

# **GENERAL PURPOSE STANDING COMMITTEE NO. 1**

**Friday 1 November 2013**

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

## **PREMIER**

**The Committee met at 10.00 a.m.**

## **MEMBERS**

Reverend the Hon. F. J. Nile (Chair)

The Hon. C. E. Cusack  
Dr J. Kaye  
The Hon. L. A. Foley

The Hon. M. R. Mason-Cox  
The Hon. M. J. Pavey (Deputy Chair)  
The Hon. M. Veitch

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**CHAIR:** I declare this hearing of the inquiry into the budget estimates 2013-2014 open to the public. Before I commence I would like to acknowledge the Gadigal clan of the Eora nation who are the traditional custodians of this land. I also pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginal persons present. I welcome officials from the Department of Premier and Cabinet to this hearing. The Committee will examine the proposed expenditure for the portfolio of the Premier. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, only Committee members and witnesses may be filmed or 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 or the interpretation you place on anything that is said before the Committee. The guidelines are available on the table by the door.

Today's hearing is open to the public. Before we commence I will make some comments about procedural matters. Any messages from advisors or members of staff seated in the public gallery should be delivered through the Chamber support staff or the Committee clerks. The transcript of this hearing will be available on the parliamentary website shortly. The House has resolved that answers to questions on notice must be provided within 21 days. I remind everyone to turn off their mobile phones. All witnesses from the department, statutory bodies or corporations will be sworn prior to giving evidence. Mr Eccles, I remind you that you do not need to be sworn as you were sworn at an early budget estimates hearing.

**PAUL MILLER**, General Counsel, Department of Premier and Cabinet, affirmed and examined:

**CHRISTOPHER ECCLES**, Director General, Department of Premier and Cabinet, on former oath:

**CHAIR:** I declare the proposed expenditure for the portfolio of the Premier open for examination. The questioning of the portfolio of the Premier was originally to run from 10.00 a.m. to 12 noon. That has been amended. The hearing will now conclude at 11.20 a.m. but there is still provision for Government members to ask questions if they wish. As there is no provision for an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. LUKE FOLEY:** Mr Eccles, I direct your attention to the issue of the regulation of lobbyists that we spent some time on at the previous hearing. What has the New South Wales Government done by way of response to the November 2010 report of the Independent Commission Against Corruption investigation into corruption risks involved in lobbying?

**Mr ECCLES:** My understanding is that the Government has not formally considered that particular report. But the Premier indicated in Parliament yesterday that we would be considering all of the recommendations that were contained in the report that was released yesterday. My recollection is that recommendation No. 26 made reference to that particular report and I imagine that the Government, as part of its broad consideration of the issues raised by the report yesterday, will turn its mind to that report.

**The Hon. LUKE FOLEY:** Recommendation No. 26 of this week's Independent Commission Against Corruption report, recommends that the New South Wales Government review the recommendations from the 2010 report. I am wondering what, if anything, until now has been done in a formal sense by the Government to ponder or examine the 2010 recommendations?

**Mr ECCLES:** I will ask Mr Miller to respond to that question.

**Mr MILLER:** The first thing to note is that the passage of the Lobbying of Government Officials Act bans success fees, which was one of the Independent Commission Against Corruption's recommendations. Beyond that the remaining recommendations have not been implemented.

**The Hon. LUKE FOLEY:** We dealt with the Lobbying of Government Officials Act 2011 at the previous hearing. It banned success fees and also provided for a cooling-off period. They were the two matters contained in it, were they not?

**Mr MILLER:** That is correct.

**The Hon. LUKE FOLEY:** When you say that the other recommendations have not been enacted, was that a conscious decision by the Government not to adopt those other recommendations or is it the case that the Government has not dealt in full with those other recommendations to date? Which one is it?

**Mr ECCLES:** Would you mind running past the two alternatives again?

**The Hon. LUKE FOLEY:** Certainly. I wonder whether the lack of action on the other recommendations to date is because a decision or decisions have been taken not to adopt those recommendations—in other words, a conscious decision—or is it simply the case that the Government has not as yet extensively considered and made decisions on those other recommendations from November 2010?

**Mr ECCLES:** I believe it to be the latter, Mr Foley.

**The Hon. LUKE FOLEY:** But you believe, in view of the Premier's statement yesterday, that there now will be due consideration given by the New South Wales Government to the November 2010 recommendations in light of recommendation No. 26 in this week's Independent Commission Against Corruption report?

**Mr ECCLES:** I have not spoken to the Premier about that but I observed question time and the implication from his reply was that the Government was going to comprehensively address the recommendations, which would include recommendation No. 26.

**The Hon. LUKE FOLEY:** Do you have a sense of what process is likely to be followed by the Government internally in considering all of the recommendations from the November 2010 Independent Commission Against Corruption report?

**Mr ECCLES:** Given that the report was only issued on Wednesday, I believe that the Government has not turned its mind to the mechanics of how it is going to address that recommendation. I would imagine, in the normal course, that the Department of Premier and Cabinet would have responsibility for coordinating across the whole of government a response to the Independent Commission Against Corruption recommendations writ large. In the normal course, it would be considered by the Premier and then by the Cabinet.

**The Hon. LUKE FOLEY:** If we turn to the November 2010 Independent Commission Against Corruption report, "Investigation into corruption risks involved in lobbying" there were 17 recommendations. Has the Department of Premier and Cabinet provided advice to the Premier or to the Cabinet on each, some or all of those recommendations?

**Mr ECCLES:** I do not have a direct recollection of whether the advice has been formally provided to the Premier.

**The Hon. LUKE FOLEY:** Would you take that question on notice?

**Mr ECCLES:** Indeed.

**The Hon. LUKE FOLEY:** Two of the recommendations were enacted very early in the life of this Government via the 2011 Act that banned success fees and provided for a cooling-off period. Was any consideration given to the other 15 recommendations?

**Mr ECCLES:** That is an extension of your previous question.

**The Hon. LUKE FOLEY:** You will get back to us on that?

**Mr ECCLES:** Indeed.

**The Hon. LUKE FOLEY:** Recommendation 2 of that 2010 report recommends that there be a written record. If you turn to page 9, recommendation 2 states:

... Premier develops a model policy and procedure for adoption by all departments, agencies and ministerial offices concerning the conduct of meetings with lobbyists, the making of records of these meetings, and the making of records of telephone conversations.

The recommendation goes on in some detail to suggest what such a procedure should include and provide for. Has any work been done by Government on the development of the model policy and procedure?

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

**The Hon. LUKE FOLEY:** To your knowledge the only agency within the New South Wales Government that has a formal policy along the lines at the moment is the Department of Planning and Infrastructure?

**Mr ECCLES:** I understand that to be the case.

**The Hon. LUKE FOLEY:** That is a formal policy that one can view on their website. There is a record of engagements with lobbyists and so on.

