

BUDGET ESTIMATES 2019-2020
Responses to Questions Taken on Notice

Minister for Police and Emergency Services

April 2020

References in answers to the **NSWPF** refer to the NSW Police Force, **FRNSW** to Fire and Rescue NSW, and **NSW RFS** to the NSW Rural Fire Service.

POLICE AND EMERGENCY SERVICES

1 Exemptions to the Firearms Act

The CHAIR: Minister Elliott, in the light of what we saw in the newspaper today in relation to shooting an HK UMG40, have you been accredited under the relevant legislation to use prohibited weapons in that way?

Mr DAVID ELLIOTT: In relation to the story this morning, I attended that range as the corrections Minister to commission that range and acted in good faith that the range master would be acting within the obligations of the Act.

The CHAIR: But that is not answering the question. Are you accredited? Were you accredited?

Mr DAVID ELLIOTT: Well, as you know, there are exemptions under the Act and I just had taken it in good faith that the range master had been acting within the confines of the Act.

The CHAIR: I am not aware of any exemptions for handling prohibited weapons. Can you enumerate what those exemptions are?

Mr DAVID ELLIOTT: I will take that on notice. It is in the Firearms Act.

ANSWER:

I am advised:

Section 6(2) of the *Firearms Act 1996* provides that a person is not guilty of an offence under this Act or the regulations only because of something done by the person while acting in their ordinary course of the person's duties. This section provides exemptions for certain classes of persons. If those classes of persons use prohibited firearms in their ordinary course of duties, the exemption applies.

2 Range Licensing

The CHAIR: He has not heard the question yet. That is not a point of order. Is that range licensed in the same way every other range in the State is licensed?

Mr DAVID ELLIOTT: I will have to put that on notice, unless Superintendent Bell is aware of that.

ANSWER:

I am advised:

Ranges in NSW are approved pursuant to Part 8 of the *Firearms Regulation* 2017.

Inquiries are being made about specifics relating to the range at the John Morony Correctional Centre and no comment can be made at this time.

3 Legal advice

The Hon. ANTHONY D'ADAM: Minister, did you seek any advice on the possibility of your conflict in this situation?

Mr DAVID ELLIOTT: In what regard?

The Hon. ANTHONY D'ADAM: Did you seek legal advice?

Mr DAVID ELLIOTT: I would have to take that on notice if we received legal advice.

The Hon. ANTHONY D'ADAM: You do not know? You are unable to say—

Mr DAVID ELLIOTT: I would have to take that on notice.

The Hon. ANTHONY D'ADAM: —in the 24 hours that you—

Mr DAVID ELLIOTT: I had some discussions internally as to whether or not and what processes we should go through.

The Hon. ROSE JACKSON: Who did you have those discussions with?

Mr DAVID ELLIOTT: My chief of staff.

The Hon. ANTHONY D'ADAM: So there was no legal advice?

Mr DAVID ELLIOTT: I will take the rest on notice

ANSWER:

On 10 September 2018, as the then Minister for Corrections, I commissioned the Corrective Services NSW (CSNSW) Mark Simmons Firing Range. When I commissioned the range, I fired two weapons under the strict supervision of the range master.

I acted in good faith under the assumption that CSNSW had complied with all of its administrative requirements according to the Firearms Act.

On the 9th of March I was advised CSNSW was potentially in breach of the Firearms Act with respect to potentially hundreds of individuals, including myself, who have used the range. I understand potential breaches could date back up to 20 years.

Given the safety and security of firearms is of the utmost importance to me, I immediately asked the Police Commissioner to investigate the operation of the CSNSW firing range to ensure they comply with the relevant legislation governing the use of firearms within their training establishments.

On the 10th of March, Corrective Services issued an apology to me for 'any embarrassment caused by actions' at its weapons range and any suggestion that I had done something wrong.

The statement also mentioned that 'At all times at the Mark Simmons Range the former minister was acting on the advice of Corrective Services and under the direction of a qualified weapons instructor.'

4 Supervision of the CSNSW range

The Hon. ROSE JACKSON: Minister, how many people were supervising the firearms range when you were there?

Mr DAVID ELLIOTT: For the opening, for the commissioning?

The Hon. ROSE JACKSON: Yes. How many people were supervising the—

Mr DAVID ELLIOTT: I would have to take that on notice. There were certainly at least two. There was obviously the inspector of the rifle range and there was another instructor, so there were certainly at least two.

The Hon. ROSE JACKSON: How many people were firing weapons? Was it just yourself or were there others?

Mr DAVID ELLIOTT: I would have to take that on notice.

ANSWER:

Please refer to the above response (Question No. 3).

5 CSNSW range license

The CHAIR: Will you table a copy of the licence that that range has?

Mr COUTTS-TROTTER: Yes, of course.

ANSWER:

This document has been submitted separately.

6 Minister Roberts

The Hon. ROSE JACKSON: Did Minister Roberts fire submachine guns on the range in a similar manner to Minister Elliot?

Mr COUTTS-TROTTER: Not to my knowledge, but I am happy to take that on notice.

ANSWER:

I am advised:

The Minister for Counter Terrorism and Corrections released a statement on this matter on 10 March 2020.

7 Ministerial Responsibility

The CHAIR: Minister, I ask you again: As Minister, were you the person responsible for that range and the administration of the range and legal obligations under that range?

Mr DAVID ELLIOTT: From a government point, I will take that on notice.

ANSWER:

Refer to response to Question Taken on Notice No.3.

8 Good faith defence under the Firearms Act

Mr DAVID SHOEBRIDGE: Commissioner, there is no good faith defence, is there, to a prosecution under section 7 of the Firearms Act?

Commissioner FULLER: I would have to take that on notice, Mr Shoebridge. I should try to be an expert on all the legislation out there, but I am happy to take that on notice and get an expert advice on any questions on the Firearms Act and potential breaches. No-one here is a lawyer. No-one here is a police prosecutor.

ANSWER:

The offence in section 7 of the *Firearms Act 1996* is considered a strict liability offence. This means that the common law defence of ‘mistake of fact’ is available. This defence allows an accused to raise “an honest and reasonable belief in a state of facts, which, if they existed, would render the act innocent”.

9 Commissioner investigations

Mr DAVID SHOEBRIDGE: Commissioner, we have had a previous police investigation of your boss, the Minister, have we not, under your watch?

Commissioner FULLER: What investigation are you referring to?

Mr DAVID SHOEBRIDGE: This was the investigation that was undertaken into the road rage incident. Do you remember that?

Commissioner FULLER: There was an incident involving a fail-to-stop accident that was investigated by New South Wales police. There were subsequent issues raised with my office. As a result of those issues, I asked for the matter to be investigated and for the fail-to-stop accident to be reviewed to make sure that was done appropriately.

Mr DAVID SHOEBRIDGE: And there was no transparency on that. When freedom of information applications were lodged, highly redacted copies were provided to the media and the Government is resisting the calls to produce a full set of papers in the upper House. There is no transparency at all on that investigation, is there, Commissioner?

Commissioner FULLER: That is not the case. There is protection for individuals in the Government Information (Public Access) [GIPA] Act and we have got to apply those. At the end of the day I am comfortable that the GIPA Act was used appropriately in this case.

Mr DAVID SHOEBRIDGE: This will not be a transparent investigation, will it, Commissioner? This will be an investigation done by police with no public hearings, no public accountability other than a statement at the end. That is what we are going to get again, is it not?

Commissioner FULLER: I disagree.

