannot answer you in detail, I am sorry.

**The Hon. ADAM SEARLE:** What is your current total estimated liability for Landcom arising out of the VPA?

**Mr BROGDEN:** That is part of those commercial negotiations.

**The Hon. ADAM SEARLE:** So you are not prepared to tell us?

**Mr BROGDEN:** Not at this stage.

**The Hon. PENNY SHARPE:** When are you going to be able to tell us?

**Mr BROGDEN:** Well, they remain commercial matters.

**The Hon. PENNY SHARPE:** Until when? Or never. Are you saying that taxpayers are never going to know how much money we are subsidising this developer for this development?

**Mr BROGDEN:** We are not subsidising the developer.

**The Hon. ADAM SEARLE:** Your own briefing note to the former Minister indicated a concern that because you were likely to be paying many times more than you had budgeted for:

The proposed SIC and VPA rights will see a large amount of Landcom's fund benefiting Dahua, Lendlease and other developers at Mount Gilead and Appin.

That is signed by you.

**Mr BROGDEN:** Consequent to that document you are referring to—which is dated when, Mr Searle?

**The Hon. ADAM SEARLE:** Intriguingly, Mr Brogden, you did not date it.

**Mr BROGDEN:** Okay.

**The Hon. ADAM SEARLE:** So when was the document dated?

**Mr BROGDEN:** Maybe you were given a copy without a date, Mr Searle.

**The Hon. ADAM SEARLE:** It certainly has your signature on it.

**Mr BROGDEN:** I am not sure of the veracity of the document you have received.

**The Hon. PENNY SHARPE:** It would help if you dated your documents.

**The Hon. ADAM SEARLE:** Just pause there. Are you in the habit of having your documents dated after you sign them?

**Mr BROGDEN:** I am.

**The Hon. ADAM SEARLE:** Really? Can you elaborate on that? You sign a document and then you date it at some future point?

**Mr BROGDEN:** No, you asked me a question, am I in the habit of dating documents I sign. That is what I heard.

**The Hon. ADAM SEARLE:** No, it was the other way around, Mr Brogden.

**Mr BROGDEN:** Sorry I did not hear you. No, I am not. Of course I am not. What I am saying to you is I am not sure—

**The Hon. ADAM SEARLE:** For the Committee's benefit I am happy to tender the document I have.

**Mr BROGDEN:** I sent that document—I have now checked our records—to the Minister on 20 July 2018. Subsequent to that, as Ms O'Mara just indicated, and possibly in part to our request of the Minister, the SIC was set at between \$39,000 and \$41,000.

**The Hon. ADAM SEARLE:** Which was the mid-range of what had been proposed?

**Mr BROGDEN:** Yes.

**Mr DAVID SHOEBRIDGE:** Good morning, Minister.

**Mr ROB STOKES:** Good morning, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Minister, do you think it is appropriate for a member of your Cabinet, in this case Mr Sidoti, to be a property developer?

**Mr ROB STOKES:** I am not sure of the nature of Mr Sidoti's personal accounts. It is not a matter for me.

**Mr DAVID SHOEBRIDGE:** Do you think it is appropriate for any member of Cabinet to be a property developer, given all of the decisions the Cabinet makes about access to land and about infrastructure?

**Mr ROB STOKES:** In relation to members' disclosures and Ministers' disclosures that is well-established. It is important to be transparent about all dealings by Ministers and by members. That is a well-established process.

**Mr DAVID SHOEBRIDGE:** Talking about transparency, are you troubled by the fact that Mr Sidoti has received some \$1,700 from a property developer which he has not disclosed as a donation? Does that worry you as planning Minister?

**Mr ROB STOKES:** I also read the accounts this morning and I trust that all relevant laws have been complied with.

**Mr DAVID SHOEBRIDGE:** But they have not been.

**Mr ROB STOKES:** If they have not been then that is a matter for the appropriate authority. It is not for me to editorialise.

**Mr DAVID SHOEBRIDGE:** Minister, you know the reason that property developer donations were banned is because they corrupted the planning system. You are the planning Minister. Did you call your Cabinet colleague, Mr Sidoti, today and ask about the alleged \$1,700 donation—illegal donation—that he received from a property developer? Did you ask for an explanation?

**Mr ROB STOKES:** Are you asking if I called Mr Sidoti this morning?

**Mr DAVID SHOEBRIDGE:** Yes, your Cabinet colleague.

**Mr ROB STOKES:** Before the estimates hearing, no, I did not call Mr Sidoti this morning.

**Mr DAVID SHOEBRIDGE:** You do agree that the reason we have a ban on property developer donations in New South Wales is because they have a history of corrupting our planning system? That is why we introduced the ban, is it not?

**Mr ROB STOKES:** That is right.

**Mr DAVID SHOEBRIDGE:** So your Cabinet colleague, a Minister in this Government, has received a \$1,750 donation from a property developer and you have not even called him? Is that the situation?

**Mr ROB STOKES:** I read the report in the media this morning. That is an appropriate matter for the appropriate authorities to investigate. I am not sure of the veracity in relation to those reports.

**Mr DAVID SHOEBRIDGE:** You could have called him. Why did you not at least call him to ask if he received a dodgy donation from a developer?

**The Hon. BEN FRANKLIN:** Point of order: Perhaps we might ratchet down the confected outrage. Usually it takes you a lot longer, David.

**Mr DAVID SHOEBRIDGE:** I can tell you that it is not confected outrage.

**The Hon. BEN FRANKLIN:** My point of order is that the Minister has been asked this question three times. He has answered the question so it is just hectoring the witness for him to continue to go down this line.

**The CHAIR:** I will allow the member to continue questioning. Just ensure you are not badgering the witness and maintain a respectful tone at all times, please.

**Mr DAVID SHOEBRIDGE:** Minister, you have a responsibility as the planning Minister to do as much as you can to stop the planning system being corrupted, do you not?

**Mr ROB STOKES:** Absolutely.

**Mr DAVID SHOEBRIDGE:** Why did you not do the most basic thing and call your Cabinet colleague and ask if he had received an illegal property developer donation once you read about it in the papers this morning? Why did you not do that most basic thing?

**Mr ROB STOKES:** In relation to your question, I have indicated that I have not called Mr Sidoti. I am not in the habit of calling Mr Sidoti when I read matters in the paper. The issue referred to is a matter for the appropriate authorities. It is not in any way part of my responsibilities, I believe, to call members on the basis of newspaper reports.

**Mr DAVID SHOEBRIDGE:** Have you asked anybody in the department to do an investigation into potential associations between Mr Sidoti and this developer?

**Mr ROB STOKES:** In relation to the matters that I read about this morning, as you would anticipate, I have been preparing for this hearing. I have not been looking to extraneous matters in the past couple of hours since I read the newspapers. What I can say, however, is that in relation to any concerns you have I would

encourage you to refer them to the appropriate authorities. In relation to investigations into matters of electoral funding, that is a matter for the Electoral Funding Authority.

**Mr DAVID SHOEBRIDGE:** When we are talking about donations from a property developer to one of your Cabinet colleagues, are you saying you, as the planning Minister, have no role in overseeing that or checking the integrity of the planning system as a result of that? Are you washing your hands entirely of responsibility, Minister?

**Mr ROB STOKES:** No, that is not what I am saying at all.

**Mr DAVID SHOEBRIDGE:** Then who are the appropriate authorities if not you as the planning Minister?

**Mr ROB STOKES:** The allegation that I read about in this morning's paper referred to an election contribution, which is a matter for the Electoral Funding Authority. It is not a matter for the planning department.

**The Hon. PENNY SHARPE:** There is a lot of planning that goes into that story too, Minister.

**Mr DAVID SHOEBRIDGE:** Minister, it did not happen in a vacuum, did it?

**Mr ROB STOKES:** Can I continue to answer your question? Part 10 of the Environmental Planning and Assessment Act contains a provision relating to the disclosure of donations or contributions where someone has a relevant planning application—I think the term is. I do not think that that has any bearing on the matter that was in the paper this morning. That is the legislative responsibility outlined in the Act.

**Mr DAVID SHOEBRIDGE:** Did you ask your department to investigate whether or not Mr Shang or any corporation associated with Mr Shang had made the relevant declaration in regard to the development that Mr Shang and Mr Sidoti's company did at Tallawong?

**Mr ROB STOKES:** Mr Shoebridge, as you would appreciate, these matters have been raised in the paper this morning. I have not had the time in relation to the past couple of hours to initiate anything further but I am more than happy to take those matters on notice. You would appreciate there has been the effluxion of about two hours. That is not sufficient time to initiate the sorts of inquiries you are talking about.

**Mr DAVID SHOEBRIDGE:** You have not made that inquiry but you will now investigate whether or not Mr Shang, Mr Sidoti and any corporations associated with them and the Tallawong development have made any declaration? You will seek that clarification? Can you seek that clarification today and get back to the Committee?

**Mr ROB STOKES:** I am certainly very happy to ask questions in relation to the obligations under the Act in relation to the reporting of relevant donations—I think that is the term in part 10 of the Act. I am certainly prepared to look into that. But I would imagine that most of the issues raised are not germane to the planning department but rather they are germane to other appropriate authorities, namely the Electoral Funding Authority.

**Mr DAVID SHOEBRIDGE:** What about the fact that the Parliamentary Secretary in your Government—I will start again. What about the fact that while Parliamentary Secretary for Planning, Mr Sidoti—while the Parliamentary Secretary for Planning—was cooking up a property deal with Southern Han developments in Rouse Hill, while he was the planning secretary? Are you going to investigate that?

**Mr ROB STOKES:** Again, these are matters—

**The Hon. CATHERINE CUSACK:** Point of order: The Minister has indicated the correct authorities to undertake these investigations. Obviously if you ask my—

**Mr DAVID SHOEBRIDGE:** Stop defending him.

**The Hon. CATHERINE CUSACK:** —Labor colleagues opposite in terms of election donations, ICAC and the Electoral Commission are the appropriate places for these matters to be investigated. The Minister has answered this question many, many times.

**Mr DAVID SHOEBRIDGE:** Stop defending him.

**The CHAIR:** Order!

**The Hon. CATHERINE CUSACK:** I ask the Chair to direct the questioner to move on to his next topic.

**The Hon. PENNY SHARPE:** There is nothing in the standing orders that requires that.

**The Hon. CATHERINE CUSACK:** Ministers do not investigate each other in New South Wales.

**The CHAIR:** The member is entitled to continue asking questions as it relates to the planning system. I will ask the Minister to answer the question that was put to him.

**The Hon. CATHERINE CUSACK:** He is asking about election donations not planning.

**Mr DAVID SHOEBRIDGE:** While he was Parliamentary Secretary for Planning he was cooking up a property deal to take advantage of a rezoning and an infrastructure project delivered by your Government. Are you going to investigate that?

**Mr ROB STOKES:** In relation to the claims you make, they are appropriately investigated by the relevant authorities. I suggest, in relation to that matter, that would be a matter for the Independent Commission Against Corruption. It is not a matter for the planning department. If you have an allegation that there is a specific planning decision that has been influenced certainly that would be an issue of concern. Nevertheless, the organisation that is appropriately resourced to undertake these investigations would likely be the Independent Commission Against Corruption, not the planning agency. However, I will refer to the secretary in case he has any further information to assist the Committee.

**Mr BETTS:** No. No issues in relation to this have been brought to my attention for investigation that I am aware of, so I have nothing further to add to what the Minister has already comprehensively answered.

**Mr DAVID SHOEBRIDGE:** Doesn't the Parliamentary Secretary for Planning have an obligation to disclose to your department or its predecessor the fact that he is doing a side deal with a property developer? Surely there is an obligation to disclose to your department, Mr Betts?

**Mr BETTS:** I do not know what you are characterising as facts even here. Nothing has been presented to me along the lines that you are describing. I have nothing to investigate.

**Mr DAVID SHOEBRIDGE:** Let's be clear: April 2014 the rezoning happens on the property at Tallawong, right at the end of the metro project delivered by your Government. In February of that year a \$1,700 property developer donation is given to Mr Sidoti from his colleague. In March of that year Mr Sidoti buys the property and then in March of last year Mr Sidoti's corporation gets a development approval to rezone it. Each of those points should be investigated by your department, Mr Betts.

**Mr BETTS:** If you have prima facie evidence along those lines you should refer it to the Independent Commission Against Corruption, as the Minister has indicated.

**Mr DAVID SHOEBRIDGE:** Your department—

**Mr BETTS:** In fact, you have a legal obligation to do so.

**Mr DAVID SHOEBRIDGE:** Your department recommended the rezoning. Did Mr Sidoti have any involvement in that recommendation, as planning secretary?

**Mr BETTS:** I have no information to that effect. But, as you know—as you clearly know—it predates my appointment as secretary.

**The Hon. BEN FRANKLIN:** Point of order—

**The CHAIR:** I know what you are about to say. We are moving to questions from the Hon. Mark Pearson.

**The Hon. MARK PEARSON:** Minister, thank you for attending. This is in relation to Capra Developments trading as Darling River Meats. It sought approval for a small animal abattoir in Bourke, New South Wales, to slaughter lambs, sheep and wild goats. The department's environmental assessment report accepted the claims that the abattoir would bring significant economic benefits to Bourke and its surrounds. Given the size of the investment was \$60 million, it was deemed a State significant development under part 4 of the Environmental Planning and Assessment Act.

The development was approved and the abattoir opened for business in January this year but closed in May, citing unexpectedly heavy autumn rains that had made it difficult to trap and transport rangeland goats to the slaughterhouse. Given the significant taxpayer investment in the abattoir—that is \$10 million from Bourke council, \$10 million from the Federal Government and \$1.5 million from the New South Wales State Government—and then complete closure within only five months of opening, do you consider that your department undertook due diligence in examining the economic benefits of the development?

**Mr ROB STOKES:** Certainly on the facts that you have presented to me that is a concern. I would imagine it was assessed under the Primary Production and Rural Development State Environmental Planning Policy [SEPP] but I am happy to provide further details. I do not have those details off the top of my head. I am not sure if the secretary has.

**Mr RAY:** No, I would have to go back and get those details. I am happy to get those details for you—the details of the assessment.

**The Hon. MARK PEARSON:** It is an enormous investment when something is dead. It has not moved after five months.

**Mr RAY:** The only thing I could say at the moment, Mr Pearson, is that the assessment under the Environmental Planning and Assessment Act is not a financial viability assessment. It is, among other things, an environmental impact assessment and an economic benefit but it is not about financial viability. I do not have any information about the circumstances to which you refer—the heavy rains in Bourke as the reason for closure—but I will endeavour to get some information as quickly as possible.

**The Hon. MARK PEARSON:** Given the historic drought conditions prevalent in the region was it realistic to assess the estimated population of rangeland goats at more than three million? How was that figured?

**Mr RAY:** Again, I would have to get information on that. I will have to come back to you on that.

**The Hon. MARK PEARSON:** A Bourke district station owner, who did not want to be identified, told *Sheep Central* media on 31 May 2019 that he was annoyed at what he believes was the lack of research into the viability of the plan and the projected numbers of goats. He asserted that "The projected 6,000 head daily kill rate was never going to happen ... considering the weekly national goat kill rates". What, if anything, did the department do to seek verification of the assessment of the numbers of rangeland goats available for capture and slaughter when assessing the economic benefits of the proposal?

**Mr BETTS:** This may be questions more appropriately directed to the Minister for Agriculture.

**The Hon. CATHERINE CUSACK:** Who made the grant?

**The Hon. MARK PEARSON:** No, this is a plan.

**Mr ROB STOKES:** In relation to the specifics we do not have to hand, we can provide those on notice. In relation to the financial viability, that is more a matter for the investors in terms of their investment. The planning system allows people to take risks. What it does not allow is for people to take risks with matters of public interest—for example, our environment. That is where there is a very strong assessment of costs and benefits. In relation to financial viability, that is generally more a matter for the investors.

**The Hon. MARK PEARSON:** If you were dealing with the environment, in the environment assessment report your department supported the proposal of the abattoir to draw a daily usage of between 770 kilolitres and one megalitre from Bourke council's reticulated water supply taken from the Darling River. How confident was your department that an annual draw rate of up to 365 megalitres would not place undue stress on the Darling River, given that the township already draws more than half of the allowable allotment of 3,500 megalitres of water each year?

**Mr ROB STOKES:** Again, the issues you raise are obviously of concern in drought conditions. My undertaking is to get you that advice on notice. What I can say is that we are very keen to support development in Bourke and surrounding; it is an area that obviously requires jobs.

**The Hon. MARK PEARSON:** But a development that would draw so much water in an area—in Menindee Lakes, the whole area—which has received unprecedented public concern and media coverage and investigation because of the way the water has been managed to and from that area—

**Mr ROB STOKES:** Certainly, the issues you raise *prima facie* are of concern. But appropriately, because they deal with matters of quite granular detail, we will get you some detailed answers on notice.

**The Hon. MARK PEARSON:** The environment assessment report states that the water supply into the abattoir is by connection to the council's reticulated water supply in North Bourke via a "new underground pipework" within the Mitchell Highway road reserve. The report has very little detail as to whether the new pipework was specifically made for this project, considering that it is 14 kilometres away from North Bourke. Can you advise who was responsible for the construction costs of the new pipeline?

**Mr RAY:** Yes. I will get that information if the department has that as part of its assessment. That might well be a question that would be better directed to the Minister for Agriculture, but if we have the information I will get the information for you and take it on notice.

**The Hon. MARK PEARSON:** In the final development consent Capri was required to show documentary evidence of a waste agreement identifying a suitable waste collection facility prior to commencement of the operations. Was that done?

**Mr RAY:** Again, I would have to get the details for you on notice.

**The Hon. MARK PEARSON:** I will leave my questions on that particular subject there.

**The CHAIR:** In September 2016 the chief scientist issued a report into the decline of koala populations in New South Wales. One of the recommendations was that the Government improve outcomes for koalas through changes to the planning system and that within 12 months of receipt of this report government should start a broader evaluation of the effectiveness of SEPP 44 as a planning tool and the comprehensive koala plans and management for protecting koalas and their habitat.

A number of those things seem to have stalled, particularly it seems that the Government has failed to progress a review into SEPP 44. Could you inform the Committee what steps your Government is taking in relation to koala protection in the planning system, because it does not seem to be doing too much as a result of the chief scientist's report?

**Mr ROB STOKES:** Thank you for your question and thank you for the opportunity to update the community on the Government's response. I recall the chief scientist's report into koala populations very distinctly. Like all New South Welshmen and women, I was concerned about the listing of koala as a vulnerable species under the International Union for Conservation of Nature categories back in 2012 and at the long-term decline in the number of koalas in the wild. In my previous incarnation as planning Minister at the time, I was involved with the chief scientist in relation to her review and, as a consequence, the controls to update the provisions of the koala habitat SEPP, which date from 1995 so it was due for a review for things like habitat trees and so forth to be updated. An explanation of intended effect for changes to the SEPP was exhibited in late 2016.

**The CHAIR:** That is right.

**Mr ROB STOKES:** That period of exhibition continues into a period where I had moved on to another portfolio for a while. It then came off exhibition. In the intervening period there was a whole-of-government Koala Strategy that was published in 2018. That had 24 recommendations and it came with significant funding to fund those various recommendations.

**The CHAIR:** Minister, in terms of the Koala Strategy though, you are aware that the Koala Strategy does not suggest areas of land not to be developed or areas of land to be protected—which is what clearly a SEPP, which is what the planning system, is so important for.

**Mr ROB STOKES:** That is right. There are a few related matters. There are a few different SEPPs that are also involved here. The coastal SEPP that identifies coastal wetlands and littoral rainforests and so forth is also relevant. Suffice to say that I have directed the department to finalise the changes to the SEPP by the end of this year. It will also be helpfully informed by another document that will be on exhibition later this year, the Cumberland Plain Conservation Plan, which is also a strategic plan to identify important core koala habitat and linkages between it in south-western Sydney.

Obviously with the coming of the aerotropolis and development in the Macarthur region, it is critical that before that development occurs we identify those core koala habitats and the connections between them. That will be done through that Cumberland Plain Conservation Plan as well as the amendments to the SEPP that will be finalised by the end of the year.

**The CHAIR:** We will come back to that.

**The Hon. PENNY SHARPE:** I want to understand how the department of planning deals with the conflicts of interest of Ministers. In relation to the issue of Mr Sidoti, Mr Sidoti has significant landholdings through his family trusts that obviously have an impact in relation to the decisions that your department makes. How is he required to declare those?

**Mr ROB STOKES:** In relation to ministerial declarations—

**The Hon. PENNY SHARPE:** Can you take me through what a ministerial declaration looks like?

**Mr DAVID SHOEBRIDGE:** Largely blank.

**Mr ROB STOKES:** Ministerial declarations are made to the Premier and, in relation to their form and content, I suggest your question would be—

**The Hon. PENNY SHARPE:** So you do not see them and your department does not see them?

**Mr ROB STOKES:** In relation to ministerial declarations, they are made to the Premier. So your question is best directed to the Premier.

**The Hon. PENNY SHARPE:** I am trying to understand this in relation to planning decisions. You have a Minister who has significant landholdings where decisions being made by your department and others significantly impact on the wealth and the amount of money that he is able to make out of those landholdings. I am trying to understand what is in place through your department to manage these kinds of conflicts. There are declarations made to the Premier and you and your department do not see that, is that correct?

**Mr ROB STOKES:** The ministerial declarations to the Premier are a matter for the Premier. In relation to parliamentary declarations, they are publicly available and much of the information you are relying upon was, I understand, furnished in that declaration, which is appropriate. In relation to the assessment of planning applications, the matters for consideration in terms of planning applications are outlined in the Act. I point you to section 4.15 of the Act that outlines the matters that a consent authority should have regard to. In relation to the identity or interests of particular proponents, that is not germane to the assessment process of a development application.

**The Hon. PENNY SHARPE:** Mr Ray, when you are dealing with these kind of—there are two landholdings here. One is at Tallawong near Cudgegong Road, bought by Mr Sidoti for \$4.1 million, now worth over \$70 million as a result of rezoning. There is also a set of commercial developments with about 20 units on Great Northern Road, again owned by his family. Are you saying that that is never considered? My question is: When assessing those development applications are you made aware of any interests that a Minister may have in relation to these?

**Mr RAY:** Ms Sharpe—

**The Hon. CATHERINE CUSACK:** Special treatment.

**The CHAIR:** Order!

**The Hon. CATHERINE CUSACK:** I mean, this is—

**Mr DAVID SHOEBRIDGE:** Embarrassing for you.

**The CHAIR:** Order! The member has asked a question.

**The Hon. CATHERINE CUSACK:** Being lectured about ethics by the Labor Party.

**The CHAIR:** Order! Ms Cusack.

**Mr DAVID SHOEBRIDGE:** This is embarrassing for you, Catherine, yes.

**The CHAIR:** Order!

**The Hon. CATHERINE CUSACK:** This is embarrassing for Labor, trying to give advice to anybody on these issues.

**The CHAIR:** Order! Can members please restrain themselves—

**The Hon. PENNY SHARPE:** I am simply asking questions about how these interests are managed.

**The Hon. CATHERINE CUSACK:** It is wrong to identify a Minister.

**The CHAIR:** Ms Sharpe is entitled to ask her question.

**The Hon. CATHERINE CUSACK:** Yes, but—

**The CHAIR:** Order! Continue.

**Mr RAY:** The principle of assessment is a principle about assessment of the proposal in relation to the land; it is not about an assessment in relation to any person that may have an interest in it.

**The Hon. PENNY SHARPE:** Correct. So it is supposed to be a blind assessment based on the merits of the development application. Is that right?



**Mr RAY:** Yes. On the planning merits of the application.

**The Hon. PENNY SHARPE:** Okay. This is why I am concerned about it. There is a ministerial code of conduct that is very clear in relation to Ministers and I think it also applies to parliamentary secretaries in relation to retaining public confidence in decision-making, in maintaining integrity of the system. How is that able to mesh, given the revelations that we have today of a Minister, and companies that he and his family are directly involved in, making multimillion dollars off the basis of planning decisions that it appears no-one in the Government is aware of?

**Mr ROB STOKES:** Again, as Mr Ray has detailed, the focus of the planning system is not focused on the identity of the person submitting an application.

**The Hon. PENNY SHARPE:** Yes, I understand that.

**Mr ROB STOKES:** It is focused on the merits of the application.

**The Hon. PENNY SHARPE:** I understand that. What I am trying to understand is how the Government, the Cabinet, Ministers and the Premier manage conflicts where they are declared and if they are declared—let's remember that Mr Sidoti actually did not declare a lot of these for about six years—when they are declared, how they are managed in relation to government decision-making. You are saying there is no connection, just to be clear, between the decisions that Planning is making and whether they are or are not aware of the personal largesse that a Minister may be able to make as a result of those decisions.

**Mr ROB STOKES:** The first thing, as a fundamental principle of planning, is that a planning assessment looks at the merits of the proposal. It does not make an assessment of the person making the proposal. That is a well-established principle in planning law—

**The Hon. PENNY SHARPE:** Sure, that is fine, but as we know—

**Mr ROB STOKES:** —and that is appropriate.

**The Hon. PENNY SHARPE:** Sure.

**Mr ROB STOKES:** In relation to—

**The Hon. PENNY SHARPE:** I am not contesting that. I am trying to understand how the Government manages the personal conflicts of their Ministers if they are declared, and when they are declared, in relation to this decision-making. It sounds like there really is not a system.

**The Hon. CATHERINE CUSACK:** What is the conflict?

**The Hon. PENNY SHARPE:** The conflict is that there is a Minister who has bought a property with his developer mates for \$4.1 million—it is now worth \$70 million and somewhere along there it has not been declared. You do not think that is a problem?

**Mr DAVID SHOEBRIDGE:** You do not understand the conflict?

**The Hon. CATHERINE CUSACK:** You are talking about a blind process here.

**The CHAIR:** Order! Questions should be directed to the witnesses, please.

**Mr ROB STOKES:** Sorry, what is your question?

**The Hon. PENNY SHARPE:** My question is how the Government, and particularly within your portfolio, manages the conflicts of individual Ministers in relation to landholdings and decisions that are made. I understand that it is a blind process in relation to development applications but surely there is some sort of red flag where a Minister—assuming that they declare, and let's remember that Mr Sidoti did not declare for quite a few years—assuming that they have declared that there is a problem, whether there is any red flags or ways in which this is managed.

**Mr ROB STOKES:** As a private member and as a Minister in my own right I am responsible for my own declarations. I am not responsible for the declarations of my colleagues. Certainly what I am responsible for is to ensure that the planning process is administered smoothly, that we have an orderly and economical assessment of development applications and of planning proposals in accordance with the law. That is my purpose.

**The Hon. PENNY SHARPE:** So you do not believe there is any problem, whether it be public perception or otherwise, in relation to a Minister having their own private interests getting ready to make quite a

lot of money in relation to these decisions and there is no connection in terms of looking at that. You do not think there is a problem with that?

**Mr ROB STOKES:** You are asking me to provide an opinion on matters outside of my portfolio. My portfolio responsibility is to ensure that planning applications and planning proposals are assessed in accordance with the law and that is what I am focused on.

**The Hon. PENNY SHARPE:** And you believe there is no current problem in relation to that?

**Mr ROB STOKES:** I am sorry—can you be more specific?

**The Hon. PENNY SHARPE:** What I am saying is that we have a significant issue with planning in this State, as it has ever been—this is not a new issue—in relation to the concern that the public have with people making a lot of money out of private land deals. We have here an example of a current Minister who has significant landholdings, which he failed to declare for quite a long time but I accept that he has now declared, possibly being able to make millions of dollars in relation to that, and it is unclear how that private benefit is explained to the public and how they are able to have trust in the planning system. In relation to your responsibility for people having and maintaining trust in the planning system, I am asking how you are able to reconcile those two issues.

**Mr ROB STOKES:** Quite appropriately the planning system, as it should be, is blind to the identity of the person making a submission in relation to a planning proposal or in relation to a development application. Development applications and planning proposals need to be assessed in light of the law that takes into account their wider economic, social and environmental costs and benefits and the wider public interest. That is appropriate and certainly my bailiwick is to make sure that that process is followed. In relation to declarations it is my expectation that all of my colleagues, and indeed every member of this place, make the appropriate declarations in line with their responsibilities.

**Mr DAVID SHOEBRIDGE:** It is not blind to who makes it. Your name, the developer's name, is on the application, or their architect. It is not blind at all. That is just nonsense, Minister.

**Mr ROB STOKES:** No, David, the assessment—

**Mr DAVID SHOEBRIDGE:** It is just nonsense.

**Mr ROB STOKES:** If you look at the way in which the assessment—

**Mr DAVID SHOEBRIDGE:** Their name is on the top of it.

**Mr ROB STOKES:** No, the assessment is, and absolutely appropriately. I take you to—the most relevant part of the Act would be 4.15. In no way is who is making the application a relevant consideration in the determination.

**Mr DAVID SHOEBRIDGE:** It is not blind to it. You are making that up, Minister.

**The CHAIR:** Order!

**Mr ROB STOKES:** No, Mr Shoebridge. That is unkind. What I am seeking to say is that as part of the assessment of an application the identity of the person making the application is not relevant to its assessment.

**The Hon. ADAM SEARLE:** Well, except if the person is a Minister and they might actually have some conflict between those roles and their private interests. Leaving aside the issue of appropriate declarations and the like, which I think as you indicated is the province of the Premier, this morning's report highlights a potential systemic problem, so our questions really are: What are you as the Minister responsible for protecting the integrity of the planning process going to do in response to the damning reports about potential conflicts of this nature?

**Mr ROB STOKES:** Well, I do not necessarily accept the premise of your question in pointing to some—

**The Hon. ADAM SEARLE:** Feel free to differ.

**Mr ROB STOKES:** —in terms of pointing them to a systemic problem in the assessment of development applications. I do not think there is anything that suggests that there is a systemic problem in the nature of assessing applications on their merit.