**Mr ECCLES:** My recollection is that one of the Independent Commission Against Corruption recommendations was to extend that from the Department of Planning and Infrastructure to the resources and energy portfolio. I expect that to be considered by Government as part of its response to the report generally.

**The Hon. LUKE FOLEY:** Recommendations 4 and 5 of the November 2010 investigation contain recommendations concerning the Government Information (Public Access) Act and Government being more

proactive in releasing information regarding its engagement with lobbyists. Has any work been done by Government to give effect to those recommendations?

**Mr ECCLES:** Not to our knowledge.

**The Hon. LUKE FOLEY:** Recommendation 8, on page 10, recommends that certain information be disclosed on a new lobbyist register including the month and year in which lobbyists engage in a lobbying activity; the identity of the government department, agency or ministry lobby; the name of any senior government representative lobbied; and in the case of third-party lobbyists the name of the client for whom the lobbying occurred. Has any work been done by Government to give effect to that recommendation?

**Mr ECCLES:** I believe not.

**The Hon. LUKE FOLEY:** Recommendation 9 suggests that the regulation of lobbyists be given to an independent entity. Elsewhere in the report the commissioner endorsed the Queensland model, and the Queensland information commissioner gave evidence in the Independent Commission Against Corruption inquiry. Has any work been done by Government regarding that change?

**Mr ECCLES:** I do not believe so.

**The Hon. LUKE FOLEY:** At the moment it is your job, Mr Miller's job and the job of people who report to Mr Miller to maintain the register and regulate lobbyists?

**Mr ECCLES:** That is correct.

**The Hon. LUKE FOLEY:** Is that an onerous task for the department?

**Mr ECCLES:** It is not for me.

**The Hon. LUKE FOLEY:** Is it an onerous task for you and your staff, Mr Miller?

**Mr MILLER:** It is an administrative task. It takes time, but I would not describe it as particularly onerous.

**The Hon. LUKE FOLEY:** What departmental resources are applied to regulating lobbyist activity?

**Mr MILLER:** The Information Access Unit, which sits in my office, comprises three full-time staff members. They work on the lobbyist register, Government Information (Public Access) Act applications and Standing Order 52. The work involved in relation to the lobbying register peaks around the period of the quarterly reporting requirement. The work associated with the other two aspects of their role, Government Information (Public Access) Act and Standing Order 52—

**The Hon. MELINDA PAVEY:** They are very busy with the Standing Order 52 system.

**The Hon. LUKE FOLEY:** I apologise for that. I probably have to bear some responsibility and so does Dr Kaye.

**Dr JOHN KAYE:** That's true.

**Mr MILLER:** probably imposes a greater burden on them at particular times of the year at least.

**The Hon. MELINDA PAVEY:** Could you put that into percentages?

**Mr MILLER:** I have not tried.

**The Hon. LUKE FOLEY:** The predecessor of Mr Eccles, Mr O'Reilly, in his evidence to the Independent Commission Against Corruption inquiry said that about 1½ full-time equivalent [FTE] staff are devoted to managing the lobbyist register regulating lobbyists. Is that very roughly the case?

**Mr MILLER:** That sounds about right, yes.

**The Hon. LUKE FOLEY:** What will the timetable be for a response by the Government to recommendation 26? Do you have any sense of that?

**Mr ECCLES:** Not really. The Premier indicated yesterday in Parliament that he thought there would be a fairly speedy examination of the report generally. I expect that was a headline response and then there will be a more detailed and considered response to the recommendations. The recommendations are broad and sweeping. They require serious consideration, and I expect it will take some time to give them serious consideration. I do not have a specific timetable.

**The Hon. LUKE FOLEY:** Obviously the Government has to deal with roughly 30 recommendations from the commission this week. I am interested in recommendation 26, which is that you go back to the November 2010 report and look at all 17 recommendations there. You just told us that there may be a headline response and then a more detailed and considered response. Do you anticipate that that detailed and considered response would involve consideration of, and ultimately a response to, all 17 of the November 2010 recommendations?

**Mr ECCLES:** I do not know the answer to that. The only guidance I have is the guidance provided by the Premier in the Parliament yesterday. I have not had the opportunity to speak with him further about it.

**The Hon. LUKE FOLEY:** I turn now to the recent changes to the New South Wales Lobbyist Code of Conduct. Indeed the change took effect yesterday, did it not?

**Mr ECCLES:** Yesterday was 31 October; that is correct.

**The Hon. LUKE FOLEY:** I note both the statement in the House on 19 September by the Premier and his media release of that day. He stated:

Earlier this week I asked my department to prepare a further change to the New South Wales Lobbyist Code of Conduct ...

Who did he ask? Was it you, Mr Eccles?

**Mr ECCLES:** Yes, it was me.

**The Hon. LUKE FOLEY:** And he asked you to prepare that change?

**Mr ECCLES:** Correct.

**The Hon. LUKE FOLEY:** Was that request from the Premier a verbal request or a written request?

**Mr ECCLES:** It was a verbal request.

**The Hon. LUKE FOLEY:** What did he request you to do precisely?

**Mr ECCLES:** I do not have a precise recollection of the request. We have accurately translated his request into the documents so I think the documents are the best representation of the request.

**The Hon. LUKE FOLEY:** I will quote from the *Hansard*:

From 31 October people who occupy or act in an office or position concerned with the management of a registered political party will not be eligible to engage in lobbying activities in New South Wales or to be registered as a lobbyist in the State.

Was the request from the Premier in those terms?

**Mr ECCLES:** I would imagine so. I do not have the benefit of either a detailed record of what the Premier requested of me or the material that you have just quoted, but it is definitely in the ballpark.

**The Hon. LUKE FOLEY:** He stated:

Earlier this week I asked my department to prepare a further change to the New South Wales Lobbyist Code of Conduct to improve transparency and remove any perception or potential for conflicts of interest.

That is quite a general statement. Am I right in assuming that the request from the Premier to you went directly to the question of the activities of people within registered political parties and you subsequently drafted the form of words in response to that request? Is that a fair assumption?

**Mr ECCLES:** Correct, that is fair.

**The Hon. LUKE FOLEY:** I note that the wording in the Premier's media release is absolutely consistent with the wording in his statement to the House, which is absolutely consistent with the wording in the Premier's new memorandum which is absolutely consistent with the wording now contained in the code of conduct. The wording is absolutely consistent across all four documents or statements.

**Mr ECCLES:** I take some comfort from the fact that we have translated everything consistently across the four documents.

**The Hon. LUKE FOLEY:** You have.

**CHAIR:** That was a compliment rather than a question.

**The Hon. LUKE FOLEY:** Indeed it was. I take you now to the words in clause 7.3 of the updated New South Wales Lobbyist Code of Conduct. It says:

... does not occupy or act in an office or position concerned with the management of a registered political party.

