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**GENERAL PURPOSE STANDING COMMITTEE No. 4**

**Wednesday 15 September 2010**

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

**PLANNING, INFRASTRUCTURE, LANDS**

**The Committee met at 2.00 p.m.**

**MEMBERS**

The Hon. J. A. Gardiner (Chair)

The Hon. R. Borsak  
The Hon. S. Cotsis  
The Hon. K. F. Griffin

The Hon. G. S. Pearce  
Mr D. Shoebridge  
The Hon. L. Voltz

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**PRESENT**

**The Hon. A. B. Kelly**, *Minister for Planning, Minister for Infrastructure, and Minister for Lands*

**Department of Planning**

**Mr S. Haddad**, *Director General*

**Mr R. Pearson**, *Deputy Director General, Development Assessment and Systems Performance*

**Mr I. Reynolds**, *Deputy Director General, Strategies and Land Release*

**Mr J. Parisi**, *Director, Corporate Services*

**Barangaroo Delivery Authority**

**Mr J. Tabart**, *Chief Executive Officer*

**Mr T. Murphy**, *Development Director*

**Mr P. Roberts**, *Chief Financial Officer*

**Lands**

**Mr W. Watkins**, *Chief Executive*

**Mr R. Costello**, *Corporate Secretary and Chief Financial Officer*

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## **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**

**CHAIR:** I declare this hearing for the inquiry into budget estimates for 2010-2011 open to the public. I welcome Minister Kelly and accompanying officials to the hearing. Today the Committee will examine the proposed expenditure for the portfolios of Planning, Infrastructure and Lands. Before we commence I will make some comments about procedural matters. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, only Committee members and witnesses may be filmed and recorded. People in the public gallery should not be the primary focus of any filming or photographs.

In reporting the proceedings of this Committee, you must take responsibility for what you publish and the interpretation you place on anything that is said before the Committee. The *Guidelines for the Broadcast of Proceedings* are available on the table by the door. Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or the Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers while at the table. I remind everyone to please turn off their mobile phones.

The Committee has agreed that the Planning and Infrastructure portfolios will be examined from 2.00 to 4.30 p.m. and then Lands will be examined from 4.45 to 6.00 p.m. The Committee has resolved that answers to questions on notice must be provided within 21 days from the time that you receive them, or as otherwise determined by the Committee. The Committee has not varied the 21-day time frame. Transcripts of the hearing will be available on the web from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. I remind you, Minister, that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. All other witnesses will be asked to state their full name, job title and agency and swear an oath or make an affirmation.

**JOHN PARISI**, Director, Corporate Services, Department of Planning, and

**RICHARD PEARSON**, Deputy Director General, Development Assessment and Systems Performance, Department of Planning, affirmed and examined:

**IAN REYNOLDS**, Deputy Director General, Strategies and Land Release, Department of Planning,

**SAM HADDAD**, Director General, Department of Planning,

**JOHN TABART**, Chief Executive Officer, Barangaroo Delivery Authority,

**TODD MURPHY**, Development Director, Barangaroo Delivery Authority, and

**PETER ROBERTS**, Chief Financial Officer, Barangaroo Delivery Authority, sworn and examined:

**CHAIR:** I declare the proposed expenditure report on the portfolios of Planning and Infrastructure open for examination. As there is no provision for the Minister to make an opening statement before the Committee commences questions, we will begin with questions from the Opposition.

**The Hon. GREG PEARCE:** Minister, in relation to the section 94 levy cap, how did you decide on the \$20,000 cap initially? What reports or information did you have that suggested that figure?

**The Hon. TONY KELLY:** This was a policy that was worked out in conjunction with Treasury. It was designed to ensure that we put a downward pressure on the cost of housing in the State, particularly in Sydney. We need something like 30,000 new homes a year in Sydney to cater for the population that we expect over the next 25 years. We were getting something in the order of just under 14,000 and house prices were escalating—9 per cent in the past 12 months and an expected 21 per cent in the next two years, so a 30 per cent increase over three years. Obviously, for a \$600,000 house and land package to go up by one-third in three years would have been devastating. So the Government decided to try to ensure that we put some downward pressure on the cost of housing but also try to get more housing stock out there. We were advised by a number of development companies that with all the various costs that they had added up they were just not able to develop proposals. In fact, there were a number of those where we had released land but the developers said they could not get their money back with those costs. The figure was worked out in conjunction with Treasury and the Department of Planning in the preparation of the budget. That was the first figure of \$20,000. Then after—

**The Hon. GREG PEARCE:** Let me stop you for a second. Was there a report or an analysis done by somebody that gave you a recommended figure of \$20,000 or was this something that was negotiated between officials? What was the actual basis for getting to \$20,000?

**Mr HADDAD:** The \$20,000 was actually imposed as a threshold rather than a cap some months before this decision.

**The Hon. TONY KELLY:** It was about a year ago.

**Mr HADDAD:** About a year ago. The threshold then triggered an examination by the Department of Lands of section 94 plans above that threshold in an attempt to try to, in a sense, make sure that claims for contributions above the \$20,000 threshold are justified. That is where it came from. Treasury had also commissioned studies. The studies looked at the whole issue of how things apply and the constraints to housing supply and this was one of the issues that were identified in those studies.

**The Hon. TONY KELLY:** About 12 months earlier that threshold was in. It was not a firm cap then, it was a threshold, as Sam said, above which you had to apply to the department, and I think there were about 30 in the study. Some of those were just over the threshold so they decided not to proceed with an application. But I think by the time we got to the budget this year about 21 councils in the State were still applying for a figure over that. That is how that \$20,000 came about.

The second part of your question talked about the caps. We went through an exercise with the \$30,000. I think the Department of Planning and myself individually would have met probably 100 times with councils to look at the individual problems that they had and, as you would appreciate, obviously in the greenfield sites,

where council has got to go and buy land for drainage, and they have got to buy at the same price as housing needs. I think it is about 65 per cent of the costs of western Sydney councils—and not only western Sydney but also North Sydney. On those greenfield sites about 65 per cent of their costs are actually the purchase of land. So it was a bit unfair, in retrospect, to treat, for example, Brewarrina Council, Botany council and Blacktown council all the same. The cost at Brewarrina might be \$1,500, it might be \$15,000 at Botany and those western Sydney councils can get up to \$50,000, depending on their drainage. That \$30,000 was then worked out with the department after going through an examination of all the propositions they put to them that would address a lot of their problems. There are still obviously some that are over that amount, but that addressed a significant amount of their problems.

**The Hon. GREG PEARCE:** So you had the 21 applications. Is there any reason that they could not be released so people could see what the cost is?

**The Hon. TONY KELLY:** The 21 applications were dealt with by the departments and each of the councils was advised of those. They were public.

**The Hon. GREG PEARCE:** Did they go on the Web so that people could have a look at what—

**Mr HADDAD:** Yes.

**The Hon. TONY KELLY:** The department responded to the councils. That was a process that went on in the previous 12 months. So they applied, and I think the department addressed them all and they responded to the department and said yes or no or authorised a particular figure above the \$20,000.

**Mr HADDAD:** You are talking about putting on the Web the department's evaluation of those 30 plans above the \$20,000 cap?

**The Hon. GREG PEARCE:** Yes. That would help everybody to understand better what the elements are.

**The Hon. TONY KELLY:** What their costs are, yes. And I think you would find in there what I have just explained about how those greenfield sites would have higher costs than some of the others.

**The Hon. GREG PEARCE:** Just on the Planning Assessment Commission, would you say that there have been a lot of opportunities for the Planning Assessment Commission to determine planning applications?

**The Hon. TONY KELLY:** There certainly are. The Planning Assessment Commission determines applications or makes recommendations on applications for a whole host of reasons; one obviously is political donations. If anybody involved, any proponent, has made a political donation to the Government or the Opposition or any political party, then it gets referred to the Planning Assessment Commission.

**The Hon. GREG PEARCE:** You are saying if there has been a political donation you will not determine under—

**The Hon. TONY KELLY:** The rules are that even if they have not made a donation to my party, if they have made it to the Liberal Party or The National party—

**The Hon. GREG PEARCE:** Unless it is the Greens.

**The Hon. TONY KELLY:** Probably not the Greens. But if they had, with regard to any development application now they have got to declare if they have made a political donation, and that automatically goes to the Planning Assessment Commission.

**Mr HADDAD:** The Minister's declaration to refer matters to the Planning Assessment Commission is based essentially on whether there is a declared political donation. As a matter of general policy, we have been also advising the Minister to do the same where there are what we call constant plans—not necessarily for determination but also for advice. So the Planning Assessment Commission determined I think about 19 or 20 projects based on political donation declarations, but they have also been advising either the department or the Minister on a much larger number of development applications or on requests to bring in developments under

part 3A, for example. Where there is a discretionary power we then seek their advice or the Minister can refer to them, and he does.

**The Hon. GREG PEARCE:** From what you have said though, the default position is that you go through part 3A and you only go to the Planning Assessment Commission if you have got a political donation?

**The Hon. TONY KELLY:** No, there are other reasons. Sometimes you just want that independent assessment. Perhaps I should go through and explain some of them. We have moved to depoliticise those planning decisions by establishing that Planning Assessment Commission. That was started on 3 November 2008, and its functions include, as Sam said, providing advice regarding planning and development matters, environmental planning instruments or administration of the implementation of the provisions of the Act; to review any major development or some of the major development proposals under part 3A; or to review development applications and any function of the regional panel, an independent hearing and assessment panel or a planning assessment panel conferred to it by me.

So, as I said earlier, the commission has been given clear delegation to determine any project where a political donation has been declared or where the Minister has a pecuniary interest as well. As of 4 August 2010 the commission had provided advice to the former Minister and me on 30 occasions since its commencement: 10 of them were related to draft amendments to local environmental plans, not just development applications; 16 related to major development applications; and four were on broader planning matters. The commission has also been requested to undertake expert review of 10 major developments—many are complete and one has just started. Of these the commission has held public hearings and has called for submissions for four of them, including the Metropolitan Coal Project at Helensburgh, the Riverside development at Tea Gardens, the Orange Waste Project, called the Hub, which neither of us are aware of—incidentally, that truck is still at Cabonne at Molong; the Bulli Seam Coal Project; and the Planning Assessment Commission has also conducted public hearings in relation to the Bickham Coal project. I understand public hearings for the Wallarah 2 coal project are being scheduled to commence soon—I think next month. So on the issue of the Planning Assessment Commission holding public hearings, it is up to the commission if, where and when it holds them.

Other significant projects considered by the Planning Assessment Commission [PAC] include the Sandon Point concept plan modification and the project application, the proposed redevelopment of the Stamford Plaza at Double Bay, the proposed redevelopment of the Sunbeam factory at Kempsey, the proposed listing of Raby on the State Heritage Register and the commercial hotel/retail development at Berry and Walker streets in North Sydney. The commission has 19 major developments under delegation: the Red Cross Blood Bank research facility; the Ikea concept plan; a multi-unit housing development at Pymble; student housing at Kensington; adaptive re-use of a heritage listed building at Breakfast Point; the Knauf Insulation development; redevelopment of the Redfern RSL; the Newcastle Private Hospital project; the proposed main park at the CUB site; a residential development at Bonar Street, Arncliffe; the Costco project at Auburn; a commercial development at the CUB site; development of the Hoxton Park aerodrome for industrial activities; the concept plan for residential development at Bennelong Parkway at Wentworth Point; early works at 61 Mobbs Lane—the former Channel 7 site; and the redevelopment of the Hakoah Club at Bondi beach.

**The Hon. GREG PEARCE:** Frank Sartor spoke of having 80 per cent of development applications dealt with by the commission. That certainly has not happened.

**The Hon. TONY KELLY:** The City of Sydney deals with 2,500 development applications and it sends fewer than 20 of them to the commission. No-one would send 80 per cent of all development applications. Part 3A applications are subject to a host of conditions. If an application involves a residential development, it must be worth more than \$100 million.

**The Hon. GREG PEARCE:** You mentioned the commission having the option to hold public hearings. What is meant by "public hearings" in that context?

**The Hon. TONY KELLY:** When dealing with the Orange waste facility, the commission called for written submissions and then invited members of the public to address it or to make direct comments. It is up to the commission how it runs hearings and it may do it differently each time. In considering the Bickham coalmine, the commission visited the Upper Hunter Shire Council at Singleton and conducted hearings for two days. The public were invited to attend the hearings and to make presentations. Those presentations are often similar to the written submissions, but they do not have to be.

**The Hon. GREG PEARCE:** Do you think that is a good idea? I regularly hear that people want certainty in the planning process. There is no clear, understandable process with regard to public hearings. For example, are there any appeal rights? How does it work?

**The Hon. TONY KELLY:** We must balance the two sides. Obviously we must provide certainty for developers—

**The Hon. GREG PEARCE:** And for the community.

**The Hon. TONY KELLY:** Yes. The community must be able to have a say. The process must be open and transparent. That is why the commission follows that procedure.

**Mr HADDAD:** The principle is that when we have discussions before decisions are made—that is, communities put their views and there is public debate—there is no provision for a subsequent merit appeal. The Environmental Planning and Assessment Act provides for procedural appeals under section 123 at any time, whether or not public hearings have been held. When we had commissions of inquiry under section 119, before the introduction of part 3A, and we had public hearings prior to the decision, there were no merit appeals. That principle continues under part 3A. Public hearings are good because they allow the public to challenge and to present their views. It is increasingly becoming an intrinsic part of major development proposals, particularly for coalmining projects. Most of them go through this process.

In response to the question about 80 per cent of developments being referred to the Planning Assessment Commission, I point out that that is a broader government policy. You are correct; Mr Sartor did refer to a target of 80 per cent. We may not have achieved that target, but we have subsequently introduced joint regional planning panels. Some of the developments that would have gone to the commission are now being dealt with by those panels. We may not have achieved the 80 per cent mark, but a considerable number of the applications are still being addressed through an independent merit process, notwithstanding that it is not the commission. We are monitoring how many of them go here and there in terms of returning some aspects of part 3A to councils and then referring them to the panels as distinct from being dealt with strictly under part 3A.

**The Hon. GREG PEARCE:** Can you provide the statistics?

**Mr HADDAD:** Yes, I am more than happy to provide them.

**The Hon. GREG PEARCE:** When Mrs Keneally was the Minister she said that 85 per cent of major projects would be determined within three months and that the decision on no project would take longer than eight months. Have any major projects been awaiting assessment for more than eight months?

**Mr HADDAD:** Not to my knowledge. We are not there in terms of the benchmark of 80 per cent within three months. I think we are travelling at about 71 per cent. We are almost there with the others, but we are not quite meeting the benchmarks for a number of reasons. The timing benchmark is important, but sometimes it is more appropriate to look at other matters. We are also keeping statistics in that regard.

**The Hon. GREG PEARCE:** Can we have them?

**Mr HADDAD:** Yes.

**The Hon. GREG PEARCE:** When the Growth Centres Commission was abolished the staff moved to the department. Where have they gone? How many of them are still dealing with the growth centres and what are the others doing?

**Mr REYNOLDS:** The formal merger of the commission and the department occurred in December 2008. At that stage we had about 33 staff positions on the books. Of those officers, 25 are now working in the department. A couple of them occupied senior executive service positions and they were not transferred. The remainder of the officers have left in the normal course of events and their positions have been filled.

**The Hon. GREG PEARCE:** What are the other 25 doing?



**Mr REYNOLDS:** They are carrying out substantially the same functions that they carried out in the commission; for example, they are still doing rezoning work for western Sydney. Some staff, including the procurement officers, have been absorbed into the department.

**The Hon. ROBERT BORSAK:** How much has it cost the department to defend claims brought either directly or indirectly by the Environmental Defender's Office in respect of decisions made by the Department of Planning? In the past 12 months, how many actions has the department been successful in defending and what has been the cost of defending those actions? How does that compare to the costs incurred over the previous three years?

**The Hon. TONY KELLY:** That is obviously a detailed question and we will take it on notice. I am happy to provide that information in respect of my other portfolios.

**Mr HADDAD:** I think since about 2005 we had about 60 appeals. We run on average about eight to nine appeals being heard in the Land and Environment Court. That is costing us, the department, about half a million dollars a year in barrister's fees, notwithstanding staff fees and all the rest of it.

**The Hon. ROBERT BORSAK:** Can you cost the staff fees in as well?

**Mr HADDAD:** We can add that, yes.

**The Hon. ROBERT BORSAK:** Can you do that please?

**Mr HADDAD:** Sure.

**The Hon. ROBERT BORSAK:** Can the Minister advise the Committee on just where the Hilltop Regional Shooting Complex project now stands? What work is being done and when is it expected the complex might be finished and ready for use? Because I am new to this place, is it a fact, as claimed by the Liberal member for Goulburn, that the Government is timing the work on the complex to coincide with the election cycle?

**The Hon. TONY KELLY:** In answer to the last part first, no. In relation to Hilltop, on 1 March 2010 I determined the project application to enable the expansion of the Hilltop Shooting Complex. An appeal was lodged with the Land and Environment Court challenging the Minister's power to approve the project. On 19 August 2010—last month—Chief Justice Preston delivered his judgement and dismissed the appeal. The approval therefore remains valid. The approval requires operational ecological and soil and water management plans to be approved prior to the commencement of the construction of the new shooting ranges. They have been submitted to the Department of Planning for approval. Approval requires specific additional spring surveys to be undertaken for additional threatened species that may be on the site. Those surveys have been completed by Sport and Recreation. They then will update their ecological management plan and supply it to the department. We expect that in the next couple of weeks. So, if the updated ecological management plan is satisfactory, the work can then commence. As far as I am aware, that is the only thing we are waiting on.

**The Hon. ROBERT BORSAK:** There is always another thing that comes up. As we go through part of the process there is always another thing that comes up.

**The Hon. TONY KELLY:** But, in a nutshell, they have the approval with conditions and this is the only one that had to be completed.

**The Hon. ROBERT BORSAK:** How much has it cost the department to defend the Hilltop Residents Action Group court case, which has been run by the Environmental Defenders Office since the beginning of any and all of their court actions?