Mr DAVID SHOEBRIDGE: Did you review the previous investigation of your Minister? Did you review the results of that investigation?

Commissioner FULLER: No. I asked for a review and was given a consolidated report and I was more than comfortable with the outcome of the police investigation.

Mr DAVID SHOEBRIDGE: Will you table with the Committee the consolidated report that you got in relation to that investigation?

Commissioner FULLER: I do not have that with me but I am happy to take that on notice.

ANSWER:

The NSW Police Force is unable to voluntarily produce the consolidated report as it contains:

- a). Information that has been provided to NSW Police Force in confidence by witnesses (to which the general law relating to a breach of confidence applies and in addition, to which clause 76(1) of the Police Regulation 2015 applies); and
- b). "Personal information" to which the *Privacy and Personal Information Protection Act 1998* applies.

10 Video recording of traffic incident

Mr DAVID SHOEBRIDGE: Did you review any videos?

Mr JONES: Yes, I did.

Mr DAVID SHOEBRIDGE: Did those videos show the police Minister coming into contact with a 17-year-old?

Mr JONES: No, they did not.

Mr DAVID SHOEBRIDGE: Will you table those video recordings?

Mr JONES: I am not sure if I am allowed to table them.

Mr DAVID SHOEBRIDGE: You can take that on notice.

Mr JONES: Thank you very much. I will take that on notice.

Mr DAVID SHOEBRIDGE: Whose video recordings were they?

Mr JONES: I am not exactly sure who took the videos. I think we have seen the videos. I would not want to guess who actually took the videos.

Mr DAVID SHOEBRIDGE: Do you want to provide that answer on notice?

Mr JONES: Of course.

ANSWER:

Refer to response to Question Taken on Notice No.9.

At the time when the files were provided to the Castle Hill Police, they were advised that witnesses have recorded some audio and video footage on their mobile phones.

11 Legal advice (2)

The Hon. ANTHONY D'ADAM: Just stepping back to the sequence of events, you have already said that you did not seek any legal advice.

Mr DAVID ELLIOTT: Sorry, in relation to what?

The Hon. ANTHONY D'ADAM: You have not sought any legal advice in relation to this matter? You said you consulted your chief of staff—

Mr DAVID ELLIOTT: Yes.

The Hon. ANTHONY D'ADAM: —but you have not sought any legal advice?

Mr DAVID ELLIOTT: I would have to take that on notice. First of all, my chief of staff is an accomplished lawyer. Secondly, I do not know if she took legal advice from anybody, so I will take that on notice.

ANSWER:

Refer to response to Question Taken on Notice No.3.

12 Legal advice relating to the Ministerial Code of Conduct

The Hon. ANTHONY D'ADAM: You consulted the Premier's office; you spoke to the press secretary?

Mr DAVID ELLIOTT: I advised the press secretary that we had a media inquiry relating to a potential breach from the Corrective Services firing range.

The Hon. ANTHONY D'ADAM: But at no time have you actually spoken to the Premier about this?

Mr DAVID ELLIOTT: No.

The Hon. ANTHONY D'ADAM: Do you accept that you have made a decision to refer this matter to the police for investigation?

Mr DAVID ELLIOTT: Sorry?

The Hon. ANTHONY D'ADAM: Do you accept that you have made a decision as a Minister?

Mr DAVID ELLIOTT: I referred it to the police because it was a potential breach. I do not know what you would expect me to do.

The Hon. ANTHONY D'ADAM: No, I am asking you a factual question. You accept that you have made a decision as the Minister to refer this matter to the police for investigation?

Mr DAVID ELLIOTT: Yes.

The Hon. ANTHONY D'ADAM: You do?

Mr DAVID ELLIOTT: Yes. That was yesterday.

The Hon. ANTHONY D'ADAM: I ask you whether you have written approval from the Premier consistent with the ministerial code of conduct to participate in the making of such a decision, where you clearly have a conflict of interest? Do you have such written authorisation from the Premier?

Mr DAVID ELLIOTT: No I did not receive written approval from the Premier to refer a matter, which I believed would be a breach, to the New South Wales police commissioner.

The Hon. ANTHONY D'ADAM: Do you accept that on a prima facie basis you have breached the ministerial code of conduct?

Mr DAVID ELLIOTT: I would have to take that on notice.

The Hon. ANTHONY D'ADAM: In your discussions with the press secretary did you discuss the ministerial code of conduct?

Mr DAVID ELLIOTT: Not that I recall.

The Hon. ANTHONY D'ADAM: Have you sought any advice about whether you are in compliance with the ministerial code of conduct?

Mr DAVID ELLIOTT: I will take that on notice.

The Hon. ROSE JACKSON: Have you asked anyone, whether it be the Premier's press secretary, your own chief of staff, Minister Roberts, anyone you have spoken to in relation to this matter—has at any point the question crossed your mind and have you discussed with anyone else whether in fact you may be in breach of the ministerial code of conduct?

Mr DAVID ELLIOTT: Given the matter is now under investigation by both Corrections and the police I am just going to refer everything back to the Notice Paper. The Commissioner has just highlighted the fact that the speculation and public debate over this could influence the investigation.

The Hon. ANTHONY D'ADAM: This is not about the investigation, Minister. This is about—

Mr DAVID ELLIOTT: It is potentially the breach.

The Hon. ANTHONY D'ADAM: —you apprising yourself of your responsibilities as a Minister to conduct yourself in a way that is consistent with—

Mr DAVID ELLIOTT: I will take it on notice.

The Hon. ANTHONY D'ADAM: —the ministerial code of conduct.

Mr DAVID ELLIOTT: I will take it on notice.

ANSWER:

The matter is subject to inquiries by Police and Corrective Services NSW.

On 9 March 2020, I was advised that CSNSW was potentially in breach of the *Firearms Act* with respect to potentially hundreds of individuals, including myself, who have used the range. I understand potential breaches could date back up to 20 years.

13 Commissioner's notes

Mr DAVID SHOEBRIDGE: Commissioner, from the NSW Police Force side, what if any advice or information of briefings, or however you want to describe it, was provided to the Minister following the conclusion of the report?

Commissioner FULLER: There were certainly no written briefings passed through my office, Mr Shoebridge. I only reiterated that the outcome of the investigation was that there were no criminal charges to be brought against anyone and the matter was finalised.

Mr DAVID SHOEBRIDGE: That was the conversation you had with the police Minister?

Commissioner FULLER: Absolutely.

Mr DAVID SHOEBRIDGE: Did the police Minister ask you why or how or any questions about it in that conversation?

Commissioner FULLER: Not to my memory, no.

Mr DAVID SHOEBRIDGE: Did you have any notes of that conversation?

Commissioner FULLER: I am happy to take on notice the one-on-one we would have had with our staff, and the meeting of that. I am happy to go back and reflect to see if there was a conversation. I will take on notice if there was any other discussion and provide that to you.

ANSWER:

There was no written note or briefing between the Office of the Commissioner and the Minister for Police and Emergency Services on this issue.

14 Minister Elliott

The Hon. ROSE JACKSON: Minister Sidoti has stood down pending an investigation into his conduct, why does a different standard apply to him than to you?

Mr DAVID ELLIOTT: I will wait to find out what Mr Sidoti is found to have been involved in, but I am certainly not going to—

The Hon. ROSE JACKSON: No, the question is that he is under investigation; he stood aside. You are under investigation; you refuse to stand aside.

Mr DAVID ELLIOTT: I will take that question on notice.