**The Hon. PENNY SHARPE:** Do you think there is a systemic problem with public trust in the planning system when they see Ministers able to make a lot of money out of property deals in this State?

**Mr ROB STOKES:** You are asking me—

**The Hon. CATHERINE CUSACK:** It is in the Aldi bags being pulled into Labor State offices.

**Mr ROB STOKES:** You are asking me for opinion. My role is to administer the planning system and that is what I am focused on.

**The Hon. PENNY SHARPE:** But surely you are concerned. Reports like this undermine fundamentally public trust in the planning system.

**Mr ROB STOKES:** Landowners—and there are a whole range of people who are entitled to make applications to develop their property—and the focus of the planning system is again not on the identity of whoever is making an application; rather it is on the merits of the application itself and whether it accords with the procedures outlined in the Act. It would be my expectation, for example, that development conforms to the controls established in the relevant planning instrument.

**The Hon. PENNY SHARPE:** Are you aware of any property holdings that Mr Sidoti might have along the Sydney Metro West route?

**Mr ROB STOKES:** In relation to matters of declarations I would refer you to the appropriate portfolio Minister. I imagine that is the Premier.

**The Hon. ADAM SEARLE:** Mr Sidoti was formerly the Parliamentary Secretary for Planning. Did he have prior knowledge of the route and the potential location of the stations?

**Mr ROB STOKES:** Again, not to my knowledge and again—

**The Hon. ADAM SEARLE:** Can you or the department take that on notice, because that is a highly relevant matter, would you not agree, if he as Parliamentary Secretary had that prior knowledge?

**Mr ROB STOKES:** The challenge in answering your question is that it relates to a period when I was not in this portfolio.

**The Hon. ADAM SEARLE:** I understand.

**Mr ROB STOKES:** Unless I can find whatever information we might have.

**Mr BETTS:** It also relates a portfolio other than the Planning portfolio in the sense that your implication or inference is that Mr Sidoti might have obtained information by virtue of being Parliamentary Secretary in another portfolio.

**Mr DAVID SHOEBRIDGE:** Well, he was Parliamentary Secretary for Planning.

**Mr BETTS:** So if the implication is that Mr Sidoti had a conflict of interest at that point and was involved in those decisions then I would be able to take that on notice, but I am not sure I could answer a question about Transport.

**The Hon. ADAM SEARLE:** No, it is about Planning.

**The Hon. PENNY SHARPE:** We are happy for you to take it on notice. That is fine. While you are taking that on notice it would be useful if you could provide the Committee a list of the work that was undertaken by Mr Sidoti as the Parliamentary Secretary for Planning.

**Mr BETTS:** We can provide a functional description of the role of parliamentary secretaries.

**The Hon. PENNY SHARPE:** No. I understand what a functional description is—we all have one of those. I am actually interested in the direct work that he was involved in as the Parliamentary Secretary for Planning.

**Mr BETTS:** That is such an open-ended question as to be virtually unanswerable.

**The Hon. PENNY SHARPE:** No, I do not think it is. I think it will be good to know, if you want specificity in relation to this, what briefings he received in relation to being the Parliamentary Secretary for Planning, what correspondence he was involved in, what visits he did and who he met with. Those things should all be recorded and he should be able to provide those and we would ask that, in terms of the support that the department gave him in that role, we would like to get that material.

**Mr BETTS:** I will explore what information might be available.

**The Hon. ADAM SEARLE:** In particular, what information he was privy to about the planning for the metro and the location of stations. That would also be very useful. Minister, you would be aware that the upper House did a call for papers on 8 August. That call for papers was directed to you as the Minister for Planning and

Public Spaces, it was directed to the Department of Planning, Industry and Environment, so that is Mr Betts' bailiwick, and it was also directed to Landcom, Mr Milton.

One of the documents called for at paragraph (g) was the review of UrbanGrowth/Landcom conducted by Mr Jim Betts in 2016 or 2017. Now, there has been no return from any of the bodies named in the call for papers, including your department, Minister, and Landcom. I believe the report was provided to the Secretary of the Department of Premier and Cabinet [DPC] but also to the Minister for Planning. Was that you at the time, Mr Stokes?

**Mr ROB STOKES:** Not to the best of my recollection but I am happy to take that on notice. Look, in relation to compliance with the standing order I assume it was complied to as appropriate. I am not sure if—

**Mr BETTS:** As the co-author of the report, but the lead author of that report, I provided it to the Secretary of the Department of Premier and Cabinet. It was the Secretary of the Department of Premier and Cabinet that commissioned the report in the first place. My understanding is that that report is Cabinet-in-confidence in the sense that it was prepared for the dominant purpose of Cabinet making decisions around the structural form of both UrbanGrowth and Landcom going forward, and the Cabinet decisions flowed from that. Those two organisations were separated at that point. Whether the Secretary of DPC chose to provide a copy to the Minister of Planning I am not aware.

**The Hon. ADAM SEARLE:** Yes, that is the reason that you did not provide an answer to the call for papers, is it?

**Mr BETTS:** I would have been doing that in my capacity as the Secretary of the Department of Planning, Industry and Environment. If the department did not have a copy of it then I would not be providing it under Standing Order 52.

**The Hon. ADAM SEARLE:** I am just trying to understand why you did not provide a copy. Is it because you did not have one or is it because you are claiming Cabinet-in-confidence?

**Mr BETTS:** I am not sure that the department did have a copy. I will take that on notice. Clearly the Department of Premier and Cabinet had a copy and reached the view that it was Cabinet-in-confidence quite reasonably.

**The Hon. ADAM SEARLE:** Intriguingly, when I asked the secretary of DPC why he had not produced a copy he feigned a lack of knowledge about the request.

**Mr BETTS:** He does not usually feign a lack of knowledge about anything.

**The Hon. ADAM SEARLE:** No, I do have that experience too, so I found it quite curious, Mr Betts. Mr Brogden, can you explain why Landcom did not produce a copy of this review?

**Mr BROGDEN:** We have a copy of that document which is marked "Cabinet-in-confidence".

**The Hon. ADAM SEARLE:** Yes, just because something is marked Cabinet-in-confidence does not make it so.

**Mr BETTS:** It was prepared for the dominant purpose of informing Cabinet decisions, which does make it so.

**The Hon. ADAM SEARLE:** And you say that as one of the authors?

**Mr BETTS:** As the lead author, yes.

**The Hon. ADAM SEARLE:** In relation to that document, Mr Betts, what of the recommendations were actually carried into effect by the Government? Are you able to indicate?

**Mr BETTS:** You are asking me a question about a document that we have just established is Cabinet-in-confidence.

**The Hon. ADAM SEARLE:** I am just asking you, from your perspective as the lead author, how many of the recommendations do you think were implemented?

**Mr BETTS:** I would have to go back and review the document but the principal recommendation related to the structural separation of the State-owned corporation of Landcom from the development corporation of UrbanGrowth and that was subsequently transacted by the Government the in light of a subsequent Cabinet decision.

**The Hon. ADAM SEARLE:** In that review, as lead author, there was a discussion about a loss of confidence between the board and the CEO. That was the board that was then headed up by Mr Brogden as the chair, is that correct?

**Mr BETTS:** I am not going to comment on documents that are Cabinet-in-confidence.

**The Hon. ADAM SEARLE:** You also said, or the document also said—

**Mr BETTS:** I am not able to comment on documents that are Cabinet-in-confidence, however much I might want to, I cannot.

**The Hon. ADAM SEARLE:** I understand, I will just keep asking you questions. We will see how far we get. Minister, can you answer this question: Are you aware of this document, have you seen this document?

**Mr ROB STOKES:** No.

**The Hon. ADAM SEARLE:** You have not?

**Mr ROB STOKES:** No, as I recall it was a document that I commissioned last time I was in this portfolio and I was out of the portfolio before it was completed, from my recollection. It would have been considered by my predecessor and the Premier, I am surmising.

**The Hon. ADAM SEARLE:** The document says, "The existing staff of UrbanGrowth"—as it was then called—"and the board are struggling to understand and master the processes and culture of the public sector, a capability that is essential to delivering complex projects which depend on the goodwill and support of other agencies," and it goes on. That is a fairly damning indictment of not just the management but also of the corporate governance through the board. Would you agree?

**Mr ROB STOKES:** I do not have the benefit of that document so—

**The Hon. ADAM SEARLE:** I can provide it.

**Mr ROB STOKES:** —I am not able to comment on it. As has been established, it is Cabinet-in-confidence.

**The Hon. ADAM SEARLE:** But would you be concerned about a report by a respected author, sitting just beside you as the head of your own agency, who expressed an opinion about the dysfunctionality of an organisation, including its board, to that degree? Would you not have a concern about those people continuing to have a leadership role in your agency?

**Mr ROB STOKES:** I am really not in a position to be able to editorialise.

**The Hon. ADAM SEARLE:** Could you not chance your arm? In all seriousness that is a fairly damning indictment of the capacity of the former board headed up by Mr Brogden. Mr Brogden was a member of the board; he may still be, I do not know, but the point is the report draws attention to the shortcomings at that level and yet many of those people continue to play a senior role in that organisation or what is left of it.

**The Hon. CATHERINE CUSACK:** Is there a question?

**The Hon. ADAM SEARLE:** Does that not concern you?

**Mr ROB STOKES:** Again, I am really not in a position to be able to comment on the report you have in front of you.

**Mr DAVID SHOEBRIDGE:** Minister, we might take the involvement of Mr Sidoti piece by piece if that is all right?

**Mr ROB STOKES:** Your questions.

**Mr DAVID SHOEBRIDGE:** Good. At any time prior to the decision in April 2014 by your department to recommend rezoning in the precinct around Tallawong, did Mr Sidoti make any representations to the department, seek any information from the department about rezoning in or about Tallawong or the department's approach in or about Tallawong?

**Mr ROB STOKES:** Your questions there relate to a period when I was certainly not in this portfolio. In fact, I think I was not even in Cabinet at that stage.

**Mr DAVID SHOEBRIDGE:** Will you make those inquiries?

**Mr ROB STOKES:** I am more than happy to find whatever documents might be relevant to help you answer the question. I am also concerned in relation to just the limits of what you are actually asking for but, nevertheless, we will do our best to furnish you with information.

**Mr DAVID SHOEBRIDGE:** What about between the period of October 2014 and March 2015 when Mr Sidoti was the Parliamentary Secretary for Planning. At any stage during that period did Mr Sidoti have any involvement with Planning decisions in or about Tallawong?

**Mr ROB STOKES:** Again, I will happily take your question on notice. What I will say is that I certainly have no awareness of anything like that, but we will take it on notice.

**Mr DAVID SHOEBRIDGE:** And again could you take on notice whether Mr Sidoti sought any information about any planning decisions in or about Tallawong?

**Mr ROB STOKES:** I am sure we can seek that information.

**Mr DAVID SHOEBRIDGE:** Did Mr Sidoti, when he was Parliamentary Secretary for Planning, declare to the department that he had received \$1,750 from a property developer, Mr Shang, in February 2015? Did he make that declaration or advise the Planning department that he had received \$1,750 from a property developer?

**Mr BETTS:** Not that I am aware of, but we will take it on notice.

**Mr DAVID SHOEBRIDGE:** Do you believe that the Parliamentary Secretary for Planning, if he receives money from a property developer, should declare that to the department given the risk of corruption.

**Mr ROB STOKES:** All declarations should be made in accordance with the law.

**Mr DAVID SHOEBRIDGE:** Did Mr Sidoti make any approaches or have any discussions with the department regarding the land about Tallawong when he was in partnership with Mr Shang and purchased the development land for \$4.1 million in March 2015?

**Mr ROB STOKES:** We will take that on notice.

**Mr DAVID SHOEBRIDGE:** In September 2015 when Southern Han Rouse Hill submitted a development application—Southern Han Rouse Hill being a corporation in which Mr Sidoti had a financial interest—did that development application include a disclosure about Mr Sidoti's financial interest?

**Mr ROB STOKES:** It would be my anticipation that all development applications are submitted with everything required by law. In relation to those specifics, I am sure we can find out if there is any relevant information to assist you.

**Mr DAVID SHOEBRIDGE:** You are aware at the time that the corporation made the development application—the corporation which Mr Sidoti had a financial interest in—he was a parliamentary Cabinet secretary, are you not?

**Mr ROB STOKES:** Sorry, could you say that again?

**Mr DAVID SHOEBRIDGE:** In September 2015 when the corporation associated with Mr Sidoti, Southern Han Rouse Hill, made a development application for a \$70 million development with your department he was a parliamentary Cabinet secretary. Was that disclosed to your department? Was it disclosed to Cabinet? Was it disclosed to anybody?

**Mr ROB STOKES:** I can get further details to you but my understanding is that development application was not submitted to the department, it was submitted to council.

**Mr DAVID SHOEBRIDGE:** Did it include the disclosure?

**Mr ROB STOKES:** That is a matter for council.

**Mr DAVID SHOEBRIDGE:** Will you make any investigations with the Planning department as to whether or not the disclosure was made by Southern Han Rouse Hill of Mr Sidoti's financial interest in the development?

**Mr ROB STOKES:** In relation to these matters, as you would appreciate, I do not have any specific knowledge. It would be my expectation that any development application is submitted with whatever is required in relation to that application. In relation to declarations, it would be my expectation that all declarations are made in accordance with the law.

**Mr DAVID SHOEBRIDGE:** You say the application was made to the council, and true that is, but it was decided by the Sydney Central City Planning Panel, which comes under your department's control. Was the disclosure made to the Sydney Central City Planning Panel that the development application for a \$70 million development was in part owned by a Cabinet secretary of the Government?

**Mr ROB STOKES:** Again, my expectation would be that all relevant disclosures would be made.

**Mr DAVID SHOEBRIDGE:** I am not asking about your expectation. I am asking about what you knew, and if you do not know will you find out?

**Mr ROB STOKES:** I am happy to find details on notice if they are in the possession of the department.

**Mr DAVID SHOEBRIDGE:** In March of last year the Sydney Central City Planning Panel, which you as the planning Minister have responsibility for, approved Mr Sidoti's \$70 million development. At the time of the approval were they aware of Mr Sidoti's financial involvement in the Southern Han Rouse Hill Corporation?

**Mr ROB STOKES:** My answer is: I am not aware as to what they were aware of. What is important; however, is that they made their decision in accordance with the law.

**Mr DAVID SHOEBRIDGE:** Have you investigated that or are you asserting that they made their decision in accordance with the law?

**Mr ROB STOKES:** My expectation is that any planning panel would make its decision in accordance with the law. Obviously there are appeal provisions for applicants who are dissatisfied with decisions of panels or of any consent authority, for that matter.

**Mr DAVID SHOEBRIDGE:** Minister, you said in answer to a question to Mr Searle that there are a whole lot of people who are entitled to make applications in relation to their property.

**Mr ROB STOKES:** What I mean by that, the reason I hesitate, is, that because obviously if you are submitting a development application you need the permission of the owner of that property in order to submit a development application. But as a general principle of law landowners are able to make planning applications. It has always been the case.

**Mr DAVID SHOEBRIDGE:** Do you believe that Cabinet secretaries or Ministers in your Government should be making \$70 million development applications while they are Cabinet secretaries or Ministers in your Government or do you accept that it has a stinking smell of corruption to it when that happens?

**Mr ROB STOKES:** My opinion on different matters is not germane.

**Mr DAVID SHOEBRIDGE:** You are the planning Minister.

**The Hon. BEN FRANKLIN:** Let him answer the question, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Your Cabinet secretary makes an application for a \$70 million development and you say it is fine.

**Mr ROB STOKES:** I have been pretty clear, my role is to administer the legislation under my jurisdiction. That is what I do. It is my expectation that any applicant would meet the requirements of the planning legislation in submitting applications and for them to be assessed on their merits.

**Mr DAVID SHOEBRIDGE:** Did a light go on anywhere in any part of the Planning department that, hang on, there is a problem here. We have a \$70 million development application brought by a corporation in which a parliamentary secretary for the Cabinet has a financial involvement? Did a light go on anywhere in your planning department to say there is a problem here?

**Mr ROB STOKES:** Again, Mr Shoebridge, it falls to the department or the relevant planning authority to determine applications on their merits, not to ask questions about the identity, the bone fides, or anything else in relation to the entity submitting the application.

**Mr DAVID SHOEBRIDGE:** If Ministers and parliamentary secretaries and Cabinet secretaries are making development applications in your Government nothing happens. There is no corruption control, there is no questions asked, Ministers and parliamentary secretaries can do whatever they want. Is that the situation?

**The Hon. CATHERINE CUSACK:** What is the corruption allegation you are making?

**Mr ROB STOKES:** No, that is not correct. Ministers and parliamentary secretaries are appropriately—as are other members of Parliament—under heightened standards of transparency and accountability in relation



to ministerial disclosures and the ministerial code of conduct, which applies to all Ministers and parliamentary secretaries. In relation to the failure to make relevant disclosures, if that is the case, there are sanctions in relation to that but those sanctions are not a matter for me, they do not fall within my portfolio responsibilities.

**The Hon. MARK PEARSON:** Who is informed in your department if there is evidence coming forward that there may be some corrupt process occurring—for example, receiving a donation from a developer? What triggers your secretary to pick up the phone to you and say, "We have a problem"?

**Mr ROB STOKES:** Certainly every public official, including all of us here, have obligations under the Independent Commission Against Corruption Act; the secretary is under the same obligations as us. In relation to other matters, there is an ethics unit that operates within the department. My predecessor commissioned Mr Kaldas to look at a series of matters in terms of trying to look at ways we can improve the transparency and accountability within the planning process. For further details in relation to the secretary's obligation I will refer you to the secretary.

**Mr BETTS:** There is a comprehensive apparatus in place to ensure that any conflict of interest among relevant decision-makers in the planning system are detected. That is supported by the recommendations of the Kaldas review. Nineteen recommendations were made, all of them were accepted by Government; 10 have been implemented; and the remainder are being implemented at pace within the department. The Minister has referred to the ethics unit, which is in place. We also have machinery through the ICAC and through confidential disclosure arrangements, which enable people effectively to blow the whistle if they suspect there is any conflict of interest that has not been satisfactorily mitigated.

We have a comprehensive ethics framework in place and that is overseen by a range of bodies internal to the department, such as the ethics unit, the audit and risk committee, and a range of external bodies including the Ombudsman, ICAC, the Auditor-General et cetera.

**The Hon. MARK PEARSON:** I will return to the proposal for an abattoir to function near Bourke. I put on record that the Animal Justice Party is quite happy that the abattoir is not functioning at the moment and not killing all those animals, but we still need to look at the whole proposal and how it has absorbed so many taxpayer funds. According to the environment assessment report, Bourke Shire Council indicated at the very beginning that it was unable to accept livestock processing waste and that the council's waste facilities were unlikely to be upgraded. Under the NSW Environment Protection Authority's [EPA] proximity principle, waste cannot be disposed of unless it is to a licensed facility within 150 kilometres of the original waste or second closest to the origin of the waste. Which waste collection facility was contracted to receive the waste?

**Mr RAY:** If the department has that information I would be happy to provide that on notice but I do not have it before me.

**The Hon. MARK PEARSON:** Do you think that it would be a requirement for the department to have that information because of the very issue that I have just quoted? Rather than saying, "If the department has", would you not presume that it does?

**Mr RAY:** Some of those contractual arrangements that might operate between the various parties in this particular case may not be absolutely necessary for the department to be aware of for the purpose of making the assessment. I note that it was a matter that was raised in the assessment so it may well be that the department does have that information. I was just foreshadowing that we may have the information or we may not and I will have to take it on notice.

**Mr BETTS:** I believe a number of the issues that you are raising this morning were addressed through the Independent Planning Assessment Committee at the time and the funding provided for the abattoir, as I understand it, came from Jobs for NSW rather from this portfolio. But we will take the question on notice.

**The Hon. MARK PEARSON:** Do you know what went wrong?

**Mr BETTS:** I am not sure that anything did go wrong.

**The Hon. MARK PEARSON:** Well, it is not functioning. Why was it functioning for three or four months and then stopped?

**Mr BETTS:** Sorry, I did not come to this hearing to answer questions about the viability of a goat abattoir in Bourke. It is relevant to the Agriculture portfolio and we will take the questions you have asked—which are serious questions—on notice.



**The Hon. MARK PEARSON:** It certainly is relevant to Planning. The economics of an export facility such as this being built so far from ports or markets seems to bring about a huge economic risk. The overheads for a facility in a location such as Bourke would be very high transport refrigeration, offsite waste, et cetera. Was any modelling provided to the department to show that this venture would ever be able to stand up financially before the Government put taxpayer money into it?

**Mr RAY:** Mr Deputy Chair, the department's assessment is a triple bottom line assessment about economic benefit, environmental and social impacts, as well as environmental and social benefits. The planning system does not assess the financial viability of a particular proposal.

**The Hon. MARK PEARSON:** Why not?

**Mr RAY:** Because again, it is not a planning merit matter. It is up to individual proponents to bring forward proposals. They have to assure themselves of the financial viability of the proposal. It is not the department's role to make a judgement—

**The Hon. MARK PEARSON:** But the department is making a decision, or certainly putting together advice to the Minister, to spend a great deal of taxpayer's money.

**Mr DAVID SHOEBRIDGE:** It was also Indigenous employment, Mark.

**Mr ROB STOKES:** Not this Minister, so the investment was not made within this portfolio. That is a germane question, but not for me. As to the viability of projects, the High Court has made decisions in relation to the capacity of the planning system to consider whether an investment is a wise investment for the individual concerned, but that is really up to them. The planning merits are a relevant consideration for us and that was what was taken into account in relation to the specifics of the planning merits of this proposal—we can provide advice. In relation to its feasibility, that is at the risk of the investors; it is not for the planning department to decide.

**The Hon. SHAYNE MALLARD:** Knocking back half the coffee shops in Sydney.

**Mr RAY:** The Department of Planning provided no advice to anyone in relation to the financial viability of the proposal.

**The Hon. MARK PEARSON:** Mirvac and Cumberland State Forest. There is an adjoining development for housing subdivision there. Forestry Corporation NSW has submitted a planning proposal to rezone land at 87 to 97 Castle Hill Road and 121 to 131 Oratava Avenue, West Pennant Hills, for low density residential development. Cumberland State Forest is adjacent to the old IBM site, which is 25 hectares. A significant part of the site is covered in critically endangered Blue Gum High Forest and Sydney Turpentine-Ironbark Forest. Thousands of trees were specifically planted to provide food, shelter and a corridor for wildlife and were sustainably managed for many years by IBM. The site also contains nesting trees for the powerful owl, listed as a vulnerable species. Mirvac plans to remove many hundreds of mature native trees—

**Mr DAVID SHOEBRIDGE:** Thousands.

**The Hon. MARK PEARSON:** Thousands, and in the process destroying viable habitats for vulnerable and at-risk animal populations. Given the objects of the Environment Planning and Assessment Act require the protection of the environment, including the conservation of threatened and other species and native animals et cetera, is the Minister concerned that the Mirvac development application in its current form does not meet legislative requirements?

**Mr ROB STOKES:** Thank you for your question. I am aware of the proposal and the community concerns around it. I am aware that the current zoning—from memory it is a business zoning for a 1970s or 1980s-style business park, which is what IBM has used the site for. I understand that there is a planning proposal with council at this stage but I will take it on notice, unless the secretary can direct us to someone who has further information of the planning pathway. We will check that. In the meantime it would, of course, be my expectation that any future use of the site acknowledges the important stance of turpentine high forest that are on the site and that that be thoroughly investigated and also appropriately conserved as part of whatever final decision is made.

**The Hon. MARK PEARSON:** Appropriately conserved?

**Mr ROB STOKES:** Yes. Again, I do not have the specific details of the assessment in front of me but I am very happy to provide more details on notice.

**The Hon. MARK PEARSON:** The Blue Gum High Forest and the Turpentine-Ironbark Forest on the Mirvac site are listed as potential ecological communities that meet principles and criteria for serious and

irreversible impacts [SAII]. Minister, have you received any advice from your department that that development consent cannot be granted to proposals that impact on an SAII-affected entity?

**Mr ROB STOKES:** In relation to specific advice from the department, I will take that on notice. I cannot recall any particular advice at this stage but my suspicion is that it is because it is not at that stage of the assessment. I am more than happy to get further information and provide it to you on notice.

**The Hon. ADAM SEARLE:** Minister, given reports in today's media and the questions that you have been answering about Minister Sidoti's private financial interests, will you now refer those to matters to the Independent Commission Against Corruption?

**Mr ROB STOKES:** I will have to determine on the basis—this is a media report so I have not looked at it in any detail at this stage. As you can expect, I read it at about probably the same time you did earlier this morning. I would note that everyone, if they believe that their duties are triggered under the ICAC Act, would have the same duty. Nevertheless, I will consider my position and see if any of my duties are triggered. I would imagine, on the basis of a media report, that would not be sufficient to trigger my duties.

**The Hon. PENNY SHARPE:** I encourage you to read it. It is a pretty detailed report.

**The Hon. ADAM SEARLE:** Minister, what is your position on bullying, harassment or abuse in the workplace? Do you condone it?

**Mr ROB STOKES:** Clearly not.

**The Hon. ADAM SEARLE:** Do you tolerate it in the agencies for which you are the Minister?

**Mr ROB STOKES:** It is my expectation that the secretary, as leading the agencies within the cluster, fulfils his obligations under work health and safety legislation. I know that this is something that is very important to the secretary. In our early discussions I was encouraged by the fact that he was focused on the need to have a supportive culture throughout the cluster. I know he has been working hard to the end.

**The Hon. ADAM SEARLE:** That is an expectation you have not of just the secretary but of all the chief executives across your agencies?

**Mr ROB STOKES:** Obviously the public servant with whom I deal on a daily basis is the secretary. But obviously it is a cascading expectation.

**The Hon. ADAM SEARLE:** It is also important that allegations of bullying are properly investigated if they are serious enough to warrant investigation, would you agree?

**Mr ROB STOKES:** There are a number of processes that managers can take, or indeed people who feel vulnerable or threatened can take, in relation to reporting concerns.

**The Hon. ADAM SEARLE:** If matters are serious enough to instigate an independent investigation, would you agree that investigation should be completed to ensure everyone has confidence that these matters are properly dealt with?

**Mr ROB STOKES:** You are asking me to comment in the abstract. But in the abstract, of course investigations should run to their conclusion.

**The Hon. ADAM SEARLE:** Would it be appropriate in your opinion for a senior person in any of your agencies to behave aggressively towards other persons, to embarrass or humiliate them in front of co-workers and people from outside the agency? Would you find that acceptable conduct?

**Mr ROB STOKES:** It would be my expectation for everyone across government to meet their obligations under work health and safety legislation.

**The Hon. ADAM SEARLE:** Leaving aside that bland and generalised response, those specific matters I have put to you, you would not find those acceptable in any person, would you?

**Mr ROB STOKES:** The bland and generic response I provide is because the question is very vague and not clearly directed.

**The Hon. ADAM SEARLE:** Let me sharpen it for you. Would it be appropriate for a senior person in any of your agencies to kick another person employed in the agency, or any person at all?

**Mr ROB STOKES:** Without understanding the specifics of the case it is impossible for me to comment. If your allegation is it is appropriate for people to be physically violent to one another, then clearly not.

**The Hon. ADAM SEARLE:** Good. Would it be appropriate for any senior person in any of your agencies to behave towards others in an aggressive, intimidating or inappropriate manner, to remonstrate with them loudly in front of others, to be critical and dismissive, to point at them in public? Would you find that acceptable conduct and behaviour?

**Mr ROB STOKES:** Pointing at people in public—I do not know the context. Those matters would be contextual and certainly if there are matters that are raised by someone who feels threatened or vulnerable or under attack, then it would be my expectation that those matters be investigated. If there were findings that those concerns were substantiated, it would be my expectation that whatever action is considered appropriate by the investigating authority should take place.

**Mr BETTS:** By the same token, if it is investigated and, on the balance of the evidence, the investigating authority decides that no substantive action is required then privacy obligations kick in at that point and the matter is left there. If that is the conclusion reached through the independent investigation.

**Mr ROB STOKES:** Mr Searle, that is more the point I think. Where there are accusations it is appropriate they be investigated. It is really then a matter for the investigation to determine the appropriate action.

**Mr BETTS:** Could I add to that because the Minister referred to my personal commitment to tackling bullying and harassment in the workplace? We conduct regular People Matter Employee surveys. We have recently undertaken a survey on a whole-of-government basis. In my department 11 per cent of people have reported being subjected to bullying and harassment in the last 12 months. I regard that as a completely unacceptable outcome and it will be a focus for direct and urgent management attention as it has been in every organisation that I run. However, one of the things that is important in tackling bullying is to ensure that there are safe channels through which people can report it, knowing that natural justice will be afforded to the complainant and to the person who is on the receiving end of the complaint. That confidence in the process can be undermined if complaints are turned into political theatre.

**The Hon. ADAM SEARLE:** I understand that. But, equally, you would appreciate if allegations were made and they were investigated and let us say, for example, a majority of the most serious allegations were upheld, that would be a matter of concern, Mr Betts, would it not?

**Mr BETTS:** It would be a matter of concern. One would expect the secretary of the relevant department, which might in this case, for instance, be the secretary of Treasury, to take those matters very seriously, look at the balance of evidence, reach a judgement on that and stand by that judgment.

**The Hon. ADAM SEARLE:** But, Minister, what signal does it send to leave a senior person in an organisation, who has in an investigation been found to have engaged in the kind of behaviours that I have described? What signal does it send to the workforce?