**The Hon. TONY KELLY:** We will get that information for you, as well as the other.

**The Hon. ROBERT BORSAK:** Many shooting ranges around the State have been and will be impacted by urban encroachment. I am concerned that the ranges should be protected. When will the Government implement a State environment planning policy specifically to protect existing shooting ranges and also put in place conditions that protect future ranges from urban encroachment and the resulting disputes with new neighbours?

**The Hon. TONY KELLY:** We did some work as a result of a previous court case to do with zones.

**Mr HADDAD:** You are right, we do not have any State policy as such, but we did clarify the zoning provisions that relate to making certain activities prohibited. I will have to take this on notice.

**The Hon. ROBERT BORSAK:** Should we not have a State environment planning policy for this? This is happening all over the State, urban encroachment, no matter where it is.

**The Hon. TONY KELLY:** This general rule we brought in in relation to the zones did bring some certainty, and is effective right across the State. So, we will get you some information on that.

**Mr HADDAD:** My recollection is that there were requirements by the police to do certain things in certain areas around the shooting ranges, the effect of which was to make those activities prohibited development, and we have to clarify that.

**The Hon. ROBERT BORSAK:** I am not so much worried about prohibited activities around ranges, what I am talking about is if development occurs in an area around a range that has been there for a long time, people move into a development that is in earshot, to use a terrible pun, and someone decides they do not like the noise in the backyard and that brand-new resident lodges a complaint and the complaint is inevitably found against the existing use. Some sort of existing use rights need to be put in place for ranges in this State. That is what needs to be done and we need a State environmental planning policy.

**The Hon. TONY KELLY:** The Department of Planning certainly would not approve development within an area that would be close enough to cause a problem in the future. I cannot say that for the councils, but certainly the department would not. I would not have thought the councils would generally, but we will have a look at that.

**The Hon. ROBERT BORSAK:** I belong to the Sydney Gun Club. It has been there for 60 years and it is down to shooting one night and one day a week. It is hard to run a viable club when you have those sorts of restrictions on you. That is an historical case but what I would like to see is it not happening again.

**Mr DAVID SHOEBRIDGE:** How many councils have adopted a new local environmental plan based upon the standard instrument, the standard local environmental plan?

**Mr HADDAD:** Twenty-five to date, 25 gazetted.

**Mr DAVID SHOEBRIDGE:** How many are at the point of gazetting, having finished their exhibition process?

**Mr HADDAD:** I think we have certified more than 50 for public exhibition.

**The Hon. TONY KELLY:** We are expecting 89 by the end of this coming year, is that correct?

**Mr DAVID SHOEBRIDGE:** So, in the order of 90 by the end of the year?

**The Hon. TONY KELLY:** By the end of the financial year.

**Mr HADDAD:** We have gazetted 25, we have about 25 submitted to us to be examined. We have certified 51 for public exhibition and we have about 30 pre-public exhibition. We were aiming in the last budget to commit to 25 gazetted. We have achieved that and were looking initially at 70 something. Now we are upping them because the Government has allocated additional funds to assist local councils in delivering those plans. My main concern, if I may say so, is to try to get the strategy right, rather than just the numbers because we are working very hard to make sure we have the right strategic context, and that requires longer work.

**Mr DAVID SHOEBRIDGE:** In the local environment plans gazetted to date, how many schools have been rezoned from special use to residential zoning?

**Mr HADDAD:** I am aware of some instances, but I will have to take that on notice if you do not mind.

**Mr DAVID SHOEBRIDGE:** How many hospitals have been rezoned from special use to residential zoning?

**Mr HADDAD:** I will do the same.

**Mr DAVID SHOEBRIDGE:** How many ambulance and fire stations have been rezoned?

**Mr HADDAD:** I will take that on notice, but I am not sure there are. If they are rezoned, they still have their existing use rights and there may be broader reasons for that to happen, but I will take that on notice.

**Mr DAVID SHOEBRIDGE:** There are no special use zones, are there, for schools, ambulances and hospitals? In fact, we are seeing across the State all these key facilities rezoned to the surrounding zoning. That is right, is it not?

**Mr HADDAD:** Not all of them, but it is correct. They maintain their existing zonings and they maintain their existing rights because we had to collapse in the number of definitions.

**Mr DAVID SHOEBRIDGE:** But you would agree, would you not, that these rezonings from special use often to residential makes them highly attractive future sale options for any State government or other owner, because they can maximise the return without having to go through a rezoning process. They are sitting there ready and ripe for redevelopment.

**The Hon. TONY KELLY:** But you do not close a fire station, for example, or an ambulance station, unless you build a new one or unless the population moves away.

**Mr DAVID SHOEBRIDGE:** You co-locate.

**The Hon. TONY KELLY:** If you co-locate you still build a new one.

**CHAIR:** Unless it is Gulgong.

**The Hon. TONY KELLY:** That is a hospital, not a fire station.

**Mr DAVID SHOEBRIDGE:** Mr Haddad, those questions asked were about schools, hospitals and fire and ambulance stations being rezoned to residential. Could you give me the figures for rezoning to commercial or any other special use?

**Mr HADDAD:** Yes, sure, I can give you the figures and the circumstances. They are not all and they maintain their existing use, but I will do that, yes.

**Mr DAVID SHOEBRIDGE:** What has happened with the standard local environment plan, and what is going to continue with the next 90 or so that you are going to put in place in the next financial year, is that you are setting up all these key, necessary, and essential infrastructure sites across New South Wales for a wholesale fire sale for residential, commercial or other industrial zoning, are you not?

**The Hon. TONY KELLY:** So are you suggesting we are going to sell every fire station and we will not have a fire station left in the State.

**Mr DAVID SHOEBRIDGE:** No, I am not suggesting you are going to sell every one; I am suggesting all of them are vulnerable to resale without having to rezone.

**The Hon. TONY KELLY:** They are politically not vulnerable to resale.

**Mr DAVID SHOEBRIDGE:** Parts of schools or whole schools will be sold off to residential redevelopment—

**The Hon. KAYEE GRIFFIN:** Point of order: I am not sure that these are questions rather than comments. They are not questions to the Minister.

**Mr DAVID SHOEBRIDGE:** He keeps answering.

**CHAIR:** Mr Shoebridge should make sure there is a question mark at the end.

**Mr DAVID SHOEBRIDGE:** I will end them with a rising inflection at the end, Minister. Do you not agree that a far more prudent course to protect these key institutions and key lands across the State would be to reinstate and reinstitute the special use zones so that they cannot be sold for residential or commercial development across the State? That would be far more prudent, would it not?

**The Hon. TONY KELLY:** I do not agree with that. You are not going to sell a fire station or a police station for strategic reasons. All the five stations in the State, all these essential services, are all located because of demand. They go through a budget process and generally you will find that a new police station or a new fire station is located in a new urban area where they are required within a particular—usually eight or nine minutes or whatever the figure is—response time. When I was emergency services Minister we built them in the middle of residential zones; we actually bought house blocks to put the fire stations in those areas so that they would be appropriately located to be able to get to where the population is and where the houses are. Occasionally it does mean, when you build a new one in a more appropriate place, that you do sell the old one or it turns back to community use. What has had to happen in the past is that you had to rezone it before you could do anything with it.

**Mr DAVID SHOEBRIDGE:** And now you can just sell it off without talking to the local community about rezoning?

**The Hon. TONY KELLY:** If it is a disused fire station or a disused police station, correct.

**Mr DAVID SHOEBRIDGE:** It is not just public facilities, though, is it? It is private hospitals and private schools that are also providing essential services that are subject to this wholesale rezoning.

**Mr HADDAD:** I would have to take this on notice. It does not apply in all cases but, as I said, I will just give you the factual information of where it happened. I am aware of two particular local environmental plans where that was an issue and it was because of special circumstances, but I will take that on notice and go through the rationale of it.

**Mr DAVID SHOEBRIDGE:** But you would agree it is not just public facilities; it is also private facilities that this local environmental plan change applies to?

**Mr HADDAD:** It can apply to private facilities, yes.

**Mr DAVID SHOEBRIDGE:** While we are on the standard instrument, Minister, are you aware that the standard local environmental plan allows for crematoria to be built within land zoned commercial? That causes potential conflicts with surrounding neighbours, such as up at Faulconbridge where a current development application is seeking a crematorium next to a Chinese restaurant and abutting a whole series of residences.

**The Hon. TONY KELLY:** I am not aware of the development application.

**Mr HADDAD:** It is not a development application, it is a zoning provision.

**Mr DAVID SHOEBRIDGE:** Correct.

**Mr HADDAD:** When you are collapsing more than 1,500 or more definitions and you are trying to collapse them within 60 or 70 State ones, obviously you have to categorise them under certain definitions. A use which is permissible within the zoning may not necessarily be allowed. All it does is it allows it to go through a development application and through an assessment process. It may be appropriate or not, but it is a challenge because you are trying to collapse all these definitions to make sure that we have fewer definitions and, as mentioned before, we have a clearer system and more certainty across the board. That is the challenge we have. With time, while we are reviewing all that, we may need to readjust these things to reflect experience and all the rest of it, but then we lose the discipline if we keep on adding new definitions for crematoria for different types of things.

**Mr DAVID SHOEBRIDGE:** Would you undertake to review the standard instrument to add a minimum to consider allowing only crematoria in industrial zones?

**Mr HADDAD:** No, I am sorry, I cannot support that. I cannot advise the Minister to initiate a review for a specific use, but I am more than happy, as good public policy practice, to have an ongoing review of the definitions in light of experience with the application of the local environmental plan, and we have to do that.

**The Hon. TONY KELLY:** So you are suggesting that they should only be in commercial zones?

**Mr DAVID SHOEBRIDGE:** Industrial.

**The Hon. TONY KELLY:** Industrial zones?

**Mr DAVID SHOEBRIDGE:** Yes.

**The Hon. TONY KELLY:** So the one at Rookwood would not comply.

**Mr DAVID SHOEBRIDGE:** There would be an existing use there, would there not?

**The Hon. TONY KELLY:** But the new one that has just been built would not have been able to be built.

**Mr DAVID SHOEBRIDGE:** It is already on a cemetery. It would be quite different.

**Mr HADDAD:** It would be existing, yes.

**Mr DAVID SHOEBRIDGE:** That is right. Perhaps if you could get some advice about existing use—

**The Hon. TONY KELLY:** But my point is if it had not been built and they were now applying for it, they could not. You could only put them in industrial areas.

**Mr DAVID SHOEBRIDGE:** That is exactly right, yes. Are you asking me questions?

**The Hon. TONY KELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** Interesting. Going to Barangaroo South, Minister, can you give a guarantee to the people of New South Wales that if built the proposed hotel proposed to be sited on Darling Harbour would actually remain operating as a hotel and would not be sold off on strata or for serviced apartments?

**The Hon. TONY KELLY:** Yes, I will get John Tabart to explain that, but there is a specific agreement that it cannot be for permanent residential, but John, who has dealt with that just recently, will be able to explain it.

**Mr TABART:** The development agreement with Lend Lease has an express provision that prevents a use for residential sale to be developed in the hotel. It is a leasehold site and under the lease provisions it would not be able to be changed or strataed for individual sale of residential use. It is a hotel.

**Mr DAVID SHOEBRIDGE:** But serviced apartments would be allowed?

**Mr TABART:** Serviced apartments managed by the hotel, absolutely, and this is the current content of hotels in Sydney today.

**Mr DAVID SHOEBRIDGE:** So there is no ongoing guarantee that it will be a hotel even if it is built?

**Mr TABART:** Yes, there is.

**Mr DAVID SHOEBRIDGE:** It could all be serviced apartments?

**Mr TABART:** It depends what you mean by serviced apartments—hotel-managed apartments. It may have a kitchenette in a hotel room. That is what I am referring to as a serviced apartment.

**The Hon. TONY KELLY:** The Director General of Planning might want to give you a view on planning as well.

**Mr HADDAD:** The development application before us is for a hotel under the definition of "hotel" and if it is approved it will have to be for that specific use. If then it has to change, it will have to come back to be changed to something else.

**Mr TABART:** Can I add, in addition to any planning change, there is an express provision in the development agreement, which will be therefore in the 99-year lease if it occurs, that would not allow that change to occur without an agreement by the State's direction or the authority to change that lease to allow for it; in other words, it is expressly not allowed, even before it becomes an application for the Department of Planning.

**Mr DAVID SHOEBRIDGE:** Is Lend Lease planning to subcontract the building of that hotel or apartments on Darling Harbour to a private company known as Tesrol Pty Ltd, a company owned and operated by Jerge Fernandez, a developer who had prior connections with the Hon. Joe Tripodi with regards Badgers Creek?

**Mr TABART:** I have no idea.

**Mr DAVID SHOEBRIDGE:** Could you make some inquiries?

**Mr TABART:** Certainly, but the way Lend Lease's proposal and agreement are written, they are the developer of that space. They do not subcontract it but I will certainly make inquiries.

**Mr DAVID SHOEBRIDGE:** Minister, do you know when and if a decision will be made by your department or you on the application by Lend Lease for a large-scale excavation in order to build the proposed underground commercial car park Barangaroo South just west of Hickson Road?

**Mr HADDAD:** Richard, you may want to help me here, but the development application came off exhibition. We got submissions and I am not sure whether we got the submissions in reply but we are going through the assessment process.

**The Hon. TONY KELLY:** That is correct.

**Mr HADDAD:** That is where we are now.

**Mr DAVID SHOEBRIDGE:** The question was about a date or a time for a decision?

**Mr PEARSON:** On the contamination project specifically?

**Mr DAVID SHOEBRIDGE:** That is correct.

**Mr PEARSON:** We are in the process of finalising our assessment on that and it would be in a matter of weeks, but I could not be more precise than that.

**The Hon. KAYEE GRIFFIN:** Minister, could you inform the Committee about how the New South Wales Government has assisted investment in New South Wales through its assessment of planning development proposals?

**The Hon. TONY KELLY:** As members would be aware, the New South Wales Government has an important role in assessing development proposals under the major projects assessment system. This system comprises part 3A of the Environmental Planning and Assessment Act and the Major Development State Environmental Planning Policy, known as the major development SEPP. The major projects assessments system has some unique aspects quite distinct from the assessment system used by local councils. These unique aspects ensure that the system achieves a truly integrated assessment outcome, under which a variety of different and sometimes competing issues can be considered by the one assessment authority; has been tailor made to deal

with the complexity of major projects of State and regional significance; sets key environmental requirements which need to be met before any project can be placed on public exhibition; requires developers to publicly respond to submissions lodged during the exhibition period, leading to better outcomes for the community; and defines in the one location the types of projects which come to the New South Wales Government for decision. Previously, some 85 different instruments outlined the Government's assessment role.

I would like to outline to the Committee some of the key statistics relating to the implementation of part 3A during 2009-10. A total of 138 projects were declared to be projects to which part 3A applies. I think this came in in November 2008. A total of 152 sets of director general's environmental assessment requirements were issued for projects to which part 3A applies; 136 environmental assessments were considered as having adequately met the director general's environmental assessment requirements and were able to proceed to public exhibition; 48 environmental assessments were considered as not having met the director general's environmental assessment requirements and were unable to proceed to public exhibition unless amended appropriately; 147 environmental assessment reports were each placed on public exhibition for a minimum of 30 days; 13,451 submissions were received to all exhibited projects; 127 submissions or preferred project reports responding to submissions and generally resulting in improved outcomes were received from proponents; 125 part 3A projects were approved in accordance with the Environmental Planning and Assessment Act, 66 by the Minister, 43 by the Department of Planning and 16 by the Planning Assessment Commission; and 120 modifications were processed and determined under part 3A.

I am pleased to inform the Committee that the combined capital investment value of all major project applications approved under part 3A in 2009-10—including concept plans, project applications and modifications—was \$19 billion. The same approvals had the potential to create over 63,000 jobs. Despite criticisms from the Opposition, part 3A has helped New South Wales through the global financial crisis and helped drive our economy, in turn helping to keep families in work and driving investment into this State. The Opposition would have returned those part 3A major projects to councils. The time taken to determine those applications, firstly, would have been a lot longer. Councils simply do not have the staff or the expertise to deal with such major developments, which, as I said earlier, are generally over \$100 million, and they often take longer.

Major concept plan approvals given during 2009-10 include the Macquarie University campus redevelopment and the Marulan gas-fired power station project. Major project application approvals include the Cadia East mining project in the State's central west, which ensures about 800 jobs in that area; the expansion of the Kooragang coal loader in Newcastle, to allow it to deal with a greater throughput of coal and obviously create more jobs in those coalfields; the Quakers Hill to Vineyard rail upgrade project; and the Tintenbar to Ewingsdale Pacific Highway upgrade project. All these projects represent significant levels of investment across New South Wales. A number of these are particularly important as they represent significant investment in regional New South Wales.

Members should also be aware that there has been an increased focus by both the department and myself to determine projects in a timely manner, delivering greater investment certainty, which is important in light of tighter equity markets and tougher financial times. I believe that the development process drives jobs in this State. Since assessment performance benchmarking began in February 2009, 71 per cent of projects have been determined within three months and 92 per cent have been determined within five months, and no project assessment has taken longer than eight months.

It should also be noted that the timely delivery of determinations has not compromised sound outcomes. That has been achieved through the ongoing implementation of best practice administrative and environmental assessment techniques while balancing the environmental, social and economic factors. This is reflected in the Government's ability to secure successful outcomes in the majority of relevant matters determined by the Land and Environment Court and in the one matter which was determined by the Court of Appeal. This shows that the New South Wales approvals system is also providing legal certainty to investors.

We all should be aware that major projects are a key driver of the New South Wales economy. Part 3A is a core part of this State's robust planning system that delivers certainty, drives investment and delivers jobs. Any proposal to return major project assessment and determination to local government will take the State backwards, placing breaks on the economic growth of New South Wales. The Opposition does not really understand planning in New South Wales. The Opposition shows its lack of understanding of the importance of jobs and the enormity of these investments by its desire to pass the decisions on these important investments in the economy back to local government.

**The Hon. SOPHIE COTSIS:** Minister, can you outline some of the successes made by the Government in the area of heritage conservation and celebration in New South Wales?