ANSWER:

Refer to response to Question Taken on Notice No.3.

15 Documents relating to Mr Borsak

Mr DAVID ELLIOTT: Okay. So can I conclude my answer? Mr Borsak, you made representations on behalf of all of those case studies and more, so I am not really in a position to take a lecture from you over what rights and obligations firearm owners have.

The CHAIR: Can you table all of those, please?

Mr DAVID ELLIOTT: I would be delighted to.

ANSWER:

I am advised:

I am unable to table the information as it contains “personal information” to which the *Privacy and Personal Information Protection Act 1998* applies.

16 Minister's leave

Mr DAVID SHOEBRIDGE: We have plenty of time to review that this afternoon too, Commissioner. Minister, when did you leave for your holidays? When did the holidays start and when did they end? By the holidays, I mean the ones you had over the Christmas period?

Mr DAVID ELLIOTT: I went on leave on the Friday after Christmas.

Mr DAVID SHOEBRIDGE: Do you remember—was it the twenty-seventh?

Mr DAVID ELLIOTT: No, I cannot remember. I will have to take on notice, and was advised on a Monday morning—sorry and had three days—two days in Singapore, went to London on the Monday, landed in London on the Tuesday, got told that there was a state of emergency, rebooked my flights and I think I was home on the Thursday or Friday.

ANSWER:

I left Australia on Friday 27 December 2019 and returned on Friday 3 January 2020.

17 Application for Ministerial Leave

The Hon. ROSE JACKSON: Minister, what day did you put in your application for this leave?

Mr DAVID ELLIOTT: I would have to take that on notice but we booked it around the election, so that would have been March.

The Hon. ROSE JACKSON: Was it approved quickly prior to that or can you give us a sense of when the leave was approved?

Mr DAVID ELLIOTT: I would have to take that on notice but it was certainly booked and approved before the fire season started.

ANSWER:

The leave request was sent to the Premier on 2 July 2019 and approved on 15 July 2019, however planning for the trip began earlier in the year.

18 Offer to cancel leave

The Hon. ROSE JACKSON: But let us just go back to it. You made an offer to the Premier to cancel your leave. When was that roughly?

Mr DAVID ELLIOTT: I would have to take that on notice.

ANSWER:

It was a live option since the beginning of the bushfire season, one which I discussed with the Premier on a number of occasions.

19 State of Emergency timing

The Hon. ANTHONY D'ADAM: Commissioner Fitzsimmons, at what point in time did you flag with the Minister that there was a high probability that you would need to invoke the state of emergency provisions?

Commissioner FITZSIMMONS: I would have to take that specifically on notice but, as you would appreciate, there were only a couple of days that we are talking about when the Minister was out of the country, so there was communication through messaging and phone calls to keep the Minister up to date with certain things. But in terms of the decisions around operational determinations and pursuits of state of emergency advice, there was no impediment in doing that because my advice on that is directly, as the commissioner, through to the Premier and advising the Minister of that arrangement. I could find out specifically but I just do not have that—you know, there was a period through that time.

ANSWER:

I am advised:

When seeking a State of Emergency declaration, the RFS Commissioner writes to the NSW Premier, not the Minister for Police and Emergency Services. Commissioner Fitzsimmons wrote to the Premier on three occasions seeking a State of Emergency declaration, 10 November 2019, 18 December 2019, and 2 January 2020.

20 Employee related expenses - NSW RFS

The Hon. ANTHONY D'ADAM: Commissioner Fitzsimmons, when did the exemption come into operation? When were you advised of that?

Commissioner FITZSIMMONS: My understanding is it is in the current finance cycle. For the 2019-20 budget period—for a number of years we have been exempt when it comes to employee-related expenses. I can get you the specific timing on notice, if that is all right. So employee-related expenses are exempt from the savings. The only area relates to some savings in senior executive and what we call contingent labour.

ANSWER:

I am advised:

The NSW RFS is not exempt on an ongoing basis from Labour Expense Cap savings. However, since the inception of the labour expense cap, no savings requirement for general labour expenses has been imposed, with an exemption provided in each year.

Two specific savings measures were applied as part of the 2019-20 budget process relating to senior executive savings and contingent labour. The Stronger Communities Cluster provided an overview of these savings to the Committee in August 2019.

21 **Wage freezes**

The Hon. ANTHONY D'ADAM: Minister, there has been some speculation about a wage freeze. Will you guarantee that neither unsworn or NSW Police Force members will be subject to a wage freeze?

Mr DAVID ELLIOTT: Where did you hear the speculation? Were you going on yesterday's budget estimates committee?

The Hon. ROSE JACKSON: We read about it in the newspaper.

Mr DAVID ELLIOTT: Okay. I will take it on notice.

ANSWER:

I am advised:

I am not aware of a wage freeze on unsworn civilian staff and sworn police officers.

22 Breakdown of burn

The CHAIR: Mr Fitzsimmons, you say in your evidence that 5½ million hectares of land was burnt in this fire event. Do you know how much of that was public and/or private, in terms of the break-up?

Commissioner FITZSIMMONS: Off the top of my head I do not but I am happy to take that on notice. There was a combination of public and private lands.

ANSWER:

I am advised:

For the period 1 July 2019 to 13 March 2020, the total land burnt for all major fires (being fires over 10 hectares) was 5,523,033 hectares. 1,595,482 hectares of this was private land. 3,927,550.6 hectares had primary public land managers.

The Hon. ANTHONY D'ADAM: Minister, I am just going to hand you a picture of the design of the promised \$1 million upgrade to the Karuah station and a picture of what was delivered. Given the new premises have been slammed by the Police Association of NSW is unfit for purpose, why was a substandard building delivered rather than a promised \$1 million upgrade?

Mr DAVID ELLIOTT: Thank you for the question. In relation to Karuah, that was obviously the first station that we have delivered under the Regional Small Police Station program. It is a standard single module building. Fabrication of these sections were completed offsite and delivered for assembly as part of the development. The new station will deliver sustainable modern premises that enable police service delivery while focusing on accessibility. It is ahead of schedule and I am hopefully going to go and open it very soon.

The Hon. ROSE JACKSON: Look at the picture, Minister. It is a prefabricated shipping container, is it not?

Mr DAVID ELLIOTT: I cannot—

The Hon. ANTHONY D'ADAM: It is a tip of the hat to the tiny house movement, is it not?

Mr DAVID SHOEBRIDGE: Which is a good one.

The Hon. ANTHONY D'ADAM: How much do they cost?

Mr DAVID ELLIOTT: I know that the overall budget—

The Hon. ANTHONY D'ADAM: Can I ask about Tea Gardens as well, which I think is a similar module?

Mr DAVID ELLIOTT: The overall budget, I will take it on notice.

ANSWER:

The redevelopment of Karuah Police Station and the upgrade of Tea Gardens Police Station are funded through the 2018/19 budget announcement of \$118.6 million for police property major capital works. A total of \$15.9 million was allocated to the Regional Small Police Station program for redevelopment or upgrade of 14 police stations.

The new Karuah Police Station and Tea Gardens Police Station will utilise modular units. Modular construction is a process in which a building is constructed off-site under controlled factory conditions, using the same materials and designing to the same codes and standards as conventionally-built facilities. It is a robust, simple design using durable materials.

Each module is fabricated to suit a standard accommodation and functional requirement designed for current and future operational use. Consultation with operational management is undertaken to determine specific requirements for the command or district to meet service levels.

The use of modular construction methodology minimises interruption to operational policing, with on-site activities completed in a fraction of the time.