**The Hon. CATHERINE CUSACK:** Point of order: The Committee is inquiring into the 2019-20 budget estimates. There is latitude allowed but this is a hypothetical line of questioning.

**The CHAIR:** The member is allowed to inquire about a broad range of activities within the department. I would ask him to continue to be generally relevant, which I think he was.

**The Hon. ADAM SEARLE:** What signal does it send to the affected workforce that a person who might have been found to have engaged in one or more of those behaviours is left in office?

**Mr ROB STOKES:** I cannot comment on a hypothetical that you are referring to. What I can say is that it is my expectation that everyone across the agency which reports to me is civil, productive with one another, is constructive in their criticism and, as the secretary has indicated, I am aware that a great number of planning staff—particularly in the assessments area—come under enormous pressure from applicants dissatisfied with assessments. They deal with a lot of stress because of the nature of the work they are engaged in. It is appropriate that we have a supportive work environment for people in those situations. Certainly for any matter that is the subject of a complaint, if that complaint is investigated and if the investigating authority determines the matter is closed, then as far as I am concerned the matter is closed unless there is an appeal mechanism that someone wants to avail themselves of.

**The Hon. ADAM SEARLE:** Minister, when did you first become aware of allegations made against the Landcom chair Suzanne Jones in relation to bullying and harassment?

**Mr ROB STOKES:** I am aware, as a result of media reports, that there were allegations raised. I am not aware of any earlier knowledge of those matters. I will note that, in relation to the appointment of the board and the governance of the board, they are matters dealt with by the voting shareholder Ministers. There is an

obligation in the Act for the voting shareholders to consult with me in relation to appointments. But generally in relation to board matters, that is a matter for the voting shareholder Ministers, who I understand are the Treasurer and the finance Minister.

**Mr BETTS:** Correct, and by extension the secretary of Treasury is the person responsible for tackling the kinds of issues you are talking about.

**The Hon. ADAM SEARLE:** Minister, did you see a copy of the two reports prepared by independent investigator Mark Werman into those investigations?

**Mr ROB STOKES:** As the secretary indicated, the voting shareholders have responsibility in relation to governance matters relating to the board. My duties in relation to Landcom are clearly spelt out in the legislation relating to the statement of priorities. My day-to-day dealings with the CEO are in relation to fulfilling that statement of priorities and the objects of the Act. If you have questions in relation to the investigation undertaken by Treasury secretary, I suggest you direct them to the voting—

**The Hon. ADAM SEARLE:** I have already spoken to the Treasury secretary.

**Mr ROB STOKES:** I have nothing further to add in relation to that.

**The Hon. ADAM SEARLE:** What I am asking you is: Do you know what is in those reports? Have you seen them?

**Mr ROB STOKES:** No.

**The Hon. ADAM SEARLE:** Will you make it your business to see them?

**Mr ROB STOKES:** Again, my role and function is to ensure that the statement of priorities is provided from time to time to the board and negotiated with the board other than fulfilled by the CEO. In relation to governance matters, they are quite appropriately dealt with by the voting shareholders. I understand that there were some complaints that were investigated by the Treasury secretary and that he has resolved those matters. And I am satisfied that he has resolved those matters and I do not propose to inquire into them further.

**Mr BETTS:** And this differentiation—this separation of powers, if you will—between the portfolio Minister and the two shareholding voting Ministers is set up by design by the Parliament to ensure that the portfolio Minister focuses on the outputs of Landcom as an organisation and does not get drawn into questions around governance, which are properly matters for those shareholding Ministers and the secretary who supports them.

**The Hon. ADAM SEARLE:** Minister, were you, as the portfolio Minister, asked about your views about whether or not it was appropriate for Ms Jones to return to her role as the chair?

**Mr ROB STOKES:** My views in relation to—

**The Hon. ADAM SEARLE:** Were you consulted about that?

**Mr ROB STOKES:** In relation to the appointment of the Chair of Landcom—

**The Hon. ADAM SEARLE:** No, it was about her return after the investigation.

**Mr ROB STOKES:** The Act is quite clear in relation to the—

**The Hon. ADAM SEARLE:** I am not asking about the Act. I am just simply asking as a matter of fact: Were you consulted?

**Mr ROB STOKES:** No. In relation to internal governance matters by the voting shareholders, no.

**The Hon. ADAM SEARLE:** Okay.

**Mr BETTS:** The initial appointment Minister would expect to be consulted and at the time the planning Minister would have been. But in terms of Ms Jones' resumption of her normal duties, that is not a matter which would require any consultation with shareholders with that portfolio Minister appointed.

**The Hon. ADAM SEARLE:** Minister, do you have any view about that return to duty? Or are you simply not—

**The Hon. BEN FRANKLIN:** Point of order—

**The Hon. ADAM SEARLE:** You are running down my time, Ben.

**The Hon. BEN FRANKLIN:** I apologise.

**The CHAIR:** He is entitled to take a point of order.

**The Hon. BEN FRANKLIN:** But I do believe that quite clearly this question is now outside the remit of the Minister. The Minister has made it quite clear that in terms of governance it is the shareholding Ministers who these questions should be directed to. I have obviously let the leader go, but on this particular question I do believe that it is out of order.

**The CHAIR:** Thank you. The member has continued this line of questioning for some time now and the Minister has responded to the best of his ability. I will ask the member to move on.

**The Hon. ADAM SEARLE:** It is okay, I will move on. Minister and Mr Betts, where is the department up to in relation to implementation of the various recommendations and suggestions made by Nick Kaldas?

**Mr ROB STOKES:** As the secretary has already referred to, Mr Kaldas made 19 recommendations, 10 of which have been fully implemented.

**Mr BETTS:** Correct.

**Mr ROB STOKES:** The nine remaining are iterative. They are being implemented progressively, and I will refer to the secretary for further details.

**Mr BETTS:** Thank you. Yes, as the Minister said, 10 out of the 19 have been implemented. Mr Ray is in a position to lead you through the status of each of those 19 recommendations.

**Mr RAY:** Thank you, Mr Betts.

**The Hon. ADAM SEARLE:** I am happy for him to table them. Put them on notice.

**The Hon. CATHERINE CUSACK:** You could have asked it on notice if you wanted that. If you did not want the answer then you should not have asked the question.

**The CHAIR:** If you could table them, given the Opposition has 20 seconds left and we do not want to eat into the crossbench question time. Is there one more question?

**The Hon. PENNY SHARPE:** I have one question. You have made a lot of commitments around planting trees across New South Wales, and particularly in Sydney. You have made significant multimillion-dollar commitments around that. In 2018-19 I understand only \$6 million was allocated to the planting of trees. Can you confirm that, and what is the budget for 2019-20?

**Mr ROB STOKES:** The overall budget is \$37.5 million—

**The Hon. PENNY SHARPE:** Yes, I understand that. I want to know how much has actually been spent?

**Mr ROB STOKES:** In relation to the specifics, I can take it on notice in terms of the grants to councils. I can also confirm that, according to the public register that only records some of the trees that were planted, we are already up to 164,000—I think so far. But I can provide further details on notice.

**The Hon. PENNY SHARPE:** I want to know how much has been spent.

**Mr ROB STOKES:** I can provide further details on notice.

**The CHAIR:** Minister, are you concerned about the future of koalas in New South Wales?

**Mr ROB STOKES:** Like everyone in this State, I am concerned at the listing of koalas as vulnerable. I note that we have seen a decline in the number of koalas in the wild. We now have about 36,000, I understand. The rate of decline in Queensland has been more significant. Yet it has still been significant in New South Wales. That is why the New South Wales Government has developed the Koala Strategy backed up with considerable funding to address the causes of decline. I will work with my colleagues to ensure that those recommendations, certainly made in the Koala Strategy, are fulfilled.

**The CHAIR:** As the Minister for Planning and Public Spaces, do you want to do everything that you can to protect koalas in terms of the planning system itself?

**Mr ROB STOKES:** Of course.

**The CHAIR:** In relation to offsets, why do you oversee a system that allows koala habitat to be cleared and offset with habitat that is not koala habitat?

**Mr ROB STOKES:** The Biodiversity Offsets Policy is a policy that has been established now for several years. The way in which the Biodiversity Offsets Policy works—from memory—is that, effectively, it prefers like-for-like offsets and only—

**The CHAIR:** Yes. But it is the case, isn't it, that koala habitat can be cleared for developmental land clearing, for example, and be approved to be offset by land that is clearly not koala habitat and will never be able to have koalas live there? That is the case?

**Mr ROB STOKES:** Certainly the provisions of the Biodiversity Offsets Policy are very clear. They were publicly exhibited. I am prepared to provide further details on notice about its operation in relation to koala habitat.

**The CHAIR:** If you are committed to ensuring the planning system does everything it can to protect koalas, as Minister who is concerned about this, are you satisfied with the planning system that allows koala habitat to be cleared and replaced with habitat that will not support koalas?

**Mr ROB STOKES:** We will always look for ways in which we can best protect koalas and we will act in accordance with the advice provided by the chief scientist and also with the actions specified in the Koala Strategy, which is a whole-of-government strategy.

**The CHAIR:** Clearing koala habitat does not do much to protect them though, does it Minister?

**Mr ROB STOKES:** Again, of course we will look for ways in which we can identify core koala habitat and ensure it is appropriately protected. That is the reason, for example, that significant additions were made to Willi Willi National Park as well as a number of State forests that are being protected as flora reserves.

**The CHAIR:** I will move on. I wanted to talk about the Independent Expert Panel For Mining in the Catchment, which I understand is due to release a second report. It was due to be released in mid-August 2019. It has now been delayed until 14 October 2019. Minister, have you or any of your departmental officials seen that second draft report yet?

**Mr ROB STOKES:** In relation to Jim Galvin's report, I understand that the deputy secretary has some specific details to elucidate.

**Mr RAY:** We are expecting the final report in October at the moment.

**The CHAIR:** Have you seen it?

**Mr RAY:** No, I have not seen the final report.

**The CHAIR:** Minister, I understand that several community groups have written to you calling for—this is in relation to two underground mine expansions, the Russell Vale as well as Dendrobium—those submission deadlines to be extended beyond the release of that second report. As you know, the first report had concerns about the impact of mining under those catchments. Will you commit to ensure that those submission deadlines are extended so the community can see the second report before those submissions close?

**Mr ROB STOKES:** I will take that on notice. I am considering those requests. I have to balance the need to ensure the orderly and efficient administration of the planning system so as to ensure that matters are considered in a timely way. But I also recognise that Sydney's drinking water catchment is a vital natural resource for the future of this city and this State. Obviously I need to make a determination on the best way to balance those concerns. I will take advice on it and provide you with an answer on notice.

**The CHAIR:** Are you concerned in this drought about the loss of millions of litres of water from the creeks and river systems within the drinking water catchment as a result of existing longwall coalmining?

**Mr ROB STOKES:** The existing longwall mining in the Southern Colliery has been a feature of that community for more than—

**The CHAIR:** It has, and it is losing a fair bit of water from the catchment.

**Mr ROB STOKES:** For more than 160 years, and over that time I understand the losses associated with mining activity are relatively low compared to losses, for example, from evaporation and other sources. Nevertheless any loss of drinking water in a drought in a water catchment is a matter of concern and needs to be appropriately managed, and certainly in accordance with the relevant State Environmental Planning Policy.

**The CHAIR:** Thank you. I will now go to my colleague Mr David Shoebridge.

**Mr DAVID SHOEBRIDGE:** Minister, I think many people have welcomed your commitment to green corridors. In light of that, are you going to get behind and support the green corridor in Rushcutters Bay Park, which has now been endorsed by both Woollahra council and the City of Sydney council?

**Mr ROB STOKES:** I think this is a matter, if I recall, that my officers had some meetings with and, I think it is a matter that we are strongly supportive of. I would refer you to Ms O'Mara who has some specific details.

**Mr DAVID SHOEBRIDGE:** Yes. I think the mayor of Woollahra council wrote to you on 7 August including Woollahra council's motion. That has now been matched by a motion in the City of Sydney just earlier this week.

**Ms O'MARA:** I have met with members of both councils to hear from them, as well as the people who have developed the proposal around their greenway to hear from them what they are proposing and we have agreed to talk to them about how we could look at taking that forward. Obviously, for us to provide funding they would need to submit an application in the usual way, but we think it is really important that we implement the greenway.

**Mr ROB STOKES:** There is a catch.

**Mr DAVID SHOEBRIDGE:** There is no catch. An application in the usual way? Both councils have now formally resolved by motion and formally communicated with you seeking your support. What is an application in the usual way? What else do they need to do to get the funding together to make this exciting green corridor link?

**Mr ROB STOKES:** Clearly, we would be keen to work with councils to leverage an appropriate amount of support from council as well as to work with them and partner with them in realising that objective. Obviously we want to work cooperatively with council and that includes in a funding sense, but we also want it to be a shared commitment.

**Mr DAVID SHOEBRIDGE:** Will you facilitate a meeting between the mayors of Woollahra council and City of Sydney council and your office in order to make this happen?

**Mr ROB STOKES:** Certainly. I would be keen to do that. This is a great idea and I would encourage other councils to look at cooperative ways in which we can work together to extend particularly unused or forgotten bits of land to create better public amenity and even biodiversity corridors.

**Mr DAVID SHOEBRIDGE:** Minister, you said under your initiative about tree planting that some 164,000 trees have been planted in Sydney. Is that right?

**Mr ROB STOKES:** Yes. I looked at the register, as is my wont, and I think it is 164,097, but that is only the ones—

**Mr DAVID SHOEBRIDGE:** And 97? I will correct the record there.

**Mr ROB STOKES:** I think that is right, but it might have gone up again this morning.

**The Hon. PENNY SHARPE:** Can we just be clear that some of that is actually seeds in cups that have been planted.

**Mr ROB STOKES:** It is trees. The cynicism of the committee is appalling.

**The Hon. PENNY SHARPE:** We are in a drought.

**Mr DAVID SHOEBRIDGE:** I think we can talk about trees and seedlings and whatever. But 164,000 trees have been planted by you. Meanwhile, the Labor-led Inner West Council is savaging the trees in that part of Sydney, led by an appalling decision by the mayor there. What will you do to put that mayor back in his box and protect the trees in Inner West Council?

**The Hon. SHAYNE MALLARD:** A Greens-Labor stoush now.

**The CHAIR:** Order! It is a perfectly legitimate question.

**The Hon. PENNY SHARPE:** Stacks on Labor.

**Mr DAVID SHOEBRIDGE:** He is the chainsaw mayor of the inner west. What are you going to do to hold him to account?

**Mr ROB STOKES:** In relation to the development control plan [DCP] in question, obviously, as the mayor would expect, in my role as Minister for public spaces with a clear priority that has been provided to me by the Premier to plant one million trees by 2022, I need to work with all councils to facilitate a great green canopy.

**Mr DAVID SHOEBRIDGE:** You are planting them and he is chopping them down. What are you going to do to stop him?

**Mr ROB STOKES:** We need to work together. I understand we are working with the Inner West Council on tree planting issues and my encouragement to all mayors is to look to ways not to cut down trees, but rather to plant more of them.

**Mr DAVID SHOEBRIDGE:** The amendment to the DCP that was pushed through by the mayor allows for thousands of trees to be chopped down in the inner west. Will you be taking any action to set aside that amendment to the DCP to protect the green canopy in the inner west?

**Mr ROB STOKES:** I believe very strongly, as I know you do Mr Shoebridge, about the independence of councils to be able to make decisions. In relation to development control plans, they are an instrument that is fiercely protected by councils in relation to democratic decision-making by elected councils.

**Mr DAVID SHOEBRIDGE:** These amendments did not go through a public consultation process; they were just rammed through by the mayor.

**Mr ROB STOKES:** Nevertheless, they went through the processes prescribed in the legislation. I do not propose to intervene at a granular level in the making of DCPs. I do not think that would be a good precedent for a planning Minister, and I think you would generally agree with me on that.

**Mr DAVID SHOEBRIDGE:** What about a basic direction for minimum standards on tree protection orders, because it is not just Inner West Council. We also see The Hills Shire Council with a savage tree protection order, which protects almost nothing. What about minimum standards?

**Mr ROB STOKES:** Tree Preservation Orders are generally provided these days within the local environmental plan [LEP] and that is a matter that needs to go through an assurance process with the department before they are made. Different councils will have different standards, I appreciate that. I do understand that trees are a vexed issue in terms of trees that might be dangerous, dying or dead, or planted in an area where they interfere with public utility. So I do understand your concerns.

**Mr DAVID SHOEBRIDGE:** But both of those councils' policies go well beyond that and allow for trees to be cut down with few, if any, limitations. If you are serious about tree canopy protection you should be putting minimum standards for tree protection orders so that we are protecting mature trees and not just, as the Hon. Penny Sharpe says, planting seedlings. Because a seedling does not replace a beautiful piece of mature canopy that has been chopped down under this new inner west tree protection order.

**Mr ROB STOKES:** Certainly my encouragement to councils is to work cooperatively with the State. We have significant funding available to assist them in tree planting efforts, and certainly I do get frustrated at the provisions made by councils that would minimise our city's tree canopy, particularly in Sydney, but also in regional towns, because we know that our tree canopy is something that is highly valued by the residents of Sydney and they are going to become more and more important in the future.

**The Hon. PENNY SHARPE:** For the birds and animals.

**Mr DAVID SHOEBRIDGE:** Yes. Minister, I think it was your office that sought a quick and dirty six-week review of the planning controls around Ultimo by the Greater Sydney Commission. Why such a short period of time?

**Mr ROB STOKES:** I do not think it is fair to characterise it as "quick and dirty." I think it is appropriate to look at the strategic context of planning across that area. It has been an area that has been focused on in the past. Specifically I refer you to Sydney Regional Environmental Plan No. 26—City West.

**Mr DAVID SHOEBRIDGE:** But, Minister, why six weeks? Surely this was just a backdoor way to get the approval up for Star, isn't it, which is embarrassing you. That is what this was. It was a backdoor approval process for Star. That is why it was so short. That is why you are doing it now.

**Mr ROB STOKES:** No. I would contest that characterisation of the review. The assessment process for the proposal by Star is a separate process and it is being conducted by the Independent Planning Commission, and



has no bearing on the review by the Greater Sydney Commission, which looks at a wider strategic context: It is not looking at a particular application.

**Mr DAVID SHOEBRIDGE:** Are you going to rule out allowing the same application to be brought by Star for its now rejected 66-storey inappropriate development. Are you going to rule out allowing that to be revisited after this planning review?

**Mr ROB STOKES:** As Minister I do not get to dictate the ideas that are put up, but I certainly do get to administer the process for determining applications. When an application is submitted that does not accord with the planning framework for an area it is unlikely to get support. If a plan—

**Mr DAVID SHOEBRIDGE:** That is why you are changing the rules, isn't it?

**Mr ROB STOKES:** If a proposal is submitted in accordance with the rules it is far more likely to receive approval. That is how our system works.

**Mr DAVID SHOEBRIDGE:** Minister, Did you and the Premier have a discussion about this decision to seek a review of the planning controls in Ultimo before you made the direction?

**Mr ROB STOKES:** You have asked me two questions there at once. In relation to the determination by the Independent Planning Commission in relation to the Star, that is a matter for the Independent Planning Commission—

**Mr DAVID SHOEBRIDGE:** No, I asked if you and the Premier had a discussion about the proposal to have a review of the planning controls in Ultimo before you made the request to the Greater Sydney Commission.

**Mr ROB STOKES:** Yes.

**Mr DAVID SHOEBRIDGE:** Did you and the Premier discuss it?

**Mr ROB STOKES:** Yes.

**Mr DAVID SHOEBRIDGE:** And did she direct you to do that?

**Mr ROB STOKES:** It was—

**Mr DAVID SHOEBRIDGE:** To get you out of a political mess.

**Mr ROB STOKES:** In relation to your editorialising on the question, I do not accept the premise of that.

**Mr DAVID SHOEBRIDGE:** Well, tell me the content of the discussion then.

**Mr ROB STOKES:** In relation to the discussion that led to a strategic review, we were aware that there is a significant degree of interest in the broader precinct and we are aware that there are a number of applications that are likely to come to government over the coming months and years.

**Mr DAVID SHOEBRIDGE:** Did The Star come up in that discussion?

**The Hon. BEN FRANKLIN:** Order! Let him finish the answer, and your time has expired.

**The CHAIR:** Yes, the time has expired. We will wait for the Minister to finish his answer.

**Mr DAVID SHOEBRIDGE:** Sorry, Minister. I will let you finish.

**Mr ROB STOKES:** And a strategic review of an area as significant as Pyrmont or Ultimo is certainly something that we believe is in the public interest.

**The CHAIR:** Thank you very much. The Minister has finished giving evidence today. We will return with government officials after lunch.

**(The Minister for Planning and Public Spaces withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** We will begin with questions from Mr Searle.

**The Hon. ADAM SEARLE:** Mr Brogden, the Landcom Corporation Act provides that the board is to consist of seven directors. Are there seven directors of the Landcom board?

**Mr BROGDEN:** No, there are four directors.

**The Hon. ADAM SEARLE:** Why is that?

**Mr BROGDEN:** The appointment of the directors of the board of Landcom is a matter for the shareholding Ministers.

**The Hon. ADAM SEARLE:** In the time that you have been at Landcom, including your role as CEO and as chair of the board, has Landcom ever had seven directors?

**Mr BROGDEN:** Yes, the answer is we have had more than four. I cannot recall, but I can get an answer for you, Mr Searle, as to whether we have up to seven at any stage, but we certainly had six at least.

**The Hon. ADAM SEARLE:** I have seen various documents that have indicated three, four or five, but never more than that.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Has Landcom ever had any legal advice about whether or not the board is properly constituted by having less than seven directors?

**Mr BROGDEN:** Not to my knowledge.

**The Hon. ADAM SEARLE:** You might want to take that one on notice because there are various statutory approaches to this. I think the Aboriginal Housing Office [AHO] board says it shall have at least eight and no more than 13. A more usual formulation is, "The board shall have up to however many members", but this is very precise: It is to consist of seven directors. The plain English meaning I take from that is it is a legal requirement to have seven. If you have had less than seven there might be a question mark over the legal effect over the board's decision. If you could take that on notice that would be great.

**Mr BROGDEN:** Sure, I will. I just want to restate that the board of Landcom cannot appoint directors.

**The Hon. ADAM SEARLE:** I understand that. It is a matter for Executive Government. In the most recent annual report for Landcom it talks about a \$200 million dividend to the State Government. For how many years has Landcom determined to provide \$200 million in dividends to the State Government?

**Mr BROGDEN:** Two hundred million dollars per year for four years.

**The Hon. ADAM SEARLE:** That is until 2023?

**Mr BROGDEN:** Or 2022. Yes, through to 2022 I think, Mr Searle.

**The Hon. ADAM SEARLE:** Looking at your total current liabilities on page 67 of the annual report, for 2017 it was only \$264 million and then it jumps to nearly \$668 million. Can you tell us what caused that deterioration in the liability profile?

**Mr BROGDEN:** I will take that on notice.

**The Hon. ADAM SEARLE:** In relation to the Menangle Park matter and the voluntary planning agreements, is that liability reflected anywhere in your financial statement?

**Mr BROGDEN:** I will take that on notice.

**The Hon. ADAM SEARLE:** I will be happy for you to come back. Does Landcom have an office in the MLC Centre, Mr Brogden?

**Mr BROGDEN:** Yes, it does.

**The Hon. ADAM SEARLE:** Why does it maintain an office in the MLC?

**Mr BROGDEN:** The primary reason is that many of the organisations and stakeholders with which we deal on a regular basis are based in the CBD of Sydney—DPC, Treasury, for example, and Planning for the moment is in the CBD of Sydney. A number of our partners like Mirvac are in the city, industry associations and the like. We have an office there that has meeting rooms, desks, a hot-desking approach and an office for staff when they are basing themselves out of Sydney. It is not an unfamiliar approach by other Government agencies. I am aware Sydney Water has the same. Its headquarters is in Parramatta, across the road from us. The other thing is what we are finding is under our flexible working policy a number of staff from time to time work out of the CBD in order to work flexibly.

**The Hon. ADAM SEARLE:** How big is the office?

**Mr BROGDEN:** I cannot give you square metreage, I am sorry.

**The Hon. ADAM SEARLE:** How much does it cost in rent?

**Mr BROGDEN:** I will come back to you with that.

**The Hon. ADAM SEARLE:** Could I hand you piece of paper, Mr Brogden, and a pen.

**The Hon. SHAYNE MALLARD:** I hope this is not a prop.

**The Hon. ADAM SEARLE:** No, it is not a prop.

**The Hon. SHAYNE MALLARD:** Contrary to standing orders.

**The Hon. ADAM SEARLE:** It is not a prop. I have just handed him a document. I am just going to ask him to identify it.

**The Hon. SHAYNE MALLARD:** And a pen.

**The Hon. ADAM SEARLE:** And a pen.

**The Hon. SHAYNE MALLARD:** We are getting used to this Perry Mason approach to interrogating.

**The CHAIR:** Order! Members are allowed to pass documents to witnesses.

**The Hon. SHAYNE MALLARD:** And red pens.

**The CHAIR:** I assume Mr Brogden has a pen.

**The Hon. SHAYNE MALLARD:** It will be a whiteboard next.

**The Hon. ADAM SEARLE:** No whiteboard is necessary. Mr Brogden?

**Mr BROGDEN:** I have not got the document.

**The Hon. ADAM SEARLE:** Mr Brogden, is that a floor plan of the office?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Can you mark out which is your part of the office? I think you have a designated area?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** If you could mark that.

**Mr BROGDEN:** Do I have to do this?

**The Hon. ADAM SEARLE:** I am just asking you. You can decline I guess.

**Mr BROGDEN:** I think this is pretty childish.

**The Hon. ADAM SEARLE:** Does it have a boardroom?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Why does it have a boardroom, given I assume you have a boardroom at your Parramatta office?

**Mr BROGDEN:** I do not think you should read too much into the word "boardroom". Not only directors meet in that room. For instance, today it has been occupied by the leading Women's Development Program at Landcom.

**The Hon. SHAYNE MALLARD:** Good on you.

**The Hon. ADAM SEARLE:** How many staff use the offices on a daily basis?

**Mr BROGDEN:** It varies greatly.

**The Hon. ADAM SEARLE:** How many are there today?

**Mr BROGDEN:** There would be 20 to 25.

**The Hon. ADAM SEARLE:** How many are in your Parramatta office?

**Mr BROGDEN:** Today?

**The Hon. ADAM SEARLE:** Yes.

**Mr BROGDEN:** I could not tell, I am physically not there. I do not keep a running estimate of staff.

**The Hon. ADAM SEARLE:** I am just trying to understand what proportion of your workforce works out of the MLC.

**Mr BROGDEN:** It varies greatly. The thing I also need to say, Mr Searle, is that because of the nature of our organisation you may well be out of the office for several days, but on site at developments and the like, so not physically being in the office does not mean you are not working.

**The Hon. ADAM SEARLE:** I understand. I am just asking. Are there security cameras in the MLC office?

**Mr BROGDEN:** I am not aware.

**The Hon. ADAM SEARLE:** Can you take that on notice?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Mr Brogden, you were here when I asked the Minister about his attitude to bullying in the workplace. Do you remember those questions?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** You take a pretty dim view of bullying in the workplace, do you not?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** In fact, I think you are on record at one of the meetings minuted on 30 November 2018. You said, "All staff bullying would not be tolerated, complaints would be investigated and action taken." Does that sound like something you would say?

**Mr BROGDEN:** What minutes are you referring to?

**The Hon. ADAM SEARLE:** The minutes produced in answer to the order for papers under Standing Order 52.

**The Hon. CATHERINE CUSACK:** Point of order—

**The Hon. ADAM SEARLE:** These are not privileged documents.

**The CHAIR:** Order! A point of order has been taken by Ms Catherine Cusack.

**The Hon. CATHERINE CUSACK:** I have received an allegation that a member of this committee asking these questions has personal knowledge of one of the parties—who has not disclosed to this committee that knowledge of the person. I would ask Mr Searle if he has anything he wishes to disclose as he pursues this line of questioning. I give him that opportunity because, in the interests of transparency, I would ask that Mr Searle to assure this committee that he has no primary knowledge of this matter or of the person making the claims.

**The CHAIR:** Just one moment.

**The Hon. ADAM SEARLE:** Making which claims?

**The Hon. CATHERINE CUSACK:** That you are asking questions about, allegations that you are raising and that you raised prior to the luncheon break. If you have any matter to disclose—if you have nothing to disclose then I am quite happy that we move on.

**The Hon. ADAM SEARLE:** I am not sure what you are asking.

**The Hon. MARK PEARSON:** To the point of order: I think at these Committee hearings there is no requirement to disclose any knowledge you have of something else or something related to your question.

**The Hon. CATHERINE CUSACK:** Under our code of conduct members have a duty to disclose potential conflicts of interest. It has been suggested to me that Mr Searle may wish to make some disclosures in relation to this matter.

**The CHAIR:** I do not think members have to disclose any interests when asking questions of witnesses at a budget estimates hearing. However, I would request that the member be very careful with his line of questioning in relation to what is a very sensitive issue.

**The Hon. ADAM SEARLE:** I appreciate that. I have just read out an extract from the minutes of the People, Culture and Nominations Committee of Landcom that have been produced.

**Mr BROGDEN:** The board committee meeting?

**The Hon. ADAM SEARLE:** Yes, the board committee meeting. And comments are attributed to you there about all staff bullying will not be tolerated, complaints will be investigated and action taken. That sounds like your approach.

**Mr BROGDEN:** In the interest of continuing to share documents, I am happy to have a look at it.

**The Hon. ADAM SEARLE:** Does that sound like your general opinion?

**Mr BROGDEN:** That would be my view.

**The Hon. ADAM SEARLE:** Behaviours of the kind we discussed earlier, although they were of a general nature, are they contrary to your understanding of the Landcom code of conduct and a discrimination-, harassment- and bullying-free workplace.