Who came up with those words? Was it the Premier or was it you, Mr Eccles or Mr Miller?

**Mr ECCLES:** The Premier would not have come up with the specific formulation of words; we would have developed the specific words and then had them considered by the Premier.

**The Hon. LUKE FOLEY:** Did you develop the wording, Mr Miller?

**Mr MILLER:** Unfortunately I was having shoulder surgery at the time—it would have been the acting general counsel, the person acting in my position.

**The Hon. LUKE FOLEY:** So it is your understanding that he or she developed those words that now form part of the code of conduct?

**Mr MILLER:** In order to reflect the instructions given to us by the Premier, yes.

**CHAIR:** I thank you again for attending, Mr Eccles and Mr Miller. I have some general questions to confirm some of the answers you have given. Is the Register of Lobbyists your direct responsibility, Mr Miller, or do you have someone you appoint to take care of it?

**Mr MILLER:** I would say it is my responsibility. There are certain things under the code of conduct where responsibility is conferred directly on the director-general and for those things I will make a recommendation to the director-general who will then sign off on it. But otherwise, yes, it is my responsibility.

**CHAIR:** Do you find it onerous that that is part of the general counsel's area?

**Mr MILLER:** It is not especially onerous, no. Most of what we deal with on a day-to-day basis relating to the administration of the register is literally administrative. So what is presented to me by my people is usually straightforward for me to deal with.

**CHAIR:** I am interested in how comprehensive the register is. Is that register a public document?

**Mr MILLER:** Yes, it is on the Department of Premier and Cabinet [DPC] website.

**CHAIR:** I have not personally checked it. Does it contain details from the lobbyists of the meetings that they have had with Government ministers—with which ministers, on what dates and what subjects were discussed?

**Mr MILLER:** No, it does not. It is a register of the lobbyists—so their identity, a list of any employees or other people who lobby on their behalf and a list of their clients.

**CHAIR:** Do you think, to help with transparency, there could be a requirement for lobbyists to provide that ongoing information?

**Mr MILLER:** I think that was a recommendation made by the Independent Commission Against Corruption [ICAC]; and, as the director-general has said, the Government will consider that in responding to its recommendations.

**CHAIR:** Has there been any dramatic change to the Register of Lobbyists because of these changes meaning that lobbyists cannot be active as members of the Liberal Party executive or in other political roles? Has that made any dramatic changes to the register? Have a number of people now come off the register?

**Dr JOHN KAYE:** No, they have come off the Liberal Party executive.

**Mr MILLER:** I suspect, as Dr Kaye has indicated, that the movement has been the other way.

**CHAIR:** So it has had no effect on the register?

**Mr MILLER:** Personally I do not have visibility of when individuals come off the register, because they can come off the register at their own request so it is not something that requires sign-off by either me or the director-general. So the answer to your question is that I do not know who or how many people have come off the register as of today as a result of that change in policy.

**CHAIR:** Do you mean that they can actually access the register and remove themselves?

**Mr MILLER:** No, they cannot. The register is controlled by the Department of Premier and Cabinet. But if they make the request then my people will take them off the register without coming back to me to get approval for that.

**CHAIR:** So there has been no dramatic change in the Register of Lobbyists?

**Mr MILLER:** Not that I am aware of. The last advice I had, as of close of business yesterday, was that there were 134 registered lobbyists, that is, the entities—I am not sure how many employees, individuals, are on there—and during the course of October there were 30 transactions, either employees coming on or off, clients coming on or off, and only four new applications for registration. But, as I said, I do not have details as to which particular individuals came off either generally or as a result of that changed policy.

**CHAIR:** So the lobbyists submit a list of the clients that they represent?

**Mr MILLER:** Yes, they do, and if there is a change in those clients then they have to tell us within, I think, 10 business days.

**CHAIR:** Is there any requirement for them to submit the financial arrangements—what their fee is?

**Mr MILLER:** No. The only provision relating to that is the ban on success fees, which is enshrined in the legislation. But there is no obligation to disclose that to us.

**CHAIR:** Do you think there should be a requirement in that direction? There are figures being floated in the media of large amounts of money being paid by various companies to lobbyists, who sometimes do not appear to do a great deal. It is like a holding fee almost that a monthly fee is paid to the lobbyist by large companies in case they need the lobbyist's support.

**Mr MILLER:** From the department's perspective I am not sure that we would find that information particularly useful as opposed to interesting. I am not sure we would have any use for that information. Whether people are willing to pay a lot or a little for the services of lobbyists is something I am not sure I would know what to do with.

**Mr ECCLES:** I do not think it would help us in the administration of the code as it is currently framed.



**CHAIR:** What was going through my mind is if they paid a large amount of money they must be getting a large amount of services—in other words, success rate, in lobbying Ministers.

**Mr ECCLES:** Success is in the eye of the beholder, Mr Chair.

**CHAIR:** We know that members of Parliament have to put in their pecuniary interests and so on. Do you think there should be any requirement for key government staffers, chiefs of staff and so on to have a property list to avoid any conflict of interest? Or has there been any requirement within the Government for key staffers to provide that information to the Minister?

**Mr ECCLES:** They have a requirement now to declare significant pecuniary interests to me at the moment.

**CHAIR:** What level does that go down to?

**Mr ECCLES:** I am not sure as to how far down amongst the ministerial staff.

**CHAIR:** Will you take that on notice?

**Mr ECCLES:** Indeed.

**Dr JOHN KAYE:** Mr Eccles, thank you for coming along today. Can I just go back to answers to questions taken on notice that you provided to the committee? I thank you for doing so. A question taken on notice related to the independent panel that sits in respect of the appointments to boards by the New South Wales Government and I asked you whether the panel sat in respect of Mr Chum Darvall and his appointment and Mr Nick di Girolamo and his appointment and also Mr Roger Massy-Greene and his appointment.

I think it is fairly clear from your answer that Mr Roger Massy-Greene was a Premier's pick for his appointment to the energy distributors board, that seems to be clear, and that you did not sit on such a panel. However, your answer with respect to Mr Darvall and Mr di Girolamo, and I will quote just to refresh your memory: "Mr Darvall and Mr di Girolamo went through the merit-based process for appointments to boards of State-owned corporations, as implemented in 2011, and the appointments were approved by Cabinet". What that does not answer is the direct question which I put to you: Did you sit on a panel that reviewed the appointments of Mr Darvall and Mr di Girolamo?

**Mr ECCLES:** I did not personally sit on such a committee.

**Dr JOHN KAYE:** Just to refresh your memory again: You told us, quite helpfully, that that position was either occupied by yourself or by your nominee. Did your nominee sit on such a panel?