24 Moama Police Station

The Hon. ANTHONY D'ADAM: Minister, can I ask you about Moama police station. It has been described as the worst designed police station in the State. You cannot get a noncompliant detainee into the cells; police officers, prisoners, men, women and children share one toilet. Given that Murray River Council is offering the New South Wales Government land next to the Rural Fire Service—the most visible site in the area—will you commit to prioritising the building of a new police station?

Mr DAVID ELLIOTT: At Moama?

The Hon. ANTHONY D'ADAM: Yes.

Mr DAVID ELLIOTT: Yes, it is going to be commencing next financial year. It has been re-prioritised as part of the capital works program.

The Hon. ROSE JACKSON: Minister, just looking at those photos we provided to you, can you see the obvious frustration that the community has when it was promised one thing and delivered something very, very different? Do you understand why the community—and, in fact, the local police—are so angry?

Mr DAVID ELLIOTT: I will take that on notice.

ANSWER:

The business case for Moama Police Station has been prioritised and approved for funding. It recommends a new police station in Moama, not a refurbishment.

25 **Minister Taylor investigation**

The Hon. ROSE JACKSON: Minister Taylor said that his office downloaded the document from the City Of Sydney website on 6 September. He has also referenced his office accessing the document on 9 September. Did New South Wales police establish when Minister Taylor or his office downloaded the documents from the City of Sydney website?

Commissioner FULLER: I would have to take that on notice.

ANSWER:

No. The metadata did not provide any evidence of the document being downloaded to Minister Taylor's office.

26 Minister Taylor investigation

- a. The Hon. ROSE JACKSON: Sure. Did the investigation conducted by the New South Wales police determine on what date Minister Taylor or his office potentially accessed the documents? I say ""potentially"" because obviously you took the question of whether it did determine on notice. If indeed it did determine that, do you have the date?

Commissioner FULLER: I will take that on notice as well.

- b. The Hon. ROSE JACKSON: Did New South Wales police review the City of Sydney's metadata in relation to the annual reports determining that they had not been altered or changed or removed since they were initially uploaded? Did you look into that element?

Commissioner FULLER: I will again take that on notice.

- c. The Hon. ROSE JACKSON: Did you review the Google analytics from the City of Sydney to demonstrate how many downloads there were of the annual report between the relevant dates 6 and 9 September?

Commissioner FULLER: Again, I will take that on notice.

- d. The Hon. ROSE JACKSON: Did New South Wales police determine the location of any IP addresses for direct downloads of the annual report between 6 and 9 September?

Commissioner FULLER: I will take that on notice.

- e. The Hon. ROSE JACKSON: Specifically, did New South Wales police examine if Minister Taylor or any member of Minister Taylor's office visited the URL of the documents on the City of Sydney website or shared them via email or some kind of electronic messaging service?

Commissioner FULLER: I will take that on notice.

- f. The Hon. ROSE JACKSON: Did New South Wales police find any evidence that the document Mr Taylor or his office provided to journalists at The Daily Telegraph, the alleged forged document, that that document had ever existed on the City of Sydney's website?

Commissioner FULLER: I will take that on notice.

- g. The Hon. ROSE JACKSON: As part of the investigation, did New South Wales police request any documents or other material from Minister Taylor or his office? Was that part of the investigation you conducted?

Commissioner FULLER: I will take that on notice.

- h. **The Hon. ROSE JACKSON:** Did they provide you any material? Are you aware, as part of the investigation of Strike Force Garrad, as to whether any information or documents were provided to that investigation by Minister Taylor or his office?

Commissioner FULLER: Again, as part of those broader questions, I will take that on notice.

- i. **The Hon. ROSE JACKSON:** Did New South Wales police ask to interview Minister Taylor as part of their investigation? Do you know if they requested to interview him?

Commissioner FULLER: I will take that on notice.

ANSWER:

- a. 29/09/2019.
- b. There was no evidence of any alteration on the City of Sydney's website. A third party provided evidence of the metadata analysis which did not indicate any alteration.
- c. Yes.
- d. Yes, none of the IP addresses were situated in the Minister Taylor's office.
- e. No.
- f. No.
- g. Yes. All documentation was provided by Mr Stuart Hetherington of Colin Biggers and Paisley Lawyers on behalf of Minister Taylor.
- h. As above.
- i. Yes.

27 Minister Taylor investigation 3

The Hon. ROSE JACKSON: I asked a question about whether you requested an interview with Minister Taylor and you took that on notice. My follow-up would be:

If you did request that, how did he respond?

Did you in fact interview Minister Taylor as part of that investigation?

Commissioner FULLER: I am taking for granted—although I should not—that ""you"" means the strike force investigators?

The Hon. ROSE JACKSON: Apologies. Yes, I will try and be clearer on that. I do mean Strike Force Garrad.

Commissioner FULLER: Again, only for the sensitivity of this matter, I will take that on notice rather than guess in terms of what the details are of every day of what the investigators did in relation to the matter.

ANSWER:

All requests with relevant questions were forwarded to Minister Taylor's solicitor, Mr Stuart Hetherington of Colin Biggers and Paisley Lawyers on numerous occasions. Mr Hetherington replied and answers questions posed on behalf of Minister Taylor. The Minister was not interviewed.

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The Hon. ROSE JACKSON: I will move on. Did New South Wales police ask or offer to interview any of Minister Taylor's staff as part of the investigation?

Commissioner FULLER: I will take it on notice.

ANSWER:

Refer to response to question 27.

29 Minister Taylor investigation 5

The Hon. ROSE JACKSON: Great. Did New South Wales police and Strike Force Garrad interview any family or friends of Minister Taylor in relation to this investigation?

Commissioner FULLER: I do not have the knowledge of who they may or may not have interviewed. We will take on notice that anyone who they may or may not have interviewed—I will take that on notice as a question.

The Hon. ROSE JACKSON: Let us go to the referral of the investigation to the Australian Federal Police. Can you just give us a sense again about why that referral happened? What led to that decision?

ANSWER:

No.

The transfer to the Australian Federal Police (AFP) was made after obtaining advice from State Crime Command, who recommended the investigation be referred due to jurisdictional issues. It was determined the document in question was altered from the original that was published on the City of Sydney website.

All evidence gathered by the NSW Police Force was disseminated to the AFP.

30 Minister Taylor Investigation 6

I can take on notice how they arrived at that conclusion, but it would be standard protocol through jurisdiction and I guess I would raise that—

The Hon. ANTHONY D'ADAM: Yes, if you could take that on notice—

Commissioner FULLER: Yes.

ANSWER:

Refer to response to Question Taken on Notice No.29.

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The Hon. ROSE JACKSON: The referral that New South Wales police provided to the AFP—what did that say? Did it cite any offence provisions? What was the detail of that referral?

Commissioner FULLER: I will take that on notice as a question.

ANSWER:

Refer to response to Question Taken on Notice No.29.

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The Hon. ROSE JACKSON: Would you be able to table a copy of that correspondence?

Commissioner FULLER: I certainly do not have that correspondence with me but I will take that as a request on notice.

The Hon. ROSE JACKSON: Thank you. Did you provide any material to the AFP when you made that referral—any supporting documentation or other sort of evidence that Strike Force Garrad may have collected?

Commissioner FULLER: Again, I will take that on notice in terms of what material we provided the AFP.

ANSWER:

Refer to response to Question Taken on Notice No. 29.