**Mr BROGDEN:** I do not have an encyclopaedic memory of the questions you asked before, I am sorry.

**The Hon. ADAM SEARLE:** I am going to ask you process questions, Mr Brogden. When did you first become aware of the allegations made against the Landcom chair, Ms Jones?

**Mr BROGDEN:** In November-December 2018.

**The Hon. ADAM SEARLE:** Can you tell the Committee about the circumstances in which you became aware?

**Mr BROGDEN:** I received a written complaint from a staff member. Is that what you are looking for?

**The Hon. ADAM SEARLE:** I do not know what answer you are going to give. You were here earlier when I asked the Minister some questions about the external investigation conducted by Mr Mark Werman. Have you seen those reports?

**Mr BROGDEN:** If I can elaborate slightly to give you some context. When I received the complaints, in consultation with our people and culture team, I appointed an independent investigator, Mr Werman from Wentworth Advantage, to whom you earlier referred. That process commenced. At the same time the chair of the People, Culture and Nominations Committee, director of the board Peter Roberts, and I sought to a meet with the secretary of Treasury in order to advise the secretary of Treasury as to what action was being taken. The main reason for doing that, as I said before, is the shareholding Minister, usually through the Treasury, appoints directors and, indeed, directly appoints the chair.

We wanted to advise the relevant authority that appoints the chair that this process had been undertaken. He agreed with the process and he took control of the process from that point, effectively. He undertook the process. I was a witness to the process. I had no engagement from a management view of the process. When Mr Pratt indicated clearance of Ms Jones and Ms Jones returned to work, the secretary also made it clear that he would not provide me or Ms Jones or any other parties with a copy of the report. So I have not seen the report.

**The Hon. ADAM SEARLE:** You have not seen the report. Do you know the contents of the report?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** How did Mr Werman come to be engaged to do this investigation?

**Mr BROGDEN:** We use at least two, maybe three, workplace investigation organisations. We decided to use him on this occasion. We had used him in the past and we use another organisation as well.

**The Hon. ADAM SEARLE:** Do you only know Mr Werman or his firm in a professional capacity?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** You have a panel of two or three on a tender basis?

**Mr BROGDEN:** Basically.

**The Hon. ADAM SEARLE:** Mr Werman was also engaged to conduct an investigation into allegations made against a Ms Amanda Chadwick, who was a senior employee of Landcom. Do you remember that?

**Mr BROGDEN:** Yes, that is correct. It was about the same time.

**The Hon. ADAM SEARLE:** Mr Werman, as we have discussed, produced two reports in relation to the matter involving the Landcom chair but has not produced a report in relation to Ms Chadwick. In relation to a question I asked in Parliament, the Minister indicated that this was because, due to a restructure, her employment had come to an end. Is that the reason why that investigation was discontinued?

**Mr BROGDEN:** No. It was discontinued because both the employment of Ms Chadwick and the employment of the complainant had come to an end. Both parties had left the organisation.

**The Hon. ADAM SEARLE:** Just going back to Mr Werman's report, you did not see a copy?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** To your knowledge, has anyone on the board seen a copy?

**Mr BROGDEN:** No. The better way to answer that is Mr Pratt made it clear that he would not be producing a copy of the report to any other party.

**The Hon. ADAM SEARLE:** In relation to Mr Werman's report, there is a redacted submission by a deputy secretary of Treasury, Ms Telfer, that has been produced to the upper House. Are you aware of that?

**Mr BROGDEN:** Is that in the non-privileged documents?

**The Hon. ADAM SEARLE:** Yes. It is in the non-privileged; I will not ask you about privileged documents.

**Mr BROGDEN:** Sure, I am aware of that. I had not seen it until it was produced.

**The Hon. ADAM SEARLE:** You have seen it now?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Just going on the non-redacted aspects, the submission from Ms Telfer is, in effect, that the chair should not continue because the relationship between her and you as CEO, as I read it, and with the board generally had become untenable. Are you aware that is Ms Telfer's assessment?

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Did Mr Werman or Ms Telfer speak to you about those matters?

**Mr BROGDEN:** Both Ms Telfer and Mr Pratt, the secretary of the Treasury, asked my opinion on whether or not it was appropriate for Ms Jones to return to work. He asked me this after telling me that she had been cleared of the allegations. Then he asked, effectively, what is your view and he asked that also in the presence of the then acting chair, Peter Roberts. I indicated that it would be difficult for anyone to return to a role after a six-month absence and because of the unfortunate media coverage. However, I indicated that Landcom is a very professional organisation and if it is his determination that she is cleared and should return to the role, we would make it work.

**The Hon. ADAM SEARLE:** That is your conversation with Mr Pratt post Ms Telfer's submission?

**Mr BROGDEN:** I am not clear on the dates of her report. I am clearer on my meetings.

**The Hon. ADAM SEARLE:** I understand. Prior to your meeting with Mr Pratt did you discuss any of these issues with Ms Telfer or Mr Werman?

**Mr BROGDEN:** Not with Mr Werman. These were not questions he raised with me, to the best of my knowledge. With respect to Ms Telfer, I am trying to make sure I am answering your question accurately.

**The Hon. ADAM SEARLE:** It is not a gotcha moment. If you want to take it on notice and come back that is fine.

**Mr BROGDEN:** Sure. Will you tell me when it is a gotcha moment?

**The Hon. ADAM SEARLE:** Was it ever your position that you could not work with Ms Jones at any point in time?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** It was simply because of the absence that she had had from the role that you had concerns?

**Mr BROGDEN:** According to the secretary of Treasury, Ms Jones was cleared. Because we commissioned the process, because Treasury made it an independent process both of Landcom's board and Landcom's staff, as a consequence it was in our view a fully independent report and the determination of the report, according to Mr Pratt, was very clear. From that perspective, of course we accepted the result of Mr Pratt's review of the report and made the statement I referred to earlier.

**The Hon. ADAM SEARLE:** Just in terms of the language Mr Pratt used, you have described it as he said Ms Jones was "cleared". Was that his language?

**Mr BROGDEN:** It was a meeting with myself, Ms Telfer, Mr Pratt and the then acting chair, Mr Peter Roberts, and he indicated that he had reviewed the report and that he concluded that Ms Jones was cleared. I said, "Of all allegations?" He said, "Yes".

**The Hon. ADAM SEARLE:** Okay. Mr Pratt, in his evidence to budget estimates, was at pains to say that he was not the decision-maker—he made the findings but it was somebody else's decision about Ms Jones returning to her role. In a formal legal sense, would that have been a decision of the board?

**Mr BROGDEN:** No. Ms Jones went on leave voluntarily at the beginning of the process, awaiting an outcome. When that outcome was received she returned to work. I hark back again to the point I made earlier that the board has no capacity to move a director or a chair in or out of the board.

**The Hon. ADAM SEARLE:** The board did not have access to Mr Werman's report?

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** Everyone was relying on the assessment made by the Treasury secretary, is that correct?

**Mr BROGDEN:** Correct.

**The Hon. MARK PEARSON:** I want to come back to the Mirvac and Cumberland State Forest adjoining development application for housing subdivision. The Mirvac proposal includes E2 protection zones for most of the critically endangered Blue Gum High Forest and endangered Sydney Turpentine-Ironbark Forest on the lower half of the site. Many of these old-growth trees will be removed to accommodate for the planned units, houses and associated protection zones. Remaining trees will suffer root damage during land clearing and construction. Has the Minister or has the department seen any departmental advice regarding the trees covered by the E2 protections?

**Mr BETTS:** I will ask Ms O'Mara to answer that, insofar as she is able.

**Ms O'MARA:** The advice I have is that the planning proposal would allow a rezoning of the site to a mix of uses as a maximum 600 dwellings, the zoning of 12 hectares of the site to an E2 environmental conservation zoning, and public open space and playing field. The biodiversity assessment prepared by the proponent identifies within the site—as you suggest—Blue Gum High Forest, ironbark forest and nesting trees for the powerful owl. Those ecological communities are listed as potential ecological communities that meet the criteria for serious and irreversible damage, and development consent cannot be granted to proposals that impact on all SAI entities.

It is proposed to rezone approximately 12 hectares of the site E2, which currently contains the majority of the Blue Gum High Forest. The proponent is investigating dedicating this land as a stewardship site to offset the loss of vegetation on the site. That is still being considered. Part of the conditions of the gateway certificate, issued by—

**The Hon. MARK PEARSON:** Sorry, could you just explain a stewardship—what?

**Ms O'MARA:** As a stewardship site.

**The Hon. MARK PEARSON:** A stewardship site.

**Ms O'MARA:** That is the advice I have.

**The Hon. MARK PEARSON:** To offset what the damage would be?

**Ms O'MARA:** The loss of vegetation. That is still being considered. The gateway certificate—

**The Hon. MARK PEARSON:** Sorry, could you just explain in a bit more detail as to how that allocation would offset the damage?

**Ms O'MARA:** My understanding is that it would offset—that the intention is that if that land is offered as a stewardship site, it would be protected. So the conditions on the gateway certificate required the council, prior to exhibition, to ensure an assessment of ecological value, amongst other things, as part of the planning proposal. It required the council to consult with, among other State agencies, the former Office of Environment and Heritage [OEH]—now our Department of Planning, Industry and Environment. Council needs to satisfy itself that those things have been addressed before the planning proposal is returned to the department. My information is that the planning proposal was exhibited from earlier this year and it closed in May. The council is still working through the submissions and forming a view as to whether it now wants to recommend that it proceed.

**The Hon. MARK PEARSON:** So it is in a sort of limbo?

**Ms O'MARA:** No, I would not say that it is in limbo. I would say that the exhibition finished in May and the council now needs to decide what it wants to do. It could, for example, support the rezoning with or without variation. If it resolved to support the rezoning it would need to forward a copy of all the relevant documentation supporting that to the department.

**The Hon. MARK PEARSON:** If, in any circumstance, any of those trees or habitats or animals are likely to be harmed or removed, then the proposal would not be permitted to go ahead by your department, would it?

**Ms O'MARA:** We would determine the application in accordance with the legislation. We are aware that the Environment part of our agency has been involved in discussions about the trees and the environmental value of those trees, and that is why the gateway certificate that we issued required the council to look carefully at that.

**The Hon. MARK PEARSON:** Can you explain in a bit more detail what this stewardship offset means? Is it acceptable to have an offset of finding an area and planting some trees of the same species, even if they are saplings? Is that seen as an offset for removing 120-year-old trees?

**Ms O'MARA:** I am happy to take that on notice and get a bit more detail. My understanding is that that is a proposal that has been put forward by the proponent.

**Mr RAY:** If my might add, I think that the proposal, as well as rezoning the site to allow a cap of 600 dwellings, also proposed to rezone 12 hectares of the site as environmental protection zoning, which is the most restrictive zoning that you can have for land that is not a national park. That 12 hectares is the land on which the bulk of the forest and the communities are located.

**The Hon. MARK PEARSON:** What do you mean when you say "bulk"? What percentage?

**Mr RAY:** Again, I cannot give you that percentage offhand. I understand that that area is the area that has the threatened species and the threatened communities. It has the old-growth forest and it is the area that is going to be set aside.

**The Hon. MARK PEARSON:** But it does not have all of the threatened species or all of the old-growth forest?

**Mr RAY:** I cannot categorically say that it does not. There are threatened species on other parts of the site. But it is the part of the site where most of the threatened species are known and it is not able to be developed and it will be preserved as a stewardship site under the most restrictive zoning that is available—if you are not a national park.

**Mr DAVID SHOEBRIDGE:** But the proposal is to chop down approximately 4,000 trees in the northern half of the site—4,000 trees! How could you possibly be allowing the proposal to go ahead—to chop down 4,000 mature trees?

**Ms O'MARA:** As I said earlier, there has been no decision to allow it to go ahead at this stage. The information I have is that the planning proposal identifies that there would be a net loss of approximately 0.2 hectares of Blue Glum High Forest and an additional 0.95 hectares of forest will be modified or partially cleared for bushfire asset protection purposes. As Mr Ray points out, the proponent is proposing to rezone approximately 12 hectares of the site as E2 environmental conservation. My understanding is that is what has been exhibited by the council and that the conditions of the gateway certificate that were issued by the department require them to consult with the Environment agency to make sure there are adequate protections.

**The Hon. MARK PEARSON:** Have there ever been any proposals like this, which were completely rejected on the grounds that there were going to be one—or significantly two—trees or habitats or animals possibly



harm? Has it ever occurred that the department will not permit such a development to go ahead? Or is it always this piecemeal stepping around things, saying "Everything is okay and that is where 20 metres because of A, B and C, and you can build here and you can build here, knock down certain trees. But over there we have to protect that." It does not seem to be in the spirit of what the protection legislation is about.

**Ms O'MARA:** If I can comment on the biodiversity legislation. Is that your question?

**The Hon. MARK PEARSON:** No. My question is: Has there been a proposal similar to this that has been completely rejected on the grounds of the sensitivities of the environment that are outlined here?

**Mr RAY:** Mr Deputy Chair, each proposal has to be assessed on its merits. Those merits are very much tied to the site-specific circumstances that apply, the nature of the threatened species and the nature of the woodland that is there. Each matter is assessed on its case. That is an assessment that takes into account all of those matters. It is hard to make a generalisation one way or the other because every side is different.

**The Hon. MARK PEARSON:** I was not asking for a generalisation. I was asking something specific. Has there been an example of a complete rejection? But we will leave it there and move on to the next question.

**The CHAIR:** I want to ask some questions about koalas because there can never be enough. Why has there only been six councils with an approved Comprehensive Koala Plan of Management? I am not too sure who to direct my question to.

**Mr BETTS:** Mr Ray will take these questions.

**Mr RAY:** That is the koala file.

**The CHAIR:** It is a big one.

**Mr BETTS:** So it should be.

**Ms O'MARA:** If I can add to my previous answer, a stewardship site is an offset under the Biodiversity Conservation Act, so it is a formal mechanism available under that legislation.

**Mr RAY:** There are a number of draft koala plans of management that are in preparation. As you heard the Minister this morning, he has given the department instructions to complete that draft amendment to SEPP 44 by the end of this year for him to consider. Once that draft amendment is brought forward and finalised, it will then enable a number of koala plans of management to be made.

**The CHAIR:** What resources have been provided to local governments to help them facilitate the development of these koala plans of management?

**Mr RAY:** I will have to take that on notice.

**The CHAIR:** If you can take that on notice as well as what resources have been provided to undertake any necessary koala habitat mapping for local governments too?

**Mr RAY:** Koala habitat mapping is a feature of the Koala Strategy that was announced last year. One of the products that our Environment, Energy and Science division is doing is very detailed mapping of that nature across the State. We expect that mapping to be available later this year. That will feed into work that will lead to changes in the koala SEPP and will inevitably lead to changes in the number of koala plans of management that can be made.

**The CHAIR:** In relation to SEPP 44 as it is now, not the proposed amendment to it, how is compliance against SEPP 44 monitored by the department?

**Mr RAY:** Individual compliance is a matter for councils because the koala plan of management is a necessary document that feeds into the assessment of proposals.

**The CHAIR:** Say, for example, one of the many councils that do not have a koala plan of management.

**Mr RAY:** The planning part of the department's compliance function focuses on those development approvals that are given by either the Minister or the Independent Planning Commission. The department does not stray into areas where council approvals are concerned. Those matters are not within the remit of the planning department proper.

**The CHAIR:** I want to ask some questions in relation to the 2016 Campbelltown Comprehensive Koala Plan of Management, which includes the Gilead development. I understand that koala plan of management referenced the importance of connectivity, crossings and corridors. Why did the Department of Planning and

Environment in 2018 commission its own internal report into koalas in that area, instead of relying on the Campbelltown Comprehensive Koala Plan of Management, which was written with resources from the OEH and ecologists on the ground? Why did the then Department of Planning and Environment need to do its own research?

**Mr RAY:** I do not have any information as to those matters—as to why there was some additional research done. I understand that when the draft koala plan of management was submitted by Campbelltown council that there were some issues with the description of core koala habitat and potential koala habitat. Those matters were raised with Campbelltown council and that the council has revised its draft koala plan of management. That has been received and is being considered by the department. I would have to take on notice the circumstances that you have raised about the department doing a report separate from that which was done by OEH.

**The CHAIR:** It is not just a report. It is what was relied upon in approving the Biodiversity Stewardship Agreement for Gilead. So the Office of Environment and Heritage and the Campbelltown Comprehensive Koala Plan of Management which had all the information about the importance of keeping koala corridors there for that very important population was not relied upon; it was ignored. Is that the usual behaviour of the planning department?

**Mr RAY:** I cannot comment on that for the obvious reason that I am not aware of the particular circumstances of which you speak.

**The CHAIR:** Are you aware of the koala populations in Campbelltown?

**Mr RAY:** I do not have the information about the koala populations in Campbelltown.

**The CHAIR:** It is a pretty significant issue at the moment, which is affecting various decisions that the department is making in a significant growth centre in Sydney, which is affecting what your Minister referred to this morning as an important issue to both him and his Government, which is the future of a threatened species—koalas—in that area. Surely you do have some information about koalas in Campbelltown?

**Mr RAY:** If I had a figure about the number of koalas in Campbelltown with me, I would gladly give it to you. But I will have to take that on notice.

**Mr BETTS:** We will take it on notice. We will see if we can get the information passed through to us during the course of this session. I am sure it is held by someone in the department but Mr Ray does not have it at his fingertips right now.

**The CHAIR:** Okay. I do have quite a few questions on that. I will pass to my colleague Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Why has the final social impact management plan for the Wilpinjong Extension Project not yet been signed off when it was submitted to the department in September last year?

**Mr BETTS:** Mr Ray will source that information as quickly as he can in the time available.

**Mr RAY:** I fear that I am not going to be able to source that information, Mr Shoebridge. If you just bear with me I will—

**Mr DAVID SHOEBRIDGE:** And if, in the course of hunting for that, you come about any information that explains my next question: Which officers in the department are responsible for signing off on social impact management plans and what, if any, training or skills do they have in that regard?

**Mr RAY:** The department has a couple of social impact assessment specialists who provide advice to the department in the assessment of applications and have had a number of—have had that facility for about two to three years.

**Mr DAVID SHOEBRIDGE:** Mr Ray, I was asking what their qualifications and skills are. I don't expect you to have that to hand. Could you provide that on notice?

**Mr RAY:** Sure, absolutely.

**Mr DAVID SHOEBRIDGE:** And also why the delay? It is a year now.

**Mr RAY:** I am happy to take that on notice and provide you with the information.

**Mr DAVID SHOEBRIDGE:** When the department is looking at social impact, does the department assess cumulative social impacts? Is that part of the assessment?

**Mr RAY:** Obviously the department issued a social impact assessment guideline in 2017, which forms a guideline that is mainly relating to resource projects. That particular guideline sets out the department's approach to these matters. I would have to take on notice the question of cumulative impacts.

**Mr DAVID SHOEBRIDGE:** The department is meant to be producing a cumulative impact assessment guideline as was proposed under the Environmental Impact Assessment Project. What is the status of that?

**Mr RAY:** The department is working on a cumulative impact assessment guideline as part of its environmental impact assessment improvement program.

**Mr DAVID SHOEBRIDGE:** When are we going to see it?

**Mr RAY:** Obviously subject to ministerial approval, we would imagine—I would imagine that that would be available for public comment before the end of the year.

**Mr DAVID SHOEBRIDGE:** And you will come back on notice about Wilpinjong?

**Mr RAY:** I will come back on notice about Wilpinjong.

**The Hon. PENNY SHARPE:** I want to ask some questions about public open space. I think it is probably a question for you, Mr Betts. I just want you to explain to the Committee what is actually within the purview of the Minister's role within public open space? What legislation is he particularly responsible for? How does it interplay across government?

**Mr BETTS:** I might actually, if I may, ask Ms O'Mara to answer that on the basis that she is the deputy secretary who stepped into a new role that we have created within the department responsible for excellence in urban design and for promoting the Government's agenda around public open space.

**The Hon. PENNY SHARPE:** Terrific. I am happy for Ms O'Mara.

**Ms O'MARA:** As the Minister for Planning and Public Spaces has oversight of the urban parkland, the Royal Botanic Gardens, the Centennial Park and Moore Park Trust, Parramatta Park, Western Sydney Parklands, Callan Park—

**The Hon. PENNY SHARPE:** All of the large urban parks that were previously under the environment Minister have now moved to Minister Stokes?

**Ms O'MARA:** Yes. Obviously the Minister is also responsible for the Premier's Priority around delivering improved access to quality public space. I can read you—the target is to "Increase the proportion of homes in urban areas within 10 minutes' walk of quality green, open and public space by 10 per cent by 2023". We are looking at how we can deliver better access to quality public space across New South Wales but obviously in the greater Sydney as well.

**The Hon. PENNY SHARPE:** How is does that work in practice?

**Ms O'MARA:** How does that work in practice?

**The Hon. PENNY SHARPE:** Yes, what is the department doing in relation to that? Are you doing an audit across all of the land that is available? How is that actually—

**Ms O'MARA:** Yes, we are starting with—because this is a new—the first time we have had a Minister for Planning and Public Spaces—

**The Hon. PENNY SHARPE:** Correct.

**Ms O'MARA:** —we are looking at creating a baseline of all the mapping. For example, what public space there is across the State.

**The Hon. PENNY SHARPE:** Does that take into account local government, Crown land?

**Ms O'MARA:** Yes.

**The Hon. PENNY SHARPE:** Is it all public land? Is there also private land included?

**Ms O'MARA:** There is also privately owned public space but at the moment what we are doing is bringing all of that together. So we would say that, for example, cultural infrastructure is a really important part of public space. There was a Cultural Infrastructure Plan developed by Create NSW last year. There is also obviously sporting fields, there is open space, there is bushland—

**The Hon. PENNY SHARPE:** You will delineate between all of those?

**Ms O'MARA:** Yes. The Minister doesn't have—the Acts he administers as part of that portfolio really look at the urban parklands legislation. But in terms of how we are going to deliver on the Premier's Priority, we are looking very broadly at how we can work with agencies across government. For example one of the things that the Government has said is that they want us to look carefully at underutilised or surplus government-owned land and how we can make better use of that. One of the purposes of that land might be to use that as public space. I am working with my colleague Ms Frame on how we can identify that land across government. We are also working—

**The Hon. PENNY SHARPE:** Do you have a time frame for completion of that work?

**Ms O'MARA:** That work will be ongoing. But the target, we need to deliver by 2023.

**The Hon. PENNY SHARPE:** When you talk about that 10 per cent by 2023, that also could include basketball courts. It doesn't necessarily mean green open space, it means—

**Ms O'MARA:** It means quality green, open and public space. It could be any of those things is my understanding of the way the target would work. We would say it is important that there is a diversity of public space that is available to community. Some people might prefer to access, you know, sporting fields. Other people might like bushland. Some people might like to go to the library. I think what is important is that people feel like they have access to quality public space within 10 minutes' walk of their house.

We know that there is a lot of data to support investment in public space in terms of mental health, in terms of economic outcomes. So we are looking very broadly at that and looking at how we can work across government, also with councils. We have had some really positive conversations with councils. We are piloting an approach with Burwood Council at the moment where we are looking at what public space they have and how—

**The Hon. PENNY SHARPE:** I think not enough is the general question for Burwood.

**Ms O'MARA:** —and how we can work with them to expand access to quality open space. How do we engage the community in measuring what an increasing quality looks like? And working with the Government Architect on that as well to look at how we might benchmark what there is now and how we would measure an improvement in that.

**The Hon. PENNY SHARPE:** Can I take you to a particular block of land. There has been some controversy about it so I think you will know about it. It is the block of land that has been one of the sites in Underwood Road and Ismay Avenue, which was the temporary site for the M4 East. During the election this was an issue. There had been some commitment that it would be handed back to the community to be returned as public park space. There is some concern about that. There were some messages coming to the local council but in fact it was looking to be sold off for development. Can you give me an update in relation to that site?

**Mr BETTS:** Mr Ray will answer that.

**Mr RAY:** Obviously the council has made representations to the department about that land. The transport agency has provided a residual draft plan.

**The Hon. PENNY SHARPE:** What does the residual draft plan say?

**Mr RAY:** It says it is suitable for sale in accordance with its disposal policy.

**The Hon. PENNY SHARPE:** It could be for sale?

**Mr RAY:** It could be for sale. At the moment the department is engaged in discussions both with the council and with Roads and Maritime Services to ensure the best outcome for the area.

**The Hon. PENNY SHARPE:** What does the department consider to be the best outcome for the area?

**Mr RAY:** We are working through the options in that particular case.

**The Hon. PENNY SHARPE:** The options are it could be a park, the options are it could be sold for residential, the options are it could be something else?

**Mr RAY:** Yes. There is obviously a range of options there. But it is a matter that is under active consideration. It is not something that the department has agreed to allow to be sold.

**The Hon. PENNY SHARPE:** What is the time frame for the conclusion of those discussions?

**Mr RAY:** I can't give you an exact time frame.

**The Hon. PENNY SHARPE:** Approximate is okay.

**Mr RAY:** Clearly it is a matter that is obviously of great concern to Strathfield council and obviously to the people in the surrounding area. I would like to think that we would be able to advance those by the end of the year but again I can't give an absolute view on that.

**The Hon. PENNY SHARPE:** That is okay. Are you able to give me an update in relation to the other Legacy park issues that have been flagged as a result of the conclusion of WestConnex?

**Mr RAY:** Yes I can. In relation to Powells Creek Reserve in Strathfield, that is approximately two hectares of new park. Construction on that park commenced in November of last year and the advice that I have been given is that it will be open either later this month or in October. It includes a shared path between Parramatta Road and Pomeroy Street, an adventure playground and seating, indoor soccer courts, toilets, barbecue facilities, two shelters, and new lighting and landscaping. It was jointly funded by the council, the Greater Sydney Commission and WestConnex.

Haberfield gardens in Haberfield is a one-hectare park and I understand that construction is due to commence later this month or early next month with a projected opening in the first half of 2020. That park will include re-used heritage items, seating, lighting and open space within a broad garden setting. A smaller pocket park at the Concord Road interchange in Concord—

**The Hon. PENNY SHARPE:** That is not Concord Knolls?

**Mr RAY:** I do not have it down as Concord Knolls.

**The Hon. PENNY SHARPE:** No, I think it is a separate piece.

**Mr RAY:** It is located opposite the Cheil Church. There will be some play equipment for toddlers and landscaped open space. That park is scheduled for construction to commence early next year. They are the ones related to the M4 East, and work is continuing on the St Peters interchange recreation area in St Peters. That is a bigger area of three hectares, but that will not be available until 2022 when the stage three tunnels are due to be completed, and that is one where the department is working very closely with Transport and with the City of Sydney to ensure that the design meets appropriate expectations.

The original proposal was for the provision of playing fields and a land bridge to connect that three hectares to the existing Sydney Park, but there are discussions going on with council in particular about what council feels is the best outcome there. Then, obviously, further into the future there is the question around the Rozelle interchange park lands.

**The Hon. PENNY SHARPE:** I was going to come to that. I am happy for you to take this on notice: Are you able to give the committee information on Concord Knolls, green link, Cintra Park and Ashfield? I am happy for you to take this on notice.

**Mr RAY:** Yes, I would be happy to take that on notice.

**The Hon. PENNY SHARPE:** Terrific. The green link issue in relation to the Glebe foreshore—obviously a part of the Rozelle interchange—there is a lot of community concern that what was promised is now no longer going to be delivered. Are you able to provide information to the committee in relation to this project?

**Mr RAY:** Yes. In relation to this project there is a proposed modification that has been lodged by the transport agencies to the approval, which does have an elevated overpass as part of the proposal. That has been put in there, obviously, to improve the intersection performance. There is still—

**The Hon. PENNY SHARPE:** The traffic rather than park.

**Mr RAY:** But there is still a green link, the location of which has been slightly altered to accommodate the overpass. That application is out on exhibition. That exhibition started in August and is due to complete on Wednesday next. This is certainly an appropriate time for anyone having any concern about the proposal to lodge a submission.

**The Hon. PENNY SHARPE:** Can I just confirm that RMS is seeking a car overpass rather than the green link in terms of the change?

**Mr RAY:** The advice I have is that there is still to be a green link, a foot link.

**The Hon. PENNY SHARPE:** Can you provide to the committee the difference in what is currently proposed and what the change is? Again you can take on notice.

**Mr RAY:** Sure. I am absolutely happy to do that, but my understanding was that there was still a green link as well as the overpass.

**The Hon. PENNY SHARPE:** Are you able to provide to the committee, and again if you do not have it here I am happy for you to take it on notice, how much money has actually been spent in the years 2018-2019 and what is projected for 2019-2020 in relation to securing new open green space? There is the \$100 million set aside, as I understand, in the budget. This is separate to the existing parks where there is \$50 million set aside for those. I am trying to get a handle on how much is actually being spent and also how many hectares of new public open space is being delivered.

**Ms O'MARA:** Obviously there is the \$150 million, which is \$50 million to turn existing Government-owned land—

**The Hon. PENNY SHARPE:** Yes for Penrith, Ermington, all of those, so I would like an update on those.

**Ms O'MARA:** Then there is the \$100 million.

**The Hon. PENNY SHARPE:** Yes.

**Ms O'MARA:** Then there is \$20 million over four years for inclusive play spaces under the Everyone Can Play program. There is \$149.5 million over four years to improve access to State national parks and then there is funding under funding programs like the Precinct Support Scheme, which is a \$100 million grant program to assist councils across Sydney to deliver open space streetscape and parkland upgrades. We have committed \$54.7 million under that.

**The Hon. PENNY SHARPE:** I am quite across that. What I am trying to understand is how many new hectares of open space have been delivered with this money?

