

GENERAL PURPOSE STANDING COMMITTEE No. 5

Tuesday 15 February 2005

Examination of proposed expenditure for the portfolio area

MINERAL RESOURCES

The Committee met at 3.30 p.m.

MEMBERS

Mr Ian Cohen (Chair)

The Hon. T. Catanzariti
The Hon. D. J. Gay
The Hon. K. F. Griffin
The Hon. D. T. Harwin

The Hon. R. M. Parker
Ms L. Rhiannon
The Hon. H. S. Tsang

PRESENT

Department of Primary Industries

Mr B. Buffier, *Director-General*

Mr A. Coutts, *Deputy Director-General, Mineral Resources*

Dr A. Gleeson, *Executive Director, Corporate Services*

Coal Compensation Board

Mr H. Bowman, *Chief Executive Officer, Coal Compensation Board*

CHAIR: I welcome you to this public hearing of General Purpose Standing Committee No. 5. Firstly I wish to thank the director-general and departmental officers for attending today. At this meeting the Committee will examine the proposed expenditure for the portfolio area of Mineral Resources. During the earlier estimates committee hearing today I referred to the broadcasting conditions that apply in accordance with the Legislative Council guidelines. In reporting the proceedings of this Committee you must take responsibility for what you publish and what interpretation is placed on anything that is said before the Committee. Photographs and filming may be recorded only of the members of the Committee.

I declare the proposed expenditure open for examination. Do any of you wish to make a brief comment before questioning commences?

Mr BUFFIER: I thought it may be worthwhile if I covered some major developments in the formation of the new department since it came into operation on 1 July. I think we have made a great deal of progress in the formation of the Department of Primary Industries over those seven months, the major achievements being the effective integration of four prior departments, namely Minerals, Fisheries, Agriculture and Forestry, and on top of that we have had a successful move of Mineral Resources from what was its head office in St Leonards to new purpose-built accommodation in Maitland. That has been a very time-consuming move but one that has been very successful.

In order to get some integration into the new Department of Primary Industries, rather than have four stand-alone departments we have created four divisions with integrated functions across the Department of Primary Industries, namely Science and Research, Biosecurity Compliance and Mine Safety, Strategy Policy and Communications, and Corporate Services. We have three divisions that are industry-sector focused and customer-facing, namely Mineral Resources, Agriculture and Fisheries, and Primary Industries Trading, which most of you would know as Forests NSW.

With the move to Maitland, the majority of corporate services staff in Mineral Resources had indicated that they would be moving elsewhere, so we did not have a huge number of corporate services staff going to Maitland and therefore we took the opportunity to migrate the human resources and finance systems that used to be in the Department of Mineral Resources into the new Department of Primary Industries system. The idea is that we will have one software system, one platform across the whole Department of Primary Industries.

As I said, we moved to Maitland in November 2004. We have had some people leaving the department as a result of that move because, for personal and other reasons, they could not relocate to Maitland. We are in the process of refilling those positions at the moment, but by and large we would say that the move to Maitland has gone very smoothly with very little disruption to services to industry.

The Hon. DUNCAN GAY: Mr Buffier, in those changes what have you done with the Minister?

Mr BUFFIER: I am sorry, I do not understand the question.

The Hon. DUNCAN GAY: We have budget estimates hearings today and we invited the Minister, but the Minister is not here.

Mr BUFFIER: I was requested to attend today, and I am happy to take that question on notice for the Minister. But I cannot do more than say that I was asked to attend.

The Hon. DUNCAN GAY: I indicate that the Minister was invited and, as of yesterday, he indicated his inability to attend. The members from the Government are here, the members from the Opposition are here, and the members from the crossbench are here, as are the director-general and his staff, yet the Minister has not shown up. There was an apology. We would certainly accept it if there were a family situation that dictated that the Minister would not be here, but no reason was given in that apology as to why the Minister would not be here. In light of the Minister's comments in the *Newcastle Herald* yesterday that everyone has a bit of dirt on their hands, I would have thought it would have been even more important for the Minister to turn up and explain exactly what he meant by that.

Director-general, during the first budget estimates hearings on the Department of Primary Industries, of which this hearing is a part, the Minister for Primary Industries indicated that you were yet to have a performance agreement. Can you indicate the current status of such an agreement?

Mr BUFFIER: Yes. That is a matter for the Minister for Primary Industries, and I understand that we are dealing with Mineral Resources today.

The Hon. DUNCAN GAY: With due respect, this is part of Primary Industries, and it comes under your portfolio area.

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: Do you, or do you not, have a performance agreement?