33 Minister Taylor investigation 9

The Hon. ANTHONY D'ADAM: How many hours' time was dedicated to the investigation?

Commissioner FULLER: Look, I have no idea but I can certainly take that on notice. Not a definitive question—but I can certainly let you know how many officers worked on it broadly for how many weeks or days.

ANSWER:

10 staff were utilised on this investigation over the period commencing on 6 November 2020 and concluding on 16 December 2020.

34 Firearms Registry performance

- a. **Mr DAVID SHOEBRIDGE:** My question was about whether there were adequate resources in the Firearms Registry to do one of its critical jobs, which is to inspect firing ranges, including those in correctional facilities, to ensure the Firearms Act was being complied with. Were those resources in place from March 2017 to June 2019?

Commissioner FULLER: In two parts, it is my understanding that licensed firearms dealers et cetera, they are audited. It is not just the Firearms Registry that has that responsibility. In fact, general duties and local police visit gun owners. This is a shared responsibility across 17,000 police.

Mr DAVID SHOEBRIDGE: I am asking not about individual gun owners or about the rapidity with the paperwork for individual gun owners. My question has been very specific about investigations, spot checks, visits to firing range facilities, including the one where it appears the then corrections Minister, now police Minister, was unlawfully firing off a submachine gun.

Commissioner FULLER: More than happy to take that on notice.

- b. **Mr DAVID SHOEBRIDGE:** Is it true that in March 2017 out of a total of 92 positions, there were 17 vacancies; in May 2018 out of a total of 95 positions there were 16 vacancies; in July 2018 there were 17 vacancies; and as recently as June 2019 there were 27 vacancies out of 95 positions? More than a quarter of the staff unfilled in June 2019?

Commissioner FULLER: We have talked about this at every budget estimates. I will take that on notice to confirm those numbers.

Mr DAVID SHOEBRIDGE: Mr Bell is probably closer to the ground on those numbers.

Commissioner FULLER: Mr Bell was not here from 2017 and 2018. We will take on notice all answers to those questions.

Mr DAVID SHOEBRIDGE: He was there in June 2019. Mr Bell, were there 27 vacancies in June 2019? I am reading this from some internal Firearms Registry emails that were produced under Standing Order 52. Were there 27 vacancies as recently as June 2019?

Mr BELL: Mr Shoebridge, I cannot give specifics.

Mr DAVID SHOEBRIDGE: I am happy to show you the document.

Mr BELL: It is obviously fluid in terms of staffing over the time, to the point now we have filled all our positions. But as the commissioner said, we can take those on notice in terms of specifics.

Mr DAVID SHOEBRIDGE: That is an email, I think, from the executive director. It says in black and white that more than a quarter of the positions in the Firearms Registry were vacant in June 2019. Do you accept those figures? Do you have other figures to put to us?

Mr BELL: With respect, I cannot see who it is from. We would have to double-check and get back to you.

Commissioner FULLER: We are happy to take that on notice and we will certainly answer that question. But I am happy that we have concluded the restructure and that performance continues to improve and we have all our positions filled.

ANSWER:

- a. The Firearms Registry has a three year cyclical range inspection program. During this time, the Firearms Registry range and club personnel team with local police to conduct inspections of ranges and, where appropriate, their associated clubs. If improvement work is required following the inspection, local police or Registry personnel may follow up within the three year cycle.

All Police Officers may inspect a range facility as part of compliance-based activities.

Clause 94(1)(b)(iii) of the Firearms Regulation 2017 requires a range approval holder to make records available for inspection by a police officer.

Clause 93(1) of the Firearms Regulation 2017 provides that the Commissioner may approve a shooting range either unconditionally or subject to such conditions as the Commissioner thinks fit (such as conditions relating to the control, administration, management, use and inspection by a police officer, or such other person as may be approved, of the shooting range, and the preservation of public safety).

- b. Staffing Numbers:

- (i) 18/03/2017: - 92 positions (76 headcount, 17 vacancies);
- (ii) 24/05/2018: - 95 positions (81 headcount, 16 vacancies);
- (iii) 05/07/2018: - 95 positions (79 headcount, 17 vacancies);
- (iv) 30/06/2019: - 97 positions (76 headcount, 27 vacancies); and
- (v) 27/08/2019: - 93 positions (88 headcount, 5 vacancies).

It is important to note that a “Vacant Position” is a position with no substantive holder/occupier. Vacant positions are not necessarily a true indication of capacity in the Firearms Registry. Contractors can be engaged to supplement the workforce.

Contractors were engaged to supplement the Firearms Registry using savings made from vacant positions within their budget.

A new structure has been implemented at the NSW Firearms Registry to streamline processes, improve transactional efficiencies, enhance decision-making, and increase.

35 John Morony Correctional Centre range audits

Mr DAVID SHOEBRIDGE: When was the last time that there was an audit of the firing range at the John Morony Correctional Centre undertaken by New South Wales police?

Commissioner FULLER: I will take that on notice.

Mr DAVID SHOEBRIDGE: When was the last time there was a spot visit at the firing range by any member of the Firearms Registry to the John Morony Correctional Centre?

Commissioner FULLER: I will take it on notice.

Mr DAVID SHOEBRIDGE: When was the last time there were any steps taken by New South Wales police to audit, investigate, review or the shooting range at the John Morony Correctional Centre?

Commissioner FULLER: I am happy to take that on notice.

ANSWER:

Inquiries are being made about specifics relating to the range at the John Morony Correctional Centre and no comment can be made at this time.

36 Drug dog statistics

Mr DAVID SHOEBRIDGE: Commissioner, as recently as 23 January the police Minister wrote to the Clerk of the upper House in response to answers he had given to questions to the Legislative Council in relation to searches following drug dog operations. He said this:

Since this information was tabled, I have been advised from the NSW Police Force State intelligence commander the data provided for questions 1 and 2 were developed differently from that applied on all other occasions to the production of NSW Police Force statistics. NSW Police Force also advise that the methodology had not been peer reviewed. As a result, I attach the new data in response to questions 1 and 2 in the questions of notice. Did you provide the Minister with the relevant advice about the changed numbers on drug dogs?

Commissioner FULLER: What advice in particular are you talking about?

Mr DAVID SHOEBRIDGE: I assume the Minister relied upon advice from your force that said that the number of searches following drug dog operations was less than previously advised.

Commissioner FULLER: I will take it on notice. Obviously, if you can let me see the correspondence it will help us in developing the answer.

ANSWER:

Yes, the revised statistics were provided by the NSW Police Force to Minister for Police and Emergency Services.

37 Ministerial request relating to drug dog statistics

- a. **Mr DAVID SHOEBRIDGE:** Was there a request from the police Minister for a review of the drug dog data that initially provided a false positive rate of 76 per cent and has now gone on this revised data to a false positive rate of 69 per cent? Was there a request?

Commissioner FULLER: Not to my knowledge, but I can certainly take it on notice.

- b. **Mr DAVID SHOEBRIDGE:** All right. Can you explain either now or on notice, what was the fault with the original methodology and what was the change in methodology that produced the changed figures?

Commissioner FULLER: I guess there is an assumption on both of those things and they both could be wrong, but I get the gist of your question.

Mr DAVID SHOEBRIDGE: I accept that, commissioner.

Commissioner FULLER: I will take that on notice in terms of bringing you clarification.

ANSWER:

- a. No, there was no request for a change of data from the Minister for Police and Emergency Services.
- b. Since 2014, the NSW Police Force have used a standardised approach to collating drug dog operations and related searches. This methodology is based upon a count of all drug dog deployments.