**The Hon. TONY KELLY:** I am pleased to advise that the Keneally Government has a substantive record in conserving the State's heritage. Our achievements span items of world heritage value as well as new listings on the State Heritage Register. Committee members will be well aware of the recent success in inscribing 11 Australian heritage sites representing the convict experience on the World Heritage List. The Government oversaw the nomination of four critical convict sites in New South Wales—Old Government House and Domain at Parramatta, Hyde Park Barracks in Sydney, the Old Great North Road near Wisemans Ferry and Cockatoo Island. Recognition of these sites on the world stage has been a wonderful outcome and it demonstrates the Government's leadership of heritage management in New South Wales. It also demonstrates the expertise and professionalism of the staff of the Heritage Branch of the Department of Planning who worked so hard on these nominations. With world heritage inscription, we can expect enhanced visitor tourism to these sites and an increase in the community's valuing of this important part of our shared history.

One of the really exciting initiatives at a State level has been the Government's Thematic Listings Program, which I think is now in its second year. The figures are impressive. Since early 2009 when the Government embarked on listing heritage items through a manageable series of historic themes, 24 new sites reflecting these themes have been added to the State Heritage Register under the Heritage Act. The Thematic Listings Program aims to reflect the cultural richness and diversity of the history and heritage of New South Wales. This program is unique to heritage agencies in Australia. Let me remind the Committee of the current three-year listing priorities. They are Aboriginal heritage, convict heritage, heritage related to Governor Macquarie, and heritage related to World Wars I and II.

Sites of significance to this State outside the established themes are not marginalised by the current thematic approach. We continue to look at State-significant sites that deserve special recognition and protection as an ongoing component of the program. This year the New South Wales Government added to the register the Sydney Town Hall, the Queen Victoria Building, Lunar Park and the Anzac Memorial in Hyde Park. Regionally, in Broken Hill we have given the State's highest heritage protection to the original 1885 company office of BHP, the Wesley Uniting Church and the unique mosque linked to the early cameleers and a place of great significance to the State's Muslim community.

On the religious theme, the 1898 Holy Trinity Greek Orthodox Church in Surry Hills was also listed—a beautiful building—as the first dedicated Greek Orthodox Church built in Australia. I am proud of our achievements in identifying heritage places worthy of this level of protection and I have greatly valued the recommendations of the New South Wales Heritage Council in this work. Since 2009, when I became the Minister responsible for heritage, I have added 26 individual items to the State Heritage Register—that is the highest number since 2005.

The year 2010 has seen a heritage focus on the celebration of the life and works of the first true Minister for Planning, if you like, in this State, Governor Lachlan Macquarie. He was a great planner and builder. Macquarie is one of our current listing themes. Perhaps aided by his military background and rank, he pushed through many significant developments that have become part of our wonderful legacy. The military governors of New South Wales were absolute rulers; the only powers superior to them being the British Parliament at Westminster, which is in stark contrast to today's government, which works with the community, property owners and the construction industry.

The building legacy of Lachlan Macquarie is monumental. A brief journey through the Macquarie sites that this Government has added to the State Heritage Register demonstrates a little of those towering achievements. Macquarie Place in Sydney's central business district is an important starting point—the remnants of the first town square. His obelisk is located there, from where all roads led—another tribute to his efforts to create a sense of order, place and growth. Today the park is a vital part of the green lungs of Sydney and an historic marker of the State's development from this base.

Saint John's Anglican Cathedral Parramatta is another of these seminal Macquarie buildings that dominate the modern urban landscape. The twin spires, dating from 1817, reputedly reflected the design ethics of his wife and partner, Elisabeth Macquarie, who is credited as a great influence on the city's early building form. The towers survive as the oldest remaining part of any Anglican church in Australia. The Government has also recognised Macquarie's town planning initiatives with the addition of Richmond's 1810 Central Park on the



register—the early model of having open green space for the community. We have also listed Wilberforce's ex-convict settler cemetery and its schoolhouse and chapel—part of Macquarie's intention to construct viable civic centres.

On the convict theme, we have recently included the Wollongong Harbour Precinct, which includes the convict-built stone walled harbour, remarkable lighthouses and fortifications, and colonial buildings. The archaeology of the convict overseer's cottages at Port Macquarie is also a recent addition. They were established when Port Macquarie was a penal settlement in 1821. If you go to Port Macquarie, there is a very interesting walk you can take that has little plaques that tell the history of how it evolved. There is also a little note that tells of how the more educated convicts from Wellington were taken to Port Macquarie to look after sick convicts. So the coastal people have always been drawing people from the other side of the mountains to the city. Remnants of that site's archaeology have been incorporated under the new Glasshouse at Port Macquarie. A lot of money has been spent in preserving that archaeology and, if you visit Port Macquarie, it is very interesting to look at it.

Another recent State listing, this time under the Aboriginal theme, is the Warangesda Mission site. It contains a rare collection of Aboriginal mission and station building ruins that demonstrate Aboriginal land right struggles. The site was listed with the overwhelming support of the local Aboriginal community. The Government's heritage initiatives have not been limited to new listings. Hillview at Sutton Forest, which is owned by the Government, was the vice-regal country residence for governors of New South Wales between 1882 and 1957. A lease has recently been signed that will see the building used as a bed and breakfast establishment, and will require the lessee to maintain the house and gardens while also requiring some community access.

In March I spent time walking the wild sand dunes of Wreck Bay in the Shoalhaven inspecting the wreck site of the convict ship *Hive*, lost there in 1835. Not only did that event result in 250 male Irish convicts being thrown ashore, it also involved 10, 000 pounds of gold for the Treasury of the State Government.

**The Hon. ROBERT BORSAK:** Did you find it?

**The Hon. TONY KELLY:** They have not told me what happened to it. I think one person passed away there. That is the only wreck of a convict ship in New South Wales. The fellow from the Heritage Office who recently visited Gallipoli—and I will talk about that further in a minute—discovered that wreck. I am pleased to say that the convicts and the monies were appropriately re-deposited. Ensign Kelly, who served as an officer guard to the convicts and affected their rescue, was no family connection.

This brings me to the very great work being done by the Heritage Branch in its Maritime Archaeology Program. The work of the program's senior maritime archaeologist and Heritage Branch Deputy Director Tim Smith has been mentioned in the upper House. The New South Wales Government was a major sponsor of his private volunteer project that returned from ANZAC Cove in June with some wonderful results. The Project Beneath Gallipoli team conducted the first systematic survey of the underwater battlefield. It documented key sites and relics within the sacred cove, as well as finding at least three new shipwrecks related to the campaign. That work is ongoing and has touched an international audience with family connections to men lost there. I reiterate that the participants of that group were all volunteers who went overseas at their own expense. The Government provided some money to assist with their equipment. The New South Wales Government will be recommending that the project be accepted by the Federal Government's National ANZAC Commemorative Commission for ongoing support in the lead-up to the 2015 centenary of the battle.

Public outreach is a key component of the Government's heritage program. This can be seen by more than 800,000 visits to the Heritage Branch's website last year. That site hosts New South Wales online heritage registers, key policy documents and educational materials. It provides a wealth of information on how to restore and conserve heritage properties and places, with its technical publications eagerly sought after. The Heritage Branch runs regular technical seminars, training courses and lectures that promote best practice heritage conservation. Government support has further extended to international heritage conferences run by the International Council of Monuments and Sites [ICOMOS] at Broken Hill and Sydney, and the debating of heritage issues affecting heritage assets in rural areas through to modern twentieth century architecture.

The Heritage Branch, under delegation from the Heritage Council, has determined in excess of 500 applications in the past 12 months for modifications and enhancements to State-listed heritage properties to make them viable, liveable and properly managed for future generations. The Heritage Branch, under my

direction, also delivers Australia's most significant heritage grants program, with grant funding of some \$7 million soon to be announced by this Government for next year's grants.

Programs to support local government, the community and individual heritage owners are the cornerstones of this Government's dynamic heritage program. The changes that this Government has implemented to heritage management during its term have made a real difference in the proper high-level assessment of heritage issues. Our amalgamation of the former Heritage Office into the Department of Planning to improve the communication between heritage and planning is seeing some real rewards. Putting key heritage staff in direct contact with the department in its deliberation on major projects and planning issues reflects the incredibly close relationship needed between conservation and land-use planning. As one example of this, the Government's delivery of the comprehensive Local Environmental Planning (LEP) instrument, along with the close work being undertaken by the Heritage Branch with the department, ensures that each local government area's heritage schedules are appropriate and encompassing. As Minister for Planning I am in a position to fully appreciate the interrelationship between heritage and planning.

In conclusion, I am pleased to be able to say that we have just announced the addition of the Olympic Cauldron at Sydney Olympic Park to the State's Heritage Register today, the tenth anniversary of the Olympic Games. This listing celebrates the ten-year anniversary of an event that played such a formative part in galvanising the New South Wales community's sense of place. You can see the Government is very proud of its heritage program. No matter what you do now in government there is always somebody who will complain. I was just so surprised to see that we did have one objection to declaring the Olympic Cauldron State heritage listed.

**CHAIR:** Thank you, Minister. For the record, since you were appointed as Minister for Planning, have you met with any developers? If so, can you tell us who they were and where you met them?

**The Hon. TONY KELLY:** Continually. Nothing happens in the State unless a developer does it or the Government does it. There are only two lots of development, either it is a Government project or it is a private project, and all the private projects are undertaken by developers. I am not sure that a day would go by that I do not meet a developer, but it is always, in accordance with the rules, with departmental staff or ministerial staff and they keep records in accordance with the policy. So it is an enormous list.

**CHAIR:** Can you provide the enormous list to the Committee?

**The Hon. TONY KELLY:** Yes, I could. I am not sure they would want it—all the developers. I do not suppose there is any reason why we cannot.

**CHAIR:** You are happy to do that?

**The Hon. TONY KELLY:** I am not happy to do it.

**CHAIR:** Can you also make sure that the name of the project is listed and also where the meeting occurred?

**The Hon. TONY KELLY:** They generally all occur in my office, either here or over the road.

**CHAIR:** As a rule, all meetings with developers occur in your ministerial offices or at Parliament House?

**The Hon. TONY KELLY:** Yes. I am not aware of any I have had outside those areas, but basically that is the rule for people who make appointments, if you are talking about just developers as opposed to objectors. Sometimes you might sit on a plane. I recently went to my rural supply produce merchant in Wellington and was pulled up by an objector to Catherine Hill Bay, but generally the rule is to come and meet me in the office.

**CHAIR:** No coffee shops?

**The Hon. TONY KELLY:** No, not that I am aware of.

**CHAIR:** Are minutes kept of each of those meetings?

**The Hon. TONY KELLY:** Yes. The department has a policy. Sam perhaps might explain it, but it is a policy that they have as well, and we have the same policy, that if they meet developers they always keep records of it and they have a certain number of people there. We have the same policy. Perhaps Sam Haddad might—

**CHAIR:** Yes. Would you like to give us an update on your procedures?

**Mr HADDAD:** Consistent with the recommendations, we have applied the recommendations. We have a practice within the department for meetings and telephone contact with developers, and to record the meetings we have checks, procedures for meeting them, the number of people we meet, and we place all this information on file. I am more than happy to give you all the details of our records. We have made it available to everybody.

**CHAIR:** So are the minutes available?

**Mr HADDAD:** The minutes are available. We make them available. We put them straight away on the relevant files. After each meeting they go on the file, and that applies to telephone calls as well. We do not make them freely available other than when we have FOI requests or when we forward the file as part of an assessment report. Then they are referred to.

**CHAIR:** Can you provide those to this Committee?

**Mr HADDAD:** Sorry, provide all the meetings? That is the departmental meetings. Yes, there is no reason why not.

**CHAIR:** And the Minister's meetings?

**Mr HADDAD:** Yes.

**CHAIR:** Minister, since you became the Minister for Planning have you met your colleague Mr Joe Tripodi on any planning or development application matter?

**The Hon. TONY KELLY:** Not an application matter, but I meet obviously members of Parliament all the time. I do not think there is one member of Parliament that I have not met in that period. In fact, obviously, we meet them every Tuesday morning when Parliament sits at caucus meeting. I meet some of them at one caucus at 10.30 and another group at 11.

**CHAIR:** Have you met Mr Tripodi on any planning matter?

**The Hon. TONY KELLY:** I am not aware that I have met him on any planning matter.

**CHAIR:** What about Mr Graham Richardson?

**The Hon. TONY KELLY:** The last time I saw Graham Richardson would have been I think about three years ago. I was walking down the street and I said, "Good day, Graham", and I am not sure whether he purposely ignored me or he did not see me, but I got no response.

**CHAIR:** What about Mr Paul Keating?

**The Hon. TONY KELLY:** I have met Paul Keating frequently at Barangaroo functions. Paul, as you know, is the head of the design team for Barangaroo. He has done a fantastic job as head of that design team. I think nearly all of them have been press conferences that I have met him at down at Barangaroo. He has got a very keen interest in ensuring that the gardens and the Headland Park are completed and he is personally driving that. I think it is a fantastic design. You may well have seen *Stateline* with Quentin Dempster where he explained it to Quentin and said that no matter how he tried he could not teach Quentin good design. But I think that is a fantastic development down there, the Headland Park, but I am not aware that I have met Paul Keating, certainly not in the last two years, unless it was down there at Barangaroo. The only other connection I have with him is I have the only other fence in Australia the same as his.

**CHAIR:** Does Mr Keating get any recompense for his design work in relation to Barangaroo?

**Mr TABART:** No, as chairman of the Design Excellence Review Panel at Barangaroo, Paul Keating does not receive any payments.

**CHAIR:** So no public funds are involved in his work?

**Mr TABART:** No.

**The Hon. GREG PEARCE:** Just finishing up on the template, you mentioned that the extra funding has been made available. Is that funding actually going to councils—

**The Hon. TONY KELLY:** Yes.

**The Hon. GREG PEARCE:** —or is it in the form of staff being seconded or something like that?

**The Hon. TONY KELLY:** There are two or three parts. There is \$10 million that is going to the councils to assist them with their staffing, to get their LEPs up to date. There is \$2.9 million to the department for the department to have additional staff to assist them as well. Was there a third component?

**The Hon. GREG PEARCE:** Is it \$2.9 million for one year or is it spread out?

**The Hon. TONY KELLY:** Two years.

**Mr HADDAD:** And the \$10 million as well over two years.

**The Hon. TONY KELLY:** It was for that program. The department has a plan to try to get all those LEPs up over a three-year period. It was for the balance of that three-year period, so it is the next two years, this year and next year.

**The Hon. GREG PEARCE:** Could you provide us with a schedule of the councils that have been given cash and the amounts that they have received?

**Mr HADDAD:** Mr Pearce, we have not started yet. We are about to send letters with guidelines to start the process. I am more than happy to give you the guidelines that we are working on.

**The Hon. GREG PEARCE:** Mr Reynolds, in relation to the State infrastructure levy, could you tell us how much cash has been collected to date since the levies were introduced in 2005?

**Mr REYNOLDS:** The latest information I have, Mr Pearce, is that the levy collection in growth centres is about, in cash \$1.2 million, \$3.8 million or \$3.9 million has been paid as works in kind offsetting against the levy and there is a bit over \$40 million worth of works being undertaken in the ground which the developers propose to offset against their future levies.

**The Hon. GREG PEARCE:** Minister, what progress has been made in establishing the Metropolitan Development Authority?

**The Hon. TONY KELLY:** The Sydney Metropolitan Development Authority was announced by the Premier earlier in the year. We are working our way through to finalising that proposition. Obviously, what we are planning to do there is to try to accelerate the provision of housing in Sydney, particularly around those transport nodes. We expect an extra 1.7 million people in Sydney over the next 25 years. I know there is discussion about boat people and immigrants to this country but the interesting part is that, in fact, more than 70 per cent of that increased population is going to be from natural causes, that is, either child birth or the fact that we are going to live longer. The average age that people lived to or the life expectancy in Great Britain in 1900 was 42. Consider that today it is at least half that again. That has contributed significantly to the increase in population in the world over that period of time. The department and the Australian Bureau of Statistics are suggesting over the next 25-year period we are going to have 40 per cent extra people in Sydney but we will need 46 per cent more homes because people will be living longer.

Professor John Shine, a foremost cancer expert in Australia, made a comment that he expected cancer to be a thing of the past in the next decade. Even if he is half correct, that means a lot of us are going to live

longer. It will mean that the style of housing is going to have to be more single accommodation, seniors living style of accommodation. As to the expected population in 25 years, there will be an increase of people aged between 1 and 18 of 19 per cent and between 19 and 64 of 22 per cent, and the expected increase in the population of people aged above 65 in 25 years time is 224 per cent. We have to make some significant changes to where people live near those transport nodes. The Sydney Metropolitan Development Authority will be charged with trying to make sure that we provide additional accommodation in those areas that are close to transport nodes, near railway stations, bus areas or transport routes. We sometimes think that some areas in Australia are congested. According to Mercer's, the world's most liveable place is Vienna, and it has double the density of Sydney.

**The Hon. GREG PEARCE:** Mrs Keneally, when talking about the Metropolitan Development Authority, said it would be up and running by June 2010. What is the hold-up?

**The Hon. TONY KELLY:** We are working through the issues. This is going to be a significant development for Sydney. We want to make sure that we get it right. We are not that far away from concluding it.

**The Hon. GREG PEARCE:** Will it have powers such as compulsory acquisition powers and ways to deal with strata titles?

**The Hon. TONY KELLY:** No. We have had submissions from groups, particularly in relation to strata properties, suggesting that there should be some better way of being able to redevelop those. Strata properties are not an issue in Victoria. For example, in Melbourne they do not seem to have those 1960s three-storey, red brick walk-ups that we have in Sydney. So it is not an issue there. But here we have a considerable number of those that need redeveloping. Our legislation is that you have to have 100 per cent of the strata owners agree to a sale for it to be redeveloped. It has been suggested to us that we should change that to 75 or 80 per cent. That is not the Government's intention. Certainly, it would not be included in—

**The Hon. GREG PEARCE:** What about compulsory acquisition powers? Mrs Keneally talked about that.

**The Hon. TONY KELLY:** There are compulsory acquisition powers now for a whole host of things. For example, under growth centres legislation there are compulsory acquisition powers for road and rail infrastructure. It will depend on what legislation we bring forward.