**Mr ECCLES:** I do not have that information before me.

**Dr JOHN KAYE:** What a shame. Would you take that on notice? Just to be absolutely clear, the question is very direct: A yes or no answer: Did your nominee sit on that panel?

**Mr ECCLES:** You will have a yes or no response.

**Dr JOHN KAYE:** I really appreciate that, Mr Eccles. You are taking that on notice?

**Mr ECCLES:** I am taking that on notice.

**Dr JOHN KAYE:** The second part of that question is: If you or your nominee does not sit on that panel then that panel is not convened? Is that correct? You are an important and integral and, I should say, necessary part of the sitting of that panel?

**Mr ECCLES:** In the normal course either myself or my nominee would sit on the panel. I am not aware of particular circumstances where the panel has met without our attendance, but if the next part of your question is—well, I will allow you to ask.

**Dr JOHN KAYE:** You are doing really well; I am having a nice rest here. You think the next part of my question will be?

**Mr ECCLES:** No, that is fine, Dr Kaye.

**Dr JOHN KAYE:** You can show by the look on your face whether you are surprised or not: If the panel sat without you or your nominee would you get the minutes of the meeting of that panel? I see that was not the question you anticipated.

**Mr ECCLES:** No. I am trying to remember if I get the minutes of all of the proceedings of the panel.

**Dr JOHN KAYE:** Proceedings or agenda, or would your records show whether a panel had sat without you or your nominee?

**CHAIR:** Are there minutes?

**Dr JOHN KAYE:** Are there any records?

**Mr ECCLES:** There are records kept.

**Dr JOHN KAYE:** And they would, as a matter of course, be forwarded to you or your nominee even if you or your nominee were not present?

**Mr ECCLES:** Normal administrative practice would have the individual who was part of the process of deliberation and recommendation receiving the record of that deliberation or recommendation.

**Dr JOHN KAYE:** So it would be a reasonable question, therefore, to put to you: Was a panel convened in respect to Mr Darvall and Mr di Girolamo's appointments? You would be able to ascertain whether such a thing happened?

**Mr ECCLES:** The statement in the answer about Mr Darvall and Mr di Girolamo going through the merit-based process for appointments to the board clearly points to the interview of suitable candidates by the committee comprising senior representatives from the Department of Premier and Cabinet [DPC], Treasury and the Department of Finance and Services [DFS] occasionally.

**Dr JOHN KAYE:** Just to clarify your answer, does that mean that you are telling the committee that the panel to which we are referring did sit in the case of Mr Darvall and Mr di Girolamo?

**Mr ECCLES:** I was not present on that panel. I do not want to mislead you or the committee about the precise representation, the precise composition of the panel around those two appointments.

**Dr JOHN KAYE:** I guess the question I want to get an answer to, which has taken me now the best part of three months to get, is: Did the panel sit with respect to Mr Darvall and Mr di Girolamo? To be absolutely clear: It is the panel that was set up under Mr Gaetjens' memo, which was signed off publicly by the Treasurer when he spoke in September 2011 to the Institute of Company Directors. Did that panel—

**Mr ECCLES:** A panel met, but for the complete avoidance of doubt, if the question is the membership of that panel, I do not have that answer.

**Dr JOHN KAYE:** Will you take that on notice?

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

**Dr JOHN KAYE:** I appreciate that, thank you. I think you have told us before, Mr Eccles, that you sat on such a panel with respect to other appointments. Is it normal practice that the political campaign donations of applicants would be disclosed to that panel?

**Mr ECCLES:** I have no recollection of that being disclosed to any of the panels of which I was a member.

**Dr JOHN KAYE:** Would it be appropriate to ask such questions?

**Mr ECCLES:** I would not have thought that it is necessary for public officials to be considering the skills and capabilities of applicants to have access to that information. We are making a judgement for recommendation to government about their fitness for purpose, and that goes to their experience, their knowledge, their skills, their expertise and how they fit within the gaps around those matters on any given board.

**Dr JOHN KAYE:** Your terms of reference go purely to the demonstrated skills of members?

**Mr ECCLES:** I do not have the terms of reference before me but, having sat on these panels, I do know that our purpose is to determine their skills and experience and fitness for the role.

**Dr JOHN KAYE:** Fitness in the sense of capacity to do the job, or fitness in the sense of a person of good standing and an appropriate person?

**Mr ECCLES:** It is their capacity to do the job, Dr Kaye.

**Dr JOHN KAYE:** You are not making a judgement on the person's probity—

**Mr ECCLES:** Or morality.

**Dr JOHN KAYE:** —or morality?

**Mr ECCLES:** That is not a place where public servants would normally venture.

**Dr JOHN KAYE:** Does Mr Gaetjens's memo specify or give guidance as to when such a panel is convened and when it is not?

**Mr ECCLES:** From time to time.

**Dr JOHN KAYE:** So appointments would be made for which the panel would not be convened? Well, we know that to be so in the case of Mr Massy-Greene. Does Mr Gaetjens's memo or any of the materials of which you are aware give guidance that would explain why the panel was not convened for Mr Massy-Greene but putatively was for Mr Darvall and Mr di Girolamo?

**Mr ECCLES:** I do not have the memorandum before me.

**Dr JOHN KAYE:** Could you take that on notice?

**Mr ECCLES:** What particularly am I taking on notice?

**Dr JOHN KAYE:** You are taking on notice what documents or policies specify the circumstances in which the panel is convened and not convened.

**Mr ECCLES:** I am very happy to get the documents and policies and provide them to the Committee.

**Dr JOHN KAYE:** I appreciate that. Could that also contain an explanation as to why the panel was not convened in the case of Mr Massy-Greene but putatively was in the case of Mr Darvall and Mr di Girolamo?

**Mr ECCLES:** In relation to Mr Massy-Greene, the Premier has canvassed that exhaustively in his previous evidence. I am not sure there is anything that I can add to his statements to the Committee.

**CHAIR:** Who actually convenes the panel? Who has the official role?

**Mr ECCLES:** It resides within Treasury.

**Dr JOHN KAYE:** Is it the Director General of Treasury who makes the call or is it the Treasurer who makes the call?

**Mr ECCLES:** The call about what?

**Dr JOHN KAYE:** Whether a panel is convened or not.

**Mr ECCLES:** It is an administrative matter and so it is managed within the Treasury.

**Dr JOHN KAYE:** The matter would be with the Director General of Treasury?

**Mr ECCLES:** Whether it is the Secretary of the Treasury or one of his staff, one of his senior staff, I am not aware of their internal workings.

**Dr JOHN KAYE:** That would be a question I would need to put to Treasury, would it?

**Mr ECCLES:** I do not have the answer so I suspect, yes, it would need to be put to Treasury. Not that I am suggesting you need to call them back.