**Ms O'MARA:** In the last financial year?

**The Hon. PENNY SHARPE:** Yes. And what is projected for this coming financial year?

**Ms O'MARA:** I am happy to take that on notice. I cannot tell you how many hectares.

**Ms FRAME:** I have some information on that with regard to the Office of Strategic Lands, which is the planning Minister's corporation, which is in the Housing and Property group. In 2018-2019 the Office of Strategic Lands acquired 124 hectares of land at a cost of \$54.45 million in local government areas.

**The Hon. PENNY SHARPE:** Is that for open space?

**Ms FRAME:** That is right.

**The Hon. PENNY SHARPE:** How do you define open space? I am trying to understand the difference between green space, open space, recreational space and cultural space.

**Ms FRAME:** The Office of Strategic Lands has a criteria about acquiring land that is set out in council planning instruments when it becomes available and is suitable for regional open space purposes. When land becomes available, is on the market and is listed in a planning instrument as suitable for regional open space with the Office of Strategic Lands as a potential purchaser, it uses its funds available every year to purchase those sites.

**The Hon. PENNY SHARPE:** And the \$100 million all sits within your area, Ms Frame?

**Ms FRAME:** The transactions are administered from my area under the direction of Ms O'Mara's area and the planning Minister.

**The Hon. PENNY SHARPE:** I want to ask about the work that was done in relation to the green grid and the blue grid that the Greater Sydney Commission previously did. What has happened to that work?

**Mr BETTS:** That is progressing actively. Ms O'Mara can talk to that.

**Ms O'MARA:** One of the things that we are funding, for example, through the Metropolitan Greenspace Program this year, is work by a number of councils. If you give me a moment I can get the specifics for you, to look at how they can best create connections through that green grid.

**The Hon. PENNY SHARPE:** Connections of what?

**Ms O'MARA:** Where, for example, there is a gap between one piece of green space and another, how they can join that up.

**The Hon. PENNY SHARPE:** A wildlife corridor, is that what you mean? What do you mean in terms of—?

**Ms O'MARA:** The green grid, I think, sets a vision for how we can connect green space through the city and this work is looking at what the councils can do. If you just give me one moment, I can take you to that. The Metropolitan Greenspace Program provided 20 grants of \$200,000 to projects from 13 councils across Sydney and the Central Coast focusing on green grid planning. The 13 councils were Ryde, Canterbury Bankstown, Georges River—

**The Hon. PENNY SHARPE:** That is fine. You do not need to read all of that out for me. I am happy for you to provide it. What I am interested in is whether, through any of the green grid work, identified corridors that currently exist, whether any of them have actually been identified as needing to be preserved.

**Ms O'MARA:** The reason I took you to that work is that those councils are developing a master plan for each of the priority green grid corridors identified in the Greater Sydney Region Plan and the Central Coast Plan. What that work is aimed at doing is identifying how the gaps in public land along the corridors could be filled.

**The Hon. PENNY SHARPE:** It is filling gaps as opposed to identifying existing important corridors that need to be protected for the future.

**Ms O'MARA:** I think the green grid is identifying those corridors and this is looking at—

**The Hon. PENNY SHARPE:** Is it identifying corridors where they are broken and they need to be fixed, or is identifying important corridors? To give you an example, I will go back to Mount Gilead—and it is my turn to raise koalas. Without getting into the entire piece around what is happening to koalas in New South Wales, aside from the fact that they are heading towards extinction, there is one disease-free koala colony that exists along the Georges River, and Mount Gilead is a corridor of that. It seems clear to me, and there has been a lot of work done on this, that there are important corridors that connect that koala colony both to the Nepean and to the Georges River.

**Ms O'MARA:** Yes.

**The Hon. PENNY SHARPE:** And it is also clear that the Mount Gilead—now been renamed, I think, Figtree—development is going to cut a swathe through that very important connected wildlife corridor. So my question is that for all of the work that was done on the green grid—which, can I say, I thought was very good work that was done—how all of that work is going, given that this very important corridor is going to be knocked down for housing.

**Ms O'MARA:** In relation to your question about koalas, obviously things like the Cumberland Plain Conservation Plan is being developed and will support a regional integrated and coordinated approach to maintaining the koala population.

**The Hon. PENNY SHARPE:** To go back to my question, which was about the green grid, I thought that is what the work on the green grid was doing—that the aim of the green grid work was to identify those corridors and to look at ways in which they should be preserved. From what you told me, there is a list of projects that seem to be filling in corridors where we have already ruined them. I am wanting to know the interplay between whether it is the green grid and other planning instruments that are protecting existing corridors that exist within the urban environment in Sydney.

**Mr RAY:** If I might add, Ms Sharpe, just in relation to Mount Gilead, the information that I have is that the rezoning which happened a couple of years ago ensured that 81 per cent of the Cumberland Plain Woodland and 56 per cent of the Shale/Sandstone Transition Forest and all the River-flat Eucalypt Forest were to be retained and that the vegetation proposed for removal on that site was mostly scattered trees. The rezoning provides for wildlife movement between the Nepean and Georges River through a combination of biodiversity and repairing corridors through the estate.

**The Hon. PENNY SHARPE:** Sorry, who says that? What are you reading from, Mr Ray? Is that the proponent?

**Mr RAY:** That is the information that I have.

**The Hon. PENNY SHARPE:** From the proponent?

**Mr RAY:** I do not know. That is information provided by the department to me.



**Ms O'MARA:** Can I just clarify one point? When I was commenting on the green grid earlier I would not say that it is only about acquiring bits that are missing. It certainly is about protecting what is already there. I was just pointing to something that is being funded this year under the Metropolitan Greenspace Program.

**The Hon. PENNY SHARPE:** I appreciate that. I understand.

**Mr DAVID SHOEBRIDGE:** Mr Ray or Mr Betts, in June 2015 the *Cudgegong Road Station (Area 20 Precinct) Finalisation Report* was delivered by your department. It proposed a series of planning changes to, amongst other sites, the sites owned by Southern Han Rouse Hill Pty Ltd in north-west Sydney. It is dated June on the front but it is dated April 2015 on page one. Do you know when that report was actually published and when the changes came into effect?

**Mr BETTS:** I will be impressed if you can remember.

**Mr RAY:** Sorry, I would have to take that on notice. I do not have that information in front of me.

**Mr DAVID SHOEBRIDGE:** In the course of consultations for that report there were detailed submissions made by Caladines Town Planning Pty Ltd on behalf of Southern Han Rouse Hill Pty Ltd for both 38 Cudgegong Road and 1 Rouse Road. Did Caladines Town Planning Pty Ltd or anybody else disclose Mr Sidoti's involvement when they made those submissions?

**Mr RAY:** I am not aware of whether there was a disclosure or whether there was not a disclosure. I would have to take that on notice.

**Mr DAVID SHOEBRIDGE:** Is there a requirement for proponents to disclose the fact that an elected member of the Government has a financial interest in a matter when they make submissions to your department?

**Mr RAY:** The disclosure requirements relate to the making of political donations under part 10 of the legislation. Those donations could be made in relation to an individual development application or they could be made in relation to a rezoning. As far as I am aware they are the major disclosure requirements under the legislation for political donations.

**Mr DAVID SHOEBRIDGE:** So if a parliamentary secretary has a financial stake in a significant development, and here we are talking about a \$70 million development, there is no current obligation for them to advise your department about that when they are making submissions to your department on proposed changes to the planning rules—is that what you are telling me—apart from donation obligations? And obviously we are talking about a member of Parliament here.

**Mr RAY:** I think the Minister this morning said that he expects all Ministers to make disclosures in accordance with whatever requirements there are—

**Mr DAVID SHOEBRIDGE:** I am asking you about the requirements, Mr Ray. Are there any requirements for a member of the Government or somebody putting in an application or a submission on behalf of a member of the Government about a planning proposal, is there any obligation for them to disclose that a member of the Government has a financial stake in it?

**Mr RAY:** So, in relation to—I would have to take that on notice.

**Mr DAVID SHOEBRIDGE:** So you are not aware, sitting there, you are not aware of any obligation or any anti-corruption controls in the Department of Planning, Industry and Environment that would require a member of the Government to out themselves when a submission is made on their behalf regarding a planning matter—to out themselves and say, "Actually, I've got a financial stake in it." You are not aware of any existing arrangements within your department. Is that right?

**Mr RAY:** Well, if you can just let me finish answering the question, as the Minister said this morning, there are code of conduct requirements for Ministers. I do not know what the requirements are under those requirements for disclosure. And there is a range of other requirements that are not directly related to the planning system that might require disclosures to be made in certain circumstances.

**Mr DAVID SHOEBRIDGE:** But nothing at your end.

**Mr RAY:** At this particular point in time I cannot recall one in particular but that does not mean that there was not some requirement that would have applied in those circumstances.

**Mr DAVID SHOEBRIDGE:** You are just guessing though, are you, Mr Ray?

**Mr RAY:** I would have to take it on notice.



**The Hon. BEN FRANKLIN:** He said he is taking it on notice. He has already said that.

**Mr BETTS:** We said that this morning, actually.

**Mr DAVID SHOEBRIDGE:** I assume the Department of Planning, Industry and Environment is undertaking detailed consideration about potential changes to the planning controls for the Sydney Metro West project. Is that right?

**Mr RAY:** Well, at this particular point in time there is no application before the department for the Sydney Metro West project—no State significant infrastructure application.

**Mr DAVID SHOEBRIDGE:** That is not my question, Mr Ray. A broad corridor has been identified for the Sydney Metro West project. Is the Department of Planning, Industry and Environment doing any investigations for proposed or potential planning changes as a result of the Sydney Metro West project?

**Mr RAY:** Mr Shoebridge, if I can answer it this way, obviously one of the key matters that would factor into any planning, whether it be strategic or otherwise, about changes along the route depends on the location of the stations. Although some of the stations have been announced, not all of the stations have been announced. So while I would imagine there are broad discussions taking place between agencies, including Planning, about the potential changes there would not be anything very definite until we actually saw the application and we could understand where the proposed stations were.

**Mr DAVID SHOEBRIDGE:** No, but there would be discussions about the envelope of development around potential metro stations, about what the potential up-zoning would be around metro stations. Those kinds of discussions would be happening and initial investigations would have been done by your department now, surely.

**Mr BETTS:** The lead responsibility for planning that project lies with the Transport department. The reason for our slight hesitation is this is not a project that has been subject to a substantive investment decision from government at this stage. There remain options that are being explored by the Transport department. This has not crystallised into a proposal or a new statutory planning system at this stage. But clearly our department has an interest in the long-term configuration of the city and the realisation of the vision in the Greater Sydney Region Plan. We are part of high-level strategic decisions but it has not entered the statutory planning system at this stage.

**Mr DAVID SHOEBRIDGE:** I am not asking about the statutory planning system. I am asking about scoping studies—

**Mr BETTS:** Therefore, questions around development controls and all of the detailed things that you are talking about have not arisen at this stage in any substantive sense.

**Mr DAVID SHOEBRIDGE:** No. You see, Mr Betts, you have jumped ahead. I am asking about whether there are any scoping studies being done, any initial investigations being done about precincts or areas where there will be up-zoning as a result of a potential Sydney Metro West station. Not about formal DCPs, not about formal LEPs but about the initial scoping studies. Where is the development likely to be, where can the yield be?

**Mr BETTS:** Yes, a good example would be the work that we are doing around Greater Parramatta and the Olympic Peninsula, where we are looking at the long-term development sequence within that very large and diverse section of the Central River City. When metro west occurs it will capitalise very significant development around Westmead, around Parramatta, through to the Olympic Peninsula. Of course, we are part of the long-term strategic discussions, as is the Greater Sydney Commission, around what that might potentially offer in terms of an economically beneficial reconfiguration of the city.

**Mr DAVID SHOEBRIDGE:** Let's be more concrete. A map has been published about potential Sydney Metro West station sites based upon geotechnical activity, which identifies a number of likely sites for metro stations.

**Mr BETTS:** It has been published by whom?

**Mr DAVID SHOEBRIDGE:** By the metro authority.

**Mr BETTS:** The lead agency.

**Mr DAVID SHOEBRIDGE:** Correct. Are you aware of that mapping, and has the agency asked for any advice from Planning about development yields around those potential sites?

**Mr BETTS:** As to questions around development yields it seems to me that that will be—

**Mr DAVID SHOEBRIDGE:** Development yields or proposed planning changes around those metro sites.

**Ms O'MARA:** We talk to Transport all the time about its plans but at this stage we are not looking at any specific work under the planning system in relation to that.

**Mr DAVID SHOEBRIDGE:** Why don't we be a little bit more specific. What about the proposed Five Dock metro station. Have there been any initial discussions between your agency and Transport about proposed planning changes around the Five Dock metro station?

**Mr BETTS:** What do you mean by "proposed planning changes"? Do you mean actual changes to the zonings around those stations in the substantive sense of engagement with the statutory planning system?

**Mr DAVID SHOEBRIDGE:** No, I do not.

**Mr BETTS:** So what do you mean?

**Mr DAVID SHOEBRIDGE:** I mean scoping studies, what you might get there—the initial studies that you do.

**Mr BETTS:** I would be very disappointed if those discussions were not taking place.

**Mr DAVID SHOEBRIDGE:** So would I, which is why I am asking you about it.

**Mr BETTS:** Because you expect to have an integrated approach between Transport and land use. But you have been directing some of your questions at Mr Ray. He was formally responsible for the administration of the statutory planning system and that is something which comes way down the track.

**Mr DAVID SHOEBRIDGE:** Which is why I am not asking about that. I am asking about those initial scoping studies. I am sure you do not just get Transport to knock out a rail line or a metro line and then later on you come down and do the planning. I am sure there are discussions between Planning and Transport.

**Mr BETTS:** Yes, there are.

**Mr DAVID SHOEBRIDGE:** That is what I am asking you about, Mr Betts.

**Mr BETTS:** There are governance structures that are in place and that involves our agency and a whole range of different agencies across government. There are forums like the Infrastructure Delivery Committee of the Greater Sydney Commission in which these discussions take place. This is an integrated approach to Planning that we have in New South Wales.

**Mr DAVID SHOEBRIDGE:** Are there any initial maps or scoping studies at all identifying the area for development yield, potential development yield or planning changes around the Five Dock metro station?

**Mr BETTS:** I imagine that there are and I imagine that they have been produced by the Transport department.

**Ms O'MARA:** My understanding is that investigations are being undertaken by Transport.

**Mr DAVID SHOEBRIDGE:** Have they provided you or consulted with you about those proposed changes around the Five Dock metro station?

**Ms O'MARA:** I would have to take on notice whether there have been any specific discussions about the Five Dock metro station. I think the conversations often happen more around the metro line and the planning for a part of the city but I am happy to take it on notice.

**Mr BETTS:** When you say "proposed changes" you have to be careful here because we are not talking about formal proposals.

**Mr DAVID SHOEBRIDGE:** I do not know how many times I need to repeat this, Mr Betts. I am not talking about formal changes to the LEP or the DCP.

**Mr BETTS:** I do not want you to misconstrue the answer.

**The Hon. CATHERINE CUSACK:** Point of order: The line of questioning is very angry and accusatory. The witnesses are simply trying to provide information about other portfolio projects that they have. Can I just ask the whole tone of this be lowered a little bit and that the questioning be more civil?

**The CHAIR:** It is not a point of order but I will request that the member be respectful when he is asking questions of witnesses and not badger the witness.

**Mr DAVID SHOEBRIDGE:** I want to be entirely clear that this whole array of questions is not about formal proposed changes to the LEP or DLEP. I have said this a number of times. It is about scoping studies, initial investigations, those matters that you would expect to be done in combination between Planning and Transport when this kind of project is being proposed.

**Mr BETTS:** Since you frame it that way, yes. Those discussions are absolutely taking place.

**Mr DAVID SHOEBRIDGE:** Are there any maps or other documents that identify the area of interest for potential planning changes around the Five Dock metro station?

**Mr BETTS:** I imagine that there are, yes. I do not have them in my possession but it would be very surprising if Transport for NSW, which is planning the metro line through its metro entity, did not have maps that showed stations and showed potential areas for development; not least in the context of producing a business case for that project, which would be designed, among other things, to show the benefits in terms of improved accessibility, improved land values and opportunities to unlock other forms of public value.

**Ms O'MARA:** If I may, one thing I could say is obviously we are planning for long-term transport needs by identifying and protecting corridors for future transport in line with the future transport strategy, the State Infrastructure Strategy and the Greater Sydney Region Plan. For example, the Bells Line of Road, the Outer Sydney Orbital—that kind of thing. There are a lot of conversations happening about how to give effect to Future Transport 2056.

**Mr DAVID SHOEBRIDGE:** But I am asking about a very specific one.

**Ms O'MARA:** Yes.

**Mr DAVID SHOEBRIDGE:** Which is the Sydney Metro West line. My questions are much narrower than that. Could you provide on notice any of those maps or other documents that outline—

**Mr BETTS:** If those are maps which are produced by us, absolutely we will provide them. As a minimum we will provide details for the governance arrangements in place between ourselves and Sydney Metro so you can see how our department is interacting with the lead agency on this project.

**Mr DAVID SHOEBRIDGE:** Mr Betts, you said that one of the things to consider, one of the benefits of a metro station, amongst other key infrastructure projects, is the increase in land values. You would expect that land within a few hundred metres of a metro station would have a very substantial increase in its valuation, would you not, once a metro station was approved?

**Mr BETTS:** Yes, you would. You significantly enhance accessibility. Four hundred metres walking distance through to 800 metres is the typical radius that you would put around a new metro station for the purposes of measuring value uplift. That value uplift is simply the crystallisation of the fact that people living in that area and people who will live in that area in future will have better accessibility than they would absent the presence of that station.

**Mr DAVID SHOEBRIDGE:** It also reflects the fact that once a new piece of infrastructure like a metro station is opened often it is also associated with significant uplift in the planning yield or the development yield.

**Mr BETTS:** Yes, history suggests that is the case.

**Mr DAVID SHOEBRIDGE:** Do you have any indications from your previous work, now quite detailed on the Sydney Metro Northwest, what the kind of increase, uplift would be, what the proportion would be? Is it a doubling, tripling or quadrupling of land values in that 400 metre to 800 metre radius?

**Mr BETTS:** For which project are we talking, Sydney Metro Northwest or the Sydney Metro West?

**Mr DAVID SHOEBRIDGE:** In light of the history from the Sydney Metro Northwest, do you have any learnings for the Sydney Metro West?

**Mr BETTS:** Certainly one of the aspects of the Sydney Metro Northwest was that it unlocked significant value. Hundreds of billions of dollars of benefit were generated in terms of property uplift, which was able to part fund the infrastructure outlay on the North West Rail Link. One of the features of Sydney Metro West, whilst the configuration, the alignment and the precise station locations are yet to be determined, is that more so than the North West Rail Link it is likely to link significant parcels of government-owned land—from Westmead, through

Parramatta, to the Olympic Park-based precinct and into the CBD. There will be significant opportunities for uplift and the public purse to directly benefit in that through value capture.

**Mr DAVID SHOEBRIDGE:** The public may benefit but private land owners will also get a significant financial benefit.

**Mr BETTS:** Mums and dads, big end of town, everybody stands to benefit.

**Mr DAVID SHOEBRIDGE:** Yes, Parliamentary Secretaries. They will all potentially get a substantial uplift in value, will they not?

**Mr BETTS:** All parliamentarians, yes.

**Mr DAVID SHOEBRIDGE:** Do you know what multiple we are talking about normally in that sweet zone, the 400 to 800 metre zone around a metro station for the Sydney Metro West?

**Mr BETTS:** It is probably a great question to direct to the secretary of the transport department. I do not have a figure in my head and I do not want to mislead you by making something up.

**Mr DAVID SHOEBRIDGE:** It is highly relevant to planning, is it not, because the valuation of the land will end up feeding into what is the likely development yield on those sites as well?

**Mr BETTS:** Correct.

**Mr DAVID SHOEBRIDGE:** It is highly relevant to planning. You say to transport but it is relevant to you, Mr Betts?

**Mr BETTS:** It is highly relevant to strategic planning. At this stage we are in the strategic planning stage with the development by the metro team of a business case which will look at the full suite of benefits that will be unlocked—social, environmental and economic benefits, a subset of which will relate to land values. Yes, it is a very relevant part of the compilation of the business case which will enable the Government to make an investment decision for a project which I believe was the subject of cross-party support at the last election.

**Mr DAVID SHOEBRIDGE:** What, if any, measures does your department take to prevent land banking and then windfall gains being delivered to land owners when one of these projects, like the Sydney Metro West project is being done?

**Mr BETTS:** This is a real issue and it is a perennial issue which has had to be confronted by governments across the board for decades going back to the nineteenth century where investments take place in major transport and other enabling infrastructure.

**Mr DAVID SHOEBRIDGE:** Before the Harbour Bridge was happening as well on the north side. It is a long-term thing for Sydney, I accept that Mr Betts.

**Mr BETTS:** It is exactly that kind of speculation which bankrolled the rollout of the railways in both Melbourne and Sydney in the nineteenth century. One of the characteristics I would point to, which I have just pointed to in the context of west metro, is that to an unusual extent relative to other railway lines it links already significant parcels of government-owned land, which means that ab initio the Government is in a position to return that value uplift to the public purse.

**Mr DAVID SHOEBRIDGE:** I understand that there are potential benefits for public sites but I am asking you what, if any, measures are in place to prevent land banking and those windfall gains to developers who get wind of a project and then buy the land and set it aside for future development yield?

**Mr BETTS:** Yes, that happens from time to time. That has also happened. The Government, to the extent that it gains benefits, will gain benefits through things like higher land taxes, higher conveyancing charges, higher stamp duty to the point where that land is sold. It is a real issue.

**The Hon. ADAM SEARLE:** Mr Betts, is the department or the cluster required to make a certain return to Treasury over the next 12 months through land sales?

**Mr BETTS:** Yes. There is a whole-of-government target over the next four years of \$3 billion.

**The Hon. ADAM SEARLE:** That is \$3 billion over four years?

**Mr BETTS:** Over four years, yes. There is a subset of that, a relatively small subset, which relates to our cluster.

**The Hon. ADAM SEARLE:** Which is how much?

**Mr BETTS:** I think it is of the order of \$130 million to \$150 million over the four-year period.

**Mr SMITH:** No, 180.

**The Hon. ADAM SEARLE:** How are you going to achieve that?

**Mr BETTS:** I might ask Mr Smith and Ms Frame to give you an insight into that.

**Ms FRAME:** I do not have any specific information for you about land that we have or assets that we have tagged at the moment. We will be working through on a priority list what assets are suitable for sale at the moment and whether it is within the strategic objectives of the Government to make that land or asset available for sale. We will be working that through. I am happy to provide some further information on notice. One initiative we are working on, further to what Ms O'Mara explained earlier, is working across government to contemplate land across all clusters and identifying where government might bring land together across different clusters and create a consolidated comprehensive plan for that precinct or the land holdings across a broader precinct and create some value through development proposals or open space proposals that recognise a bigger context than just asset sales undertaken by clusters independently of a broader government perspective.

That is a big exercise that we are embarking on over the next few years that will lead to a lot of those decisions about which pieces of land specifically, or assets, are made available for sale as well as market conditions, which obviously factor heavily in decisions that government makes about when to sell.

**The Hon. ADAM SEARLE:** Is that four-year target broken down equally into annual targets or does it vary from year to year? What is the target for this year?

**Mr BETTS:** Mr Smith, do you have that information? Is that information in the public domain?

**Mr SMITH:** I do not have that information available to me at the moment.

**Mr BETTS:** We will take that on notice. If we can answer it in this session we will.

**The Hon. ADAM SEARLE:** As I said, if you need to take it on notice that is fine.

**Mr BETTS:** One of the features of our cluster, as Ms Frame pointed out, is that we bring together a whole range of different property related agencies from across government: Property NSW, Landcom, Office of Strategic Lands, Crown Lands, Aboriginal Housing Office, and the Land and Housing Corporation. We are quite significant landholders. In the scheme of the \$3 billion we are a relatively small contributor to the proceeds over the forward estimates period, but nonetheless where land becomes surplus or is chronically under-utilised there is an opportunity for us to return some money to the exchequer.

**The Hon. ADAM SEARLE:** Certainly, but that obligation is in conflict, is it not, with Minister Stokes' responsibilities as Minister for Planning and Public Spaces.

**Mr BETTS:** No, it is not. In the sense that the \$3 billion was a prior Government commitment and the clear understanding is that that \$3 billion, having been earmarked as the first use of the land that gets liberated, we then kick into the process that Ms Frame has described where, working with other government agencies, we look across the full suite of land held on the Government balance sheet, identify parcels of land which are under-utilised or surplus to requirements and then apply those to public policy purposes beyond highest and best use. So potentially things like social housing, public open space, other things that I think you and I would regard as public benefits as opposed to merely maximum dollar.

**The Hon. ADAM SEARLE:** In relation to the \$180 million, could you take on notice what the annual targets are for your agency or department?

**Mr BETTS:** If we are able to disclose that we will.

**The Hon. ADAM SEARLE:** Understood. Mr Betts, I asked the secretary of DPC some questions about pay equity across the public service and the fact that over the last short period of time the gap between male and female workers had blown out fourfold from something like \$252 to nearly \$1,000 based on the median earnings of male and female workers. Do you have a sense of how that plays out in your department or your cluster?

**Mr BETTS:** I do not have the figures in my head but we have done some early analysis at my request which suggests that there is a gender pay equity gap within our cluster, which I am deeply unhappy about. I am not sure the extent to which we have quantified it but to the extent that that information is available I am happy to share that with you and to take accountability for rectifying it over time.

**The Hon. ADAM SEARLE:** One of the things that the secretary of DPC touched on as a possible way of resolving it was particularly at the senior executive service level where he noted—perhaps tendency is too strong a word—that when males were engaged they were often put in the middle or the higher end of a given range but when women were engaged it was often at the lower part of the range. This might be due to conscious or unconscious bias. You have a number of group deputy secretaries at your table near you, men and women. I am curious, are the men paid more than the women?

**Mr BETTS:** No, I do not think that is the case. The leadership team that you see partially represented here today is a relatively new one and when I was selecting people for that leadership team in April the first criterion was gender balance, so a minimum of 50 per cent on that leadership team. I was keen to make sure that there was no gap. There are different pay rates for different deputy secretaries based on their levels of responsibility and years of experience but I would be very surprised if there was any systemic bias against the women in that group. That does not say that there is not a wider issue across senior executive bands within the cluster.

**The Hon. ADAM SEARLE:** Again, I am not going to ask you for how much they are actually paid but can I ask you to take on notice whether the men at the table are being paid more than the women?

**Mr BETTS:** Yes.

**The Hon. ADAM SEARLE:** Mr Brogden, in relation to the question about differentials in pay between men and women, is that something you are looking at regarding Landcom?

**Mr BROGDEN:** The week before last, the People, Culture and Nominations Committee of the Landcom board met and agreed that we would look into this matter. We currently carry figures on males and females at different levels of the organisation but the next step is to undertake is the pay issue.

**The Hon. ADAM SEARLE:** In regard to the documents that were returned to the upper House in the non-privileged category—I am not going to ask you about any of the other documents—there is a series of exchanges between yourself and Mr Werman about becoming aware of concerns about a former staff member of Landcom, who might have been involved in bullying-type behaviour. That person was no longer an employee but you were concerned that the new employer became aware of those matters. On the advice of Mr Werman, you made the new employer aware of your concerns, did you not?

**Mr BROGDEN:** The main reason for that is, first of all, that person's name was identified specifically in the People Matter Survey at that time. It is rare that there is a name in those surveys. That person had been an employee of UrbanGrowth—Landcom trading as UrbanGrowth. When the formal split took place between the two organisations, that individual went to UrbanGrowth. As a consequence of the fact that we were, moments before, one organisation, I contacted the incoming CEO of UrbanGrowth, Mr Barry Mann, to advise him of the People Matter Survey. The main reason is that the People Matter Survey was for both organisations and it came to us at Landcom. I therefore felt the need to share with him information about the whole organisation, which was relevant to the whole organisation, including most of the staff who transferred across under his control at the time—after it had been split.

**The Hon. ADAM SEARLE:** I am not being critical, but you took that matter very seriously and you communicated those concerns to Mr Mann. I think he wrote a letter back to you saying that he had acted on them and set up an inquiry. Is that correct?

**Mr BROGDEN:** I do not recall but he did respond. He certainly acknowledged receipt of it.

**The Hon. ADAM SEARLE:** I think it goes further—a document was produced that indicates he set up an external inquiry, similar to what Mr Werman was doing for you in other regards. Given that the person was no longer an employee of Landcom and there had been no complaint actually made, why did you take that approach in this case but in relation to Ms Chadwick, you took a very different approach? The different approach was that you ended the investigation that was already on foot.

**Mr BROGDEN:** No, they are not analogous. The first instance refers to an employee who was part of the People Matter Survey during the time of the merged entity at Landcom and UrbanGrowth—the single entity. At the time of the receipt of that report, the entities had split but the People Matter Survey referred to the organisation when it was together. The other matter is with respect to a complaint where both the complainant and the objective of that complaint had left the organisation. I was not aware that either of them were seeking further employment.

**The Hon. ADAM SEARLE:** But you now know that Ms Chadwick is employed in the public service again?

**Mr BROGDEN:** I understand so.

**The Hon. ADAM SEARLE:** And have you made her new employer aware of the matters that led to the inquiry?

**Mr BROGDEN:** In a general conversation that Mr Betts and I had, he raised the issue with respect to Ms Chadwick, which had been in the media. I indicated to him exactly what I have indicated to you—that the investigation was commenced but was not completed, as a consequence of both Ms Chadwick and the complainant leaving the organisation.