The untested methodology did not include all count of drug dog deployments.

38 Revisions of drug dog statistics

Mr DAVID SHOEBRIDGE: All right. Are you aware that this is, I think, the fourth time in the last nine years that the NSW Police have revised, and revised down, the number of searches that they say historically they have undertaken using drug dogs?

Commissioner FULLER: I do not understand the question.

Mr DAVID SHOEBRIDGE: Well, this is the fourth occasion that the NSW Police have given revised figures, retrospective revised figures, about their drug dog operations.

Commissioner FULLER: If you could give me those four occasions in writing then I can provide some commentary on that for you, as a question on notice.

ANSWER:

The NSW Police Force is committed to providing accurate figures and is undertaking measures focussed on consistency for the future reporting of statistics.

39 Firearms dealers survey

The CHAIR: Now that you mention deals, I am aware of the fact that the Firearms Registry recently undertook a survey of firearms dealers. Is that true?

Commissioner FULLER: I would have to take that on notice

ANSWER:

A survey of firearms dealers was undertaken by the Firearms Dealers Association of NSW in July 2019. It identified that over 82% of dealers surveyed scored their call satisfaction as being 7 out of 10 or above.

40 Standards of professional conduct

The CHAIR: I am talking about the NSW Police Standards of Professional Conduct booklet, the latest version of which was promulgated on 14 July 2017, I think. It included a new requirement for new employees to sign a declaration attesting that they had read and understood the code and that if they failed to comply with the code of conduct and ethics they may be subject to management action. My question is based on that: How many of the registry's employees, including the 10 employees who are now located in the PoliceLink call centres, have not yet signed the declaration?

Mr BELL: As the commissioner said, I would have to take that on notice.

ANSWER:

All Firearms Registry staff as well as officers at PoliceLink have signed the Code of Conduct and Ethics declaration form.

41 Audit of the firearms registry

The CHAIR: Thank you. As a general question, commissioner, the recommendations of the Audit Office from their audit in February 2019, there were 10 recommendations. Can you perhaps give us a run-down of where you are up to or where the Firearms Registry is up to in terms of implementing those 10 recommendations of the Audit Office report?

Commissioner FULLER: I would have to take the progress on notice.

ANSWER:

Nine (9) of the 10 recommendations were supported by the NSWPF. Of those recommendations that were supported, seven have been finalised and the remaining are currently in progress.

42 1500 new police

Commissioner FULLER: It is not the hope. We have made significant changes to the way that we recruit police. We used to recruit three times a year, which caused all sorts of problems around recruitment and retirement and you were not getting a consistent flow of new troops out into the PACs and the districts. Next year we will have a record six classes a year. We are recruiting big numbers at the moment. We are an employer of choice for gender equity and we have never turned out a better quality recruit than we have at the moment.

The CHAIR: What proportion of those 1,500 will be located in regional areas?

Commissioner FULLER: Again, I can give you a definitive based on the first two years. I could give you an estimate based on the second two years, noting that there is flexibility in terms of environmental changes.

The CHAIR: I can take it you will take that on notice and provide it?

Commissioner FULLER: Absolutely.

ANSWER:

Out of the 450 First Year allocation of additional police officer positions, 176 were allocated to the Regional NSW Field Operations.

The Second Year allocation of 250 police officers is determined by the Commissioner of Police based on addressing the future and current demands of policing services. Allocations for the second year are yet to be finalised and endorsed.

43 Call with the PM

The Hon. ANTHONY D'ADAM: On notice, are you able to provide the Committee with a log of how long and the exact time that conversation took place from your phone records?

Commissioner FULLER: I can try to get those phone records but, again, I am on record saying four to six minutes. We will attempt to get the exact time of the phone call.

ANSWER:

On phone records held, it is not possible to accurately identify the relevant call in order to provide information about the time of the call and its duration. However, the Commissioner of Police is on the record, in media reports, as having recalled that phone call lasted a few minutes.

44 Moama Police Station status

The Hon. ANTHONY D'ADAM: Earlier in the session the Minister indicated a change in the commitment around Moama police station. Can you clarify for us, is that a proposed upgrade or a complete rebuild of that station?

Commissioner FULLER: I will have to take the question on notice. I know that we have moved it forward in our capital works. I have seen the building and I would be nervous to say that you could actually repair it. If I could just take it on notice exactly what is the capital expenditure in relation to that police station.

ANSWER:

Refer to response to Question on Notice 24.

45 Age of appliances

The Hon. ROSE JACKSON: How many appliances would you have that are over 15 years?

Commissioner BAXTER: I would be able to provide those exact figures to you on notice across all of the classes. But obviously, once again, because they are average numbers, there are always some that are nearing the last extent of their lives and some of them will go up to around 20 years.

The Hon. ROSE JACKSON: That was my next question. Can you provide information as to how many are over 20 years old?

Commissioner BAXTER: Absolutely. We can do that for you on notice.

ANSWER:

I am advised:

There are currently 214 FRNSW appliances in excess of 15 years of age. Of these, 162 have a planned service life of 20 years.

36 of the appliances are over 20 years old. All but one of these are Service Exchange Vehicles used to replace vehicles being serviced or repaired, or kept in reserve for deployments in emergencies such as the recent bushfires.

46 RFS Vacancies

The Hon. ANTHONY D'ADAM: Commissioner Fitzsimmons, on 22 July 2019—this was prior to the RFS restructure—the RFS had 174 vacancies from 911 effective full-time equivalent staff. That is 19.09 per cent of its workforce. Currently how many of those positions remain vacant?

Commissioner FITZSIMMONS: I will be happy to take that on notice. It is a fluid situation.

ANSWER:

I am advised:

The NSW RFS currently has 113 vacant roles, of which 63 are currently subject to recruitment action. 28 of the 113 roles have been filled temporarily, including:

- 14 roles filled by internal staff (temporary assignments)
- 4 roles filled temporarily full time
- 10 roles filled temporarily by an external person (eg. contractors)

47 Hames Road incident

The Hon. ROSE JACKSON: Were the trucks that were involved in that incident at Hames Road urban pumpers or were they bushfire tankers?

Commissioner BAXTER: As far as I am aware, it was a class 2 urban pumper.

The Hon. ROSE JACKSON: How old were those appliances?

Commissioner BAXTER: I would need to take the actual age of that appliance on notice, but if you are inquiring with regard to whether it had the cannon protection systems, no it did not. It was an urban pumper and as such would not be fitted with that system.

ANSWER:

I am advised:

Of the four class 2 pumpers in the Hames Road incident, two were 18 years old, one was 17 years old, and one was 14 years old.

The CHAIR: Commissioner Fuller, regarding the Yenda police station and residence, the police station and residence has been left vacant for eight years since the property was flooded in 2012. Residents have reported a spike in crime in the town centre ever since they lost their police presence. Yenda is too small for Bureau of Crime Statistics and Research [BOCSAR] crime data to measure the trends. Why has the police residence at Yenda been left vacant for the past eight years?

Commissioner FULLER: I will take that on notice.

The CHAIR: Why is regular maintenance not carried out on that building to ensure that it does not deteriorate?

Commissioner FULLER: Again, I will take that on notice.

The CHAIR: Are there any plans to utilise the building in the future?

Commissioner FULLER: Again, I will have to take that on notice.

The CHAIR: By what date will the building be reused?

Commissioner FULLER: Again, I guess that is subject to the answer to the previous couple of questions.