**Dr JOHN KAYE:** There are other ways we can ask. We do have other mechanisms; they are not as intimate as this but they do exist.

**Mr ECCLES:** I was going to say if I could be helpful I could try to find that answer for you.

**Dr JOHN KAYE:** If you could.

**Mr ECCLES:** I am very happy to. We are central agency brothers.

**CHAIR:** Perhaps you could look in the file and just see who sent the last memo convening the panel.

**Mr ECCLES:** Sure.

**Dr JOHN KAYE:** Thank you. We will move on from that issue for the time being but that does not signal the end of my interest in the matter. I am aware that you have had a role in where we are up to at this stage with the casino. It seems that all is quiet on the Barangaroo front, at least publicly, at the moment. Can you give us an explanation of what is going on behind the scenes?

**The Hon. CATHERINE CUSACK:** In secret.

**Dr JOHN KAYE:** No. To be fair, the member suggests that I am implying that something is happening in secret. I am not. There has been nothing in the media and my normally active telegraph system is quiet. I am interested to know what work you have been doing, Mr Eccles.

**Mr ECCLES:** The work that is contemplated under the unsolicited proposals process when you have moved through stage two, which is negotiation around the final and binding terms of an agreement.

**Dr JOHN KAYE:** Obviously, a lot of that will be commercial-in-confidence and I am not going to waste our time by trying to probe that wall. However, I imagine it would not be commercial-in-confidence to ask you where that is up to. Are you close to a final agreement on that?

**Mr ECCLES:** That really is a matter for Government. I am not in a position to disclose where the Government is up to in the finalisation of its negotiations to support the agreement.

**Dr JOHN KAYE:** I appreciate that. That is fine. There has been some debate over whether legislation is required; and we will get to that in a minute, but the Premier has indicated that if we were to see legislation we would see it this year. I think that gives us three weeks or possibly four weeks until that happens. Can you tell us whether there is legislation in the pipeline?

**Mr ECCLES:** I cannot add to the Premier's comments around the timetable.

**Dr JOHN KAYE:** Is it your view that legislation would be required?

**Mr ECCLES:** I am trying to recall what the Premier—

**Dr JOHN KAYE:** No, I am asking for your view.

**Mr ECCLES:** My understanding of the position is that legislation is required for this to be given effect.

**Dr JOHN KAYE:** That is section 6 of the casino Act, which currently places a limit of one casino only. It is your view that what has passed through stage two, which is a very detailed explanation of what is going to happen, would constitute a casino and would require amendment to section 6 of the Act?

**Mr ECCLES:** I am not qualified to talk about the precise form of the legislation but the Premier has indicated that there would be legislation to support a gaming facility.

**Dr JOHN KAYE:** Who would be qualified?

**CHAIR:** Dr Kaye, we have to move on to Mr Foley.

**The Hon. LUKE FOLEY:** A new provision in the Lobbyist Code of Conduct took effect yesterday that requires that a lobbyist does not occupy or act in an office or position concerned with the management of a registered political party. How is that criteria of a position or office concerned with the management of a registered political party defined by the department?

**Mr MILLER:** It has not been given a definition beyond the words of the code itself at the moment.

**The Hon. LUKE FOLEY:** Is any work being done on providing some definition around those words for our guidance?

**Mr MILLER:** No.

**The Hon. LUKE FOLEY:** How then will the department assess whether this new requirement is being complied with?

**Mr MILLER:** We will do that on a case-by-case basis. I would need to have a look at the exact words because, as I said, I did not draft it myself. But in some respects I think the wording reflects similar wording that is in the Corporations Act that talks about who is an executive officer of a corporation. It talks about persons concerned in the management of the corporation and, again, those words are not defined there. I will add that yesterday when this provision came into effect the department wrote to all registered political parties in New South Wales and asked them to identify for us the persons whom they consider to be in a position concerned with the management of their parties so that we would have a list of those persons.

**CHAIR:** And then you crosscheck that against the lobbyists.

**Mr MILLER:** Indeed we will.

**The Hon. LUKE FOLEY:** You talked about case-by-case assessment. Do you contemplate that there will be a degree of self-assessment by registered lobbyists and lobbying entities as to whether the individuals concerned occupy or act in an office or position concerned with the management of a registered political party?

**Mr MILLER:** In the first instance there will need to be. The obligations under the code are imposed on the lobbyist so they have an obligation to ensure that they comply with it; therefore they need to form a view as to whether they are or not. What I meant by "case-by-case" is that in the event that an allegation were made to us or some suggestion were made to the department that someone was involved in the management of a registered political party despite being a lobbyist, at that point we would need to make the decision, having regard to their particular position and involvement in the party.

**The Hon. LUKE FOLEY:** If concerns are raised about individuals, if a claim is made that a certain individual is both a registered lobbyist and an occupant of an office or position concerned with the management of a registered political party, would you react to such a claim or complaint by investigating it?

**Mr MILLER:** Yes, we would. In the first instance what we would do is contact the lobbyist and ask them - inform them that this suggestion has been raised and ask them to provide an explanation - but we would certainly act upon it, yes.

**The Hon. LUKE FOLEY:** You have amended clause 8 of the Lobbyist Code of Conduct to provide for a statutory declaration to be provided declaring that one is not the occupant of an office or position concerned with the management of a registered political party. That would be, from here on in, not retrospective. Am I right?

**Mr MILLER:** That is correct. What we have required as part of the 31 October update is that all lobbyists will be required to provide a statutory declaration for all the individuals listed on the lobbying register and they are required to do that, I think it is within 14 days of 31 October. So all the individuals who are listed on the register will be required to have provided a statutory declaration certifying that they are not acting in such a position.

**The Hon. LUKE FOLEY:** Do I take from that that the onus is on the lobbyists to tell you whether or not they occupy a position or office concerned with the management of a registered party?

**Mr MILLER:** Subject to what I said previously about us seeking information from the political parties themselves against which we can cross check those statements.

**The Hon. LUKE FOLEY:** There is no definition as far as the department is concerned, at least not yet, of what positions are covered by the new wording, the new requirement. It will be up to the parties and the lobbyists to help you by telling you who holds and who does not hold those offices. Is that correct?

**Mr MILLER:** Generally speaking, yes. I am not sure I would have put it in those terms but yes.

**The Hon. LUKE FOLEY:** How would you put it?

**Mr MILLER:** I would not have used the word "help". The difficulty is that the alternative would be to list particular positions within an organisation which would then create a degree of artificiality because you could change the title of a position and then fall outside the prohibition. So I assume, although I did not have any discussions with the Premier, that the discussion around talking about people in management positions was directed to actually getting the people who in substance perform a management role in the organisation, regardless of their particular title.