Mr BUFFIER: The performance agreement is in the process of being finalised. We needed to develop a corporate plan in order for the new Department of Primary Industries [DPI] to have some targets, objectives and milestones, et cetera. We are in the process of completing that now.

The Hon. DUNCAN GAY: How long have you been in this job?

Mr BUFFIER: Since 1 July.

The Hon. DUNCAN GAY: Since 1 July last year?

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: And you still currently have not got a performance agreement?

Mr BUFFIER: I do not have a formal signed performance agreement, but that is in the process of being finalised.

The Hon. DUNCAN GAY: Would you hire staff under those terms?

Mr BUFFIER: The situation is, yes, sometimes we have had to because in restructuring there is a process of evaluation of positions, assessments of positions and grading of positions which means things are not able to be finalised prior to that occurring.

The Hon. DUNCAN GAY: Would you agree with me you have a very benevolent employer?

Mr BUFFIER: I believe that I have a very demanding employer and a very rigorous employer.

The Hon. DUNCAN GAY: Yet he is willing to take you on without an employment agreement for eight months.

Mr BUFFIER: I think the situation with the senior executive service and chief executives is that it is a simple process to terminate contracts.

The Hon. DON HARWIN: I would like to clarify a few matters you raised in your opening statement. I apologise if I go over ground you feel you have covered but, nevertheless, I want to get it clear. Is it now the case that 200 jobs have been relocated to Maitland?

Mr BUFFIER: It will be in excess of 200 positions located at Maitland. At the moment we have about 180 people in Maitland and we will have 250 people in Maitland.

The Hon. DON HARWIN: When?

Mr BUFFIER: We are in the process of recruiting for positions where people did not elect to go to Maitland.

The Hon. DON HARWIN: I know at the last estimates committee hearing the number of redundancies was not known. Do you now have figures of how many redundancies there will be? Obviously you are still going through that process at the time of the last hearing. Are you now in a position to state how many redundancies there are?

Mr BUFFIER: Across the whole of the DPI at the moment we are looking at about a 10 per cent figure of redundancies.

The Hon. DUNCAN GAY: Do you know what the round figure is?

Mr BUFFIER: In round figures there are approximately 4,000 people in DPI. So 10 per cent would be 400, but we have 350 at the moment.

The Hon. DUNCAN GAY: Are they all voluntary?

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: Would you break it down or take it on notice how many out of each area of forestry, mining—

Mr BUFFIER: I would have to take that on notice.

The Hon. DON HARWIN: Are you able to advise on how much the redundancies will cost?

Mr BUFFIER: We have a ballpark figure because we know the average cost of redundancies. On a per position basis I think we have some idea.

Dr GLEESON: We have got a year-to-date cost of redundancies.

Mr BUFFIER: We can provide a year-to-date cost. I do not have that figure with me.

The Hon. DUNCAN GAY: With the same split?

Mr BUFFIER: I will refer to Dr Alan Gleeson who is head of Corporate Services.

Dr GLEESON: I did not hear the last question.

Mr BUFFIER: A divisional split on the cost of redundancies.

Dr GLEESON: Can I clarify are you looking for a divisional split or former agencies?

The Hon. DUNCAN GAY: Former agencies.

Dr GLEESON: The divisional split would probably be easier because our finance systems have all been tailored for the new structure of the department. Therefore, it is easier for us. We do not have two systems going. But we can get you the numbers and the break-up.

Mr BUFFIER: It would be simpler for us to do it on a divisional basis because we are not maintaining a dual system. We have moved to a divisional basis.

The Hon. DUNCAN GAY: You would know where they came from originally?

Mr BUFFIER: We would.

Dr GLEESON: It is just that it is not an automatic recording system. At the moment there are transitional difficulties of having absorbed the Mineral Resources into the DPI system. We are moving Fisheries into that. Quite clearly, there are dual projects going on at the moment of the

operations plus the transitional project. It is easier for us to maintain just one system. The extra work involved in that is fairly substantial because it is manual. That is what I am saying, on a divisional basis we can do that automatically.

The Hon. DUNCAN GAY: Correct me if I am wrong, I would imagine it would not be more than half of one person's day to access that from the files as to which department they were in previously. Tell me where I have got it wrong.

Dr GLEESON: It would be substantially more than that.

The Hon. DUNCAN GAY: How?

Dr GLEESON: Because the history of the HR and the finances from Mineral Resources have had to be moved to a another system, which has been essentially mothballed. But we can access that. We have to fire that up. We would then have do look at Fisheries separately as well as the current situation. We have to go back through the histories to find all those things. We can do it but it would take a lot of effort, a lot of time. If you want a quick response, the easy one and we think the more relevant one is the current divisional status.