**The Hon. GREG PEARCE:** You would not rule it out?

**The Hon. TONY KELLY:** It will depend on what legislation we bring forward or what mechanism we use to bring it forward whether that would be there. We are not really aiming to do that. What we are trying to do is find some better ways of being able to plan particular areas around those railway areas. We are also concentrating on areas where the Government already owns a lot of land that can be used. That is quite often significant around a lot of these transport nodes that I was talking about.

**The Hon. GREG PEARCE:** What is the justification in relation to regional planning powers requiring council appointees to be gagged from speaking publicly?

**The Hon. TONY KELLY:** I am not sure that they are gagged. One that comes to mind straightaway is the issue recently at the Balmain Tigers. I do not think it stopped them out there. Do you have a comment on that, Richard?

**Mr PEARSON:** Are you referring to the council representatives on the joint regional planning panels [JRPPs]?

**The Hon. GREG PEARCE:** Yes.

**Mr PEARSON:** I think "gag" is the wrong word. What we have tried to do is to encourage and require the joint regional planning panels to meet with developers and others as groups rather than individually in order that they do not get picked off, I guess, in relation to their views about particular proposals. So they consider things as a panel in the same way that the Central Sydney Planning Committee has operated for the last 20-plus years. Effectively, those council representatives are there to make a merit-based assessment with the three State

members of the project. It is important to have some bounds around their operations for that reason, to just minimise the amount of lobbying that might occur of those members.

**The Hon. GREG PEARCE:** Is there any consideration being given at the moment to changing the \$10 million threshold for consideration by the joint regional planning panels?

**Mr HADDAD:** Not necessarily the threshold, but from experience we are finding there are certain categories of development that would be returned back to the council for more timely and efficient processing. We are advising the Government, the Minister, to give back to councils decision making for a range of developments that have been done through the JRPPs. For example, certain types of designated developments—developments that do not attract submissions opposing the development and can be dealt with without necessarily going through a full JRPP but can be dealt with by council officers and through that assessment process. Developments in certain areas where we have completed strategic planning and we have the controls agreed to. There is no reason why if the assessment follows that control it cannot be determined accordingly. These are the types of developments we are putting together and we are going to put a submission to the Minister shortly for him to delegate back those powers to the individual councils.

**The Hon. TONY KELLY:** The joint regional planning panels are doing a really good job. You talked earlier about certainty for people who are proponents. The panels are providing some of that certainty. I used to get a lot of complaints from people that because one side of the street had a different council to the other side of the street they could have got two totally different outcomes for the same development application.

**The Hon. GREG PEARCE:** How do you deal with the problem when council representatives, either councillors or staff, are put on the joint regional planning panel and they potentially have a conflict of interest if the council opposes a development? If they are on the joint regional planning panel they are supposed to put a different hat on. Is that an issue?

**The Hon. TONY KELLY:** It is in the fire commissioner's case—a famous case in law. I am sure it was the New South Wales Board of Fire Commissioners. I think every councillor, and certainly every senior staff member of any council, in the State gets trained in that decision when they join the council. It basically states that regardless of where you come from, when you are on a committee your job is to deal with that committee and their decisions on a merit basis, not necessarily where you were nominated from. The councillors or the government staff should deal with the merits of the case.

**The Hon. GREG PEARCE:** I meant to ask you another question on Major Development Assessments. Is it your thinking that it will be primarily a planning body or will it facilitate development?

**The Hon. TONY KELLY:** It will be a facilitation body—a facilitation and coordination body to try to bring departments together but to facilitate a development. The Department of Planning is still a planning body but this would be a facilitation body. I suppose it is a bit like, to some degree, the Hunter Development Corporation or some of those sorts of bodies.

**The Hon. GREG PEARCE:** You mentioned that it will deal with government-owned land, but I think implicit in what you are saying is that it will also deal with privately owned land.

**Mr HADDAD:** Yes.

**The Hon. GREG PEARCE:** In effect, it would give private developers the government power of compulsory acquisition and other powers—

**The Hon. TONY KELLY:** No, that it is not intended.

**Mr HADDAD:** We are not really advising. The issue of compulsory—

**The Hon. GREG PEARCE:** In answering before, the Minister referred to the other existing compulsory acquisition powers that exist, but they do not exist for private developers.

**Mr HADDAD:** No.

**The Hon. GREG PEARCE:** And if you have a coordination authority that is doing private land and government land then, effectively, you are giving power to the private developer.

**The Hon. TONY KELLY:** No, that is not the case.

**Mr HADDAD:** It is possible to deliver the planning outcome without necessarily relying on acquisition all the time. Trying to develop a plan with acquisition as the priority, if I may say, is a lazy way of doing it. But essentially we are looking at delivering planning outcomes in some areas where really acquisition is not and should not be the main criteria for delivering the outcome, whether it is private or public, or the Government. We have cases where it is possible to do that and we will try to do that as much as possible. We are not, in a sense, advising specifically lazy powers to legislate. But what we are basically saying is that this is up to government to acquire.

**The Hon. GREG PEARCE:** You run the risk that you end up with the same situation as we had in the growth areas in some of those other areas where there are large numbers of owners, disparate sorts of ownership, and nothing proceeds because you cannot drag all of those—

**Mr HADDAD:** That would then be up to the authority to be able to deliver, to plan, to bring together all these different parties and be able to deliver the outcome. Developers will be able to negotiate with different landowners and the authority will be a facilitating mechanism to make sure that this happens.

**Mr DAVID SHOEBRIDGE:** Minister, you categorically rule out the acquisition of land for private developers in this process, is that right?

**The Hon. TONY KELLY:** What are you suggesting?

**Mr DAVID SHOEBRIDGE:** You will rule out that there will be a power to acquire land through this authority to provide to private developers for private development.

**The Hon. TONY KELLY:** The whole purpose of this is to try to coordinate future development in an area. It is not to go out there and, as has been suggested, to compulsorily acquire land and just hand it over to developers. That is not the aim. It is to try to get some areas of Sydney close, as I said before, to those transport modes and to try to assist in getting the rejuvenation and the redevelopment of those areas. To a large degree it is going to be done by coordination. I am not sure. You certainly would not rule out that you would not purchase land to assist in that coordination, but it is certainly not the intention to go out there and wholesale compulsorily acquire land, certainly not to hand it over.

**Mr DAVID SHOEBRIDGE:** The bulk excavation that has been proposed on that development at Barangaroo is on a site that immediately adjoins the heavily polluted ex-gasworks site under Hickson Road, is that right? I do not know who would be the best person to answer this.

**Mr TABART:** There are two areas that you are talking about: one is the declared area by the Department of Environment, Climate Change and Water, and that is a declared area for the purposes of remediation. Adjacent to it, but not coincident with it, is the application for the basement excavation consistent with the current approved concept plan, and that is what has been on public exhibition. It is now being considered by the department.

**Mr DAVID SHOEBRIDGE:** If that is approved, the soil and the rock or the excavation material from that will contain some pollutants, correct?

**Mr TABART:** It may contain some pollutants, that is correct, and they will be stabilised as part of the process as soon as any contaminated material is identified in the excavation process. The auditors would then require that it be stabilised to their satisfaction and then it is removed and placed in the headland park location as stabilised material only.

**Mr DAVID SHOEBRIDGE:** So the polluted material from the excavation is going to be dumped onto the natural headland at Headland Park.

**Mr TABART:** No, that is not right at all. I just said only once stabilised and approved by the auditors can it be moved from that site and used as satisfactory material for the creation of the headland park.

**The Hon. TONY KELLY:** And if it is not stabilised it will not go there.

**Mr TABART:** If it is not stabilised it will have to be stabilised. Some very heavily polluted materials will have to be taken off site and disposed of according to the auditors' requirements.

**Mr DAVID SHOEBRIDGE:** So it has to be mixed with a concrete slurry, or something similar, and then put into the so-called natural headland?

**Mr TABART:** An independent auditor will determine that it has been stabilised appropriately so it is no concern to the community and there are no safety issues before it can be removed from the site, and that is part of the remediation action plan for the excavation of any contaminated materials.

**Mr DAVID SHOEBRIDGE:** Do you know of any example where there has been, say, 80-, 90- or 100-year testing for that kind of stabilisation? Or are we just having a shot in the dark here?

**Mr TABART:** This is a conventional process for the remediation of gasworks sites around Australia, including a number in this city.

**Mr DAVID SHOEBRIDGE:** So the bulk excavation from most excavated gasworks sites is put on the edge of natural harbours like Sydney Harbour? Is that the standard practice?

**Mr TABART:** No, I did not say that. What I said was that this process of stabilising material before it can be placed safely anywhere is part of the process that is normal for gasworks remediation in this State.

**The Hon. TONY KELLY:** It is very similar to what has happened at Rhodes. This Parliament conducted a committee inquiry, and many years ago I was chair of it and Ian Cohen was on it as well. We conducted a parliamentary Legislative Council inquiry into the remediation at Rhodes, which is now currently full of houses and shopping centres and everything else. So it has been done in the past. It is a proven technology.

**Mr TABART:** That is correct.

**The Hon. TONY KELLY:** I am happy to waste everybody else's time on these if you want to keep asking questions about this, but your party has already got a call for papers passed by the upper House and it has cost them about \$350,000 so far in preparing papers as an answer for that. So you will have all the answers. But if you want to keep going that is okay.

**Mr DAVID SHOEBRIDGE:** Your position about getting answers about dumping bulk excavated polluted fill onto Sydney Harbour is that it is a waste of the time of this Committee and it is a waste of your time to respond to the questions.

**The Hon. TONY KELLY:** No, what I said is that Sylvia Hale got a call for papers through the House where all these answers are going to be delivered to you at a cost of about \$350,000. But we are happy to give it to you again here now verbally.

**Mr TABART:** Public safety is a primary concern of the Barangaroo Delivery Authority, therefore only materials assessed as safe by the site auditor in an order can be reused on site in any place or any location. The independent site auditor is certified by the Department of Environment, Climate Change and Water, and any materials that are reused on site must be stabilised and certified as safe and satisfactory for that use by that independent auditor. The reuse of materials on site is in line with industry best practice and remediation sustainable principles. It is better to stabilise and maintain the material onsite rather than to stabilise and take it offsite, necessitating transport through the community to third-party locations. It is best practice to keep 80 per cent to 90 per cent of the excavated material onsite at Barangaroo. It will not go outside the site or be transported from the excavation site to the headland; it is kept within the site.

**Mr DAVID SHOEBRIDGE:** Minister, when you exercised your powers under section 118 of the Environmental Planning and Assessment Act to remove many of Cessnock City Council's planning powers in your formal reasons you stated that the council had a mean assessment time of 101 days in 2008-09. Why did you not refer to the median development application processing time in the most recent 2009-10 financial year,



which was 29 days gross and 18 days net? Were you selectively choosing figures that assisted your case to remove the planning powers from a non-Labor council?

**The Hon. TONY KELLY:** The selective figures you have quoted do not take into account the statistics I also quoted. I provided a comparison between a neighbouring group four council—Maitland City Council—and Cessnock City Council. If my memory serves me correctly, Maitland City Council has six planning staff who churn out more than 1,000 development applications a year. Cessnock City Council, which has 17 staff, dealt with only 750 development applications. They were averaging about one development application a week per staff member. Maitland council planning department staff were dealing with at least three times as many development applications.

The Government appointed a panel for a host of reasons. Cessnock is identified as an area of significance in the Lower Hunter Regional Strategy. We are expecting 9,700 dwellings to be established in new urban release areas by 2031. We need appropriate and efficient planning processes to achieve the objectives of that strategy and I have concerns about the Cessnock City Council's ability to provide them. There is a history of ongoing complaints, unexplained delays and unresolved issues associated with the council's planning activities. I recall that the council asked for an extension of the time allowed for a response, which I immediately granted to give it plenty of time to prepare a comprehensive explanation. The department and I considered the council's response to the issues raised and determined that it did not present a convincing case that it was on track to deliver efficient planning processes for Cessnock. Accordingly, we appointed an independent planning panel to carry out a range of functions to ensure that proposals are dealt with in a timely manner and that investment continues to flow into the local area and the region.

The panel will undertake the following council roles: determination of development applications valued at more than \$1 million; determination of development applications valued at more than \$100,000 if the application remains undetermined after 90 days—that is, if the council has been tardy with an application valued at between \$100,000 and \$1 million; and preparation of amendments to an existing local environmental plan, except for the new council-wide local environmental plan. The panel members are all very experienced in this field. Tim Rogers, who will chair the panel, has served for a long time as deputy director general of the Department of Local Government and has monitored the efficiency and performance of councils. Alison McCabe and Vince Berkhout are very experienced planners.

The Department of Planning's finding was that the primary issues were the determination of development applications, the way they were processed and the need to upskill planning department staff. That is why two expert planners were included in the panel. The panel will stand in the council's shoes in respect of the planning matters that I have mentioned. Therefore, the daily roles and responsibilities of the council staff will not be directly affected. However, the appointment of the panel provides the opportunity for new leadership and guidance for staff on the delivery of council's important planning functions.

It has been widely reported in the press that the council's hands were tied in dealing with the draft comprehensive local environmental plan and that that was used as the reason for installing the planning panel. However, the timeliness of council's work on its comprehensive local environmental plan was not one of the reasons for the panel's appointment. In fact, it is the council and not the planning panel that will continue to have carriage of that plan.

**Mr DAVID SHOEBRIDGE:** In your formal reasons for removing Cessnock City Council's planning powers you included the assertion that there had been a disproportionate number of complaints about the council. You told Parliament on 11 May that more than half the complaints you had received since you had been appointed as the Minister for Planning were about Cessnock City Council. However, you told the *Newcastle Herald* that many of the complaints were verbal and that you did not keep a record of them. If you have not kept a record, how can you be sure about the number that related to Cessnock City Council, or were you simply making up the figures?

**The Hon. TONY KELLY:** I am not a fool. I can work out the approximate number of people who talk to me. For example, I attend branch meetings at Cessnock and I have spoken to members of the local chamber of commerce. I still say that about half of the complaints I received at that time related to Cessnock City Council. In fact, I recently received a complaint from somebody who said they had a farm in the Cessnock area and they could not even have a chook. People constantly talk about how terribly the council has performed. As I said, the statistics show that it is considerably less efficient than its neighbouring council. The fact that Cessnock

council planning staff process only one development application a week when their colleagues at a neighbouring council process three times as many with fewer staff demonstrates the problem.

**Mr DAVID SHOEBRIDGE:** You have told this Committee that about half the complaints relate to Cessnock City Council and you told Parliament that it was more than half. Were you having a stab in the dark when you spoke in Parliament or are you simply guessing now?

**The Hon. TONY KELLY:** I have answered your question.

**Mr DAVID SHOEBRIDGE:** I suppose that one of the reasons you removed Cessnock City Council's planning powers was that you did not think it was up to the job of exercising those powers.

**The Hon. TONY KELLY:** The process is that the department writes to the council and asks it to explain why its powers should not be removed. I certainly had discussions with the general manager of the council at the time and the council was given the opportunity to respond. It was then provided with details of the department's concerns. It was a significant list of complaints. If my memory serves me correctly, the folder we sent to the council was about two inches thick. The council was then given an opportunity to respond. It did so and the department felt that the response was insufficient and it was not confident that the council would be able to change its ways.

**Mr DAVID SHOEBRIDGE:** Minister, do you recognise the irony in you and your department taking that view about Cessnock City Council when in the middle of this year your own department committed—in your own words—a monumental stuff-up when it accidentally rezoned 10 rural lots to residential lots leading to windfall valuation increases for the owners of those properties in Cessnock?

**The Hon. TONY KELLY:** That is an incorrect assertion. The rezoning process involves Parliamentary Counsel and the rezoning is gazetted. It is the words that count. In that case the words were correct but a map was incorrect. The rezoning did not, as you put it, provide a monumental windfall for the people who owned that land. The paperwork, which is the major component, was correct, but the map was wrong.

**Mr DAVID SHOEBRIDGE:** So you stuffed up the map and that led to this monumental mistake.

**The Hon. TONY KELLY:** That is incorrect.

**Mr HADDAD:** I had legal advice that the plan could stand as it was. It is incorrect to say that the plan was illegal.

**Mr DAVID SHOEBRIDGE:** I did not say that.

**The Hon. TONY KELLY:** You said that they made a monumental profit.

**Mr HADDAD:** In essence, there was uncertainty about the way this clause could be interpreted. That is why we want to provide much more certainty. At no stage did we intend to zone or rezone other than what was shown on the plan. It was a technical way of creating this specific clause. That is the legal advice I have received, and I am more than happy to share that information.

Having said that, the issue is not whether the department performs or not, and it may well be that the department, as well, does not perform; I am not saying we are 100 per cent, we do our best. The issue is that it took a long time, a year or two, for some plans to come to us from the council. That is really the issue. Repeatedly there was a consistent trend for a long time of unresolved plans to be referred to the department—unresolved for us to take over after a relatively long period. Before all that and even before Minister Kelly, I had a number of meetings with council, with the planners, with my planners and with the general manager trying to assist them in the processing, the procedures internally of the council. We had a number of meetings before then. We could not get, in a sense, the professional response that we were seeking in our discussions. That was well before the current Minister.

**Mr DAVID SHOEBRIDGE:** Did you or your department accidentally rezone 10 Cessnock landowners in the Kitchener acreages from rural to residential in the course of the exercise of your own planning powers?

**The Hon. TONY KELLY:** The director general has just answered that. He said no. He said legal advice was no. The effect of that was that it was not rezoned. He just explained that to you and he said he is happy to share that legal advice with you.

**Mr HADDAD:** I am happy to share the advice that there was a clause in the local environment plan that could be interpreted technically either way, and to overcome this uncertainty we went through this and ensured that another rezoning could be done.

**Mr DAVID SHOEBRIDGE:** So you are going to do another rezoning to fix up your earlier monumental stuff up, is that right?

**Mr HADDAD:** Yes, we have initiated the process to provide certainty, to ensure the intent is addressed.

**Mr DAVID SHOEBRIDGE:** In your reasons for taking away Cessnock council's planning powers you refer to the disproportionate number of complaints and you earlier made reference in your correspondence to Cessnock council about a complaint made by Ms Wendy Bishop. Ms Bishop has now gone on the record to state that she feels "used and bloody abused" by the planning department and by you when the planning department refused to resolve her complaint after taking away the powers. Do you accept that is a fair categorisation by her?