**The Hon. LUKE FOLEY:** And you are at least to some extent guided by the Corporations Act, did you tell me?

**Mr MILLER:** I think that is right. I accept your point that it will mean that there will be a requirement for us to exercise some judgement were the issue to arise but I do not know of an easy alternative.

**The Hon. LUKE FOLEY:** Many reporters have jumped to a conclusion that there is a prohibition on lobbyists being on the State Executive of registered political parties but that is not the wording of the new section of the code, is it?

**Mr MILLER:** No, that is not the wording.

**The Hon. LUKE FOLEY:** Indeed, the wording of the new section of the Commonwealth's code goes directly to membership of a State Executive but the new requirement of the New South Wales code contemplates something different, that is, officers in positions concerned with the management of a political party. Is that not different to the suggestion from reporters that it simply deals with State Executive positions?

**Mr MILLER:** I agree that the test is different, yes.

**The Hon. LUKE FOLEY:** I come to the governing party or one of the two governing parties in this State, the Liberal Party. Would you consider in ensuring compliance with this new requirement that holding a position on the State Executive of the Liberal Party in New South Wales is a position concerned with the management of that registered political party?

**Mr ECCLES:** I believe so.

**The Hon. LUKE FOLEY:** The Constitution of the Liberal Party of Australia New South Wales Division tells us—

**The Hon. CATHERINE CUSACK:** There are so many parts to it.

**The Hon. MATTHEW MASON-COX:** You are a sucker for punishment reading that.

**The Hon. CATHERINE CUSACK:** Where is the rest of it?

**The Hon. LUKE FOLEY:** I have only the first 233 pages.

**The Hon. CATHERINE CUSACK:** We are working on that.

**The Hon. LUKE FOLEY:** The constitution tells us that the function of the State Executive is "to provide leadership for and professional management of the division". So it is a fair conclusion, given that word "management", that holding office or a position on the State Executive is a position captured by those new words in the code?

**Mr ECCLES:** Yes.

**The Hon. LUKE FOLEY:** Is membership of the State Council of the Liberal Party a position concerned with the management of that party?

**Mr ECCLES:** I am not qualified to comment on that. I do not know the ins and outs of the council.

**The Hon. MATTHEW MASON-COX:** And presumably that is why you wrote to each political party seeking their advice on those matters?

**Mr ECCLES:** Indeed.

**The Hon. CATHERINE CUSACK:** Everyone should take our constitution on their holidays and read it.

**The Hon. MATTHEW MASON-COX:** It is great bedtime reading.

**The Hon. CATHERINE CUSACK:** It is awesome.

**CHAIR:** When you said you contacted the registered parties do you mean you contacted every registered party or just the major parties?

**Mr ECCLES:** No, every party.

**The Hon. LUKE FOLEY:** The State Constitution of the Liberal Party provides that the State Council shall be the governing body of the division by controlling the management and affairs of the division. Would you agree that occupying a position on the State Council of the Liberal Party is a position concerned with the management of that registered political party?

**Mr ECCLES:** There is a distinction. It would appear to be a distinction because it talks about "controlling the management" as opposed to "management". To come to a concluded view around that, first, you would need to get the sense of the party itself as to the nature of that entity and its management or supervisory responsibilities and, secondly, we would need to examine the document in total just to work off—

**The Hon. LUKE FOLEY:** All 233 pages.

**Mr ECCLES:** I assume the definition does not go to 233 pages, but we would go to as much of the document as was necessary to help us make a judgement about the role of the council.

**The Hon. CATHERINE CUSACK:** There are only about 850 delegates just on council—850 people in charge of New South Wales.

**The Hon. LUKE FOLEY:** I am trying to probe the effect and the consequences, whether intended or unintended, of the new words in the lobbyists code of conduct. Given that the function of the State Council of the Liberal Party is to be the governing body of the division by controlling the management and affairs of the division, I am asking whether holding a position on that body is a position captured by the new requirement of the lobbyists code of conduct. Is that a matter you will need to investigate further?

**Mr ECCLES:** Indeed, the first part of the investigation is to examine the response from the party itself as to its interpretation of the requirement in the code.

**The Hon. CATHERINE CUSACK:** The Australian Labor Party is a democratic socialist party.

**The Hon. MATTHEW MASON-COX:** Socialists, so everybody is in control.

**The Hon. CATHERINE CUSACK:** Obviously.

**The Hon. LUKE FOLEY:** Yes, but Catherine, the problem—

**The Hon. CATHERINE CUSACK:** —is that you are not in charge, I understand.

**The Hon. LUKE FOLEY:** The problem for any Labor lobbyists at the moment is that they have no influence at all outside Tasmania and South Australia.

**The Hon. CATHERINE CUSACK:** They are keeping the Independent Commission Against Corruption in clover.

**The Hon. LUKE FOLEY:** You would be starving if you were a Labor lobbyist right now.

**The Hon. CATHERINE CUSACK:** Take forward the struggle of the working class against the excesses, injustices and inequalities of capitalism.

**The Hon. LUKE FOLEY:** Would you take that question on notice?

**Mr ECCLES:** I am not sure taking it on notice will be particularly helpful unless you would like to pursue that. We will, in the normal course, examine returns from the parties as to officeholders or the officers they fall within the scope of the prohibition and then we will make our own assessment as to whether it is captured by the terms of the prohibition. I am not quite sure what you are asking me to come back to you about.

**The Hon. LUKE FOLEY:** Given my interest in these matters, how should I go about finding what your ultimate assessment will be?

**Mr ECCLES:** We will make public the responses from the parties. I think it cannot be more transparent than that.

**The Hon. LUKE FOLEY:** I do not need to do it by way of question on notice. I can correspond with you further.

**Mr ECCLES:** No, I think it is in everyone's interests, including all major parties and other parties, for that to be publicly disclosed.

**The Hon. LUKE FOLEY:** Will you simply take the advice of registered parties or will you consider their advice against the wording—

**Mr ECCLES:** No, we have an independent responsibility to administer the code. We will apply ourselves. If the response is ludicrous from any particular party then clearly we will call that out.

**Dr JOHN KAYE:** Why are you looking at me when you say that?

**Mr ECCLES:** No, it was unintentional.



**The Hon. MATTHEW MASON-COX:** Why are you so sensitive, John?

**The Hon. LUKE FOLEY:** If one were to interpret the new requirement in the narrowest way possible, one would say only an employed full-time party boss, whether a general secretary or a State director, was a person in an office or position concerned with the management of a party. How will the New South Wales Government interpret those words that now form part of the lobbyist's code of conduct?

**Mr ECCLES:** Again, it is premature to draw a general conclusion when we have not had the benefit of returns from the parties. I expect they will interpret it appropriately and in accordance with the spirit that the Premier introduced the changes. If there is an issue, because it looks like there has been excessive literalism in the interpretation by any given party then we will pursue that.