CHAIR: There is a deadline for Estimates of 3 March. We will be deliberating on a deadline for information coming back to us, which might have an impact in terms of the amount of detail that can be provided.

The Hon. DUNCAN GAY: I will ask the Committee in deliberations, and I hope that members will agree with me, that the Minister be invited back, given he has already been invited back and declined our invitation. Perhaps the information could be provided by the time the Minister comes back.

Mr BUFFIER: If you would like us to provide the information we will provide the information.

The Hon. DUNCAN GAY: Thank you.

The Hon. DON HARWIN: How will the redundancies be funded?

Mr BUFFIER: That is a Treasury item, a provision from Treasury in relation to funding.

The Hon. DON HARWIN: How many staff will be employed in the field and how many will be employed as an administrative staff?

Mr BUFFIER: Across the whole of DPI?

The Hon. DUNCAN GAY: Can I go back to the redundancies? The Treasury funds them. Is that outside the DPI budget?

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: It will be separate funding coming straight from Treasury?

Mr BUFFIER: Yes, that is correct.

Dr GLEESON: It is not in the budget papers because it is a supplementation.

The Hon. DUNCAN GAY: I did not see it.

Dr GLEESON: Because it is a supplementation to the budget. It is Treasury protected so there is an allocation and any money we do not spend out of that we give back to Treasury.

The Hon. DUNCAN GAY: Do you have an idea in round figures what that amount will be?

Dr GLEESON: Of the expenditure on?

The Hon. DUNCAN GAY: The redundancies that Treasury will have to pick up?

Dr GLEESON: I think the year-to-date figure, and this is very approximate, would be around about \$17 million or so.

The Hon. DUNCAN GAY: And In total, when you get to the end?

Dr GLEESON: I do not have that because it depends on who leaves, their length of service, their salary rate and the like.

The Hon. DUNCAN GAY: You were talking about a ballpark average earlier.

Dr GLEESON: We could take a guess. **I would like to take that on notice.**

The Hon. DUNCAN GAY: Thank you.

The Hon. DON HARWIN: Mr Bowman, I note that this year's audit report of the Coal Compensation Board found that the \$75 million in compensation from the Nardell case had now blown out to \$118 million. Have I got my sums right and is the figure accurate?

Mr BOWMAN: I do not think that is quite right. I think what has happened is that the liability has blown out to \$190 million from \$67 million. Of that increase the Nardell case was \$30 million. The ad valorem royalty was \$75 million.

The Hon. DON HARWIN: I am trying to remember everything we went through last year. It was estimated the increased compensation would cost \$50 million and at last year's estimates hearings you said it would be \$75 million.

Mr BOWMAN: I am trying to remember what was said. Certainly the ad valorem part was \$75 million, and that flows from the Government's action in changing the royalty system, and the other part was the Nardell case which involved arguments on discount rates, super royalty and things like that. That was an extra \$30 million. I have not done the sums in my head but the total should add up to approximately \$190 million. That was the liability as of 1 July.

The Hon. DON HARWIN: As of 1 July?

Mr BOWMAN: 2004.

The Hon. DON HARWIN: \$190 million?

Mr BOWMAN: Yes. **If you want more detail I can take that question on notice.**

The Hon. DUNCAN GAY: The figure is different to the one you gave at the budget estimates hearing late last year.

Mr BOWMAN: I do not think it is. I said about \$40 million last time. It is between \$30 million and \$40 million and the ad valorem is \$75 million. That is what I said last time.

The Hon. DON HARWIN: So it is \$75 million for the ad valorem and between \$30 million and \$40 million for the Nardell case?

Mr BOWMAN: Yes.

The Hon. DON HARWIN: It has blown out to \$190 million?

Mr BOWMAN: That is because the liability was originally \$67 million. That case plus the ad valorem has increased liability.

The Hon. DON HARWIN: I am not getting the sums right.

Mr COUTTS: If you take the original liability of the board, add on the liability that flowed from the Nardell case and then add on the liability that flowed from the ad valorem royalty decision you now have a total liability of approximately \$190 million.

The Hon. DON HARWIN: Where is the money to come from? How is it going to be funded?

Mr COUTTS: The Coal Compensation Scheme is funded by Treasury. You have to bear in mind that the benefit that the Treasury gets from the acquisition of those coal rights far outweighs any compensation that is paid.

The Hon. DUNCAN GAY: How much extra—

Mr COUTTS: Some billions.