**The Hon. TONY KELLY:** I cannot recall Wendy Bishop. I will have to get you the details.

**Mr HADDAD:** I am not aware of it, but I am happy to take it on notice and provide you with the information.

**Mr DAVID SHOEBRIDGE:** When will the public submissions made in the course of the application regarding South East Fibre Export's wood fired power station at Eden—more than 1,000 submissions were made in relation to that—be made public?

**Mr PEARSON:** Yes, I am aware of the project. From 1 July we are making public submissions available on the department's website. It was very clear in the advertising of those projects that they would be made publicly available so that people making submissions were aware their submissions would be made publicly available. What I would like to check in relation to the South East Fibre Export's project is that that advertisement did not predate 1 July; in other words, that people were well aware that their submissions would be made public. If that were the case, then absolutely they will be made public on the department's website. But in the course of the next 10 minutes or so I will double check that and give you a firm answer.

**The Hon. LYNDIA VOLTZ:** What is the Government doing to streamline planning for critical telecommunications infrastructure?

**The Hon. TONY KELLY:** The Government has amended recently the State planning system to enable the fast tracking and delivery of telecommunications facilities, including the new National Broadband Network infrastructure, which is obviously very important now with the Federal Government about to roll out the National Broadband Network. Our streamlined planning processes will make New South Wales the national leader in the rollout of the Federal Government's National Broadband Network and will particularly benefit our rural communities.

The delivery of the \$43 billion National Broadband Network requires a great deal of infrastructure, such as cabling, satellite dishes and telecommunications towers. The New South Wales Government has acted to ensure that these essential facilities can be rolled out efficiently and effectively while still ensuring community safety and appropriate protection of the local environment and amenity. Proposed amendments to the infrastructure State environmental planning policy were publicly exhibited last year along with the draft telecommunications guideline. The exhibited draft outlines the type of infrastructure that is subject to strict criteria and could be processed as an exempt or a complying development. That is, either with no requirement for approval at all or through a simple 10-day approval system. This system removes the need to lodge time-consuming and costly development applications with the local council for a number of low-impact facilities.

Under the new measures all new telecommunications facilities in New South Wales must be consistent with a set of principles covering issues such as site selection, design, construction and operation. A number of

changes were made in finalising the policy based on the feedback we received from the community during that submission process. They include stronger incentives for co-location of telecommunication towers or extensions of existing facilities rather than having a conglomeration of new towers; ensuring consultation is compliant with the legally enforceable industry code; requiring carriers to adequately consult local communities when new infrastructure is being planned or installed; expanding the range of facilities to which a visual impact restriction is applied in heritage areas; and also emphasising health and safety requirements with all types of exempt or complying development to meet national exposure standards as published by the Australian Radiation Protection and Nuclear Safety Agency, and a requirement that land associated with all underground telecommunications facilities be restored to a standard comparable to its condition prior to installation. All of those changes were made as a result of the public submissions that came in when that draft State environmental plan was advertised.

The accessibility of the high-speed Internet is a critically important issue for our State's ongoing prosperity. This is particularly the case in rural and regional areas where, historically, access has at times been very difficult to attain. Under this amendment the new telecommunications towers required to deliver broadband or mobile phone access in certain rural and industrial zones would be allowed as complying development subject to energy and safety issues like height limits and separation from residential areas. The installation of broadband Internet access via satellite in rural areas will be made easier by allowing larger satellite dishes to be classed as exempted development under our existing planning provisions.

Other facilities covered by the new provisions include base stations, including micro-cell and macro-cell installations, facilities for subscriber connections—for example, broadband—aboveground housing of telecommunications infrastructure, and temporary or ancillary or maintenance facilities. The initiative has received strong industry support, including from the Mobile Carriers Forum, the peak industry body representing the four mobile phone carriers employing networks in Australia.

**The Hon. SOPHIE COTSIS:** Minister, will you outline what the Government is doing to plan for and deliver public infrastructure in New South Wales?

**The Hon. TONY KELLY:** Strategic infrastructure is essential to improving our cities and realising future urban development. Indeed, planning for and providing public infrastructure is one of the central responsibilities of government. International jurisdictions, Australian governments and business groups are all coming to the same conclusion. We need to strategically manage the development of infrastructure to make our cities and our regions more efficient. Coordinated urban and infrastructure planning is critically important to the competitiveness of our cities and countries—and Sydney, New South Wales and Australia are no different.

In New South Wales we see integrated infrastructure and land use planning as the key to a better quality of life, as well as increased productivity and equal competitiveness. New South Wales has Australia's largest and most diverse State economy. Its highly skilled workforce produces a third of Australia's gross domestic product, with Sydney itself contributing 21 per cent of our nation's gross domestic product. To build on these strong foundations the Government is in the midst of the largest infrastructure investment program of any State in Australia.

Over four years to 2013-14, State infrastructure investment in New South Wales is expected to be \$62.2 billion, 23 per cent higher than the prior four years to 2009-10. In fact, only last week President Obama said he was going to kickstart their economy by a massive rebuilding infrastructure program, rebuilding 4,000 miles of railways across the country. I thought I misheard his announcement because he said it was \$50 billion worth. I would have thought it would be closer to \$50 trillion. I checked the internet to see the advertisement and it did actually say \$50 billion, not trillion dollars, so our program of \$62.2 billion is higher than America's entire great infrastructure program.

This level of capital spending will support up to 155,000 full-time equivalent jobs a year. In the current financial year alone the New South Wales Government will invest some \$16.6 billion in infrastructure to fund projects such as roads, ports, hospitals and schools—projects that support jobs and economic growth and will also help deliver better services. Since 2005-06 capital expenditure in New South Wales has grown at an average rate of about 21 per cent a year. Some examples of projects delivered by Labor include: in public transport, the Epping to Chatswood line opened in February 2009, which was \$2.3 billion; in Roads, the Bonville bypass upgrade of the Pacific Highway, which was \$233 million; and in Health, there have been four major hospital projects—Auburn Hospital, the Long Bay Prison and Forensic Hospital and the Mater Hospital at Newcastle for about \$470 million.

In Education, we have had 21 new schools or school projects, including major upgrades at Caringbah, Ryde, The Hills and eight different TAFE colleges—a total of \$186 million; and 1,411 public housing dwellings for about \$340 million. In relation to electricity, construction of new co-generation power plants at sugar mills at Broadwater and Condong will generate renewable energy from sugar waste, at a cost of \$100 million. We have also looked at new ways to help local government provide the infrastructure needed in areas of high population growth. In January the Premier announced a \$179 million infrastructure package, interest free for councils, to fast-track their infrastructure projects, which had been delayed because of a lack of local funding, and 37 projects were funded under that \$179 million project for 33 councils right across the State at places like Tweed Heads and Ballina down to Wagga Wagga and around Sydney.

Planning projects such as roads, water, sewerage and drainage will bring forward urban development in areas where population growth is high but where councils could not afford to pay for that infrastructure. In fact, every time I made an announcement in relation to this, councils were very supportive of it. They said that it effectively reduced by half the cost of their developments because they either had to wait 10 years until they amalgamated or had enough money to do the project, in which case the cost of the project would have doubled. Alternatively, if they had borrowed the money to do the job now at a lower cost, the interest component they would have had to pay would have doubled the cost of the project in any case, so they were very supportive of that. This funding supports local jobs and provides an immediate economic stimulus in the construction sector. It is not just the cost of the work but also the construction of homes that can go ahead. It will deliver some long-term infrastructure to those communities.

The Government's vision for the State's future is expressed in the State Plan and the metropolitan and regional strategies. Central to the Government's planning approach is the Metropolitan Strategy for Sydney, which we talked about earlier. The Metropolitan Strategy was originally released in December 2005 and is currently undergoing its first five-year review. That closed towards the middle of the year—I think it was May—with submissions received. At the same time we also had submissions for the Metropolitan Transport Strategy, which closed at the same time. That draft strategy is a 25-year vision for integrated transport and land-use planning, which includes a 10-year fully funded package for that transport infrastructure.

Submissions are currently being assessed and they will be fused together to provide a common document to provide an efficient planning framework for Sydney for the next 25 years. That combined document will be known as the Metropolitan Plan and will be released later in the year. The level of population growth, coupled with people living longer, means that we need 770,000 new homes in Sydney and 760,000 additional jobs by 2036. We are aiming to ensure that we get as many of those jobs close to housing accommodation as possible so that people do not have to travel as far to work.

Obviously, we need additional transport, health, education and environmental infrastructure to maintain and improve our existing living standards. The release of the new Metropolitan Plan later this year gives us an opportunity to reassess the way we coordinate and deliver our infrastructure in New South Wales. Currently we have a State infrastructure strategy that brings together \$62.2 billion in projects over four years to 2013-14. It is necessary to target infrastructure designed to meet key short- and medium-term challenges, but as we continue to commit larger and larger sums, we need to make sure we take a longer-term approach. We need to ensure that this investment is aligned with the aims of the soon-to-be-released Metropolitan Plan and the suite of regional strategies that we intend providing after that—the strategies that apply to the high growth areas of the State.

We need a framework of planning and of delivering infrastructure to Sydney to improve its competitiveness and liveability over the next 25 years. We need to apply the same approach statewide. Once we complete the Metropolitan Plan, which is a combination of the Metropolitan Strategy and the Transport Plan, we will take the same approach in the regions of New South Wales with their regional strategies and incorporate the transport plans in those. The Government is currently considering all the proposals to do that. Improving infrastructure planning, funding and the delivery chain is critical but we must not overlook the importance of better land-use planning in driving a more efficient and liveable city.

One way we can do this is by planning to provide land for new housing and employment in places with good access to transport. Taking Sydney as an example, only 56 per cent of new housing in Sydney is within walking distance of our centres. We want to raise this to 80 per cent by 2031. There is potential for 90,000 new dwellings by 2016 near public transit nodes. To drive that transit-oriented development and urban renewal the Premier recently announced, as I said earlier, the Sydney Metropolitan Development Authority that will work across government with local councils and the private sector to focus on corridors that I talked about earlier. The authority will work in defined areas—we will nominate some defined areas to start with—that will benefit from

renewal and, where appropriate, act as a development proponent on State-owned land to expedite development and provide local economic benefits.

We simply have to find the best spaces for those extra 1.7 million people and 770,000 homes by 2036. The Government, councils and the community will have to work together to ensure we achieve those targets; otherwise the State's housing prices will simply continue to rise and we will not have zoned land for employment. We have zoned enough greenfield land—where up to 30 per cent of Sydney's new homes will be—to build new homes on Sydney's fringes for, say, the next 10 years. But we know that most people prefer to live within a few kilometres of where they currently live. They want to be close to family and friends, close to work, and close to existing infrastructure and urban attractions. That is why we are planning for at least 70 per cent of new homes to be developed in what we call infield sites, in existing suburbs. This means boosting the construction of medium- and high-density housing in established urban areas along existing transport corridors and hubs.

As I said earlier, Vienna—which is reputed to be the most liveable city in the world—has a population density that is twice that of Sydney, as do other places such as London and Paris. Greenfield development is still important and is being pursued. Since 2005 we have focussed greenfield planning and development in Sydney's north-west and south-west growth centres, which have capacity for more than 180,000 new homes and 500,000 people over the next 25 to 30 years. To date we have released about 40 per cent of the dwelling capacity—and we are only five years in. We have been able to achieve that pace of planning because we have streamlined the planning process. This has meant bringing together a range of government agencies and local councils to coordinate more efficiently the delivery of essential infrastructure for water sewerage, power, roads, transport, education and other services.

More strategic planning means that infrastructure agencies can better plan their capital works programs and long-term asset management. This results in greater funding certainty, ensuring infrastructure can be constructed when it is required. I am pleased to say that in New South Wales we are working to streamline the planning system to ensure that major projects and critical infrastructure can be assessed and approved as efficiently as possible. Infrastructure projects identified as critical are still subject to rigorous, open and transparent assessment. Public submissions are still received and considered, but costly and prolonged legal challenges are avoided.

We are also amending the Infrastructure State Environmental Planning Policy to streamline the delivery of transport infrastructure such as commuter car parks and bus depots. We will continue to improve the environment for infrastructure delivery. As I said earlier, infrastructure development in New South Wales must be part of a long-term strategy to boost our economic output and productive capacity. It must therefore drive a more diverse, competitive and sustainable economy that generates substantial and lasting economic, social and environmental benefits for this generation and those that follow.

**The Hon. LYNDIA VOLTZ:** Minister, can you update the Committee on the achievements of Landcom in the past 12 months?

**The Hon. TONY KELLY:** Landcom is a development agency of the New South Wales Government. As I said earlier, the New South Wales Government is committed to ensuring a continuous supply of new land and housing to accommodate growth in greenfield areas. We are also committed to ensuring that new development in these areas is sustainable and of high quality. To achieve these goals, it is important that we have the input of Landcom acting on our behalf in making this happen. Over the past year Landcom has achieved a number of significant milestones that were important New South Wales Government objectives.

I am pleased to provide the following information in regard to Landcom's achievements in 2009-10. Dramatic progress was made during the year at Oran Park Town, culminating in the official project and display village launch in March which drew nationwide media coverage. Planning and construction of future stages is now underway. I am advised that Landcom is well advanced on delivering community infrastructure in time for the first residents that will move in later this year. This infrastructure not only supports the new residents of Sydney's newest town, but it also provides commercial and employment infrastructure to generate jobs beyond the Sydney central business district for people living in nearby suburbs.

Landcom's ability to deliver complex projects is founded on the constructive partnerships it has formed over many years. This year was no different. With the help of its private sector partners, Landcom devised innovative solutions for the delivery of projects. Over the year Landcom delivered the final land release at

Greenway Views, in Liverpool, with all remaining lots and completed homes on this estate sold by the end of the reporting period. Landcom began work on the first stage of the Renwick project, in the Southern Highlands, in February. It undertook to forward finance major road works and water-sewage works and begin the civil works at Edmondson Park. This will allow private landowners, as well as Landcom, to proceed with the urban development ahead of schedule. In fact, Landcom will release the first 170 lots in Edmondson Park this month. Landcom sold its thousandth lot at The Ponds in April—just two and a half years since the launch of that project. The Ponds is the nation's second-fastest selling new housing development.

**CHAIR:** Minister, the bell has rung. Is there much more to that answer?

**The Hon. TONY KELLY:** Landcom has done a fair bit. Yes.

**CHAIR:** Would you like to table the remainder of the answer?

**The Hon. TONY KELLY:** If you would like me to table the rest of it, I will. One thing I would like to point out, though, is that Landcom also has some very innovative projects in western Sydney in relation to sustainable housing. From memory, one of the three houses Landcom is developing will be completely off the electricity grid; it will produce its own electricity. Another is built from sustainable products, and the third is an energy-efficient house. They are the sorts of things Landcom is doing, being a government development agency.

**CHAIR:** Minister, with regard to Barangaroo, could you or your officers provide to the Committee any policies or guidelines that are designed and are in place to ensure the probity of the Barangaroo project, including any provisions that ensure that the Hon. Paul Keating, and any other person who is assisting the authority, the government departments or agencies with the project, disclose any private retainers or commissions that they might receive from the company, either directly or indirectly, relating to that project?

**Mr TABART:** Yes, we have probity procedures in place for all the assessments that have been done, including the design excellence review panel, of which Paul Keating and other members are a part. We can certainly provide the probity responses from that point of view from the probity auditor.

**The Hon. TONY KELLY:** I presume you are looking at probity across the board; you are not just picking on Paul Keating?

**CHAIR:** No. Right across the board. Have some disclosures been made?

**Mr TABART:** Disclosures have been made by people who have had, rather than commissions, potentially interests in work that may have been considered to be in conflict, and that has been dealt with or removed.

**CHAIR:** To whom are the disclosures made, and are they made public?

**Mr TABART:** They are made as part of a requirement to become part of a panel or an adviser, and they are made to the probity auditor.

**CHAIR:** The probity auditor for the project?

**Mr TABART:** Are we talking about all aspects of the project, or are we simply talking about the design panel?

**CHAIR:** The whole thing.

**Mr TABART:** More than 60 advisers have been involved in the assessment of the Barangaroo bid process, as well as design panels, finance panels, et cetera. All parties that have been part of any of those have had to fill out a form to say whether they had any conflicts of interest. Generally they have none. In some areas there was consideration as to whether something could have been a conflict, and it was dealt with. Either that party was not able to be an adviser or it was considered by the probity auditor not to have been an issue.

**CHAIR:** Can you provide to the Committee the advice that has been provided to the probity auditor and the probity auditor's judgement in each case?

**Mr TABART:** Yes.

**CHAIR:** Minister, in relation to the question of developers and Labor Party fundraising events, could you provide an outline of how you go about making decisions on whether you attend Australian Labor Party fundraising events? Have you attended any fundraising events where developers were present? What do you do about coming into contact with donors and developers at such functions?

**The Hon. TONY KELLY:** As I said before, you cannot obviously control that all the time. I will run into people at my local store, or I will hop onto a plane and the person sitting in the seat next to me, who I may have never met before, says, "Oh, you are the Minister for Planning. I am objecting to such and such a proposal." So you cannot control that. I have always attended a number of fundraisers, not just Australian Labor Party fundraisers but charity fundraisers as well, and from time to time other people would attend those as well.

**CHAIR:** What do you do when you come into contact with people?

**The Hon. TONY KELLY:** What do you mean when you say come into contact with them? Do you mean bump them or see them at the other end of the room?

**CHAIR:** What do you do if they collar you at a function and talk to about a particular project?

**The Hon. TONY KELLY:** I cannot recall people collaring me at a function about a particular issue but if anyone does I always get them to come and see me in the office.

**CHAIR:** So you redirect them to—

**The Hon. TONY KELLY:** To the office.

**CHAIR:** —a meeting.

**The Hon. TONY KELLY:** For a host of reasons, but the important one, of course, is that I can get someone there from the Department of Planning who can probably answer their questions. Otherwise I am just a conduit; I may as well be a post box. If they want a genuine answer about where something is up to or whatever, the most efficient way of doing business is to have them come into the office where we can have someone from the Department of Planning, the appropriate person. The Department of Planning makes a decision as to which is the most appropriate part of the department. If it is a coalmining issue then obviously it would be the Strategic Projects section. Or it might be a councillor in relation to a local environmental plan, which happens, who says: "Where is our local environmental plan up to?" Then, unless it is very simple answer, I get them to come in and the appropriate person from the department is there to give them an answer. It is just an efficient way of doing business.