**The Hon. LUKE FOLEY:** What resources will the department devote to ensure compliance with this new section of the code?

**Mr ECCLES:** The resources that are currently applied in the administration of the code. I do not believe we will need to supplement the resources to enable us to respond appropriately to the amended code, unless Mr Miller is using this as an opportunity to make a plea to me for resources through the Committee?

**Mr MILLER:** I remain silent.

**The Hon. LUKE FOLEY:** Mr Miller, will self-regulation essentially be the order of the day? You will require lobbyists, and lobbying entities, to tell you whether they are or are not occupants of such offices and positions?

**Mr MILLER:** I do not agree with the characterisation that this is self-regulation. My understanding of self-regulation is where requirements are imposed on an industry or group by itself and that industry is responsible for enforcement of those regulations. That is not the case here. In terms of the broader question you ask, as I think I have indicated we require all lobbyists to provide a statutory declaration—falsely swearing one, of course, is a criminal offence. We will crosscheck them against information provided by the parties. The only thing I will add is that if any political party has a doubt about whether a particular organ of its organisation is or is not caught by the definition they can come to seek advice or clarification from us in the same way that people who are not sure whether they are required to be registered as lobbyists will come to us to seek that sort of clarification. I think that is only reasonable if we are going to require people to swear a statutory declaration.

**CHAIR:** What date did the request go to the political parties?

**Mr MILLER:** The letters were sent yesterday.

**Dr JOHN KAYE:** To whom were they sent?

**CHAIR:** Was the letter prompted by this hearing today?

**Mr MILLER:** No.

**Dr JOHN KAYE:** Which officer in the party were they sent to?

**Mr MILLER:** I am not sure. I do know that one letter was addressed to our Chair. I am not sure where the individual addressees came from. I assume from the information provided on the Electoral Commission's website about each registered political party.

**Dr JOHN KAYE:** Was it a registered officer? Can you get back to us?

**Mr MILLER:** I will get back to you.

**CHAIR:** This is a bit hypothetical but have you received any replies?

**Mr MILLER:** No, we have asked for a response if possible within 14 days.

**CHAIR:** Would that information be publicly available?

**Mr MILLER:** It was not readily available to us through Google and other search engines.

**CHAIR:** No, will the replies be publicly available?

**Mr MILLER:** Yes, I think as the Director General indicated from the department's perspective we would propose to make that information public.

**CHAIR:** On the website?

**Mr MILLER:** On the website, yes. The only qualification I would put to that is we would release that information in accordance with the Government Information (Public Access) Act. If a particular political party indicated for some reason that any of the information in its response could not be made public, for some public interest reason which I cannot possibly imagine, then we would have to consider that. Apart from that we would make that information available.

**CHAIR:** Is it compulsory for the party to provide that information?

**Mr MILLER:** There is no legal compulsion, no.

**CHAIR:** If you do not get a reply will you have to investigate?

**Mr ECCLES:** The absence of a reply would say something in itself.

**Dr JOHN KAYE:** Like chronic disorganisation.

**CHAIR:** In relation to the recommendations of Independent Commission Against Corruption, is there a deadline provided by the Independent Commission Against Corruption for you to report what action you have taken in relation to those recommendations?

**Mr ECCLES:** I do not believe so, Chair.

**CHAIR:** The Independent Commission Against Corruption has left it open-ended?

**Mr ECCLES:** I believe the convention is three months.

**Mr MILLER:** I do not think as a matter of practice that the Independent Commission Against Corruption imposes a deadline on government responses to its reports.

**Mr ECCLES:** I do not have a clear indication but I have some recollection of seeing "three months" somewhere.

**CHAIR:** You are saying you would work on the principle of trying to achieve those recommendations within three months?

**Mr ECCLES:** I have yet to speak to the Premier about this but, taking a lead from what he said in the Parliament, we are not going to allow this to sit around in perpetuity. He will expect me to get a move on.

**CHAIR:** With those earlier questions regarding the panel interviewing individuals for key government positions, boards and so on, you said that there are no questions asked about political donations?

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

**CHAIR:** Are there any questions asked about political party memberships?

**Mr ECCLES:** Again, not to my knowledge. It has not featured in any of the panel discussions that I have been on.

**CHAIR:** Or their political involvement?

**Mr ECCLES:** It is a technical inquiry as to their skills and their capability to fit a particular role on a particular board.

**Dr JOHN KAYE:** To return to the Casino issue—and you recall that we were talking about the legislation?

**Mr ECCLES:** Yes.

**Dr JOHN KAYE:** And you said you were not qualified to comment—which is a reasonable statement—you are not qualified to comment on the specifics of the legislation.

**Mr ECCLES:** Yes.

**Dr JOHN KAYE:** Who would be? To whom would we address questions about that?

**Mr ECCLES:** I was going to say, Mr Miller.

**Dr JOHN KAYE:** Excellent—Mr Miller, is it your view that amendments to section 6 of the Casino Act will be required in order to proceed beyond stage three and to actualise the Barangaroo Casino proposal by Crown?

**Mr MILLER:** May I ask you to please consider that question because you place me in a difficult position as legal adviser to the department and to the Premier. I can provide legal advice to them; I am not in a position to provide legal advice to the Committee.

**Dr JOHN KAYE:** It was not my intention to put you in an awkward position. I withdraw the question.

**Mr ECCLES:** I think I was the one who put him in that difficult position, Dr Kaye.

**Dr JOHN KAYE:** I withdraw the question.

**Mr ECCLES:** Everything, to my understanding, has been predicated on the Parliament having an opportunity to consider the gaming facility.

**Dr JOHN KAYE:** And that predication would include Parliament's ability, I presume, to ensure that there are no poker machine licences or entitlements issued to the new facility?

**Mr ECCLES:** I think that assurance has already been given, Dr Kaye.

**Dr JOHN KAYE:** We will move on from the Casino for the time being. I want to go to the Independent Commission Against Corruption [ICAC] prevention of corruption report that came out three days ago. I want to go specifically to recommendation 20, a recommendation that goes directly to your department, Mr Eccles, the Department of Premier and Cabinet. To paraphrase, it is to suggest that you draft amendments to the Code of Conduct for Ministers, to prohibit Ministers, either directly or through their staff members, demanding that New South Wales Government agencies change recommendations where the agency officials remain confident in their original recommendations. There is quite a detailed and mature discussion about this issue of pressuring government agencies to make changes. Have you turned your mind to that task that is set for you by ICAC?