**The Hon. ADAM SEARLE:** Mr Betts, can you explain the circumstances behind Ms Chadwick coming to work in the Department of Planning, Industry and Environment?

**Mr BETTS:** Ms Chadwick is a longstanding public servant, who is very highly regarded, including by me. She has joined us under contract working in our Water area, doing very important work around regional water security. When the article appeared in the media about Ms Chadwick, it was obviously very distressing for her. I decided that I would speak to Mr Brogden to make sure that I was acquainted with any facts that might be relevant. He explained to me the circumstances in which allegations had been made, but no adverse finding had been made against Ms Chadwick. My view is innocent until proven otherwise. There is no proven allegation against Ms Chadwick and she has performed to an extremely high standard in the work that she has done for the department and continues to do so.

**The Hon. ADAM SEARLE:** Do you propose to reinstate or continue the investigation that Mr Brogden had established?

**Mr BETTS:** No.

**The Hon. ADAM SEARLE:** Can you explain why not?

**Mr BETTS:** Because it relates to an earlier period in her employment, which was not part of the department. Mr Brogden reached the conclusion that he did not think that it merited further investigation and I am happy to be guided by that judgement. I see nothing in anything which has occurred since to challenge the view that that matter is now closed, and no adverse findings were made against Ms Chadwick. I go back to the point that I made this morning: The more that these things are aired and people's reputations put on the line in forums like this, the less likely people are to come forward and disclose instances of bullying in future—if it is turned into political theatre.

**The Hon. ADAM SEARLE:** I am just interested in the process and I explored this with the Secretary of the Department of Premier and Cabinet. Mr Brogden, feel free to disagree with me, but the issues that led to the inquiry being established you obviously felt were important enough to commence the inquiry. Is that correct?

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** And the only reason the investigation was wound up, based on your evidence, was because Ms Chadwick and the other persons involved ceased to be employees of Landcom. Is that correct?

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** So there was no merit conclusion to the investigation. Is that correct?

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** So again, Mr Betts, does that change your view?

**Mr BETTS:** No. There are no conclusions to the investigation, there is no adverse finding against Ms Chadwick: matter closed.

**The Hon. ADAM SEARLE:** Again, just in process terms, if people change their employment between State-owned corporations and the public service, they can avoid having their actions scrutinised or evaluated or being held to account—is that the take-out here?

**Mr BETTS:** No. As you know, when we are making appointments to the public service we undertake those appointments in accordance with principles of merit-based selection, we undertake references and so on and so forth. Ms Chadwick is somebody who has a very well-known, high-profile career in the public service and has



always performed to a very high standard. She is a known quantity and I have no reservations about her coming on board with us.

**The Hon. ADAM SEARLE:** But I do not know that it is her performance that was an issue.

**Mr BETTS:** No, but when you are doing reference checks you check people's behaviour, you check anything that might be relevant to their capacity to perform in the department, but also to comply with the code of practice and the behavioural expectations of the department. Nothing in an inconclusive inquiry led me to believe there was any reason to doubt that she was an appropriate person to come and work for us.

**The Hon. ADAM SEARLE:** You keep coming back to that formulation, Mr Betts. But you do not know what the investigation might have concluded, do you?

**Mr BETTS:** No, I do not. But I rely the fact that it was not sufficiently serious that it was prolonged beyond her departure from the organisation or the departure of the complainant.

**The Hon. ADAM SEARLE:** Now we have a bit of a conflict between you and Mr Brogden. Mr Brogden is saying that the only reason—

**The Hon. CATHERINE CUSACK:** You really are a nasty piece of work, Adam.

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** I am just trying to explore the process.

**The Hon. CATHERINE CUSACK:** It is smear. That is what it is.

**The Hon. ADAM SEARLE:** I am just exploring the process.

**The CHAIR:** Order! Ms Cusack.

**The Hon. CATHERINE CUSACK:** It is outrageous, what he is—

**Mr BETTS:** I go back to the presumption of innocence. If somebody comes to us with a credible track record of working in the public sector, considerable expertise and has a record where nobody has found them guilty of misconduct, then I take that as a clean bill of health and I am prepared to give them a go. That is exactly the situation we are in.

**The Hon. ADAM SEARLE:** Putting that particular instance aside, there appears to be a systemic lack of joining up between people's employment between State-owned corporations and the public service. Is that something that could or should be rectified?

**Mr BETTS:** Well, SOCs are governed by their own legislation.

**The Hon. ADAM SEARLE:** I understand that. But to have situations like this left unresolved simply because people's employment changes between parts of the sector does not seem to be satisfactory, whoever you are in this situation?

**Mr BETTS:** The rules are what the rules are. Ms Chadwick left Landcom and was available without inhibition or prohibition to come and work with us and she is doing a terrific job.

**Mr BROGDEN:** We were not aware where she was going to work, just to clarify that.

**The Hon. ADAM SEARLE:** Understood. Mr Betts, was the role she is now engaged in advertised?

**Mr BETTS:** It is a contractual role.

**The Hon. ADAM SEARLE:** It is a matter of record that when she left Landcom as a result of a redundancy there was a payout, I think a significant payout. By working back in the public sector, has that had to be repaid in part?

**Mr BETTS:** No. There is no obligation on her to repay. Those are the rules.

**The Hon. ADAM SEARLE:** Is that because it is a senior executive service [SES] position?

**Mr BETTS:** It is not an SES position. She left Landcom. My understanding is there is no obligation for her to repay.

**Mr BROGDEN:** Because Landcom does not operate under the—

**The Hon. ADAM SEARLE:** Government Sector Employment Act.



**Mr BETTS:** Had she been a public servant who had been terminated under section 41 of that legislation and had she been re-engaged by another public service entity, then she would have been required to repay.

**Mr BROGDEN:** You might be aware, Mr Searle, this applied to other employees as well

**Mr DAVID SHOEBRIDGE:** But she was not a government sector employee at the time.

**Mr BETTS:** She was not before and she is not now.

**The Hon. ADAM SEARLE:** Mr Brogden, as the chair of Landcom you oversaw the engagement of Russell Reynolds for the CEO recruitment that commenced in about June 2017?

**Mr BROGDEN:** The board did, yes.

**The Hon. ADAM SEARLE:** Can you tell the Committee how much that firm was paid in total for running that selection process?

**Mr BROGDEN:** I will come back to you on that.

**The Hon. ADAM SEARLE:** I am not asking how they calculated the amount, just the global amount.

**Mr BROGDEN:** Sure.

**The Hon. ADAM SEARLE:** You were not an applicant in that process, were you?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** When did that process come to an end?

**Mr BROGDEN:** That process came to an end effectively at a board meeting on 29 September 2017.

**The Hon. ADAM SEARLE:** Why did it come to an end?

**Mr BROGDEN:** The board engaged Russell Reynolds to undertake a search process. That commenced in May 2017 when I was on leave from the organisation for health reasons. The then acting chair Karen Penrose started that process. When I resumed from leave I took over as chair of the organisation and chair of the selection panel. What else do you need? Sorry I have forgotten the question.

**The Hon. ADAM SEARLE:** That is okay. Tell us about the process.

**Mr BROGDEN:** Russell Reynolds undertook a search process across the field. That original long list included 82 candidates. That was refined by discussion with the selection panel. The selection panel included myself, director Matthew Quinn, former Stockland CEO and director Gai McGrath and also the secretary of the then Department of Planning and Environment, Carolyn McNally. That committee undertook a process. After a series of engagements through Russell Reynolds with the preferred candidates, we interviewed three candidates. The committee agreed unanimously that none of those candidates, sadly, were appropriate for the role. We then considered another candidate. We also agreed that candidate was not appropriate for the role. At that point the board realised that the process was unsuccessful and agreed to cease the process.

**Mr DAVID SHOEBRIDGE:** Mr Ray, can I take you to the South East Wilton project or the new Wilton New Town. That is a proposed development of about 60,000 residents, is that right?

**Mr RAY:** I might refer this to Ms O'Mara.

**Mr DAVID SHOEBRIDGE:** I am fine to be upgraded to Ms O'Mara.

**Mr RAY:** That is unkind but I understand. I have broad shoulders.

**Ms O'MARA:** The information I have is that the Wilton project is a new town proposed to create 15,000 new homes and 15,000 new jobs and to attract greater commercial health and education services in the Wollondilly Shire.

**Mr DAVID SHOEBRIDGE:** The material from Planning in relation to the 2016 State environmental planning policy for Wilton indicated it would be a township in the order of 60,000 people—bigger than Port Macquarie. Is that 60,000 residents right?

**Ms O'MARA:** I am talking about the Wilton Growth Area. I will check that for you. My understanding is there are a number of precincts.

**Mr DAVID SHOEBRIDGE:** Correct. There are three or four separate precincts which together are the collective Wilton rezoning.

**Ms O'MARA:** Yes. I will have to take the specific number of dwellings on notice.

**Mr DAVID SHOEBRIDGE:** One of the ongoing concerns for the Wilton project is the availability of adequate fresh water. What, if anything, is the department doing to resolve the water access issues for Wilton?

**Ms O'MARA:** Sydney Water is developing a regional strategy for New South Wales and sub-regional water servicing strategies for some of the western Sydney growth areas. That will guide an integrated approach to servicing for drinking water, wastewater and stormwater and incorporating water sensitive urban design. Sub-regional water servicing plans have been prepared for the Wilton Growth Area. For example, looking at the use of recycled water through a dual reticulation system—they are the kinds of things that are being investigated by Sydney Water to address capacity issues in the region. I am also aware that Wollondilly council is preparing a water strategy that looks at water sensitive urban design with the intention of protecting high-value ecological waterways.

**Mr DAVID SHOEBRIDGE:** What is the current level of extraction permitted for Wilton stage one under water sharing plan that is applicable for the area?

**Ms O'MARA:** That is a question you would need to refer to the water Minister.

**Mr DAVID SHOEBRIDGE:** Sydney Water confirmed at a community meeting on 1 August 2019 that any decision to increase the water allocation for the MacArthur plant will be determined by the Department of Planning, Industry and Environment in accordance with the Metropolitan Water Plan. Is it the role of your department to consider any increase in water allocation for the MacArthur plant under the Metropolitan Water Plan relating to Wilton?

**Ms O'MARA:** My colleague Deputy Secretary Bentley who would have responsibility for that.

**Mr BETTS:** He is the deputy secretary responsible for water. As Ms O'Mara has indicated, these questions would be best handled through the budget estimates for the Water portfolio.

**Mr DAVID SHOEBRIDGE:** In terms of approving development for Wilton, is the department going to continue to allow large-scale residential development in Wilton before water security issues are resolved?

**Ms O'MARA:** I think we are looking at the water security issues as part of the work we are undertaking in those precincts.

**Mr DAVID SHOEBRIDGE:** Is your department looking at it or is Sydney Water looking at it?

**Ms O'MARA:** My understanding is Sydney Water is doing some planning, the council is doing some planning. We are working closely with the council. I am also working closely with my colleague who does have oversight of the Metropolitan Water Plan.

**Mr DAVID SHOEBRIDGE:** The development application for stage one of Wilton had the developer say in its application that a water recycling plant is subject to cost. How can your department approve large-scale developments before key strategic water allocation decisions, whether it is a recycling plant or increased access to scarce local water resources? How can you be approving the development ahead of these key decisions about water?

**Ms O'MARA:** I do not think we are. The Wilton Town Centre precinct, for example, is about to go on exhibition. We are not making rezoning decisions at the moment. There is also work being undertaken to look at West Wilton to look at the balance of the Wilton South East Precinct. But the work is at a very early stage in those two other areas to the extent that we do not have plans to exhibit anything in the near future.

**Mr DAVID SHOEBRIDGE:** The draft Wilton development control plan says in relation to the precinct and neighbourhood plan it must "ensure an integrated approach to drinking water, wastewater and stormwater services is considered to drive more sustainable water management outcomes".

**Ms O'MARA:** Yes.

**Mr DAVID SHOEBRIDGE:** But there is no planning requirement anywhere to provide for a water recycling plant. Why aren't you making an early requirement that there be a water recycling plant, given the scarcity of water resources in that part of south-west Sydney?

**Ms O'MARA:** I am happy to take that on notice. I am aware that the Wilton development control plan is on exhibition.

**Mr DAVID SHOEBRIDGE:** Why doesn't it set aside land, specific sites of land, for a recycling plant? Why doesn't it make it a firm requirement up-front rather than just push the issue downstream, if you like, and hope it gets resolved, Ms O'Mara?

**The Hon. SHAYNE MALLARD:** Point of order: The witness did say she would take it on notice twice now and Mr Shoebridge is pursuing the same question.

**The CHAIR:** Yes.

**Mr DAVID SHOEBRIDGE:** It is a separate question.

**The CHAIR:** Maybe if Mr Shoebridge has a slightly different line of questioning for Ms O'Mara.

**Ms O'MARA:** I am happy to take that on notice and come back to you, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Can you take on notice why there is no integrated water management plan for the site?

**Ms O'MARA:** Yes.

**Mr DAVID SHOEBRIDGE:** And can you take on notice any investigation or strategy that the department is aware of for increased rural water supply?

**Ms O'MARA:** Yes.

**Mr DAVID SHOEBRIDGE:** Could that also include what, if any, assessments there are in terms of the water storage for the four Upper Nepean Scheme dams, which, on my advice, have a total storage area of only 260,000 megalitres and are already at full extraction?

**Ms O'MARA:** I am happy to take that on notice and if I am able to source any further information I am happy to come back to you later today.

**Mr DAVID SHOEBRIDGE:** Can that include any advice you have about the Wilton South East stage DA by Walker Corporation—which was, I think, deferred on 2 September by the Sydney Western City Planning Panel—and whether or not that deferral is going to be for the purpose of sorting out water security?

**Ms O'MARA:** I am happy to take that on notice. If I may, could I just add some more information to an answer I gave to Ms Sharpe earlier?

**The CHAIR:** Maybe during Opposition time soon.

**Mr DAVID SHOEBRIDGE:** If it is brief, Ms O'Mara.

**The CHAIR:** If you are okay with that.

**Ms O'MARA:** Just in relation to the question about the green grid, the New South Wales Government in western Sydney in relation to koala conservation has committed to secure 800 hectares of land on the east side of Appin Road in Greater Macarthur to establish a koala reserve. That land is shown in a dotted line in the region plan as part of the green grid. That is land owned by the Office of Strategic Lands. The intention is to—

**The Hon. PENNY SHARPE:** That is what has been proposed for the new national park, isn't it?

**Ms O'MARA:** —investigate increasing that to 2,000 hectares over time. The acquisition of the reserve would be staged but would be built around the land already owned by the Government in the corridor. Funding to add to the State-owned lands would be sourced from the Special Infrastructure Contributions, which are levied on development in the growth areas. The proposed Special Infrastructure Contribution framework exhibited with the draft Macarthur 2040 plan identified around 189 million for acquiring land for biodiversity conservation.

**The Hon. PENNY SHARPE:** Thank you.

**Mr BETTS:** We are also in a position to answer the question about the qualifications of the staff within the agency responsible for social impact assessments.

**Mr DAVID SHOEBRIDGE:** Please do.

**Mr BETTS:** Mr Ray.

**Mr RAY:** We have two staff. One has a Doctorate in Community Engagement, also an MBA and a BA which focused on economics and public policy. He has more than 20 years experience in social impact assessment

and community engagement research. Our other staff member has a BA in Sociology and Economics and a Master of Environmental Studies and also 20 years experience.

**The CHAIR:** Do you want to continue to the next?

**Mr DAVID SHOEBRIDGE:** I have a few more brief questions. I do not know if this is to you, Mr Ray, but if not direct it where appropriate.

**Mr RAY:** I am happy to upgrade always.

**Mr DAVID SHOEBRIDGE:** I support that too. Planning is trialling the use of an online portal with the WestConnex Rozelle Interchange modification. There have been substantial concerns raised about that, including the requirement to register and difficulty accessing the portal. What is your response to those concerns?

**Mr RAY:** My response to those concerns is that we did bring in increased functionality to the major project website at the beginning of the year. One of the things it will do is enable people who make submissions to track all their submissions, whether they submit in relation to one project or another project. Prior to the upgrade in early 2019, when people had to make submissions through the website they had to put their details in, fill in the requirements, identify whether they wanted their privacy protected or not protected—all of those things. They tick a disclaimer box.

The registration proposal at the moment simply enables them to do that once and then they will be able to access the website for any other matter that they choose to make a submission on or investigate. The new website will actually give them a dashboard, where they can see all submissions that they have made. My understanding is that we are not asking for registration. We are not asking for any more information than we would have if we had asked them to do a one-off lodgement on the system.

I am happy to take on board any issues with individual difficulties with registration, practical difficulties. We are always happy to look at those questions. We did have an unfortunate instance where the website went down for a few hours in relation to another matter. In that particular case, we acknowledged that it was the last day of submissions and we extended for another week.

**Mr DAVID SHOEBRIDGE:** Has RMS raised with you any concerns it has had about negative feedback for the planning portal?

**Mr RAY:** No-one has raised concerns with me about negative feedback. RMS has—

**Mr DAVID SHOEBRIDGE:** Why isn't there at least an opportunity to simply send an email like there is in most other planning consultations? Just a simple email address where people can send a submission via email rather than what—concerns have been raised with us—is otherwise quite a significant barrier, which is the registration process?

**Mr RAY:** I have not—this is the first time that someone has raised with me a belief that it is a significant barrier. The information that I have is that we ask no more than we ask for people who are making—previously asked for people making a submission. The benefits of making a submission through the Major Projects Website are that it enables people, it clearly guides people to answer the questions about whether they want their details disclosed. It clearly indicates to them about—you know, explains the nature of what will happen to their submission, that their submission will be placed online. There is a series of steps, which I do not believe are onerous, that enable people to be taken through some technical things that they should be aware of.

**Mr DAVID SHOEBRIDGE:** I am told there is about a dozen steps, Mr Ray. There is about a dozen steps.

**Mr RAY:** I was not aware—

**Mr DAVID SHOEBRIDGE:** It is a significant barrier.

**Mr RAY:** Okay. I am happy to look at that, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Will you consider also including just a simple email where people can make an email submission for those who do not want to go through the registration process?

**Mr RAY:** We will absolutely look at everything, and I am happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Mr Betts, to you, or Mr Ray or whoever, the Government recently decided to impose a local planning panel on the Central Coast council area. What consultation was done with the council before that decision was made?

**Mr BETTS:** That predates my time, I think, so I will ask Mr Ray to answer that.

**Mr RAY:** Mr Shoebridge, I would have to take that on notice. The recommendation that the Government look at establishing a local planning panel on the Central Coast was a recommendation from Mr Kaldas. I know the Government determined to implement that. If you would just bear with me, I will see if I can source that.

**Mr DAVID SHOEBRIDGE:** No, I have read Mr Kaldas' report. I am asking about consultation with the council and whether you are aware of opposition from the council to the imposition of a Local Planning Panel?

**Mr RAY:** My advice is that Minister Stokes did speak to the council before making the decision.

**Mr DAVID SHOEBRIDGE:** Can you give details about what, if any, details the council gave about the imposition of the Local Planning Panel?

**Mr RAY:** I would have to take that on notice, but I am happy to.

**Mr DAVID SHOEBRIDGE:** Is it the case that the imposition of a Local Planning Panel was decided upon in order to increase the amount of development approved in the Central Coast council area; it was linked to the need to approve more development in that part of New South Wales?

**Mr RAY:** My understanding is that that is not necessarily the case, but I would have to take that on notice.

**Mr BETTS:** It was a recommendation of the Kaldas report. You have read the Kaldas report.

**Mr DAVID SHOEBRIDGE:** I have.

**Mr BETTS:** So you would understand the rationale for the recommendation, which is not about what you have just described.

**Mr DAVID SHOEBRIDGE:** I am not asking about Mr Kaldas' rationale, I am asking about the decisions and the rationale from the Minister and the department because it has been referenced in the decision, in the public announcements about the decision, that it was associated with the need to obtain increased development yields in the Central Coast region. I am asking whether or not those public comments reflect the reality.

**Mr RAY:** Mr Shoebridge, I will take that on notice if I may.

**Mr DAVID SHOEBRIDGE:** I understand.

**The Hon. MARK PEARSON:** When there are proposals before the planning and public spaces department, has there ever been a situation where standards are set in the development that certain species of trees or valued vulnerable parts of the environment actually remain in situ at a considerable cost to the developer to develop an area for housing? Have there been situations where this has occurred?

**Mr RAY:** Yes, in the sense that subdivision patterns may be drawn around substantial areas of vegetation. I think I was giving an answer to Ms Sharpe earlier on that in relation to Mount Gilead there was a corridor, there were two areas that were of substantial vegetation that were looking to be joined up with a corridor. The remainder of the Mount Gilead area would be developed, but those areas of high conservation value and the corridor between them would not be developed. That happens all the time through a rezoning process. It is the same for the process that we were speaking about earlier on in relation to the former IBM site where it is proposed to protect 12 hectares of significant bushland and allow some of the other—I think it was .95 hectares—amount under one hectare to be developed.

**The Hon. MARK PEARSON:** Are you aware of any developers withdrawing their proposal because of the cost it will be to them in order to protect the sensitive or vulnerable environment?

**Mr RAY:** It is often a process whereby these matters are raised and a developer goes away and redesigns a project to avoid some of the impacts or to mitigate the impacts. I would be—

**The Hon. MARK PEARSON:** There is not one glaring example?

**Mr RAY:** I cannot identify, I cannot recall one just at the moment.

**The Hon. PENNY SHARPE:** Mr Brogden, how many projects is Landcom currently working on?

**Mr BROGDEN:** It is currently working on 30 projects. Let me just get the accurate numbers for you, Ms Sharpe. Yes, 30.

**The Hon. PENNY SHARPE:** Are you able to provide to the committee a list of those projects that are meeting the affordable housing target of 5 per cent to 10 per cent as outlined in your policy?

**Mr BROGDEN:** Yes, I am happy to do that on notice. Is that okay?

**The Hon. PENNY SHARPE:** Yes, I am happy to do that.

**Mr BROGDEN:** What I will just say is that our commitment was to undertake that for projects from that point forward. Our capacity to retrofit affordable housing into existing projects is much harder.

**The Hon. PENNY SHARPE:** My understanding is that you are only going to deliver around 3 per cent in relation to affordable housing, is that correct?

**Mr BROGDEN:** No. If you took it over our entire portfolio, which includes the backlog, the back-book if you like, then that may be accurate, but moving forward our commitment will be a minimum of 5 per cent—between 5 per cent and 10 per cent—and on individual sites where we have the capacity we will do more.

**Mr BETTS:** I assume the question relates to projects that have been undertaken since the adoption by Landcom of the policy to which you refer.

**Mr BROGDEN:** Yes.

**The Hon. PENNY SHARPE:** And when you provide that information to the committee you will be able to split those two different things so we can see the difference.

**Mr BROGDEN:** Yes, we will.

**The Hon. PENNY SHARPE:** Thank you. I appreciate that. I wanted to ask briefly about planning for waste facilities in Sydney. What planning—and I think this is probably one for Mr Ray, I suspect—is currently being undertaken in relation to the need for waste facilities in the Sydney Basin into the future?

**Mr RAY:** There is a—our colleagues at environment and energy and science—

**The Hon. PENNY SHARPE:** EPA.

**Mr RAY:** —and the EPA are looking at a broad waste strategy and as part of that the planning, part of the department is also engaged in those matters. We are also obviously engaged more broadly with the response to China's National Sword policy and the implications for that. And on a practical level we are working with the EPA and other relevant agencies including Fire and Rescue NSW to deal with some of the issues that regularly come up with individual applications.

**The Hon. PENNY SHARPE:** Because it does take a long time to get waste facilities approved.

**Mr RAY:** One of the issues—the waste industry is, if I could say, a broad church with some very good operators at one level and there is a range of different capabilities—

**The Hon. PENNY SHARPE:** That is very kind. There are dodgy things happening in regard to some waste.

**Mr RAY:** —among other members of the industry.

**The Hon. PENNY SHARPE:** Very diplomatic, Mr Ray.

**The Hon. MARK PEARSON:** You're a very nice man.

**Mr RAY:** What the department is doing, together with the EPA, is working with proponents at a very early stage to ensure that they consider all the issues with their site selection well before they actually complete an application and bring forward an [EIS].

**The Hon. PENNY SHARPE:** I am aware that the EPA, this is mainly their responsibility—but I am really trying to understand. We really do not have planning instruments that facilitate waste, and when I say "waste" I mean that most broadly, not just landfill, obviously, recycling and a range of other new technologies within the Sydney Basin. Is there consideration being given to something specific, something like a waste SEPP or other things through this process with the EPA?

**Mr RAY:** I do not think that we have necessarily got to a—waste recovery facilities are permitted in a range of different zones and each council has a slightly different approach. But they are permitted in a range of different zones and I can actually say that the department has in fact approved, I think it is three, resource recovery



facilities in the past six months including a battery recycling facility. There is also a facility at St Mary's and I am sure there is another one.

**The Hon. PENNY SHARPE:** I am happy for you to take it on notice. I welcome that, but I am interested in how long it took for those to be approved.

**Mr RAY:** Yes, I am happy to provide that on notice.

**The Hon. PENNY SHARPE:** Fantastic. I want to ask a question about the review into Pymont and the Greater Sydney Commission. I am trying to understand the role of the Greater Sydney Commission versus the role of your department. Perhaps we will start there.

**Mr BETTS:** The Greater Sydney Commission sits within the cluster of the Department of Premier and Cabinet. Its function, among other things, is to provide independent advice to the Premier and to the Government more generally on matters referred to it by the Premier. The Premier has asked the Greater Sydney Commission to do an initial piece of work, which runs through to the end of this month, to advise her, the planning Minister and all of us on whether it would be appropriate to review the development controls that exist in the Ultimo-Pymont area.

**The Hon. PENNY SHARPE:** My understanding is that your department has assessed that area with issues around scale, the prominence of individual buildings, overshadowing and the design of the built environment. What input are you having into the Greater Sydney Commission review of this and how do you see that? Will your advice be different to what you have previously provided in relation to Pymont?

**Mr BETTS:** The principal advice that we have provided in recent time relates to the specific development application related to The Star casino. Our advice is on the public record, as is the recommendation that we made in transmitting that to the Independent Planning Commission for consideration.

**The Hon. PENNY SHARPE:** So you do not believe that that will change through the review process? You maintain the same position in relation to that?

**Mr BETTS:** It is in the hands of the Independent Planning Commission.

**The Hon. PENNY SHARPE:** I understand that. But I suppose more broadly it is about the Pymont plan and how that works with your department. I am trying to see what will change.

**Mr BETTS:** I might ask Mr Ray to comment on this, but the Greater Sydney Commission will provide its advice. Then it will be a matter for the Government to decide what action it wants to take in light of that, which might involve changing development controls in that area or might not.

**The Hon. PENNY SHARPE:** I am not asking you to predict that. I am just asking how the process is going.

**Mr RAY:** In practical terms, it is the Greater Sydney Commission's review. But it has asked the department to brief the commissioners who are doing the review. The department has done that. In that sense, the department has briefed the commissioners about the current planning controls and has briefed the commissioners about the department's report on the recommendations in relation to The Star casino. If the commission requires any further information the department will accede to that request and provide that further information. Ultimately it is a matter for the commission; it is an independent body. It will do its report and then, as Mr Betts said, it will be a matter for the Government to decide what happens.

**The Hon. PENNY SHARPE:** But in relation to the advice you are providing, are you standing by the advice you have previously given?

**Mr RAY:** In relation to the recommendation on The Star casino, yes.

**The Hon. PENNY SHARPE:** I am going to go back to waste. Are you aware of any plans to open up more landfills within the Sydney Basin to deal with waste?

**Mr RAY:** I do not think I am aware of any plans within the Sydney Basin. There are a number of facilities that take Sydney's waste. Obviously—

**The Hon. PENNY SHARPE:** There are not many. There are really only two.

**Mr RAY:** There are only two, and at a point in the future they will reach capacity. Obviously people are talking about the potential for another facility. But, as far as I am aware, nothing has been presented to the

department in a detailed form, such as a request for environmental assessment requirements. But I can take that on notice and let you know what stage discussions are at.

**The Hon. PENNY SHARPE:** That would be good. Mr Betts, this is really a question about how the cluster operates and an example of that. Obviously Environment and Energy sit under you. You have a lot of responsibilities across many Ministers.

**Mr BETTS:** I am aware of that.

**The Hon. PENNY SHARPE:** We are aware that the EPA is doing a review into future waste and is doing a general waste strategy. Obviously there is a role for planning within that. Under the new cluster arrangements, how is that resolved at both the officer level and the ministerial level? How is that all working and coming together?

**Mr BETTS:** Thank you very much. It is coming together. I have spoken publicly about the rationale for the creation of the new cluster on a number of occasions. It seems to me that the fundamental rationale behind its creation was to reconcile, at a bureaucratic and public service level, what has in the past occasionally become a culture war between a green agenda and a brown agenda. Agencies have tended to compete with each other, to run different advice and to come off different evidence bases and different planning assumptions. That has caused a degree of confusion in government decision-making.

The rationale for the cluster is to bring agencies together to operate in a highly collaborative environment and present dispassionate, evidence-based choices to government. When we look at something like a waste strategy, that has implications—as you correctly identified, Ms Sharpe—for land use. It also has implications on the environment side and it potentially has significant implications for regional development, including opportunities for regional development. In the case of the waste strategy, through the deputy secretary responsible for strategy and reform, as well as other players, we bring together people across those different agencies to work on those projects. We lend people into joint multiple disciplinary project teams that then report up to the departmental leadership team, which I chair.