Mr BUFFIER: I think we should take most of that on notice because the figures become quite complex.

Mr COUTTS: It is quite substantial.

Mr BOWMAN: It is a substantial amount of money from coal royalties.

The Hon. DUNCAN GAY: Mr Buffier, you have accepted to take those questions on notice?

Mr BUFFIER: I am saying if you have any further questions on it because it becomes a complex exercise to try to track the figures. If you want to spell out the questions we will take them on notice and come back to you with the answers.

The Hon. DUNCAN GAY: We do not have an ability to put questions on notice.

Mr BUFFIER: We will take them on notice.

The Hon. DON HARWIN: We are effectively asking how does the Coal Compensation Board plan to fund this unfunded amount of \$190 million, because it is not currently funded?

Mr BOWMAN: It will be funded from Treasury. Treasury will fund it.

Mr BUFFIER: The Coal Compensation Board does not have—

The Hon. DON HARWIN: We accept that.

The Hon. DUNCAN GAY: We know that a former Labor Premier of New South Wales has been appointed to head an inquiry into mine safety. Who appointed him to this position? When was he appointed to this position? Why was he appointed to this position? What qualifications does he have to head an inquiry into mine safety, which is an important inquiry?

Mr BUFFIER: We would be happy to take those questions on notice.

The Hon. DUNCAN GAY: Is that one that should go to the Minister?

Mr BUFFIER: I can only respond for what we can do today, and as I said we would be happy to take those questions on notice.

The Hon. DUNCAN GAY: How can the mine workers have confidence that a former Labor Premier will act in a truly independent manner and be critical of the Government when necessary? Is there a possibility that problems in the mining industry that were created under his Government when he was Premier still exist today? How can we be certain that he, in this important position, will be

openly critical of his own Government's failures? I think those concerns are valid for directors of a mining industry that employs a lot of people in what is considered a reasonably dangerous job in New South Wales.

Mr BUFFIER: I am not in a position to answer those questions. All I can say is that he was appointed because of his credibility with all parts of the industry that are involved in the critical issue of mine safety.

The Hon. DUNCAN GAY: I guess you would not have considered appointing the former head of Rio Tinto, Pasminco or someone like that. For the same reasons, why should Neville Wran be appointed to this important role?

Mr BUFFIER: We did not look at appointing someone from either side of the mining industry for obvious reasons.

The Hon. DUNCAN GAY: Is the Government not one-sided?

Mr BUFFIER: Mine safety is an issue of critical importance to the Government, the workers and the industry.

The Hon. DUNCAN GAY: Can I respectfully say that if it is that important to the Government why is the Minister not here to answer these questions? I do not expect you to answer that; it is a statement.

The Hon. DON HARWIN: I have a few more Coal Compensation Board questions, some of which you may want to take on notice. Can you give an example of when a person is entitled to further compensation—by the way, these questions result from the former line of questions in relation to the Nardell case and others—and how that further compensation is calculated?

Mr BUFFIER: I do not think we want to talk about specific examples of people.

Mr BOWMAN: I could talk about how it is generally done but if you want it in detail it is probably better if I take it on notice. I can give you a brief description of how it is done.

The Hon. DON HARWIN: If you gave a generic description, that might be helpful.

Mr BOWMAN: What will happen is that we will assess how many tonnes of coal will be mined from that person's area in which they own the coal. We will also work out what the free on rail coal price is likely to be in the future. Then we will work out, given the percentages in the ad valorem royalty system that apply, the after-tax and after Government deduction amount of royalty they would have received, income they would have received. We will then use interest rates, which were modified by the Nardell case, to work out the net present value. That is how we will do it.

The Hon. DON HARWIN: Where do most of those persons entitled to further compensation live?

Mr BOWMAN: Mainly in the Hunter Valley.

The Hon. DON HARWIN: Have you contacted every person entitled to further compensation, and when do you expect the compensation to be paid?

Mr BOWMAN: I need to clarify that. The only people who are entitled to compensation are those who lodged claims. Most of the people who lodged claims had appeals before the Coal Compensation Review Tribunal and we have settled those appeals by consent. They have been remitted back to the board. So the answer to the question is that I suppose most people have probably been contacted. We have not gone out of our way to contact them but, because of the fact that they had their appeals settled, they would know what is going on.

The Hon. DON HARWIN: So the onus was on them to lodge a claim, and if they have not lodged that claim then there would have been no effort by the board to contact them.

Mr BOWMAN: That is exactly right. The scheme has been closed since 1994.