The CHAIR: That is right. So you will take that on notice?

Commissioner FULLER: Yes.

The CHAIR: Why are two policemen renting in the private market when the New South Wales police own a perfectly located empty building that can be easily utilised?

Commissioner FULLER: At what location?

The CHAIR: We are talking about Yenda.

Commissioner FULLER: Still? Okay, I will take that on notice. I did not think there were any police there. However, I will still take that on notice.

ANSWER:

The former police residence is in a significant state of disrepair, uninhabitable and would require significant structural repairs to correct this. It remains vacant and is owned and managed by Properties NSW. Following the closure of the police station, the Yenda lock-up keeper police position was transferred to Griffith and assists in providing 24 hour policing to Griffith and surrounding communities, including Yenda. There is no intention for a police officer to occupy this residence. Questions relating to the property's maintenance and future utilisation are a matter for Properties NSW.

The township of Yenda generally enjoys relatively low levels of crime and is situated only 16.8km from Griffith Police Station. With no operational police station, any officer residing at Yenda would not have access to arms and appointments, a police vehicle or equipment without first attending Griffith Police Station. In effect, the officer would only reside in the Yenda premises in an off-duty capacity, if it was suitable for habitation, and would not be in a strong position to offer the community better security and protection.

Murrumbidgee Police District remains fully committed to policing the township of Yenda. General Duties, Traffic and Highway Patrol and the Proactive Crime Team are regularly tasked to patrol this area day and night to prevent, disrupt and respond to crime and anti-social behaviour.

49 DV Safety assessment tool

The CHAIR: In my reading of the tool, it says, ""For use by non-government service providers and government agencies other than NSW Police Force"". Why would that be the case? It specifically says not to be used by the New South Wales police.

Commissioner FULLER: I would have to take it notice.

ANSWER:

The NSW Government 'Domestic Violence Safety Assessment Tool (DVSAT)' indicates that it is for use by non-government service providers and government agencies other than the NSW Police Force, as there are differences in the PART B questions asked by non-government workers (outlined in the attached DVSAT document - Annexure A) to those completed by the NSW Police Force officers. Please see attachment screen shots which shows the clear differences in PART B's and where DVSAT fits in with the Local Coordination Point who ask the DVSAT a second time after a referral by Police.

The NSW Police Force has an electronic version of the DVSAT that electronically calculates the threat level/risk rating of a victim automatically based on the answers given by the victim and the responses by police in Part B- professional judgment.

50 Use of assessment tool

The CHAIR: The document is dated 2015—I would think, perhaps, around about the time of its launch. I think it is a good tool; that is why I am trying to clarify how it is meant to work.

Mr JONES: I see the document and I see what you say. I am not sure why it is worded that way, because it is not correct.

Commissioner FULLER: Could I do a couple of things, Chair, on notice: See what the current document says and then come back in terms of actually how this operates across New South Wales police and government?

The CHAIR: Yes, please. That would be good.

ANSWER:

Refer to response to Question Taken on Notice No.49.

51 Protective clothing data

Mr DAVID SHOEBRIDGE: Just to make this simpler, I am only asking about the bush firefighting equipment because that is the one that has raised repeatedly. Are you saying that volunteers are issued with more than one set of that bush firefighting kit as a standard practice?

Commissioner FITZSIMMONS: It depends on who you are and where you are. The simple answer is yes. Two sets of protective clothing is available to volunteers on issue.

Mr DAVID SHOEBRIDGE: Bushfire?

Commissioner FITZSIMMONS: Bush firefighting apparel. We did have, through this period, a spiking consumption of protective clothing and wear and tear on protective clothing. We have also had a supply issue in some sizings of the protective clothing, which was a delay, and we had to source from stores around the State. So there was some legitimate issues about a delay issue on manufactured supply for some sizes of the bushfire apparel.

Mr DAVID SHOEBRIDGE: Can we expect those to be resolved?

Commissioner FITZSIMMONS: They are being resolved right now.

Mr DAVID SHOEBRIDGE: By the start of the next fire season?

Commissioner FITZSIMMONS: Absolutely. I cannot remember how many thousands of sets are due to be delivered this month.

Mr DAVID SHOEBRIDGE: If there is more data, you can provide it on notice.

ANSWER:

I am advised:

There are currently 6,500 sets of bushfire PPC on order and in the process of manufacture. These orders will be progressively delivered, with the last delivery expected in May.

The Hon. ROSE JACKSON: Thank you. Just a couple of quick questions probably to Commissioner Fitzsimmons about Project Guardian. Obviously after the bushfire season that we have had there is a renewed interest in making sure that all of the different elements of response, recovery and preparation are absolutely where they should be. I understand this project was announced in 2015. It was allocated \$5.2 million to develop a web portal for landowners to access information about bushfire risk and mitigation, which obviously sounds like something that would be a useful portal for landowners to have access to. It was due to go live in June 2017. The RFS annual report notes unforeseen external delays. The release of phase one of Project Guardian, which is 80 per cent of the scope functionality—February 2019. In the NSW RFS annual report 2018-19 Guardian was now scheduled for September 2019. It still has not been launched, has it?

Commissioner FITZSIMMONS: I wish I knew you were going to ask this question. I would have a note with me. Guardian is a much more multifaceted project than the simplicity with which you describe.

The Hon. ROSE JACKSON: I apologise. I was just reading from the press release.

Commissioner FITZSIMMONS: No, no. There are a whole bunch of different modules that we have put under the umbrella of the brand of Guardian, which goes to a range of mitigation and resilience measures when it comes to fire management. There is everything from hazard reduction through to development control through to permits et cetera. We have got online the portal around hazard reduction for people to go on and they can do some assessments around their property—whether they are in bushfire-prone areas—and get an assessment and that sort of thing. We also table and list hazard reductions. There have been some delays, absolutely. It is very unique project. It is a multi-agency software platform with which we are tying together all local governments, public land management agencies, requirements of private landholders and fire services et cetera around being able to look at hazard reduction mitigation, development control, planning and assessments arrangements, and all manner of things. I will need to take the question on notice and give you a more up-to-date answer in terms of where different aspects of the Project Guardian are up to.

The Hon. ROSE JACKSON: Yes, and obviously specifically when it might be—

Commissioner FITZSIMMONS: Well, there are already aspects delivered, so it depends on how we have prioritised the sub-elements of the Guardian project as to what time we will choose to deliver them or switch them on. Out of this season we are also going to need to review the relativity or the relevance of some of those modules and whether they ought not to be tweaked going forward, in any case. I will be able to take it on notice if you can give me something on notice and I will get an answer back to you. But it is not just a single thing; it is a multifaceted project that we have put under the umbrella of the word ""Guardian"".

ANSWER:

I am advised:

Guardian is a complex, spatially enabled, multi-agency bush fire risk information system. To date, the development assessment and planning module of the system has been implemented, and publicly available spatial representations of planned hazard reduction activities across all land tenures are available on the NSW RFS website.

Further configuration is underway on the activity management module, which is expected to be delivered early in the next financial year, the burn notification functionality which is expected to be delivered by the end of the financial year, and remaining functionality around fire permits scheduled for the first half of 2020-21.

Delays have been experienced due to multiple factors including capability of the software, integration with spatial solutions and other systems, movement in user requirements and the complexity of the solution. Each of these issues has been managed and the solution is being delivered in a modular fashion.