As far as Ministers are concerned, Ministers across the cluster—there are six Minister in our cluster—meet on a fortnightly basis. The purpose of those meetings is, among other things, to ensure that there is alignment within the cluster Ministers about proposals which are going into Cabinet. Obviously I cannot talk about the details of those things. But that regular interaction between Ministers provides an additional assurance that the agencies within the cluster are communicating with each other. There is a historic tendency for State government entities to operate in silos. You would be familiar with that. This is a bold experiment in breaking down those silos—

**The Hon. PENNY SHARPE:** I think it is a bold experiment. That is right.

**Mr BETTS:** And so far it has been very successful. We are dealing with some of the most contentious issues of our age. We are dealing with anthropogenic climate change. We are dealing with things like waste, housing affordability and drought. Those kinds of things can only be tackled through collaboration between the different agencies within our cluster. They need to be operating in a very collegiate fashion. They cannot be dealt with by any single agency alone.

**The Hon. PENNY SHARPE:** I wish you well with trying to deal with that, Mr Betts. Only time will tell. Obviously that is the idea around the clusters. When there is conflict, I am interested in how the ministerial framework works in terms of going to Cabinet. Does everything have to go through Minister Stokes, as the senior cluster Minister? How does that operate? There is also Deputy Premier Barilaro.

**Mr BETTS:** Yes, the Deputy Premier sits within our cluster. He also has very significant responsibilities, supported out of Treasury, for trade and investment.

**The Hon. PENNY SHARPE:** But he is not the cluster lead, is he?

**Mr BETTS:** No. The coordinating or lead Minister within the cluster is Minister Stokes. But it is not a command-and-control relationship between Minister Stokes and the other Ministers. They are all Cabinet Ministers in their own right. The purpose of the cluster and the cluster Ministers meeting is to ensure that there is communication between those Ministers so that, as far as possible, their activities can be coordinated. But at the end of the day—

**The Hon. PENNY SHARPE:** In the past there was a central agency through Premier and Cabinet that did that. Is that no longer how it is operating?



**Mr BETTS:** The Department of Premier and Cabinet continues to be responsible for the administration and secretariat support for Cabinet committees. But—

**The Hon. PENNY SHARPE:** But it no longer has a steering role in relation to this? It could be argued that in the past the Cabinet Office essentially provided that management between the different departments in terms of resolving issues.

**Mr BETTS:** Yes, and it still has a very significant role in that respect. But the thinking behind the creation of the big new department, with its wideranging responsibilities, is, if you like, to delegate that down to groups of Ministers to reconcile different policy imperatives at the local level and then bring, as far as possible, common positions to Cabinet. If that is not possible then Ministers can debate things around the Cabinet table, as they have done since time immemorial.

**The Hon. PENNY SHARPE:** Are you able to provide the Committee with the figure across the cluster that you have to provide in relation to the efficiency dividend this year?

**Mr BETTS:** Yes, \$85 million.

**The Hon. PENNY SHARPE:** Across the entire cluster, okay. Are you able to provide to the Committee, obviously bringing together all of those different agencies there are costs involved with that—I am assuming that you are trying to integrate. Maybe this is a question for Mr Smith. He has been sitting here all day waiting for one.

**Mr BETTS:** He has got fear of missing out.

**The Hon. PENNY SHARPE:** It is all right, you are in.

**The Hon. ADAM SEARLE:** FOMO.

**The Hon. PENNY SHARPE:** You are in. I am interested in the number of different IT systems, the number of different pay systems, what the time frame and planning is for bringing all of that together. I am happy for you to take it on notice. I do not expect you to know it off the top of your head.

**Mr BETTS:** I am not going to talk to you. I am going to pass to Mr Smith for the IT systems. But the overall approach that we are taking, \$85 million is a significant efficiency gain that we have to achieve. We are an organisation which is 48 per cent regional in terms of our head count, regional defined as outside of Sydney and the local government areas of Wollongong and Newcastle.

**The Hon. PENNY SHARPE:** So they are obviously quarantined from the efficiency dividend?

**Mr BETTS:** Yes. Well, the Premier has indicated there will be no net reductions in regional jobs.

**The Hon. PENNY SHARPE:** So that does not mean they are quarantined; it just means there are no job losses; is that right?

**Mr BETTS:** That is correct.

**The Hon. PENNY SHARPE:** There is a lot of careful wording around this. When you say "no net job losses" that does not mean, for example, that jobs in regional areas will not be perhaps moved. I do not know where they are but say you have a smaller centre like Young going to a bigger centre like Wagga—

**Mr BETTS:** A better example from my point of view, because we need to maintain a reasonable geographic spread across the State to undertake the work that our Local Land Services and our park rangers and other people do, but say within Maitland if there were multiple offices we would reserve the option to consolidate within Maitland but we are not looking to move jobs from Maitland, say, into Newcastle, which would be defined as metropolitan. My point was to establish the context for what I am now about to say about how we intend to go about delivering the efficiency gain, which is first and foremost to identify reductions in corporate overheads and expenditure which do not touch people's jobs. We have a consulting budget in the old—

**The Hon. PENNY SHARPE:** Consultancy, advertising, IT costs—you will look at those?

**Mr BETTS:** Yes, absolutely.

**The Hon. PENNY SHARPE:** But you are not going to be able to do this without job losses, are you?

**Mr BETTS:** No. And the Treasurer has made it very clear and was very clear in the budget that jobs will be affected and job cuts are inevitable. However, and I meet with the unions every fortnight and I have made a commitment to them and I have made a commitment to all the staff in the cluster, that every dollar that we can find through greater efficiencies and through a reduction in corporate overhead and the kinds of line items that

you have identified is a dollar that does not have to come out of a public servant losing their job. We will find every dollar that we can; that is our commitment to our people.

**The Hon. PENNY SHARPE:** That is great but you are going to have extra costs in terms of mashing all of these different departments together. Are you able to provide that information to the Committee?

**Mr BETTS:** Not at this stage. We are working through the process of—

**The Hon. PENNY SHARPE:** I am happy for you to take it on notice.

**Mr BETTS:** Well, it is not something where I can come back to you in three weeks with an answer because it is a process that we need to go through to identify the savings over the coming weeks and months. It does not necessarily follow that merging agencies creates additional overhead. In fact arguably merging agencies enables you to rationalise functions in the back office, which brings us to the opportunity for you to upgrade to Mr Smith for him to talk to you about ICT systems.

**The Hon. PENNY SHARPE:** Mr Smith, you are on.

**Mr SMITH:** You will appreciate that bringing together multiple departments obviously who have operated largely separately for a long period of time—

**The Hon. PENNY SHARPE:** How many different IT systems are you bringing—have they all got separate ones?

**Mr SMITH:** There are seven different core systems that exist across the entities that we are bringing together. There is a range of different systems—everything from email and collaboration through to document management through to the core enterprise resource planning systems that handle things like payroll, they handle things like transaction, purchasing, things to do with expense management. So there is a range of different systems that have existed with each of the constituent parts. We are planning to bring those together where it makes sense to. So in some circumstances, as we go through the planning exercise we might identify opportunities to actually leave things as they are because it does not materially impact on our ability to operate, but in other circumstances where there a number of systems where it is required that we have an integrated view so we can manage the business holistically that will take some time to work through the technology planning for all that.

Obviously some of those changes are subject to finding the adequate budget in order to do that. Some of that may require budget submissions to government in future years. However, we have not finished the planning in that regard yet and we will take some time to work through each of those systems. There are common systems that are used by many people and then there are specific line-of-business systems. Where you have a line-of-business system we would probably not seek to integrate that because it would not make a lot of sense. But where you have common systems, to provide a common user experience for the staff who work for us we would seek to integrate those things. But as you would appreciate, given that we have multiple offices and we have multiple systems, the planning to do that has been underway since the machinery of government change was announced. We have already made a few changes but the planning for that is ongoing.

**The Hon. PENNY SHARPE:** I think you need to take it on notice. I will be back next year to ask you how much it all cost.

**Mr BETTS:** He can talk to you a lot about it.

**The Hon. ADAM SEARLE:** We can do it again in October.

**The Hon. PENNY SHARPE:** We will be back on that.

**The CHAIR:** Professor Durrant-Whyte, welcome.

**Professor DURRANT-WHYTE:** Hello.

**The Hon. PENNY SHARPE:** There you go. He has one too.

**The CHAIR:** You are here for a reason, Professor Durrant-Whyte.

**Professor DURRANT-WHYTE:** Good.

**The CHAIR:** We would not have done that to you. I was not sure when we were going to be talking about various things. I understand that you are providing advice to the Government on a range of issues. I am having a look at [industry.nsw.gov.au](http://industry.nsw.gov.au), which has your profile and it says that you are providing independent advice on some wicked policy problems including things like coal seam gas, sea level rise and other issues.

**Professor DURRANT-WHYTE:** Yes, and climate.

**The CHAIR:** Are you advising the Government at the moment on sea level rise?

**Professor DURRANT-WHYTE:** No.

**The CHAIR:** Have you been asked to?

**Professor DURRANT-WHYTE:** No.

**The CHAIR:** Why does it say that the role of the NSW Chief Scientist & Engineer is to provide independent advice on wicked policy problems including sea level rise?

**Professor DURRANT-WHYTE:** I will give you a summary.

**The CHAIR:** Yes, please.

**Professor DURRANT-WHYTE:** We are asked by right across government to address evidence-based independent advice, everything from, as you would know, things like quality of air in tunnels to koala strategies to mining in the catchment and so on. We provide it very much as independent advice and we certainly engage a lot externally in terms of the types of expertise that we bring in typically. But usually those are our set projects that we do. We have not been asked specifically to look at sea level rise that I am aware of and certainly in my time—and it is not in my notes—to do anything like that at all.

**The CHAIR:** Is there coastal infrastructure in New South Wales that is at risk as a result of sea level rise?

**Professor DURRANT-WHYTE:** Yes, of course.

**The CHAIR:** What is that coastal infrastructure?

**Professor DURRANT-WHYTE:** It is everything from docks and natural environments, particularly beaches, peninsulas, a range of things like that, but also personal housing, public areas and so on. There is a great deal.

**The CHAIR:** You are aware that the New South Wales Government used to have a sea level rise policy?

**Professor DURRANT-WHYTE:** No, I am not aware of that.

**The CHAIR:** They used to have a sea level rise policy. Mr Betts, is sea level rise factored into the Department of Planning, Industry and Environment's climate change framework, if it even has one?

**Mr BETTS:** The first thing I would say is that coastal management is primarily a responsibility of the local government cluster. I might ask Mr Ray to answer your specific question that you asked, if he is able to do so.

**Mr RAY:** The responsibility for climate change rests really with the Minister for Energy and Environment and the environment, energy and science part of the agency. But we do have a coastal management framework that is administered by local government. It is a responsibility for Minister Hancock. That is probably all the information that I have to hand.

**The CHAIR:** Talking through something like, for example, a local planning ministerial direction in relation to councils which supports councils developing strategic plans and planning proposals in their coastal suburbs, who has responsibility for that? That is planning, isn't it?

**Mr RAY:** Yes. If it is a direction under 9.1 of the legislation, of the Environmental Planning and Assessment Act, that is planning.

**The CHAIR:** Is there a reason that the State Environmental Planning Policy (Coastal Management) and things like the local planning ministerial direction which I just referred to do not mention sea level rise?

**Mr RAY:** Again, I would have to take that notice. I am not aware of that.

**The CHAIR:** Was the department instructed to remove everything relating to and referencing sea-level rise?

**Mr RAY:** Again, I am not aware of that so I would have to take that on notice.

**The CHAIR:** Mr Betts?

**Mr BETTS:** Not to my knowledge.

**The CHAIR:** Where has reference to sea-level rise gone then in the department's planning materials?

**Mr BETTS:** I think you were on the committee when we had the session with the Minister for Local Government.

**The CHAIR:** You are correct.

**Mr BETTS:** We had their representatives from our coastal management group who would have been able to answer these questions more effectively than I am without notice. It does fall within the purview of the Minister for Local Government.

**The CHAIR:** So Planning has no responsibility when it comes to looking at an overarching framework right up and down the coast in relation to sea-level rise?

**Mr BETTS:** In relation to coastal management generally, the NSW Department of Planning, Industry and Environment does have those responsibilities, advising the Minister for Local Government.

**The CHAIR:** What is the Department of Planning, Industry and Environment's responsibility then in relation to the NSW Climate Change Policy Framework? That is the Government's policy framework. You are aware of the Government's targets?

**Mr BETTS:** Yes, I am, including net zero emissions. Environmental policy is undertaken by our Environment, Energy and Science group, which is headed up by Coordinator-General Anissa Levy. She will be providing evidence on this on Friday to support the Minister for Energy and Environment in budget estimates.

**The CHAIR:** Mr Betts, I understand that the NSW Climate Change Policy Framework is a whole-of-government framework. That is what it says in front of me—for example, to implement policies, to plan for climate risks. We have just heard from the NSW Chief Scientist & Engineer that there are risks to coastal infrastructure, all of which is not the responsibility of local councils. There is nothing that your gigantic department, Planning—sorry, I am aware that Environment will be heard on Friday—is doing in relation to sea-level rise or climate change adaptation that you can inform the Committee about?

**Mr BETTS:** No. There is a huge amount that the department is doing in relation to climate change policy around both adaptation and mitigation. My point is simply that they are matters that sit most obviously under the portfolio of Energy and Environment, which will be subject to detailed examination on Friday.

**The CHAIR:** But in relation to Planning, Mr Betts. It is not just Energy and Environment. Would you agree?

**Mr BETTS:** Of course. Considerations around climate, around coastal management and all of those things are relevant to the planning system. If you have specific questions relating to the statutory planning system, we can answer those in this hearing.

**Mr RAY:** Madam Chair, obviously the Government's policy on climate change, Towards 2050, is a matter that the department considers in its assessment. Obviously, climate change, matters to address climate change and mitigation measures are considered in the development of regional plans. They are also matters that are being considered by local councils in their preparation of their local strategic planning statements. The department is supporting councils in that area. For example, the draft Bourke local strategic planning statement looks at adaption to climate change and natural hazards and also resilience. The Greater Newcastle Metropolitan Plan aims for a carbon-neutral Greater Newcastle in 2050, in line with the Government's targets. Actions in the plan to support that target include the integration of land use and transport and support for renewable electricity generation.

Obviously, the Building Sustainability Index—more than half a million homes meet BASIX energy and water-saving targets. These homes collectively are estimated to have saved 281 billion litres of potable water since BASIX was introduced in 2004 and reduced carbon dioxide emissions by 8.8 million tonnes. I understand that is the equivalent of over 110,000 50-metre swimming pools or the offset equivalent of planting 29 million trees. There is a range of programs in place. In particular, the department is now focused on working with councils to do their local strategic planning statements in which climate change, adaptation and resilience are important areas.

**The CHAIR:** What discussions has the department had in relation to the recent NSW Land and Environment Court decision in relation to the Rocky Hill coalmine in which the judge ruled that climate change must be taken into consideration by decision-makers when assessing the impacts of greenhouse gas emissions on the climate, environment and people when it comes to things such as mines. What discussions has the department had in relation to that decision and the impacts that that decision could have on the decisions you are making?

**Mr RAY:** Madam Chair, a number of things in relation to the Chief Judge's recent judgement in Rocky Hill, that was a merit appeal against the Independent Planning Commission's refusal of the proposal which was based on a recommendation from the department that the proposal be refused. Of course, the judge agreed with the reasons given by the department and the commission, which were more focused on social impact assessment and the negative impacts on the people of the Gloucester area.

I think it is important to note that the requirement to consider greenhouse gas emissions in the assessment of mining proposals is a longstanding one. It is one that arose out of what is called the Anvil Hill case over 10 years ago and is already enshrined in the mining State environmental planning policy. There has been a number of legal cases, one in relation to the approval of the Wilpinjong mine and one in relation to the approval of the Warrah mine. Both of those were judicial review proceedings. But, on the question of whether greenhouse gas emissions were appropriately considered in both those assessments—which were determined by the Independent Planning Commission—in both of those cases the court upheld the decision of the Independent Planning Commission. Those decisions took place after the NSW Land and Environment Court considered Rocky Hill.

So the consideration of greenhouse gas emissions is a requirement for the assessment of mining proposals, and that continues. The Rocky Hill decision is but one case in a long line of cases that have indicated that those things must be looked at. The department continues to examine those. And the Independent Planning Commission continues to consider those in making its decision.

**The CHAIR:** Mr Betts, when you keep telling me to direct my questions to the Environment hearing on Friday—which I will—are you saying then that Planning has not taken any steps to incorporate addressing climate change within planning decisions? There has been no discussions on how to do that?

**Mr BETTS:** No, I am not saying that for a moment. A whole range of different considerations need to be taken into account when we are assessing development applications. Environmental, social and economic considerations are taken into account. It is almost that the breadth of our interaction in terms of the environment—environmental sustainability, climate change mitigation and adaptation—is infused into everything that we do, basically, as a cluster.

Mr Ray has taken you through some of the interactions with the statutory planning system. But across the range of portfolios that we have, including things like agriculture, we have soil scientists in the NSW Department of Primary Industries looking at how crop yields can be maintained in the context of climate change. Obviously, it is a major issue in terms of modelling long-term water security. So it is embedded in absolutely every aspect of what the NSW Department of Planning, Industry and Environment does. But if you wanted an overview of all things related to environmental sustainability, the best person to provide that at ministerial level is the Minister for Energy and Environment.

**The CHAIR:** Have you sought the advice of the Chief Scientist & Engineer on anything in relation to climate change or sea-level rise or climate change's impact on infrastructure?

**Mr BETTS:** A range of different mandates have been provided to the chief scientist over time.

**Professor DURRANT-WHYTE:** Quite a number of our projects involve some element of climate change—just to pick one out of thin air, advice on dam heights and the models that go along to predict water and things like that, our work in a number of different areas. It is rare that a project would not have some element of that.

**Ms O'MARA:** I might just add that when we look at rezoning proposals that is something that we can take into account, when we are looking at strategic planning. We also have a new Premier's priority around greening our city where we have been asked to look at how to increase urban canopy across the city, for example. Some of the things we are doing in that context is looking at water-sensitive urban design. We have a demonstration project happening with Campbelltown council where we are working with its stormwater engineers and with Macquarie uni on how can we ensure that we plant trees in places that we have not before. I think we approach it in many different ways. Certainly with the tree target that is something we are very focused on. Not sea level rise, but obviously climate change.

**The CHAIR:** Does the department have a sea level rise projection that it has adopted in relation to 2050 and 2100 that it is advising the council to prepare for?

**Mr BETTS:** I do not know the answer to that question.

**The CHAIR:** Professor Durrant-Whyte, do you?

**Professor DURRANT-WHYTE:** No.

**Mr BETTS:** But there will be others no doubt who will be able to answer that question.

**The CHAIR:** Sorry, what was the response?

**Mr BETTS:** I have no doubt there will be other people within the cluster who will be better qualified to answer that on the spot, but we can take it on notice.

**Mr RAY:** Madam Chair, your colleague asked about the Wilpinjong social impact management plan. I do have some information. I will be very brief. It was submitted in accordance with the requirements of the approval, but the department received a very detailed submission on the draft plan from the Wollar Progress Association. We met with the Wollar Progress Association and considered its very detailed submission. It is obviously representatives of the local community and has a very deep interest in the proposal.

We have gone back to the company in July, provided detailed comments and I understand that we expect a revised version of the plan to be submitted by the end of this month, in which case we will review the plan. If it meets the requirements that we have requested then it will be approved, but we are waiting for the company to come back and address the concerns, many of which were brought forward by the Wollar Progress Association.

**The CHAIR:** I want to return to Mount Gilead. Are you aware of the dewatering and filling in of dams that has been taking place on Mount Gilead?

**Mr RAY:** No, I am not. I do not have any information in relation to that, unless my colleague does.

**The CHAIR:** It seems a crazy thing to do in the middle of a drought. I am wondering if you could just take this on notice. We have had some constituents who have expressed alarm at what they have said is the dewatering and filling in of dams in that area. They are worried because the creeks in the area have also dried out and what they see as the last remaining water potentially in the area for native animals and birds. They wanted to be assured that there was going to be water in that area. Do you think it is a sensible thing to dewater dams?

**Mr RAY:** Madam Chair, sometimes dewatering occurs because the water in the dams, the water in the water source or the particular area is too saline and it cannot be put back into the general system, but I do not know the circumstances of the case. We are happy to take that on notice.

**The CHAIR:** I want to turn to the Redfern station accessibility upgrade—this is not Transport specific, do not worry. I am just wondering if anyone is aware—I am not sure who to direct my question to in relation to this. It is in relation to the Redfern-Waterloo Authority. It stated in its annual report that funds from the sale of the Australian Technology Park would be used for local infrastructure improvements and that the authority frequently stated over that time that the sale would finance the upgrade of Redfern station. Are you aware of that promise by the Redfern-Waterloo Authority?

**Mr RAY:** I do not have any knowledge of that. I would have to take that on notice and get back to you, Madam Chair.

**Mr BETTS:** It would be a matter for the former UrbanGrowth that sits now within Infrastructure NSW, which is part of the Premier's cluster.

**Ms O'MARA:** I do not have any information about that either.

**Mr RAY:** It was Redfern-Waterloo Authority, then the Sydney Metropolitan Development Authority and then UrbanGrowth NSW Development Corporation.

**The CHAIR:** I will put those on notice to the relevant—

**The Hon. MARK PEARSON:** Just one brief question as to whether the department, considering there is this whole issue of trying to provide canopy and to cool particularly our western suburbs, has looked at the colour that is used in a lot of the housing developments of dark roofs and dark fencing? Considering there is quite a bit of evidence to say that it actually increases the temperature two to three degrees, yet there is this fad—

**The CHAIR:** It is the planning controls.

**The Hon. MARK PEARSON:** When we all fly in we see this sea of dark roofs. It does not really make much sense.

**Ms O'MARA:** What I would say is that since the Premier has announced this priority we have begun work to look at all of the control policies we have. For example, the greenfield code, the growth centres SEPP—what levers we have to influence better urban canopy, more trees, more space for trees, and we will be providing advice to government on what options it has around that.

**The CHAIR:** How does that relate to the colour of the dark roofs?

**Mr BETTS:** It all fits with in the design of the "western harlequin city", as we call it. Tree canopy is important in terms of bringing down ambient temperatures, so is reducing the number of dark roofs, what we call "hard stand". That would include road tarmac, using water, retaining water in the landscape again to bring down ambient temperatures, which has significant health benefits in terms of public amenity and also reduces household electricity bills through things like having to have air conditioning running all day. You mentioned a two to three degree temperature discrepancy. It can be a lot more than that in the height of summer. The way in which we go about urban design is really important in that context. It is an excellent question if I may say so.

**Ms O'MARA:** Yes, we are working with Infrastructure NSW, which is undertaking a sector review for South Creek to look at how can you approach this from a water-sensitive urban design perspective.

**Professor DURRANT-WHYTE:** On the sea level one, I have just been advised the former chief scientist did a report on sea level benchmarks in 2012.

**The CHAIR:** Yes, it was that long ago. That is right.

**Professor DURRANT-WHYTE:** It was long before my time. It is in the public domain, it is on the website and it can be provided to the committee.

**The Hon. ADAM SEARLE:** Mr Brogden, on about 8 August you sent an email which said, "The selection committee has now met and interviewed four shortlisted candidates. Subject to satisfactory reference checking and a review of a recent staff survey on the preferred candidate we will make a recommendation to you for adoption by the full board." Do you remember sending that email?

**Mr BROGDEN:** What date, sorry?

**The Hon. ADAM SEARLE:** It was 8 August 2017.

**Mr BROGDEN:** No, I do not recall. I am not saying I did not; I just do not recall.

**Mr BETTS:** Mr Brogden was Chair of Landcom at the time.

**The Hon. ADAM SEARLE:** I understand that. I think you were the chair of the selection committee.

**Mr BROGDEN:** Yes, I was.

**The Hon. ADAM SEARLE:** That email suggests that the selection committee had met and had decided on one of the four candidates. Is that correct?

**Mr BROGDEN:** Can you read it again, please?

**The Hon. ADAM SEARLE:** "The selection committee has now met and interviewed four shortlisted candidates. Subject to satisfactory reference checking and a review of a recent staff survey on the preferred candidate we will make a recommendation to you for adoption by the full board."

**Mr BROGDEN:** Can I take that on notice, please?

**The Hon. ADAM SEARLE:** You can take it on notice. I am happy to show Mr Brogden a copy from the non-privileged return.

**Mr BETTS:** The upshot of the process is that that recruitment process did not eventuate in the appointment of a new CEO to Landcom.

**The Hon. ADAM SEARLE:** I understand that, Mr Betts. I am just exploring why that is the case. Mr Brogden, that email suggests that the selection committee of which you were the chair met and decided that one of the four was the preferred candidate, subject to doing some reference checking. I was just going to ask you what happened to not progress with that preferred candidate? I am not asking you to say who it is or anything like that. I am not going to go into that space. I am just interested in the process and what happened.

**Mr BROGDEN:** Sorry, I am just reading. You quoted the beginning, not the whole email, so it is really not enough.

**The Hon. SHAYNE MALLARD:** Selectively quoting.

**The Hon. ADAM SEARLE:** I am happy for him to have the end.

**The Hon. SHAYNE MALLARD:** You are better than that.



**The Hon. ADAM SEARLE:** I do not think it changes the meaning. I am happy for him to view the email.

**Mr BROGDEN:** Thank you. What is the question?

**The Hon. ADAM SEARLE:** That email suggests that the selection panel, including you, shows one of the four interviewed candidates as your preferred candidate subject to some other further steps being taken. What happened that led you to not progress that candidate to the full board?

**Mr BROGDEN:** I would have to come back to you on that.

**The Hon. ADAM SEARLE:** Did you meet with that candidate in the offices of Russell Reynolds in August 2017?

**Mr BROGDEN:** We met a number of candidates. Three of the candidates were met in Carolyn McNally's office in Pitt Street, Sydney, and one candidate—a subsequent candidate that I referred to earlier—was met in the Russell Reynolds office, yes. But I do not have the dates in front of me.

**The Hon. ADAM SEARLE:** I am talking about the preferred candidate. Did you meet the preferred candidate in the office of Russell Reynolds?

**Mr BROGDEN:** We met all four candidates.

**The Hon. ADAM SEARLE:** But outside the selection panel process did you meet the preferred candidate or did you only meet them with the rest of the panel?

**Mr BROGDEN:** As I said before, the panel of myself, Carolyn McNally, Matthew Quinn and Gai McGrath—the last two from the Landcom board and, of course, Carolyn the former secretary of the department—agreed a short list of three candidates. We interviewed those three candidates, then undertook some light reference checking that indicated that none of those three candidates were viable for the role. We then, at the request of the then Minister for Planning, looked at another candidate who had been on the list of, say, 32 candidates—the short long list or the long short list—and we had chosen not to take her through to the interview process. We were asked to consider her candidacy, which we did and came to the same conclusion.

**The Hon. ADAM SEARLE:** Did you meet with that candidate outside of the selection panel process?

**Mr BROGDEN:** Yes. We met her after the first process had failed to be conclusive. I am struggling to understand the words you are using and what you are trying to ask.

**The Hon. ADAM SEARLE:** I will be very plain. I am assuming the panel met, all four of you together, interviewing the candidates. That is one setting. I am just wondering whether you had a separate meeting with this candidate by yourself.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** What was discussed at that meeting and why did you meet the candidate just one-on-one?

**Mr BROGDEN:** Because that candidate did not go through the final Russell Reynolds process and end up as one of the three candidates that we interviewed, and because we had come up short on those three candidates and because the Minister then asked us to review that last candidate, we discussed with her a process of psychometric testing that we would ask her to avail herself of in order for us to make a decision.

**The Hon. ADAM SEARLE:** That was a sort of day-long process, was it?

**Mr BROGDEN:** I think so, yes.

**Mr BETTS:** We are getting into a lot of detail about a selection process that did not eventuate in an appointment.

**The Hon. ADAM SEARLE:** Mr Betts, I did not ask you to interrupt. I am asking the questions here, okay?

**Mr BETTS:** Okay, but I—

**The Hon. ADAM SEARLE:** Were you on the selection panel?

**Mr BETTS:** I was not on the selection panel.

**The Hon. ADAM SEARLE:** If I have got a question I will ask you.



**Mr BETTS:** Okay and when you get to the point where you are potentially breaching someone's privacy I will let you know.

**The Hon. ADAM SEARLE:** I did say up-front I was not going to ask for any names or mention any names, if you were listening. So, speak when spoken to please. Mr Brogden, you met the candidate by themselves. Ms Jones, did you also meet the preferred candidate on your own or was it only in the panel setting?

**Ms JONES:** I do not think there was a preferred candidate.

**The Hon. ADAM SEARLE:** I am only using Mr Brogden's terminology in his email.

**Ms JONES:** I was on the board at the time. I was not part of the selection process. I was a director. I was aware of the process going on. The chair kept the board informed of the process that had occurred. My understanding is that there was a short list of three. The panel, who I had every respect in, came to the conclusion that none of those three was suitable. As Mr Brogden has explained, there was another candidate that was considered potentially suitable.

That person had not come through the short-listing of the Russell Reynolds process. It was the chair of the human resources committee, who is very experienced in human resources matters, that person suggested if she had not gone through the Russell Reynolds short-listing and it was appropriate, as it is often appropriate in appointing a CEO, to have a psychometric testing undertaken. It was also agreed that there were two directors on the Landcom board that had not been part of the interview panel and it was suggested that both Professor Ken Maher and myself meet with this potential candidate. I did so in the company of the chair of the board of the human resources committee.

**The Hon. ADAM SEARLE:** Mr Brogden, I am just using the terminology "preferred candidate" because that is what is in your email. Do you accept, having seen it, that it is your email?