**Mr DAVID SHOEBRIDGE:** Are you aware that the application by South East Fibre Exports, for their wood-fired power plant in Eden, makes no reference to the project's relationship to native forest harvesting or any identification of the fuel source for the wood-fired power station?

**The Hon. TONY KELLY:** This is the same issue you asked about before. I am not sure whether Richard has that up-to-date information that he suggested he would try and get for you, as well as answering that question.

**Mr PEARSON:** Going back to your first question in relation to the submission. As I mentioned, from 1 July we have made it clear that we will place public submissions on the website in relation to projects that are exhibited after 1 July. The South East project was exhibited in March to April of this year, so it did precede the 1 July rule, if you like. The only reason I mention that is that we have made it very clear in the policy that if you do not want your submission being made public then you need to tell us and we will not make it public.

**Mr HADDAD:** Sorry, Richard, to interrupt you. Basically that was the reason that we have been careful because we had experiences in the past where people complained on privacy grounds as to whether they wanted their name disclosed. So we made that decision as a policy from 1 July to then publically tell everybody: "Your submission is going to go on the website immediately. If you do not want it to, please tell us." We have instituted special procedures in the department to make sure. That is why in this particular case it is difficult to put all the submissions on the website. Is that right, Richard?



**Mr PEARSON:** That is right. The issue we have with this one is that people who have made their submissions do not know that there is potential for their submission to be put on the website. I am happy to take legal advice as to whether it is possible in this case to make those submissions available given the significant public interest in the project, but that is something the department will need to do.

**Mr DAVID SHOEBRIDGE:** Can you respond on notice as to whether they can be made public?

**Mr PEARSON:** Yes, we can.

**Mr DAVID SHOEBRIDGE:** Because there is a large amount of public interest in this.

**Mr PEARSON:** I know there is.

**Mr DAVID SHOEBRIDGE:** More than 1,000 submissions.

**Mr PEARSON:** We can do that.

**Mr HADDAD:** We will try to find that out for you.

**Mr DAVID SHOEBRIDGE:** And in terms of the question about the failure of the application to make any reference to the project's relationship to native forest harvesting or identification of fuel sources?

**Mr PEARSON:** The advice I have on that is that there is clarity; the source will be native and plantation forests in relation to the environmental assessment documentation. But that is again an issue I am happy to have a closer look at.

**Mr DAVID SHOEBRIDGE:** If it is not identified in the application will you require it to be clarified before assessing the application?

**Mr PEARSON:** We would. Before we put the environmental assessment on exhibition we do conduct a thorough adequacy test to ensure that they have met the requirements that we issue in the director general's requirements. Now given that we have exhibited it we obviously came to the conclusion that they had adequately addressed those issues, but I am happy to look at that specific issue and make sure it does do what you have raised.

**Mr DAVID SHOEBRIDGE:** In terms of the environmental assessment, does it deal with the fact that the woodchip power station will have a likely lifespan in the order of 40 years but it will be dependent upon timber from local native forests where the regional forests agreements will expire in 10 years? Does it deal with the uncertainty for the balance of the 30 years following the expiration of the regional forest agreements?

**Mr PEARSON:** Where we are at with this project is that we have received in the order of 1,800 submissions. We have referred those to the proponent for a response. The department is now embarking on its assessment of the project. All those issues, including the source of the fuel, including the viability and the sustainability of the project will be thoroughly assessed by the Department of Planning.

**Mr DAVID SHOEBRIDGE:** Minister, the State environmental planning policy on shopping centres that has recently been put in place, provides that the loss of trade to existing businesses is not normally a relevant planning consideration to take into account in assessing those applications. Do you accept that by putting that in, you are effectively killing off strip shopping centres in many local communities because they will be outcompeted by the large, new shopping centres put in place under this new State environmental planning policy?

**The Hon. TONY KELLY:** No, I do not accept that. Effectively the old provision could have stopped any development in this State. Take, for example, when I was general manager of the council in Wellington. I worked very hard to get a supermarket in that town because 85 per cent of all supermarket groceries were purchased in Dubbo, not Wellington. That meant a massive loss of jobs to Wellington because when the people would go up to Dubbo to get their groceries they would also go to the dress shop, pick up their farm supplies and make a day of it. We eventually got a supermarket in Wellington—the first one was Coles, BI-LO. Eventually, when the prison came, we got a second supermarket in Wellington. The shopkeepers in Dubbo

could have complained that by starting up two supermarkets in Wellington it was anti-competitive to the shops in Dubbo but it was terribly important to the people of Wellington. So I believe that policy was too restrictive.

I will explain a little bit more about the new policy. In fact, the Federal Government was very keen to see this new policy come in. Cabinet agreed with the recommendations of the review and we took the following action. A competition State environmental planning policy is being developed so that competition between individual businesses is not in itself a relevant planning consideration, and that a planning authority should not consider the commercial viability of a proposed development. A draft State environmental planning policy was placed on public exhibition on 27 July. The activity centres policy, which is currently being finalised, will consider ways to increase opportunities for competition by allowing more types of shops into centres that currently only permit neighbourhood shops. Guidance will be provided on how to consider third party objections when assessing development proposals, including how to seek recourse for vexatious objections.

Councils will be advised that, unless it can be justified on sound planning grounds, planning policies and instruments should not apply retrospectively and that development applications that seek to divert from floor space ratios set out in development control plans should be considered on their merits. The planning system should help increase competition, which can provide benefits for consumers of goods across the State in the context of greater choice and lower prices. The Federal Government has praised New South Wales as being the first State to move to bring in these new policies and it is encouraging other States to follow our lead.

**(Short adjournment)**

**WARWICK ARTHUR WATKINS**, Chief Executive, Land and Property Management Authority, Department of Planning, and

**ROBERT OWEN COSTELLO**, Corporate Secretary and Chief Financial Officer, Land and Property Management Authority, Department of Planning, sworn and examined:

**The Hon. GREG PEARCE:** Mr Watkins, can you update the Committee on the structure of the department now that there have been a number of amalgamations and there are different responsibilities?

**Mr WATKINS:** When the Land and Property Management Authority was formed, the core part of that authority was the former Department of Lands. The authority consists of the following components: Land and Property Information, which is the land titles component; the Crown Lands Division; the Soil Conservation Service; Hunter Development Corporation, which is subject to reporting to Minister McKay; the Central Coast Regional Development Corporation, which was the former Festival Development Corporation; Sydney Harbour Foreshore Authority [SHFA], which up until two weeks ago was the responsibility of the Minister for Planning and it has only just come across to the Minister for Lands—

**The Hon. TONY KELLY:** Who incidentally is the same person.

**Mr WATKINS:** —the Cooks Cove Corporation; the Lake Illawarra Authority; the Office of Strategic Lands; and the State Property Authority. It encompasses three broad areas of focus: land and property information; land and property administration and conservation; and land and property development. Those three things are mutually reinforcing in the way in which the organisation is structured and the way it operates.

**The Hon. GREG PEARCE:** I do not normally source my questions from newspaper reports, but what is your response to the recent reporting in relation to the other Mr Kelly's activities, not the ICAC but the issues that have arisen in relation to bypassing tenders, capital works being—

**Mr WATKINS:** I am happy to place on record that my initial investigations indicate that there are significant differences of fact to what has been reported in the press. Due to that matter being under ICAC investigation and my own internal investigation, I think it would be inappropriate to go into more detail, but I believe there are vast errors of fact that have been reported.

**The Hon. GREG PEARCE:** In terms of the actual management structure now, do you now pick that up? What is your responsibility for that?

**Mr WATKINS:** Under the legislation, organisations such as the Hunter Development Corporation, Central Coast and Cooks Cove are not empowered to employ staff. Therefore, there has to be another organisation to employ staff, and that is the chief executive. That is a little bit different to SHFA legislation, where there is a chief executive position. Indeed, I am the chief executive for all the activities that are within the organisation called Land and Property Management Authority, including the State Property Authority. I then have a number of general managers that undertake the day-to-day operations of business, for which we have, for the vast majority of them, statements of business and financial intent, the same as State owned corporations and statutory corporations with Treasury. I then work with those managers and the other structures to bring about the outcomes sought by the community or the Government.

**The Hon. GREG PEARCE:** And who reports to you in the structure from SHFA?

**Mr WATKINS:** The general manager, whose name is Egle Garrick.

**The Hon. GREG PEARCE:** And does SHFA have a business plan?

**Mr WATKINS:** SHFA has a statement of business intent. SHFA has been an off budget agency since its creation and it has had a statement of business intent and a major reporting structure to Treasury and continues to have one.

**The Hon. GREG PEARCE:** Land and Property Management has been subject or we get quite a lot of complaints about the long time lapse in dealing with Crown land applications, purchase and those sorts of things. What is the current state of that?

**Mr WATKINS:** Thanks for that question. It gives me the opportunity to clear up and place on record a number of aspects. With respect to Land and Property Information generally, which was commonly called the Titles Office, the Titles Office is world's best practice. We do something like 3,000 dealings a day; that is, 3,000 dealings in property. We have a turnaround of somewhere around 24 hours for the majority of those property dealings. It is an activity that has been highly finetuned with respect to electronic data transfer. Indeed, the New South Wales Titles Office and the register of the Torrens Register was the first computerised register in the world. There are some delays from time to time with respect to developers and people who want to seek urgent approval of complex major plans. When we are talking here about major strata plans of large buildings or major subdivision plans, they can take up to a fortnight to three weeks, depending on what we call the number of requisitions and how many times we have to go back and correct those. It is critically important that there is no corruption of the title register. With 70 per cent of all properties in the State mortgaged and with the types of dealings we are doing a day that I have referred to, it is in fact like a second currency for the State.

When we then moved to the area of Crown land, Minister Kelly, when he took over the portfolio, supported by me, was very keen to transform the Crown land function from that of a land administration function to an asset management function—to look at the integrity of the land, to look at the public purpose, to look at the intergenerational equity responsibilities that we have for that land, and to look at the broad statutes. Indeed, Crown land statute is all encompassing. It has very specific directional requirements for conservation of the lands through to the sustainable management and development of those lands. Therefore, there was a need to undertake some major reform. There was major legislative reform. Two of those components in relation to which some delays have been experienced, simply because of the huge volumes, have been in the perpetual lease conversions and the road closures. What we are talking about here is thousands of applications that have come in. Therefore, inevitably, there are some delays. Where they are urgent because of extenuating circumstances, we try to prioritise them. But I freely accept that there are delays in those areas simply because of the volumes.

**The Hon. GREG PEARCE:** On the perpetual lease conversions, there seems to be a significant number of concerns being expressed to us that the rents are too high in relation to the values and the covenants being placed on the titles—

**The Hon. TONY KELLY:** I will let Warwick finish it off, but I will mention one of the things we have done just recently, and I do not think it has been well publicised yet. On the covenants issue, I know there is considerable concern about the level of the covenants, whether they are considered necessary or whether the native vegetation legislation should prevail. In an effort to address those issues, Shaughn Morgan, who used to be the CEO of the New South Wales Farmers, is now on contract to the department to work through those issues. Warwick might want to talk about the statistics.

**Mr WATKINS:** The real driver behind the perpetual lease conversions was that successive governments of all political colours had not come to grips with the issue that these were valuable Crown lands whose equity to the State, and therefore the people of New South Wales, had been totally eroded. Independent reports indicated that we had somewhere in the vicinity of 3 to 5 per cent equity left in those lands, simply because the majority of those lands had in fact been bought and sold on the open market if not once, certainly a number of times. The rental structures around those were not indexed in any way. Therefore, the return to the State was very minimal. The administrative costs of administering those in many cases far outweigh the value that the Crown was receiving.

Because they had been bought and sold on the open market and because the State has a very strong regulatory framework around vegetation control, soil conservation legislation and other types of controls, it was felt that it was an appropriate time, subject to those areas that had significant conservation values for which we place covenants on. This is a very critical point. It would have been very easy for the Minister and the department of the day to, dare I say, hide behind and sit back, one out, one back, with respect to the conservation covenants that could have been applied through other provisions managed by the Minister for the Environment. We felt at the time strongly—and the Minister might wish to comment—that it was very important, given the statutory provisions of the Crown Lands Act where we are empowered both through the definition of "land management" and the four main pillars upon which the Act was built, that the protection of conservation values is an integral part of that. Therefore, we chose to ensure that we placed the covenants on title and did not rely on another piece of legislation.

That took long periods of negotiation with the environmental and conservation groups, with parts of government and, indeed, with landholders. So, inevitably, because of their nature, from time to time there are some people who feel that the covenants that we applied might be more onerous than what they would have expected. These are negotiated in the sense that we go through a very open, transparent and robust structure, and I believe that the covenants that are applied are truly applied not just in the spirit but also in the statutory framework that the Crown Lands Act has.

**The Hon. TONY KELLY:** Further to that: There are about 12,000 or 13,000 perpetual leases in the State. I should make the comment, so people understand, that these are not like leases in Canberra where they are 99-year leases; these are perpetual—they go for ever, and ever and ever and long past that. They are perpetual. That is why the Government or the Crown's equity in them was such a low percentage—around 3 per cent. With previous governments there was a moratorium placed on about 2,000 or 3,000 of those blocks of land, so the previous Coalition Government said that they were happy to sell them before our policy came in. But there were 2,000 or 3,000 they had put aside because of some of the significant environmental factors. We said we were happy to look at selling them as well but we would have to look at the covenants that would go on them.

That is part of the reasoning behind what has happened. There were 10,720 perpetual leases that could be purchased. As at 1 August 2010 there are only 261 leases for which purchase applications have not been received. We have extended the period two or three times to ensure that everyone had an opportunity. Those remaining 261 perpetual leases are now subject to the new rent of 0.08 per cent of the statutory land values. But we have done everything we possibly can to make sure that people have an opportunity to apply for them.

**The Hon. GREG PEARCE:** Do we have statistics for the number of applications that have been received but have not yet been dealt with?

**Mr WATKINS:** I do not have that before me here.

**The Hon. GREG PEARCE:** Would you mind taking that on notice?

**Mr WATKINS:** Yes, certainly, we will take that on notice.

**CHAIR:** Could you also give an indication of when you think they will be dealt with? What is the time line for getting through the bulk of them?

**Mr WATKINS:** We will come back with a holistic reply to that.

**The Hon. TONY KELLY:** We have actually concentrated on the perpetual leases. We also have 10,000 or 12,000 applications for enclosed roads as well, but we have been concentrating primarily on the perpetual leases, which is a big percentage of those, but at the same time doing some of the others, some of the road purchases. I think there are about 4,000 of those. There are 12,931 enclosure permit accounts—they were the ones that were leased. There are obviously some that were not leased. Of those, 5,117 have been approved for closure and 870 are not proceeding because the affected roads are required for essential purposes or the application has been withdrawn.

**Mr WATKINS:** A very strong principle that underpins this whole approach is that to have a representative reserve system it should not and cannot—whether it be in New South Wales, Australia or anywhere around the world—be singularly achieved through one type of title. Therefore, the conservation values of land, whether they are in a national park, a nature reserve, a State park, any parcel of Crown land or, indeed, any parcel of freehold land, deserve to be equally protected and managed consistent with that framework. That is why you see the approach that we take is not simply relying on the allocation of land to a single purpose within the State; it should be a matrix so that society can operate within that framework.

**The Hon. TONY KELLY:** Just to complete those statistics: We received applications for 12,931; we actually have 32,000 road enclosure permits, of which we have applications for 12,931 and 3,484 have been approved to date.

**The Hon. GREG PEARCE:** Just to clarify: You mentioned that Mr Morgan had been engaged. What is his brief?

**Mr WATKINS:** You outlined earlier that there was some disquiet in some areas about the type of covenants and there were also some delays. Notwithstanding that we believe that we have a robust system, we felt that it was pertinent to have someone external who understood where those concerns were coming from and to review that. I have met with Mr Morgan as recently as yesterday to talk about his brief and I anticipate that he will be consulting widely as he goes through to pick up those areas and come back and report to me.

**The Hon. TONY KELLY:** I presume he has the same phone number as he had before—I think a lot of people had that number.

**The Hon. GREG PEARCE:** Just on the enclosed roads, I seem to be getting quite a lot of concerns about the survey costs associated with those road closures.

**Mr WATKINS:** I think it is a very important question. Earlier I made a reference to the critical importance of the cadastral framework of the State and the tidal system, and that therefore as a society we must at all costs protect the property boundaries that go into that from any corruption. Notwithstanding the fact that a boundary between properties in Macquarie Street is worth millions, every boundary across the State, irrespective of whether it is Broken Hill or somewhere else, requires the same attention. Therefore, and wearing my Registrar-General's hat, it is a practice that we do require a registered surveyor to lodge a survey plan when we have changes to the cadastral framework.

We changed in this regard because of the certificate cost in getting surveyors, particularly in some of the remote areas, and also because in the vast majority of cases these, paper roads—as we call them—are in fact contained within an already surveyed parcel. If the surveyed parcel exists we said we could reduce the cost substantially by doing what we call a compiled plan: you are adding another parcel of land to something that is already within the cadastral framework and therefore there was no corruption to the title system; you were just changing the name, basically. But there are circumstances where the practicalities are that you do require a resident survey. We try to reduce those to the absolute minimum.

**The Hon. GREG PEARCE:** Minister, can you update us on the Eden port?

**The Hon. TONY KELLY:** This is Snug Cove?

**The Hon. GREG PEARCE:** Yes.

**The Hon. TONY KELLY:** Snug Cove at Eden is a regional port under the administrative control of the Land and Property Management Authority—most of those ports are. It is one of 25 harbours up and down the coast of New South Wales that is controlled by the authority. The day-to-day management of shipping and related activities at Snug Cove is managed by NSW Maritime. The potential for growth in the use of existing and expanded facilities at Snug Cove has long been acknowledged. Twofold Bay is an excellent deepwater anchorage and is strategically located between Sydney and Melbourne. It has been increasingly promoted by Bega Valley Shire Council and the local stakeholders. They advocate its potential to capture increased business from the growing oil and gas industry off the Gippsland coast, which is located closer to Eden than it is to Melbourne and Geelong ports that currently service those operations. There is a lot of potential there. Also, expansion of recreational boating providing safe protection from wave surges from the south can be established.