**Mr ECCLES:** We will give it detailed and mature consideration.

**Dr JOHN KAYE:** You have not yet?

**Mr ECCLES:** No.

**Mr MILLER:** I make one comment on that: That, in one respect, the ICAC recommendations should not have been directed to the department because the department does not impose the ministerial Code of Conduct on Ministers; it is an instrument that is imposed upon them by the Premier. So, while the Premier could ask the department to draft amendments to the code; for him to change it, of course it is not a matter for the

Department of Premier and Cabinet [DPC] to decide what goes in that code. So even though it is cast as a recommendation to DPC, I am not sure that it is something for DPC.

**Dr JOHN KAYE:** Let the record show that Mr Eccles is extremely pleased with that answer.

**Mr ECCLES:** I am not sure the Premier will let that answer rest. I suspect we will have a role in providing some advice around this.

**Dr JOHN KAYE:** I ask you to turn your mind to that task now. The report shows that pressure is exerted on public sector agencies to change their positions, both overtly and covertly. How far do you think such a change to the Ministerial Code of Conduct can go in terms of addressing the subtle kinds of pressures that are brought to bear by a Minister who is clearly displeased with the recommendations?

**Mr ECCLES:** All I can do is comment firstly from experience, that I have never had the experience of having my recommendations—they may not be followed—but no-one has directed me to change my recommendations to government since I have been in this position. I take your point about there being various subtle ways in which influence can be exerted. A professional public service will be vigilant to that and will resist it, because under our Code of Conduct we are required to be impartial and to act with integrity and provide the best professional advice. To the extent that there are subtle attempts to try and subvert that overall objective, I am confident that senior leadership of the public service would resist it and would, in turn, encourage others within the public service to resist it.

**Dr JOHN KAYE:** That goes, does it not, to recommendation 21 of this week's ICAC report which makes recommendations that the Public Service Commission change the Code of Conduct for public service employees with respect to advice that is given. You sit on the Public Service Commission, don't you?

**Mr ECCLES:** I am a member of the Public Service Commission Advisory Board.

**Dr JOHN KAYE:** So you will play a role in drafting, if the Public Service Commission makes the determination to follow recommendation 21, you will play a role in that?

**Mr ECCLES:** Yes.

**Dr JOHN KAYE:** So you have looked at recommendation 21?

**Mr ECCLES:** Not in any detail.

**Dr JOHN KAYE:** But you see it as a viable proposition, to change the code of conduct with respect to public servants in the way envisaged by ICAC?

**Mr ECCLES:** Can you remind me, what was in recommendation 21, before I commit to that?

**Dr JOHN KAYE:** Yes. Recommendation 21 says:

That the NSW Public Service Commission develops a best practice guide for public officials who work with the offices of ministers, and that this guide covers the issue of revised briefing materials.

Basically, it is to a best practice guide.

**Mr ECCLES:** I do not want to commit the advisory board or the commission to the exact mechanism, as to whether it is a guide.

**Dr JOHN KAYE:** Are you aware of other States that provide such best practice guidance?

**Mr ECCLES:** No.

**Dr JOHN KAYE:** In Victoria or South Australia, did they provide such guidance?

**Mr ECCLES:** I do not recall, Dr Kaye.

**Dr JOHN KAYE:** That is a long stretch.

**Mr ECCLES:** The Public Service Commissioner would be able to help you.

**Dr JOHN KAYE:** We might have to address that to the Public Service Commissioner.

**Mr ECCLES:** Yes.

**Dr JOHN KAYE:** I move on to two other issues: Firstly, the issue of the Smart and Skilled program. I know that you are Premier and Cabinet and not Education and Communities, but in previous budget estimates you have told us that you have an interest and some input into that, into the development of Smart and Skilled. Are you aware that the implementation of Smart and Skilled was originally supposed to be July 2014?

**Mr ECCLES:** Yes, I am.

**Dr JOHN KAYE:** And are you aware that now significant and substantial proportions of Smart and Skilled have been delayed until 1 January 2015?

**Mr ECCLES:** I am aware of that.

**Dr JOHN KAYE:** Can you explain what caused that delay?

**Mr ECCLES:** It is a significant implementation task to move to a demand-driven entitlement-based skilling system and we want to get it right which means we need to have the appropriate period of time to get it right.

**Dr JOHN KAYE:** What aspects of it were not right? What aspects needed additional work?

**Mr ECCLES:** It is not a question of what was not right. I am not juxtaposing the fact that we had it wrong and now we have stumbled upon—

**Dr JOHN KAYE:** No, I was not trying to do that. I think the whole thing is wrong, as you well know. But what aspects were causing sufficient discomfort to delay implementation by six months?

**Mr ECCLES:** There is a significant requirement for change to the administrative practice within TAFE institutes as they move the whole basis of their technology, the enrolment systems, to the new model. I know you let me off the hook at our immediate past hearing—

**Dr JOHN KAYE:** I must have been unwell.

**Mr ECCLES:** Yes, and as you say, I have a past, I have some involvement, but I cannot help you with the detail—just to anticipate, in case you were looking for that level of detail.

**Dr JOHN KAYE:** Have you had discussions with Mr Piccoli or Dr Michele Bruniges or anybody within the Department of Education and Communities about Smart and Skilled?

**Mr ECCLES:** Yes.

**Dr JOHN KAYE:** Can you briefly nutshell some of those conversations for us, what they were about and when they occurred in the last six months?

**The Hon. MATTHEW MASON-COX:** John, how long is a piece of string?

**Dr JOHN KAYE:** So there were a substantial number of communications then?

**Mr ECCLES:** As part of the governance to support the introduction of Smart and Skilled, Michele, the Director General of the Department of Education and Communities, and the Secretary of the Treasury and I will meet periodically. I cannot recall the last time we met to review progress but it was within the last month.

**Dr JOHN KAYE:** Is that a formal body—?

**Mr ECCLES:** No.

**Dr JOHN KAYE:** —or is that just for a cup of tea?

**Mr ECCLES:** No, it is formal in the sense that it was agreed by the Government that this was a serious enough reform that it could do with a bit of senior governance.

**Dr JOHN KAYE:** Does that body have a name?

**Mr ECCLES:** No, not other than a meeting of the three of us, no.

**Dr JOHN KAYE:** A meeting of the minds. Has that body received any concerns expressed by the Minister with respect to the Independent Pricing and Regulatory Tribunal [IPART] report on pricing of courses up to and including certificate III?

**Mr ECCLES:** I do not recall the committee considering any concerns raised by the Minister around the Independent Pricing and Regulatory Tribunal report.

**CHAIR:** Time has concluded for the inquiry.

**Dr JOHN KAYE:** I have had only 15 minutes. I thought we had 20 minutes.

**The Hon. MELINDA PAVEY:** We agreed that the hearing would finish at 11.20 a.m.

**Dr JOHN KAYE:** My further questions will have to go on notice.

**CHAIR:** I thank all the Committee members, and I thank Mr Eccles and Mr Miller for your attendance today and your answers to our questions.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**

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