**Mr BROGDEN:** I think so, yes.

**The Hon. ADAM SEARLE:** What happened to lead the selection panel to revisit that choice of having the person as your preferred candidate?

**Mr BROGDEN:** As I indicated earlier, that candidate was recommended after the formal process had concluded and, indeed, was on that long list of 32 but not thought to be appropriate to be taken to the last three. We were encouraged by the then portfolio Minister to look at that candidate. As I said, we agreed to a psychometric testing process. That process indicated that that person did not have the skills and qualities that we needed for the job, despite her being a very good person.

**The Hon. ADAM SEARLE:** At what forum did you make that formal decision? Did the selection panel reconvene?

**Mr BROGDEN:** No. The board met—

**The Hon. ADAM SEARLE:** I know the board met on the 29th.

**Mr BROGDEN:** Yes, and the board resolved a number of things at that meeting.

**The Hon. ADAM SEARLE:** It did.

**The Hon. CATHERINE CUSACK:** Madam Chair, can I just add my anxiety that we are intruding beyond a process question.

**The CHAIR:** I think it is a process question—

**The Hon. CATHERINE CUSACK:** I understand that.

**The CHAIR:** —and the member is asking about particular dates in terms of the recruitment of a—

**The Hon. CATHERINE CUSACK:** We are now talking about a person.

**The CHAIR:** I have been listening very carefully.

**The Hon. CATHERINE CUSACK:** I just urge caution.

**The CHAIR:** I agree.

**The Hon. CATHERINE CUSACK:** The person will be able to identify themselves.

**The CHAIR:** The member has assured the Committee that no personal details are being exposed at the moment, or will be.

**Mr BROGDEN:** Thank you, Chair. On 29 September 2017 the board resolved that the Russell Reynolds process be ceased as there was now a suitable candidate. That was a whole-of-board decision.

**The Hon. ADAM SEARLE:** I understand that. I am just wondering about the anterior decision that you and the other members of the panel made that the person who had been the preferred candidate—again, your terminology—was no longer to be put to the board for appointment. Again, I am just trying to understand who made that decision. You said it was unanimous.

**Mr BROGDEN:** It was the decision of the directors on the panel and that decision was then communicated to the board as a whole and the board then adopted it.

**The Hon. ADAM SEARLE:** Was that discussion of the panel documented or minuted or was it just informal?

**Mr BROGDEN:** I need to come back to you on that.

**The Hon. ADAM SEARLE:** Thank you for taking that on notice. Turning to the minutes of the board meeting of 29 September, you are right, the board resolved a number of things. One, that you would be appointed CEO for a finite period, you would remain a director and a new recruitment process would commence—

**Mr BROGDEN:** And I would step down as chair.

**The Hon. ADAM SEARLE:** Yes. But it said here at 3(a), "Mr Brogden would not apply nor be considered as an applicant for the permanent role." Do you see that?

**Mr BROGDEN:** Yes. I do not have it in front of me but I recollect that.

**The CHAIR:** Order! We have now reached five o'clock. We are coming back at six o'clock.

**The Hon. ADAM SEARLE:** We are coming back at six o'clock but I am happy to have a discussion with the Committee about which witnesses—

**The Hon. SHAYNE MALLARD:** Can we not extend this for five minutes? Do you only need five more minutes or do you need more time? You left your run late.

**The Hon. ADAM SEARLE:** I have used the time I have had.

**The Hon. BEN FRANKLIN:** Could I just pick up on what Mr Searle was saying? Might it be possible in discussion to consider being able to release some of the witnesses?

**The Hon. ADAM SEARLE:** I would urge that discussion. I think pretty much most people can be released.

**The CHAIR:** We will have a short deliberative.

(Ms O'Mara, Mr Ray, Mr Smith, Ms Frame and Professor Durrant-Whyte withdrew.)  
(Short adjournment)

**The CHAIR:** Welcome back.

**The Hon. ADAM SEARLE:** Mr Brogden, the results of the psychometric testing of the preferred candidate, did you and the other selection panel members get access to that?

**Mr BROGDEN:** I can add to an earlier statement. The board met at Russell Reynolds office on 7 September to discuss the psychometric testing. We were briefed on it.

**The Hon. ADAM SEARLE:** By Mina Ames, she was the recruiter from Russell Reynolds?

**Mr BROGDEN:** No. I think it was by the chair of the relevant committee who had received the report and that was Gai McGrath.

**The Hon. ADAM SEARLE:** The results of the psychometric testing were explored at that meeting.

**The Hon. CATHERINE CUSACK:** Are we really going into someone's personal case details by asking about this process?

**The Hon. ADAM SEARLE:** No, I am not.

**The CHAIR:** It is a recruitment process.

**The Hon. CATHERINE CUSACK:** They are asking about the results of psychometric testing on a single candidate.

**The CHAIR:** Are you taking a point of order?

**The Hon. ADAM SEARLE:** So I can put everyone's minds at rest, I am not going to ask for what was in the test. I am not going to explore anything.

**The Hon. SHAYNE MALLARD:** You are not far from revealing why this person did not get the job.

**The CHAIR:** Order! I do not think Mr Searle's question was going there.

**The Hon. CATHERINE CUSACK:** He has indicated he wants to discuss process and this is delving way beyond that, Madam Chair.

**The CHAIR:** Is your point of order in relation to relevance?

**The Hon. CATHERINE CUSACK:** Yes, relevance to process. That is what the member indicated he was going to be pursuing.

**The CHAIR:** Yes. The question, as I understand it, is in relation to a recruitment process within Landcom. As we know the member has been asking questions in that regard for some time. He has given the Committee assurances that he will not be asking personal details about the test.

**The Hon. ADAM SEARLE:** Certainly not.

**The CHAIR:** We need to allow the member to continue. He is being generally relevant in terms of recruitment.

**The Hon. ADAM SEARLE:** Mr Brogden, can you refresh my memory about the date?

**Mr BROGDEN:** Which date?

**The Hon. ADAM SEARLE:** The date you said that meeting happened.

**Mr BROGDEN:** Yes, 7 September.

**The Hon. ADAM SEARLE:** In process terms what was the next step after that? Straight to the board meeting?

**Mr BROGDEN:** Yes, that is correct.

**The Hon. ADAM SEARLE:** At that board meeting it was recommended that you be appointed CEO or acting CEO for a finite period, but it was on the understanding that you would not be considered as an applicant for the permanent role and that was minuted. Ms Jones and Mr Betts that is your recollection of events as well?

**Ms JONES:** Yes.

**Mr BETTS:** Yes.

**Ms JONES:** And I think you have been furnished with papers.

**The Hon. ADAM SEARLE:** Yes. I was going to come to that. There are a number of emails that have been produced in answer to the call for papers where a number of people, I think yourself Ms Jones, a Mr Jim Dawson from Treasury to Mr Pratt on 21 March 2018 said:

If I cast my mind back to October 2017 it was my understanding, albeit not supported in writing, that there was a general acceptance at the time that the board having failed in its first attempt to find a candidate was going straight back to the market to find a candidate and that candidate would not be John Brogden.

**Ms JONES:** That was the agreement as at the 31 September meeting.

**Mr BROGDEN:** As at 29 September.

**The Hon. ADAM SEARLE:** Mr Brogden, was that an agreement you were party to?

**Mr BROGDEN:** I was told that was the decision.

**The Hon. ADAM SEARLE:** Did you agree with the decision? Was it with your consent?

**Mr BROGDEN:** I was not given a choice.

**The Hon. ADAM SEARLE:** That is because there was a sensitivity that you had been the chair of the board, that you had been the chair of the selection panel and as a result of that you saw all the ins and outs of the process. You got to see what all the candidates said in terms of their curriculum vitae? You saw that, did you not?

**Mr BROGDEN:** I did not make the determination about the six months, so it is better answered by others.

**Ms JONES:** Perhaps, Mr Searle, if I could answer that. Mr Brogden was not part of the discussion that came to those arrangements.

**The Hon. ADAM SEARLE:** Yes, I saw he had recused himself.

**Ms JONES:** He cannot answer about a discussion and thought process when he wasn't part of that process.

**The Hon. ADAM SEARLE:** I am happy to have whoever is the relevant person answer.

**Ms JONES:** The board was quite conscious that there had been interim CEOs in the organisation. The board was quite conscious that the organisation had split—that was the Government decision. With changes to any organisation staff accommodate, but it is destabilising for the organisation. I should say that the suggestion that Mr Brogden become the interim CEO was not from Mr Brogden. Mr Brogden at that time had completed his term at the Australian Institute of Company Directors as its CEO. He had been the chair. He had good knowledge of the organisation. He had strong leadership experience. He had good stakeholder relationships. And the chair of the HR committee, Ms Gai McGrath, was the first person who suggested that we ask John would he be willing to assist the organisation and step in and lead the organisation.

We wanted a proper amount of time for a full recruitment process. Recruiting a CEO is not an easy process. It is a time-consuming process. There was a booming property market and we thought that six months would give us enough time to start a clear, new selection process.

**The Hon. ADAM SEARLE:** Understood, but you would agree that there were sensitivities around the appointment. It was an unusual appointment. Legal advices were sought and obtained on the legality and propriety of it.

**Ms JONES:** It was an unusual appointment. It is not unusual in terms of private sector and government organisations. It is not the usual practice but it is not uncommon that, at a period when there is a sudden vacancy, for example, of a CEO position, that someone from the board steps in and becomes the CEO. We were quite conscious that it was not the normal practice, and we would have preferred that there had been a suitable candidate come out of the Russell Reynolds process. That was not the case, so we were looking to see how could we best manage the State-owned corporation so it could fulfil its important role.

**The Hon. ADAM SEARLE:** But the reason the decision was reached that he would not then be a candidate for the substantive role was because there were concerns, not only in Landcom but in Government that, because he had been the chairman, because he had overseen the first failed selection process, there could be a perception that he had had an inside run, as it were, having seen the way in which the candidates put themselves forward, the way in which they were assessed by the recruiter and by others—

**The Hon. CATHERINE CUSACK:** Point of order: The member is not asking a question, he is making assertions and editorialising extensively. He is trying to claim that the witness is saying and thinking things which she has not stated. He should be asked to come to a question, not give a long series of these assertions that come from his own mind.

**The Hon. ADAM SEARLE:** To the point of order: I have not put it as this witness's view. I have put it that there was a concern in Landcom and across government about the appointment. I was just suggesting some of the reasons for that concern. She can disagree with me.

**The CHAIR:** I do not believe that you have come to your question, and it sounded to me like you were framing your question, so if you could get to your question soon.

**The Hon. ADAM SEARLE:** Do you agree that those were concerns that were held across government?

**Ms JONES:** No, Mr Searle, I do not agree. At that time the Government was not aware of the fact that the first process had not brought forward a candidate that the board thought was suitable. The board came to the resolutions that have been minuted. You have a copy of the minutes of that meeting. That was without any

discussion with the Government. That was the board's view, that acting in the best interests of the corporation, that was what we thought was most appropriate in the circumstances that we were faced with at that time.

**Mr BETTS:** Can I add to that that in November 2017—and entirely independent of the process associated with the appointment of the Landcom CEO—Treasury issued revised guidelines for governing boards of government businesses, which clarified that there should be no inhibition on a chair becoming a CEO of a State-owned corporation. That brought government practice into line with private sector practice, and that represents the material change in the wider governance framework which was instituted quite separately, but in the midst of this process. That meant that by the time Mr Brogden was appointed as CEO, and some time after the termination of the initial abortive appointment process, the rules of engagement changed.

**Ms JONES:** If I could add to what the secretary has just said, these were decisions of the board, but they were not implementable decisions, and I would draw your attention to line 2 on page 2-8. It says, "Investigations would be undertaken to determine if the following way forward could be achieved." So that was the board's view at the time—that, based on the circumstances that we were faced with, that was the most appropriate way forward and that we would then have the discussions that you alluded to. So they were not influencing our decision.

**The Hon. ADAM SEARLE:** Subsequently, when it became clear Mr Brogden would be an applicant for the substantive role, were you aware, Ms Jones, of any concerns either in Landcom or across government about how that might be perceived or about the propriety of that possibility?

**Ms JONES:** The situation is, following the board meeting of 29 September, in order to see whether this way forward was possible, Matthew Quinn, former CEO of Stockland, who was a director on the board at the time, and I met with Mr Pratt. I think you will find that there is a very comprehensive record of this—this was the way forward, these were the issues discussed with Mr Pratt and follow-up correspondence.

**The Hon. ADAM SEARLE:** Mr Betts, were you aware of any concerns held by either the head of Premier's department at the time or the head of the planning department about the propriety or the legality of appointing Mr Brogden either as interim CEO or as permanent CEO?

**Mr BETTS:** By the time the appointment as permanent CEO came round there was absolutely no question that Mr Brogden was in play as a potential candidate.

**The Hon. ADAM SEARLE:** He had been acting in the role for a substantial period of time by then.

**Mr BETTS:** Yes, he had and, as Ms Jones has indicated, there were extensive discussions with Mr Pratt as secretary of Treasury in which the board sought guidance as to whether there were any issues or concerns from wider government. It was confirmed that there was no problem with Mr Brogden being considered as a candidate and going through a merit-based selection process. That was done by the book and resulted in his appointment.

**The Hon. ADAM SEARLE:** Are you aware of any concerns held by either Mr Blair Comley or Ms Carolyn McNally about Mr Brogden being appointed interim CEO?

**Mr BETTS:** I think there is some documentation which might have been germane to that in Standing Order 52 but I have not memorised it.

**The Hon. ADAM SEARLE:** Mr Brogden, you had been the chair of the selection panel over the unsuccessful selection process. That would have given you a fairly good appreciation of what candidates said and the way in which they were assessed by Russell Reynolds, the recruitment company?

**Mr BROGDEN:** No different to any other selection panel I had assumed, in other capacities, where we were employing CEOs.

**The Hon. ADAM SEARLE:** This is in fact for the CEO role at Landcom. So that was a good dress rehearsal for yourself—you had a fairly good insight into the types of questions and assessments that candidates would be subjected to. Is that correct?

**The Hon. SHAYNE MALLARD:** Oh God, really?

**The Hon. CATHERINE CUSACK:** Are we keeping the Parliament open for this?

**Mr BROGDEN:** You should be aware—as I am sure you are—that it was a different process with a different firm and a different selection panel.

**The Hon. ADAM SEARLE:** Yes, I will come to that. But the style of questions around the role of the CEO, acting in the role of the CEO, as well as having been the chair of the board, would have given you a fairly good insight into what the role required and the types of questions that would be asked in the interview process.

**Mr BROGDEN:** I had been the chairman for six years—of course I knew what was required of a CEO.

**The Hon. CATHERINE CUSACK:** Is this the bombshell that we have come back for?

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** Catherine, we can sit here until 7.00 p.m. and, in fact, we can sit here later if you like.

**The Hon. SHAYNE MALLARD:** No, you can't.

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** We can sit here until 7.00 p.m.

**The Hon. SHAYNE MALLARD:** No, you can't.

**The Hon. ADAM SEARLE:** Or 6.40 p.m.

**The CHAIR:** Order! The Hon. Adam Searle will continue his line of questioning. Government members will cease interrupting.

**The Hon. SHAYNE MALLARD:** He is encouraging interjections.

**The Hon. CATHERINE CUSACK:** It's his fault.

**Mr BETTS:** Is the question that Mr Brogden had gained insight through his supervision of the first process, which gave him an advantage in the second process? I would say that the insight he gained in the first process would be nothing compared to the understanding of the business he had gleaned previously as chair, which was something that was known to everybody concerned.

**The Hon. ADAM SEARLE:** That might be Mr Brogden's evidence. Mr Brogden, it was the case, wasn't it, that what gave you the best insight into the role was in fact the opportunity you gained from acting in the role for several months?

**Mr BROGDEN:** That is a different question. Are you asking a different question?

**The Hon. ADAM SEARLE:** You do not ask the questions, Mr Brogden. I have asked you the question.

**Mr BROGDEN:** I am not clear what the question is. Could you restate the question, please?

**The Hon. ADAM SEARLE:** Acting in the role for several months gave you the best insight into what the role required. It gave you an advantage, did it not?

**The Hon. SHAYNE MALLARD:** It is not uncommon.

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** It gave you an advantage over the other applicants?

**Mr BROGDEN:** No. I am aware of many situations where the person who is acting does not get the job. It is quite common.

**Mr BETTS:** I was at Infrastructure NSW in an acting capacity for six months before going through a merit-based selection process and being permanently appointed—it is called "try before you buy". It is quite a sensible approach.

**The Hon. SHAYNE MALLARD:** Probably should have—

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** Mr Brogden, you were also an applicant for the role of the CEO of the UrbanGrowth NSW Development Corporation previously, were you not?

**Mr BROGDEN:** An unsuccessful one, yes.

**The Hon. ADAM SEARLE:** When did you find out that you had been unsuccessful?

**Mr BROGDEN:** I do not remember.

**The Hon. ADAM SEARLE:** The announcement of Mr Mann as the CEO was on 13 September. It would have had to have been some time before then?

**Mr BROGDEN:** I assume so, yes.

**The Hon. ADAM SEARLE:** Can you take on notice when you found out?

**Mr BROGDEN:** I can but I will not have a diary note on it. Actually, I do not think I am capable of answering the question.

**The Hon. ADAM SEARLE:** That is fair enough. Did you speak with or send text messages or in any way communicate with the Premier about your application for the UrbanGrowth NSW Development Corporation role?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** Did you speak with, send text messages or in any way communicate with the Premier about the interim role at Landcom?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** What about applying for the permanent role?

**Mr BROGDEN:** I do not recall but it is not out of the question that as a friend I would have let her know that I was applying for the role.

**The Hon. ADAM SEARLE:** Yes. And, Ms Jones, I think you had indicated that Mr Brogden had excellent access to the Premier, in one of the emails?

**Ms JONES:** One of the reasons that we appointed Mr Brogden as the acting CEO was because of his networks, both within Government and with the private sector, with development companies, with industry associations. I think it is well known that Mr Brogden, given some of his former roles, is well known and has contacts and friends in Government.

**Mr BROGDEN:** Indeed, I have know you for about 15 or 20 years.

**The Hon. ADAM SEARLE:** Yes, it would be closer to 20 years.

**The Hon. CATHERINE CUSACK:** It is no guarantee, is it now?

**The Hon. ADAM SEARLE:** I never said it was a guarantee.

**The CHAIR:** Order! It is getting late but I was trying to focus and conclude soon.

**The Hon. ADAM SEARLE:** But, Mr Brogden, you are aware that a number of legal advices were sought and obtained around your appointment?

**Mr BROGDEN:** Only after the time. In fact, only with the standing order, to be honest.

**The Hon. ADAM SEARLE:** In relation to your time as CEO, you are aware that there has been a lot of staff concern about the three restructures, is it, that have occurred at Landcom over the past couple of years?

**Mr BROGDEN:** The first one related to the separation of UrbanGrowth and Landcom and at that point I was the chair of the organisation and Barry Mann was the acting CEO. Then he went on to be the permanent CEO of UrbanGrowth and I stepped in as the acting chair, acting CEO of Landcom, and we discussed that. Then in the first six or 12 months we needed to get the structure right because once we had stood alone as Landcom I think we became aware of what the structure needed to be. Then there was a restructure earlier this year, in part in expectation of the Government's whole-of-government requirement in terms of reducing staff. Secondly, and most importantly, as a property development company we act commercially as per the legislation and we needed to respond to the fact that the property market has been incredibly bad for the past couple of years. That meant that we did not need the same level of staffing resources.

**The Hon. ADAM SEARLE:** If you take the period since you became the acting CEO—and I am happy for you to take this on notice because there will be some detail—how many people have resigned from Landcom's employment, how many people lost their positions due to the restructures, whether it is by payout or redundancy? I think there is a difference. I think some of the contracts provide for payouts, others are styled as a redundancy.

**Mr BROGDEN:** Award employees versus senior executives—

**The Hon. ADAM SEARLE:** Yes.

**Mr BROGDEN:** —under the Act, correct, our Act.

**The Hon. ADAM SEARLE:** How many people have left the organisation and to get a proportion of churn, the turnover.

**Mr BROGDEN:** Sure. Happy to give you those on notice.

**The Hon. ADAM SEARLE:** Of course, I expect it to be on notice. Looking through the produced documents to the upper House, there is a theme that emerges through a lot of the staff surveys that is not very flattering of the management of Landcom during this period. For example, on 30 November 2018 a Landcom People & Culture nominations committee meeting was discussing a People Matter survey. Only 21 per cent of staff approve of how people are managed at Landcom, only 23 per cent confidence in recruitment decisions, and a quote from the survey is "Executive approach to managing change in the organisation is not transparent and very disruptive", and "The ink was not dry on the last restructure before it was upended again." On 31 August in an email: "Employees don't feel senior managers, in particular the executive committee, listen to employees".

Landcom action plan template, which I think is undated, says Landcom was "uncoordinated, under pressure, over-administered and an unsatisfactory culture". Another action template says "We are significantly behind the private sector in how we manage the performance and behaviour of our people." Further documents—poor change management, instability, disillusionment with leadership and management. You get the flavour. One other document says, "In my 10 years here at Landcom this is the lowest I have seen morale." That is from 2018.

There are similar responses going through, even to this year—8 April, "There are too many EGM roles. Landcom previously successfully operated with fewer EGMs", "The organisation has been top heavy for some time, with senior executives at a high level and high pay grade", "In the restructure, officer roles at different levels are being deleted but few of the senior executive roles", "The enormous cost of reverting to a structure that was put in place less than a year ago in terms of employing senior executives and then having to pay out their contracts in this restructure cannot go unnoticed." And so on—you get the flavour. There is a lot of criticism of the period of time in which you were either the acting CEO or the permanent CEO about the permanent revolution you seem to have instituted at Landcom. Is that coming to an end now? Is it becoming more stable?

**Mr BROGDEN:** First of all, I note that you would have been selectively quoting the negative comments.

**The Hon. ADAM SEARLE:** I could go through all of the documents.

**Mr BROGDEN:** Sure. You could also include the positive ones, but you have chosen not to. What I would like to indicate to you is the latest people matter survey, which is less than a month old. I noticed you speaking negatively in previous estimates hearings about the low response across the public sector.

**The Hon. ADAM SEARLE:** No. I think the response across the public sector was very high.

**Mr BROGDEN:** Okay. The response at Landcom was 85 per cent, which is extremely high. That is 13 per cent higher than the public sector at large. That means we have highly engaged staff when it comes to engaging in the organisation. I am also pleased to indicate to you that the employee engagement score has increased from 62 per cent in 2017 to 67 per cent in 2018 and 68 per cent in 2019, which is above the New South Wales public sector average. Engagement at work is at 79 per cent, which is 7 per cent higher than last year and 6 per cent higher than the public sector average. With respect to senior managers, it is up 5 per cent from last year—2 per cent higher than the public sector. Communication, which is critical in any organisation, is plus 7 per cent, at 74 per cent, from last year—a clear 11 per cent higher than the public sector at large.

In terms of the high performance of the organisation, it is at 69 per cent—3 per cent higher than last year and 4 per cent higher than the public sector at large. In terms of diversity and inclusion, it is up 6 per cent to 79 per cent—which is 10 per cent more than the public sector at large. In terms of the ability of Landcom to deliver action on results from these surveys, it increased 13 per cent to 60 per cent—which is 20 per cent higher than the public sector average. So we have had a significant improvement. I would like to echo what Mr Betts said in respect of bullying. The answers to the survey questions show it has reduced.

For "In the last 12 months I have been subjected to bullying at work" the public sector average is 18 per cent and the Landcom average is 14 per cent. Fourteen per cent is too high; there is no doubt about that. I have made that very clear. I should say that we present all these results to the staff. They see them all. There is no hiding the good or the bad. We are very open with our staff. Whilst we are below the public sector average, it is still too high. We have a bullying policy put in place and are doing a lot of work in that sense. I think it is fair;



you have gone through the recent past but the latest figures are very encouraging and, in almost all indicators, improved and, in almost all indicators, we are above the average for the public sector.

**The CHAIR:** Order! Just to inform Mr Searle, you are now eating into what is technically the crossbench question time. You have six minutes left.

**The Hon. CATHERINE CUSACK:** We are into Dorothy Dix time, I think.

**The Hon. ADAM SEARLE:** No. I am not going to press it. I was going to ask about the demonstration projects you announced in May 2018. Where are they up to?

**Mr BROGDEN:** We are focusing on a number of demonstration projects. We have recently purchased a piece of land from Blacktown council. It is a site in Schofields that we intend to undertake a demonstration site on, particularly focused on what is often referred to as the "missing middle"—medium-density opportunities. That will include a minimum 5 per cent affordable housing.

We are negotiating one site with the Department of Health and I am very pleased to indicate that we were able to announce the first release of an affordable housing site at 5 per cent. At Tallawong railway station—along all of the Sydney Metro Northwest we are developing land on behalf of Transport for NSW metro. On that site after a tender process we announced the sale of that first piece of land, which will deliver up to 1,100 apartments right across the road from the new metro at Tallawong, and 5 per cent minimum of those up to 1,100 apartments will be affordable apartments and they will be administered by a community housing provider. We are very pleased that that demonstration project is out. We are working on the development application process for the Schofields one. The third one is a negotiation with the Department of Health on a piece of existing surplus Health land and those negotiations are continuing.

**The Hon. ADAM SEARLE:** I think in your original announcement you said one of the four would be in a regional setting. Where is that?

**Mr BROGDEN:** Yes, thank you. We had been working with Land and Housing Corporation on a site on the North Coast. Land and Housing Corporation decided it wanted to move ahead by itself on that program, so we are now looking at sites on the North Coast of New South Wales, possibly with local councils, where we can develop an affordable housing project.

**The Hon. ADAM SEARLE:** What is the time frame for that?

**Mr BROGDEN:** This financial year; so by the end of this financial year it is our intention to have secured and announced all of those sites and, in some of them, to be DA applied or DA approved.

**The Hon. ADAM SEARLE:** What was the budget allocated to each of the demonstration projects?

**Mr BROGDEN:** I will have to come back to you on that.

**The Hon. ADAM SEARLE:** Happy for you to take that on notice, and also how much has been spent to date on each project.

**Mr BROGDEN:** Yes, happy to do that.

**The Hon. ADAM SEARLE:** You have mentioned where they are located. Have all of the councils in the relevant areas given their consent for the demonstration projects?

**Mr BROGDEN:** Tallawong was through a State Significant Development Application [SSDA], but we have always advised—Sydney Metro Northwest goes through three councils, unhelpfully, in terms of the level of complication. The Hills council—or is that Blacktown? That council is aware of what we are doing. Blacktown is obviously aware of what we are doing. The relevant council for the Health site is very aware of what we are doing, and we are talking with the relevant North Coast council to see what opportunities it has available. Our view is that the council has to be a critical part of this.

**The Hon. ADAM SEARLE:** Have any of the demonstration projects been completed yet?

**Mr BROGDEN:** No, they are all at the commencement phase.

**The Hon. ADAM SEARLE:** What time frames do you think are realistic for them to be completed, or at least some of them?

**Mr BROGDEN:** People living in them completed?

**The Hon. ADAM SEARLE:** Or at least construction.

**Mr BROGDEN:** Construction commenced or completed?

**The Hon. ADAM SEARLE:** Completed.

**Mr BROGDEN:** I would say three to four years.

**The Hon. ADAM SEARLE:** I am happy for you to take this on notice: How much money has Landcom spent on consultancies associated with the demonstration projects?

**Mr BROGDEN:** Happy to answer that on notice.

**The Hon. ADAM SEARLE:** I think in your announcement you spoke about developing different affordable housing options for each of first home buyers, downsizers and renters.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** I think you were looking at different financing models for the three.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** Can you take that on notice, or discuss with the committee what those different models are?

**Mr BROGDEN:** There is a standard cross-subsidisation model where 5 per cent of a development would be affordable, as per the Environmental Planning and Assessment Act, which outlines quite clearly what "affordable" is. They would be cross-subsidised by the other 95 per cent; that is an obvious model. Another model would include different forms of equity in the investment process. Other models would include shared equity over a long period of time. We are looking at different ways of coming into them, and we are also looking to see whether there are aligned organisations—say, superannuation funds, potentially—that would see a benefit investing in affordable housing and even potentially investing in affordable housing for their own membership.

We are looking at different ways of delivering this. The reality is there is no free lunch when it comes to affordable housing. If only it were so, as I am sure the secretary would agree. It is hard work to get it up, but we are committed to doing it and it is now a very clear commitment in any of our projects in our pipeline of future projects that they have to be able to take 5 per cent to 10 per cent affordable housing.

**The Hon. ADAM SEARLE:** This is my last question and I am happy for you to take it on notice. I think you have met with church groups to explore their level of interest?

**Mr BROGDEN:** Yes, we have.

**The Hon. ADAM SEARLE:** What groups have you met with and what is their level of interest around this project?

**Mr BROGDEN:** We have met with church groups. There is a church housing group, which is a peak body that makes life easier. We have also met with the Community Housing Industry Association in New South Wales. We have met with individual community housing providers as well. They would be the main stakeholders we have canvassed. We have also begun to talk to potential house builders because smart building of a house and efficiencies in construction of homes can reduce the cost of purchasing or renting, so we are quite openly consulting on a number of issues. We have consulted with local councils where relevant as well, and across government in particular. We are working very closely with the secretary's department on this issue in particular as to what planning paths, processes and instruments may assist in the delivery of affordable housing. Mr Betts referred to earlier that work is undertaken by the department itself.

**The CHAIR:** Thank you very much. Thank you for your attendance today. It has been a long day. The committee secretariat will be in touch in the near future regarding any questions taken on notice—and there were a lot—and any supplementary questions. I am sure there will be some of those as well. Thank you.

**The Hon. ADAM SEARLE:** It seems likely.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**