Late in 2008 Bega Valley Shire Council and the Land and Property Management Authority reached an agreement to work together to re-examine the issues surrounding the future development prospects of Snug Cove. At the time it was envisaged that the Snug Cove master plan, prepared by the former Urban Design Unit of the Department of Planning some five years ago, should be reviewed and a prospectus developed to attract potential investors. I agreed to provide \$100,000 to match council's \$100,000 to undertake the examination and studies required. Arrangements were made to progress the project as a partnership between the council and the authority. With the advent of the Federal Government's Infrastructure Fund and the Jobs Fund financial assistance packages, it was agreed to undertake a number of strategic studies to position and support an application to the Jobs Fund for the expansion of the Eden wharf and the construction of a wave attenuator.

Four studies have been undertaken. The wharf expansion study built on previous work done by the former Department of Lands on the development of a concept plan for the expansion of the wharf. The wharf attenuator study produced a concept plan for options to provide wave protection in the Snug Cove area. The road transport study involved the examination of truck access routes through Eden to Snug Cove. The economic

assessment study concluded that there was a significant cost benefit for construction of the wharf expansion, especially to serve the developing oil and gas fields off the Gippsland coast in Victoria that I mentioned earlier.

Prior to the studies being completed, the Federal Government changed the funding criteria for the Jobs Fund. As a result, the Snug Cove projects no longer qualify for any known Federal Government assistance grants. Nevertheless, the Land and Property Management Authority and the council agreed to further develop the feasibility study and to establish the likely attraction of industry and the usage of Snug Cove. A further study has recently been commissioned to examine its attractiveness to industry, the price cut-off points and the development of a business case to see whether any public or private investment can be justified. The business case provides an overall assessment of the wharf extension project and the potential for a variety of funding models because the main beneficiaries are the oil and gas industry operators. There may also be potential for some form of public-private partnership or joint industry and government approach.

Separate from the developments at Snug Cove, I recently granted an investigation licence to the Australian company Carnegie Wave Energy. This three-year licence allows the company to investigate the wave energy climate off the coast of Eden. Carnegie Wave Energy is a Perth-based company and its investigation will scope the potential and feasibility of a wave energy plant off Eden. The company will also require approval from Fisheries and NSW Maritime to ensure that there is no potential conflict with the aquaculture licence operators, the sensitive maritime habit and shipping movements. Wave energy plants convert the power of the ocean into electricity. The company has already established a pilot plant at Fremantle in Western Australia and earlier this year it was licensed by the Victorian Government to investigate establishing plants at Portland, Philip Island and Warrnambool. For Eden to be considered for the establishment of a plant using this new technology ahead of other areas in New South Wales is a boost to the area and its residents.

**The Hon. GREG PEARCE:** Who is conducting the feasibility study and the business study for Snug Cove, and when are they likely to respond?

**The Hon. TONY KELLY:** We will provide that information on notice.

**Mr WATKINS:** I met with the mayor and the general manager of the council as recently as a week ago. We are stepping through exactly the process that the Minister outlined. We have not at this stage engaged a consultant to do the next stage of the work. However, we are in the process of doing that. From a statewide perspective, we see it as an area of great concern to the local community with regard to economic and social growth. Eden is one of our top three or four priority minor ports with regard to the progress of this development.

**The Hon. ROBERT BORSAK:** Given that Crown land falls under your portfolio and there are 33,000 Crown reserves covering 2.5 million hectares across New South Wales, can the officers identify several sites for the establishment of new regional shooting complexes? I am particularly interested in areas around Newcastle, Tamworth, Dubbo, Wagga Wagga, Bega, Coffs Harbour and Grafton.

**The Hon. TONY KELLY:** We have done some work with the Game Council, but you are referring specifically to shooting complexes. There were about 300 ranges across New South Wales in bygone days. Many of them are no longer active or, as you suggested, they have been surrounded by housing and it is no longer appropriate for them to be used because they are close to towns. There is a need for modern shooting facilities and I am certainly happy for the department to look at those areas.

**Mr WATKINS:** One of the great strengths of the Crown land system is that we can reserve a parcel of land and then reserve it again later for another use. We have reserves for everything from pigeon racing through to complex community activity, and shooting fits within that structure. We would be happy to work with the community to identify potential suitable sites. One of the key issues is trying to establish a regional shooting centre as opposed to a local community shooting facility. That is a vexed issue in some places in the country. I would encourage this from the perspective of the utilisation of the land and because some of these sites are constrained within core areas. Many of the reserves we now hold are small because much of the surrounding land has been included in national parks. Regional reserves would be preferable.

**The Hon. TONY KELLY:** That is what you are talking about.

**The Hon. ROBERT BORSAK:** Yes. The issues are around smaller shooting ranges rather than larger shooting complexes. We would be better off having a regional range rather than a bunch of small ranges that would be continually encroached upon. If we set them up correctly under law they should have long and useful

lives. How much did the authority, or prior to that the department, spend in 2009-10 on feral animal control programs and how much does it expect to spend this financial year? What was the total number of feral animals culled on land controlled by the authority and, specifically, pigs, foxes, goats, cats, dogs and deer?

**The Hon. TONY KELLY:** We will take that question on notice.

**Mr WATKINS:** I can provide the expenditure but not the numbers.

**Mr COSTELLO:** The expenditure is approximately \$500,000 a year.

**The Hon. TONY KELLY:** We will provide the specific details.

**The Hon. ROBERT BORSAK:** Has the authority identified any further areas of Crown land suitable for declaration under the Game and Feral Animal Control Act? If so, how many and when, and when will they be available for conservation hunting of game and feral animals? If none have been identified, why not?

**Mr WATKINS:** We stand ready to work with the Game Council, as we have in the past, to identify these areas. As you know, a significant area around Berrigan has been a major addition. This is an ongoing process. It is not a matter of not doing it, but how quickly it can be done. We stand ready to work to identify suitable areas.

**The Hon. ROBERT BORSAK:** With all due respect, the establishment of the Berrigan area has finally come to fruition, but the council has been hunting on public land for 4½ years and we have managed to secure only one piece of Crown land. I understand that Crown land is much more difficult to secure than forest land in New South Wales. I would like to see more effort. If that effort needs to come from the Game Council then we need to push it harder. However, there must be some other Crown land that we can get up and running more easily and more quickly. The Berrigan area is a good example and I know that land tenure has been a problem for the neighbours. I would like to think that a few more areas could be established much more quickly.

**Mr WATKINS:** I accept that.

**The Hon. ROBERT BORSAK:** The Land and Property Management Authority mapping system, the spatial information exchange [SIX], is used by the Game Council of New South Wales conservation hunters, including me. It needs further integration with other computer operating systems, web browsers and global positioning systems. Can the Minister outline the development road map for this system and when users can expect these further enhancements to be available? What processes does the authority have in place to ensure that forest hunting maps are completely up to date and correct?

**Mr WATKINS:** On the first part of a question, we stand ready to work with the council. As you know, the council was one of the first parties to put up its hand to utilise the spatial information exchange system, which is now a very widely used across government and the community.

**The Hon. ROBERT BORSAK:** Who else uses the system? I am aware that we were one of the first cabs off the rank.

**Mr WATKINS:** Emergency Services, Planning internally and the broad-based community. Indeed, the spatial information exchange has won a number of awards. I am working in this area all the time at the national level as well as at the local level and at the international level, and the spatial information exchange is without peer as far as its quality. If I look to date, the major business channels have been developed for New South Wales agencies including Fire Brigades, RailCorp, Planning and the Sydney Catchment Authority. We have one for the surveyors, the Game Council, Aboriginal water and sewerage, the Department of Water and Energy, Parliamentary Counsel's office, valuation services, Crown lands—and there is another list longer than that.

**The Hon. ROBERT BORSAK:** Without getting too complimentary, it is a damn good system. I have used it myself.

**Mr WATKINS:** But it is a system that is under continual development. The technology that sits behind this is a very robust, Google-type technology but you have to keep renewing the technology. Our aim is that it will continue to become the spatial layout and engine upon which all other land attributes are placed. Indeed, we are now working nationally towards a national positioning infrastructure—moving on to the second part of your



question—and the GPS, putting on my Surveyor General's hat. Indeed, I came back this morning having had discussions in Canberra with Michael Green, the Director of the Australian Space Office, about all aspects of global positioning. They are looking at putting a payload in the new satellites going up for the National Broadband Network to improve the positioning capabilities to be able to provide services like you are talking about.

One of the issues here is that, as we move towards a grid-enabled numerical and symbolic service and a satellite-driven location-based service, we need to be able to have that down to about two centimetres. To do that, to provide for safety and for other reasons, you need a network of core stations roughly in a 70-metre grid across the State. The Australian New Zealand Land Information Council, the Cooperative Research Centre for Spatial Information and the Australian Spatial Consortium are working very closely to establish a national positioning infrastructure so that at a national level all the core stations they go in will provide a unified approach.

**The Hon. ROBERT BORSAK:** Knowing what I know about what the spatial information exchange system does for conservation hunters, in the same way as you have overlaid the templates of forests and certain Crown lands—and I know it is not directly in your area at the moment—is there any intention or plan to incorporate the outlines, if you like, of marine national parks in the restricted zones within the spatial information exchange system so that fishing people can use it? Some horrendously onerous and unnecessarily restrictive penalties are placed on fishers who happen to be in the wrong spot at the wrong time, and the only way they are going to determine this is with a global positioning system.

**Mr WATKINS:** That is a very valid point, and the short answer is yes. It is our aim in this State to make sure that every parcel of land, whether it be a bathymetric parcel—which is under the water—or a terrestrial parcel, is co-referenced to each other through a common cadastre. Therefore, once you have a common cadastre and that is tied to the geodetic framework and linked to the VOBL—and I will not go on about it—and other technical structures, then that is available. What we need now is to ensure there is an accelerated migration of agencies' technical data, boundary and otherwise, across to the spatial information exchange platform. Technology today enables that to be done through the Web so that every agency can continue to be responsible and accountable for their data and the standards of that data with us providing the Web browser through which the community can have access to it. It can all happen today, it is a matter of the migration of that data across.

**The Hon. ROBERT BORSAK:** Are you aware of any plan for that sort of thing as far as marine parks are concerned?

**Mr WATKINS:** We are working on that. One of the other issues here that I spoke about is the cadastral framework. National parks in New South Wales do not have a survey boundary. To create a national park in New Zealand, or indeed to have a State forest in New Zealand, means that every parcel of land has to have a survey boundary. So until you end up with that type of framework it makes the positioning of those parcels much more difficult. We will be progressively working towards that, and we have very strong cooperation from National Parks and State Forests to update those registers.

**The Hon. TONY KELLY:** I will undertake to talk to Minister Sartor's office about it too.

**The Hon. ROBERT BORSAK:** It is worrying if people are going to be fined and penalised for boundary infringements when they do not know where the boundaries are. That is an interesting circumstance.

**Mr DAVID SHOEBRIDGE:** Mr Watkins, you said an investigation is being undertaken in relation to the allegations surrounding Mr Kelly. Is it by the Land and Property Management Authority or by the Sydney Harbour Foreshore Authority? Who is undertaking the investigation?

**Mr WATKINS:** I am the chief executive of the Sydney Harbour Foreshore Authority and, as the chief executive of the authority, I have one overarching independent audit function. I have directed the head of my independent audit to undertake that.

**Mr DAVID SHOEBRIDGE:** Is the report on that investigation going to become public?

**Mr WATKINS:** That report will be part and parcel of my reference to the Independent Commission Against Corruption, which occurred. I cannot give any public undertakings about that until such time as ICAC has concluded its investigation.

**Mr DAVID SHOEBRIDGE:** In the course of that investigation, are you doing a probity audit of other officers and employees in the Sydney Harbour Foreshore Authority to see whether any of them may also have had inappropriate commercial dealings?

**Mr WATKINS:** No. I refute—I am not saying it is your inference—the general inferences I referred to that there are systematic and systemic problems in the Sydney Harbour Foreshore Authority. I do not believe that is the case. I believe we have a particular circumstance here that has been drawn to attention. I should also place on record that the subject of an investigation was already cleared by ICAC some months ago. The mere fact that he has come forward in the press the way he has as a result of a series or barrage of inquiries through freedom of information and through the attaining of other documentation meant that it was my judgement from a probity point of view that I refer it to ICAC should there be any additional problem.

**Mr DAVID SHOEBRIDGE:** The question I am asking you is not predicated on an assumption that there is any systemic corruption or problem in the Sydney Harbour Foreshore Authority but it is predicated on you making the proper inquiries to ensure yourself that there is not, and that is why a more thorough review, going beyond Mr Kelly, may well be appropriate. Have you considered that?

**Mr WATKINS:** No, I do not believe that is appropriate in the sense that there are many checks and balances in an organisation. If you take the Sydney Harbour Foreshore Authority, there is a board. There is also an independent chair of an audit committee. So many tools are available to me to undertake investigations or to refer matters to the appropriate source if I thought there was a concern over any matter. But I do not at this time have any indication that there is any systemic problem in that regard, and I will respond if they come up in the future.

**Mr DAVID SHOEBRIDGE:** The question I am asking you is whether you are going to take any proactive steps yourself to look at—

**Mr WATKINS:** I thought I just answered that, with all due respect. My proactive steps are that, as the chief executive, in overseeing the operations—and I am assisted by the audit team—I am continually reviewing material and therefore I am satisfied that I have appropriate external and internal controls in place.

**Mr DAVID SHOEBRIDGE:** But all those controls have been in place and they failed to pick up the concerns in relation to Mr Kelly. Surely that must trouble you and make you consider whether you should go back and review it.

**Mr WATKINS:** That is a subject for a previous chief executive. I am not here to judge how any previous chief executive undertook their activities. What I can report on is the way I operate and the satisfaction that I have as chief executive. I believe that accountable controls are in place and, should anything come to my attention that warrants an investigation, I would take the appropriate action—whether that be reference to my internal review processes or any external process where I thought there may be the possibility of corrupt conduct.

**Mr DAVID SHOEBRIDGE:** You said that Mr Morgan is going to be undertaking a review of the restricted covenants that have historically been put in place when title is converted from leasehold to freehold, is that right?

**Mr WATKINS:** What I referred to there, and what I believe the Minister and I referred to—as with the question from the Hon. Greg Pearce—was that there had been some concerns about time delays, about the way the covenants were applied, the general aspect of the perpetual lease conversions and the road closing. We have asked Mr Morgan to review our practices and processes, review the rigour that we have applied to them and to liaise with the people who have these concerns and ascertain whether there are any improvements we can undertake. But it is not specifically on the covenants.

**Mr DAVID SHOEBRIDGE:** Would you be in a position to table the terms of reference of the review that you have given to Mr Morgan?

**Mr WATKINS:** I am happy to table the areas of reference relating to the investigation.

**Mr DAVID SHOEBRIDGE:** In the course of undertaking that review, is Mr Morgan going to look beyond simply the landowners or the leaseholders? Is he going to be consulting with broader interests and broader stakeholders because, as you said earlier, these covenants are obviously put in place to protect a broader public interest?

**Mr WATKINS:** That has already happened. There was exhaustive consultation—in capitals—with the conservation groups and other interest groups as to the way in which those covenants were established. This is not a general review to cover all those processes. This is a bit of due diligence on our behalf to say: Are there things that we could be doing better, given the types of comments that have come forward from the member?

**Mr DAVID SHOEBRIDGE:** Will any report or outcome from that review be made public?

**Mr WATKINS:** There is no specific report being identified that would be made public, but I am quite happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Including whether or not you will make the report public when you receive it.

**Mr WATKINS:** Yes. I am not after, in this context, a seminal final report. I am after an individual to work with us and to go through the processes. This is not about a review process of producing a public, defined document that is going to be publicised and placed on the Web.

**Mr DAVID SHOEBRIDGE:** I accept the limited nature of the review, and that will become clear in the terms of reference anyhow. Minister, this question is to you. The trip that was taken by Mr Charif Kazal in the company of the Hon. Matt Brown in 2007 to Dubai, Qatar and Abu Dhabi cost the Government some \$14,000-odd in airfares and \$283 in hire car and taxi fares. Were any of the expenses for that met out of any budgets—

**The Hon. TONY KELLY:** That has nothing to do with any of my portfolios.

**Mr DAVID SHOEBRIDGE:** Those expenses were not met out of your budgets?

**The Hon. TONY KELLY:** It has nothing to do with any of my portfolios. Ask the relevant Minister.

**Mr DAVID SHOEBRIDGE:** Minister, have you attended any functions at any of Kazal's business premises since you have been Minister for Lands or Minister for Planning?

**The Hon. TONY KELLY:** I do not know where all those premises are, but I have had chocolates; I do not know if it is his place. My favourite chocolate place, of course, is Lindt, which is just down the road. I have had breakfast and I had a coffee at Guylian down near the Quay one morning. I go for a walk past there every morning. I like a walk.

**Mr DAVID SHOEBRIDGE:** Have you received any gifts or political donations from any of the Kazals or any of their associated companies in your time as lands Minister or planning Minister?

**The Hon. TONY KELLY:** No, but as members of Parliament we make declarations about that. Ours are all due at the end of this month, I think. I handed mine in today.

**Mr DAVID SHOEBRIDGE:** Is it true, Minister, that you have a personal friendship with Mr Andrew Kelly's father?

**The Hon. TONY KELLY:** As general manager of Wellington Council—a council I worked at for 30 years—I obviously knew the general manager of the neighbouring council, who was also Tony Kelly. A suggestion was made in the newspaper recently by a reporter who also came from Dubbo that obviously I knew, and still do know, the other Tony Kelly, who is the general manager of a neighbouring council. I know some people are confused and thought we were the same person.

**Mr DAVID SHOEBRIDGE:** You are clearly different.

**The Hon. TONY KELLY:** We are clearly different.

**The Hon. LYNDIA VOLTZ:** There are lots of Tony Kellys out there.

**The Hon. TONY KELLY:** There are lots of Tony Kellys. I do not know whether you call it friendship or a working relationship—in the industry that I worked in for 30 years I have a relationship with lots of those general managers. In fact, I went to one of the functions last night—the Golden Oldies—and the other Mr Kelly was not there.