Mr DAVID SHOEBRIDGE: Commissioner Fitzsimmons, I was asking some questions about the Celeste Barber directed donations. Have you had any advice on the likely prospects of success of a Supreme Court application given that none of the material provided to date seems to point to any failure of the trust?

Commissioner FITZSIMMONS: That question is multi-faceted. There are a number of things being asked of the Supreme Court. There is a higher degree of confidence with some of them and there is a low probability of success with others.

Mr DAVID SHOEBRIDGE: Did you want to provide any further information on notice about that?

Commissioner FITZSIMMONS: Without being a lawyer, of course, my understanding is there is optimism around the potential for being able to dedicate funds and distribute funds to services and programs to Barber directed donations. Have you had any advice on the likely prospects of success of a Supreme Court application given that none of the material provided to date seems to point to any failure of the trust?

Commissioner FITZSIMMONS: That question is multi-faceted. There are a number of things being asked of the Supreme Court. There is a higher degree of confidence with some of them and there is a low probability of success with others.

Mr DAVID SHOEBRIDGE: Did you want to provide any further information on notice about that?

Commissioner FITZSIMMONS: Without being a lawyer, of course, my understanding is there is optimism around the potential for being able to dedicate funds and distribute funds to services and programs to support individual members as opposed to brigades more distinctly in the trust agreement. We are hopeful that we will be able to set up the equivalent of a welfare fund—do not hold me to the name of it—in order to provide support to families of the fallen and seriously injured. It is most unlikely that there is going to be any ability to see the trust move money to other charitable groups is my layperson's reading of the advice I have received.

ANSWER:

I am advised:

The NSW RFS is in the process of lodging an application to the NSW Supreme Court seeking an order giving the Court's direction, pursuant to s 63 of the *Trustee Act 1925*, in relation to the distribution of the donated funds within the scope of the trust deed.

The advice received by the NSW RFS in respect of the NSW Rural Fire Service and Brigades Donations Fund, including the prospects of success of any Supreme Court application, is subject to legal professional privilege.

54 Bail compliance checks 1

Mr DAVID SHOEBRIDGE: Talking about police powers, why are police officers routinely conducting bail compliance checks without an enforcement condition being imposed under, I think it is, section 30 of the Bail Act? Why are they doing it without enforcement conditions?

Commissioner FULLER: This matter has been tested in higher courts. I will take it on notice and give you a legal answer in relation to that, if that is okay.

ANSWER:

Police officers do not require an enforcement condition to be imposed before they can conduct a bail compliance check.

The Court of Appeal in *NSW v Dargin* [2019] NSWCA 47 at [35] held that there are “plainly occasions when a police officer may lawfully enter into premises for the purpose of determining whether a bail condition is being complied with.”

55 Bail compliance checks 2

Mr DAVID SHOEBRIDGE: Does the NSW Police Force generally require officers to seek an enforcement condition in order to carry out bail compliance checks or do they just undertake enforcement practices without a condition?

Commissioner FULLER: I will take that on notice.

ANSWER:

The NSW Police Force does not generally seek enforcement conditions to carry out bail compliance checks. Enforcement conditions will be sought to support bail conditions eg a requirement to refrain from consuming alcohol where the co-operation of the bailed person is required to ascertain compliance.

56 Bail compliance checks 3

Mr DAVID SHOEBRIDGE: Will you provide on notice whether those bail compliance checks are done either consequent upon a bail compliance order or as a matter of policy without a bail compliance order? Is that right, commissioner?

Commissioner FULLER: I will take that on notice.

ANSWER:

The Police Prosecutor will seek the enforcement conditions that are necessary to support the bail conditions on the defendant.

57 Bail compliance checks 4

Mr DAVID SHOEBRIDGE: And to ensure that people who are on bail conditions are not having their rights abused, including their right to peacefully have a sleep at night without multiple knocks on the door from the police without a court-imposed bail enforcement condition. Does that include part of it?

Commissioner FULLER: I have accepted that previous question on notice.

ANSWER:

Police have received training to ensure that bail compliance checks are undertaken lawfully and respectfully, whether there is a bail enforcement condition or not.

58 Glock training

Mr DAVID SHOEBRIDGE: You may not have noticed that some questions were asked about the way in which firearms handling is dealt with at firearms ranges. What is the strategy in place to ensure that the Firearms Act is complied with for those students at the academy, given they are not police officers and not probationers? I am specifically talking about the training on Glocks. What is the process in place?

Commissioner FULLER: I am certainly happy to take that on notice, but I would imagine there is a certain section within the Police Act that allows that to happen. But again, rather than guess, I will take that on notice, but probationary constables do not use long arms or other weapons in their initial training.

Mr DAVID SHOEBRIDGE: No, but there is Glock training at the academy.

Commissioner FULLER: I will take that on notice. It will be easily answered.

Mr DAVID SHOEBRIDGE: You said you will take it on notice whether there is something in the Firearms Act or the Police Act, as I understand it. If there is not, can you cover the field in your answer on those?

Commissioner FULLER: Yes.

ANSWER:

Section 6 (2) (a) of *Firearms Act 1996* provides that a student police officer enrolled in the New South Wales Police Academy is not guilty of an offence under the Firearms Act only because of something done by the person while acting in the ordinary course of the person's duties (as a student police officer).

59 **Suppressor permits**

The CHAIR: Given the registry has issued only one suppressor permit to a recreational licence holder on medical grounds, why does the Firearms Registry continue to refuse to issue suppressor permits for hearing protection?

Commissioner FULLER: I know we have discussed this on many previous occasions, sir. I will take on notice that question and come back to you with a legal answer.

ANSWER:

The NSW Civil and Administrative Tribunal (NCAT) has provided case law in respect of the issuance of suppressors for hearing protection.

60 Jaywalking

Mr DAVID SHOEBRIDGE: Thank you, Commissioner. In the last estimates round, I asked some questions about jaywalking and you referred us to the revenue.nsw.gov.au website. Unfortunately, none of the information about jaywalking was available on that site. I will ask you more specifically: Could you please provide for each of the past five years how many fines have been issued for breaches of sections 230, 231, 232 and 234 of the road rules?

Commissioner FULLER: I will take that on notice.

ANSWER:

Section of Road Rules 2014 (NSW)	Fines Issued			
	2015	2016	2017	2018
230(1)(a)	7	22	40	25
230(1)(b)	15	20	16	21
231(1)	6,157	10,286	6,194	6,354
232(1)	4	3	-	1
234(1)	38	262	53	76
234(2)	-	1	1	2

61 ABC Report on P3 Masks

David Shoebridge: A spokesperson from FRNSW is quoted as saying this to the ABC “Given some of the gases contained within bushfire smoke, the protection afforded by the new P3 masks is deemed to provide a significantly higher level of protection than the existing P2 masks”. Is that the position, as reported in the ABC, of FRNSW?

Paul Baxter: It was reported that way, however as I say the actual scope of the investigation into the use of them did not include specific testing for that application so we weren’t able to conclude that conclusively.

David Shoebridge: Commissioner you say it was reported that way. Was that statement given to the ABC on behalf of FRNSW and accurately report by the ABC?

Paul Baxter: I would have to take on notice whether that was the verbatim commentary that was given to the ABC. But certainly, when I have reviewed the scope of the project to determine the use, that was not within the scope.

ANSWER:

I am advised:

FRNSW did give the statement to the ABC which was accurately reported. However, the actual scope of the investigation into the use of P3 masks did not include specific testing in NSW for bushfire smoke, so FRNSW cannot conclude higher protection conclusively but only by inference and relying on other research and the mask specifications.