**Mr DAVID SHOEBRIDGE:** Did your acquaintance with the other Mr Tony Kelly play any part in the engagement of Andrew Kelly in the middle of 2009?

**The Hon. TONY KELLY:** No, it definitely did not. In fact, I was unaware that that Andrew Kelly was his son. In fact, I had never heard of him before. I was first alerted to it by the newspaper when they rang up and said did I know this particular person. My response was that I understood the other Tony Kelly had a son who worked at council and I thought still did, but obviously he has two sons. As far as I know I have never met him. I have met Tony Kelly obviously.

**Mr DAVID SHOEBRIDGE:** I understand. There are more Kellys than you can poke a stick at; but you are talking about Andrew Kelly?

**The Hon. TONY KELLY:** For obvious reasons I had nothing to do with that appointment. I was not aware that there was any relationship between those two people.

**Mr DAVID SHOEBRIDGE:** Is it a policy or directive of this Government that the Land and Property Management Authority must be completely or partly self-funding?

**The Hon. TONY KELLY:** Well, no. We have about 10 different parts to the Land and Property Management Authority. There are some that are business units like Land and Property Information [LPI] but there are others that get supported from the budget.

**Mr WATKINS:** It is probably appropriate, Minister, to say that generally Treasury would refer to the way departments are structured as probably threefold. One is the general part of the budget where there are budget-dependent agencies—agencies like Health, Education and others. There are then public trading organisations, which are cost-recovery generators and fee-for-service, and there are then corporations under the State Owned Corporations Act. Within the Land and Property Management Authority we have a variety of those.

**Mr DAVID SHOEBRIDGE:** Has there been any update of the Crown Lands Business Directory for commercial leases and licences since 7 September 2004?

**Mr WATKINS:** Have you got something specific you would like to ask me?

**Mr DAVID SHOEBRIDGE:** I am wondering whether the 7 September 2004 business directory is the most current one or it been updated.

**Mr WATKINS:** I will take it on notice because I am not familiar with the document you are referring to.

**Mr DAVID SHOEBRIDGE:** When you take it on notice, could you take on notice whether there is any other relevant document relating to the terms and provisions of commercial leases and licences that applies to the Land and Property Management Authority?

**Mr WATKINS:** Sure. I refer the honourable member to our very detailed website, which has all the policies pertaining to what you are referring to. There are no other policies outside those referenced there. When I come back with a reply, I will be replying on that basis.

**The Hon. LYNDIA VOLTZ:** Minister, could you update the Committee on the Gosford Challenge and what else the department is doing in the Gosford region?

**The Hon. TONY KELLY:** The Gosford Challenge is a great activity. Gosford has been formally designated by the State Government as the Regional City for the Central Coast and is primed to become a world-class waterfront city and the heart of a thriving region. It is a city full of potential and stunning natural beauty, and the Gosford Challenge and The Landing at Gosford both have central roles to play in ensuring that potential is maximised. The Gosford Challenge is a partnership between Gosford City Council and the Land and Property Management Authority.

The outcome of the Gosford Challenge was the development of the Gosford City Centre Master Plan, "Our City Our Destiny". Engaging with the people in the region to determine the future of their city at every stage of the master plan process has been critical in driving this project forward. I am delighted to say that the efforts put in to the community engagement and communication process were recognised recently when the project received a Doherty Award for excellence in communication as part of the 2010 Local Government Awards Week. This award goes to the core of what the Gosford Challenge is all about—a process that is owned by and involves the community in the decision-making and future planning for the City of Gosford. It acknowledges the partnership built with the community to inform the "Our City Our Destiny" master plan and is a credit to the time, energy, commitment and passion of everyone involved in the process. A significant number of people were involved.

The master plan has been warmly received by the community, with over 70 per cent of responses supporting the initiatives outlined in the plan to revitalise the City of Gosford. The master plan was officially adopted by Gosford City Council early this year. As the Minister of the joint sponsor agency, I gave my full support to council in its adoption of the plan. The key initiatives outlined in the master plan are focussed around five key activity precincts. These are the Waterfront, the Arts and Entertainment Precinct, the City Core, the Railway Precinct, and the Hospital Precinct. I can say with great confidence that within each of these precincts a great deal of work is currently underway to turn the master plan initiatives into real projects.

The first of these projects is the Gosford Landing. This is a call to the market to develop the Gosford Waterfront via a request for proposals and is a key State project for the Land and Property Management Authority. It is the largest and most important project currently being undertaken by the authority in this part of the State—a collaborative project to transform Gosford by connecting it to its magnificent but underutilised waterfront. In the community consultation processes that led up to, and fed into, the master plan the waterfront was the precinct identified most often, by most people, as the area they wanted addressed. The request for proposals was released on 15 July and is seeking proposals from suitably experienced corporations or consortia to implement the master plan's recommendations for the Gosford Waterfront. The release generated a great deal of interest in the project, and there have been more than 110 registrations on the project website so far.

I would encourage members of the Committee to take the time to visit the project website at [www.thelandingatgosford.com.au](http://www.thelandingatgosford.com.au) to find out more about what the project is about. The size and scale of this project is significant, with initial estimates putting the total project cost at over \$1 billion—a major project in anyone's language and especially since it is located in one of our key regional cities. There has been strong national interest in the project, and I can report that a number of successful meetings have been conducted by the project team with a number of these parties. The indications are that while the investment market and access to capital is still difficult, enough interest is being shown to expect a number of responses to the request for proposals by the closing date at the end of this month, which is the closing date.

The Keneally Government's focus and commitment to the Central Coast is unwavering. Over the next 20 years until 2031 it is anticipated that a further 100,000 people will be living on the Central Coast. To cater for this demand in growth there will be a need for a continued focus by Government on investment and development to provide the new homes and jobs that will be required to support this growth. To support the Central Coast as it continues to grow, I recently announced that the Festival Development Corporation had changed its name to the Central Coast Regional Development Corporation. With the name change comes an expanded role to focus across the Central Coast with a key aim being to accelerate growth and attract private investment into the region.

This new focus of the Central Coast Regional Development Corporation will enable it to take a lead role as the development broker in relation to strategic sites in the Central Coast region, including lands already held by the corporation and lands identified for redevelopment as part of the Gosford City Centre master plan. To some degree, it is similar to the Hunter Development Corporation or the Sydney Metropolitan Development Authority, which we spoke about earlier. The corporation will also play a key role in facilitating the

development and renewal of regional centres and renewal corridors as identified through strategic and regional planning documents. In addition to this, the corporation will be responsible for the day-to-day management of the Mount Penang Parklands. I strongly believe that through the Central Coast Development Corporation, and the support of Gosford and Wyong councils, we will see a renewed focus on investment and development on the Central Coast starting with the redevelopment of the Gosford Waterfront.

**The Hon. KAYEE GRIFFIN:** Minister, could you update the Committee on HMAS *Adelaide*?

**The Hon. TONY KELLY:** As I have previously advised the Legislative Council, the former HMAS *Adelaide* was demilitarised and handed over to the State of New South Wales in June 2009. for the purpose of creating an artificial reef and dive site in waters off the New South Wales Central Coast. Plans for the scuttling of the vessel were halted in March 2010 pending a review by the Federal Administrative Appeals Tribunal of the decision of the Commonwealth to issue the sea dumping permit. Legal action was taken with regard to the decision by the Federal Government to issue the permit. This action was initiated by the Environmental Defenders Office, on behalf of the No Ship Action Group.

The Administrative Appeals Tribunal announced its decision at 2.00 p.m. today, 15 September 2010. I am delighted to advise that the tribunal has found in favour of the scuttling of the ship as an artificial reef and dive site, allowing the State of New South Wales to move ahead with plans for the scuttling once we have complied with the provisions. In its judgement the tribunal said:

The level of pollutants now aboard the ship is low, and those that remain are either in very low quantities or inert and unlikely to cause any environmental problem.

The significant benefits for the Central Coast community were recognised by the tribunal, as were the statewide benefits for tourism, the environment and the wider diving community. The department is now examining the judgement and the tribunal's conditions, but I am advised that it will be moving ahead with plans to comply with any further work that needs to be done as soon as possible. Earlier today I issued a statement outlining the decision, and I look forward to the plans for the scuttling proceeding. That process has cost close to \$1 million.

**The Hon. SOPHIE COTSIS:** Minister, can you outline some of the achievements of the Land and Property Management Authority, which was established as a result of the New South Wales Government restructure last year?

**The Hon. TONY KELLY:** I am proud to put on the public record that the Land and Property Management Authority represents the high point of my time as Minister for Lands, which began in 2003. It represents the outcome of the strategic goal I set when I took on the portfolio: to merge the land information and property management expertise of the New South Wales public sector into a single agency; to achieve greater efficiencies; and to ultimately contribute an improved return to the New South Wales taxpayer from the management of the State's land information and property assets.

Seven years ago these agencies were often silos—duplicating their efforts and not benefiting from shared skills and knowledge. The change began with the former Department of Lands. With legislative changes and dynamic leadership, the Department of Lands was transformed from a bureaucratic, process-focused organisation into a customer and outcomes focused agency. The Land and Property Management Authority was established on 1 July last year as a result of the New South Wales Government restructure, as the director general mentioned earlier.

The Land and Property Management Authority brought together the former Department of Lands and a broad range of specialist land management agencies. The business units within the Land and Property Management Authority excel at what they do, and as the organisation moves forward synergies will be created through the three core focus areas and how they interact. These focus areas are: land and property information, land and property management and conservation, and land and property development. The authority's business units include those of the former Department of Lands: Land and Property Information, Crown Lands Division, Soil Conservation Service and the Office of Biofuels.

The Land and Property Management Authority also includes the State Property Authority, the Hunter Development Corporation, the former Sydney Harbour Foreshore Authority, the Office of Strategic Lands, the Lake Illawarra Authority, the Festival Development Corporation, Cooks Cove Development Corporation and Chipping Norton Lake Authority. It also provides support to the Geographical Names Board and the Board of Surveying and Spatial Information. Overall, the authority now has a staff of some 2,000 people, a budget of

more than \$800 million and an asset base of about \$8 billion. The Land and Property Information Division is responsible for land titling and registration, land valuation, survey and mapping services, and the provision of related products and services.

Through five key programs including, as mentioned earlier, national e-conveyancing and the Spatial Data Infrastructure program, the Land and Property Information Division continues to improve the quality and integrity of its data and related services, as well as building collaborative information services with other government agencies. National e-conveyancing involves the commitment of three State Governments—New South Wales, Queensland and Victoria—to an electronic conveyancing system for settlement of property transactions, lodgement of instruments, and payment of duty and tax obligations associated with land transactions. According to an independent study by KPMG, in New South Wales this new system will result in an average cost saving of \$170 per sale or refinancing transaction, and provide estimated savings in conveyancing costs across the State of \$49.8 million. Given that the value of property transacted in New South Wales is over \$400 million each day, it is imperative that systems are constantly improved and the services reviewed to meet the needs of the market.

The Crown Lands Division is responsible for the management of 43.7 million hectares of Crown land, an area that is roughly half the area of New South Wales. This includes some 72,600 licences and permits, 14,800 leases and over 33,000 reserves. The Crown Lands Division also manages significant regional maritime infrastructure, such as ports and breakwaters, valued at some \$1.5 billion. The Crown Lands Division continues to work in partnership with local communities in places such as Newcastle, Gosford, the Tweed, Wagga Wagga, Port Macquarie, Wollongong and Eden in the regeneration of central business districts and waterfront and harbour precincts. All of these major projects aim to activate Crown land for the benefit of the local communities by ensuring the land is used to achieve the best outcomes. The division is also leading the way in providing access to public land for green energy initiatives, such as a wind farm at Silverton in the far west and the exploration of wave-energy generation on the bed of foreshore Crown land at Eden.

The Soil Conservation Service continues to build upon its sound reputation for training, advice and expertise to both the public and private sectors. Recently the Soil Conservation Service produced draft New South Wales soil policy and actions and strategies documents. This followed public consultation on completion of the New South Wales soil framework report titled "Looking Forward, Acting Now". The Soil Conservation Service provided environmental project management and practical earthmoving capability to the Keepit Dam upgrade for State Water as part of a contract valued at \$1.2 million. The service also completed a large program of school ground remediation projects for the Department of Education and Training, providing environmental consulting and project management to enhance the external environment and functionality of numerous schools and colleges. The service maintains fire trails and undertakes bushfire control works, including asset protection zones, particularly in relation to public land managed by the authority.

The State Property Authority's main objective is efficient management of government accommodation to support agencies in delivering government services. In addition to managing the accommodation for almost 71,000 public service officers, occupying 1.4 million square metres of office space, the authority manages property assets such as land, office buildings, warehouses, depots and car parks. The State Property Authority has generated \$187 million in savings and economic benefits for government through the centralised ownership, leasing and management of government property assets.

The former Sydney Harbour Foreshore Authority owns and manages some of the State's most significant assets, including Sydney's heritage and cultural precincts at The Rocks and Darling Harbour. With more than \$1.1 billion in assets and around 220 employees, the authority manages significant commercial and retail leases; provides security, cleaning, building maintenance and other facility management services; and cares for the public domain and more than 140 heritage items—I think that staff number is less than 200 now. Amongst other significant achievements last year, the Sydney Harbour Foreshore Authority received 12 industry awards for sustainability, urban renewal, heritage conservation and marketing. It invested \$20 million in community, cultural and non-commercial services. It delivered a calendar of free public festivals and events attended by 1.84 million people.

The Office of Strategic Lands acquires land for planning purposes within the Sydney region. It manages acquired land and associated infrastructure as assets of the Sydney Region Development Fund and it divests land required for planning or development purposes by other government entities. In the past year the Office of Strategic Lands has continued to buy land for the South West Rail Link and has transferred 25 land parcels to the Western Sydney Parklands Trust. It has spent \$4.15 million on land for regional open space,

\$1.3 million for environmental conservation land, and \$11.2 million for future transfer to the Western Sydney Parklands Trust. It has reinvested \$30 million in the Sydney Region Development Fund.

That group is continuing to buy land. It has almost completed the South West Rail Link. It has identified and is in the process of compulsorily acquiring more land for the South West Rail Link. It is also completing the work for the North West Rail Link. It has also commenced work to acquire the land required, although a lot of it is in tunnels, for the Parramatta to Epping Rail Link that was announced by the Federal Government and the Premier some weeks ago.

The Festival Development Corporation was responsible for the management of the Mt Penang Parklands. On 28 June this year the Festival Development Corporation was absorbed into the Central Coast Regional Development Corporation. In addition to the management responsibilities of the Mt Penang Parklands, the new body has a broader development focus across the whole of the Central Coast region. Over the past 12 months, the Festival Development Corporation has developed a strategic learning partnership with Kariong Mountains High School to deliver a biosciences program within Mt Penang Gardens for over 200 students in years 7 and 8.

It also finalised a lease to the National Aboriginal and Islander Skills Development Association. The Festival Development Corporation completed a major landscaping project around a significant stand of trees, which carry a State-significant heritage listing. It also provided office accommodation at Mt Penang for over 25 local businesses and some 275 workers, while 16,000 people used its sports fields. The Land and Property Management Authority continues to build on the strong foundation laid by its predecessor, the Department of Lands, and I expect many more positive outcomes in the future.

**The Hon. KAYEE GRIFFIN:** Minister, could you outline the steps being taken with respect to New South Wales' best known and most iconic surfing areas being registered in the national surfing reserves?

**The Hon. TONY KELLY:** Yes. There have been seven iconic surfing beaches along the New South Wales coast that have been designated as national surfing reserves under the Crown Lands Act. The first one is Angourie, then Lennox Head, Crescent Head, Cronulla, Merewether, Killalea and North Narrabeen. They will shortly be joined by another, an eighth, and that is Manly and Freshwater, which is due to be dedicated shortly. It is fitting that New South Wales should lead the way on this initiative, with New South Wales beaches having the greatest number of quality surfing breaks in this country, as well as being home to some 75 per cent of the country's surfers.

**The Hon. ROBERT BORSAK:** What about Bondi?

**The Hon. TONY KELLY:** It has not been proposed yet.

**The Hon. ROBERT BORSAK:** I propose it.

**The Hon. TONY KELLY:** We have a surfing reserves committee that looks at those propositions.

**The Hon. ROBERT BORSAK:** Yes, I will be on that one.

**The Hon. TONY KELLY:** Surfing is an integral part of the Australian way of life and it has grown into a multimillion dollar business. The need to acknowledge its history and culture has grown. To acknowledge this the Australian Surfing Reserves and Sites National Reference Group was formed in February 2005 to address, identify, assess and process the dedication of these reserves and sites in Australia.

Australia has some of the best surfing breaks in the world. To date some 24 sites along Australia's 37,000 kilometre coastline have been identified for dedication as reserves. Crown land along the New South Wales coast offers some of Australia's best surfing breaks and most of those surf breaks are on Crown land below the high tide mark. Related beaches and foreshores are usually Crown reserves, administered by the Land and Property Management Authority. I just make the point also that Crown land extends to three nautical miles out to sea. The Keneally Government and the authority fully support the National Surfing Reserves' initiatives and work to protect all well known surf spots up and down the New South Wales coastline. The authority legally declares sites as Crown reserves for public purposes, surfing recreation under the Crown Lands Act 1989. I was pleased to attend the dedication of Angourie as the very first Crown surfing reserve in New South



Wales in January 2007. Located on the New South Wales North Coast near Yamba, Angourie is legendary among the surfing community for its grace and natural beauty.

**CHAIR:** Any further questions?

**The Hon. ROBERT BORSAK:** I want to know whether the Minister surfs.

**The Hon. TONY KELLY:** No, I do not actually.

**The Hon. ROBERT BORSAK:** It is not on your pecuniary interests. Mr Watkins?

**Mr WATKINS:** No.

**The Hon. TONY KELLY:** It says I am a water skier, but I have not done that for a while either. Lake Burrendong has had two Sydney harbours arrive in it in the last two months. It has gone from 10 per cent to 81 per cent in two months.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**

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