Mr BUFFIER: You should rephrase that. There is no question of an effort on behalf of the board. The scheme has closed so those who have applications before the board have an entitlement. Those who have not made application have no entitlement. I would not like the Committee to think that there is any lack of effort on behalf of the board.

The Hon. DON HARWIN: How many plaintiffs in total were involved, and has the number of plaintiffs now entitled to compensation changed at all?

Mr BOWMAN: There were upwards of 150 people involved, and some of those people elected not to pursue their claims in years gone by. So there are probably something less than 150 now.

The Hon. DON HARWIN: Is it possible to have exact figures provided on notice?

Mr BOWMAN: Certainly. Yes, we can do that.

The Hon. DUNCAN GAY: How many safety inspections were undertaken by your department in the past 12 months?

Mr COUTTS: We will have to take that on notice.

The Hon. DUNCAN GAY: How many people had the accreditation of mine safety officer?

Mr COUTTS: Is the question: How many mine safety officers do we have in the department?

The Hon. DUNCAN GAY: Yes.

Mr COUTTS: I will have to take that on notice because I do not know the exact number.

The Hon. DUNCAN GAY: How many mines across New South Wales now have a mine safety officer?

Mr COUTTS: When you ask the question "how many mines have a mine safety officer" what do you mean by that?

The Hon. DUNCAN GAY: The accredited ones.

Mr COUTTS: The department has mine safety officers. It is a category of employee that the department has that flow from the Susan Johnson report, and mines as such do not have the same category of employee. Mines have check inspectors and other forms—they have an occupational health and safety committee. They might have safety officers in their own mine but there is no statutory requirement as such.

The Hon. DUNCAN GAY: How many mines have an accredited mine safety officer allocated to them?

Mr COUTTS: I will have to take that question on notice.

Mr BUFFIER: I think the objective of what we do is that we cover all mines.

Mr COUTTS: If you are talking about allocated by the department—is that what you are asking?

The Hon. DUNCAN GAY: Yes.

Mr COUTTS: Sorry, I thought you were talking about whether the mines themselves had mine safety officers employed with them.

The Hon. DUNCAN GAY: No. I am sorry about the confusion.

Mr COUTTS: In terms of our safety division, we have inspectors and mine safety officers. Inspectors have the broad range of responsibilities and a mine safety officer basically assists them in carrying out their duties. Those inspectors are allocated to mines across the State. So essentially all the major mines are covered by one of our inspectors.

The Hon. HENRY TSANG: I want to clarify some of the questions raised by the Hon. Don Harwin. In terms of safety officers employed by the department, some of the mines do not necessarily have to be personally inspected by the safety officer because your department and your safety officer will ensure that there is a safety committee. Those mines could have a regime and protocols, and they could have people employed as safety officers. Can you expand on that? What safety is being carried out in the mines, apart from your departmental safety officer personally inspecting them?

Mr COUTTS: That is correct. I suppose there has been a significant shift in the way the regulator undertakes its safety responsibilities that have flowed since the mine safety review and the Gretley inquiry. Our safety function is a combination of inspections, both announced and unannounced, assessments, campaigns in that we will target specific high-risk activities and conduct a campaign around those activities, education programs and audits. So an inspector will have more than an accountability for simply visiting a mine. That inspector will also ensure that there are appropriate risk management strategies in place by the mine. Under our mine safety legislation we require the mine to have identified key risk areas and have detailed management strategies in place for how they will deal with those key risk areas. Those management plans are subject to audit, and either we audit them or we require external auditors to audit them. So there is a suite of approaches that are applicable to how we manage safety in the mining industry.

The Hon. HENRY TSANG: The Deputy Leader of the Opposition asked a question about the \$190 million compensation liability, which you will take on notice. Can you include the cost benefit for Treasury or the Government? Once the Government has paid the \$190 million compensation liability, can you look at the cost benefits to the Government, rather than its liability?

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: You can do that separately. That is not part of my question.

The Hon. HENRY TSANG: Perhaps the Committee will benefit from taking my question on notice so that we can see the liability and the benefits. A question was asked about the Government being too easy on you, Mr Buffier, for not having a signed performance agreement. Would you say that it is clever of the Government or the Minister not to have that agreement because it is not in your benefit? If you do not have a performance agreement you are unable to claim a bonus or, indeed, any additional payments on which you agree. However, the Minister can, at any time, give you unreasonable reasons and ask you to leave the job. Therefore, it is very clever and cunning of the Minister not to have that agreement. Can you clarify that?

Mr BUFFIER: I will take that on notice if I may.

CHAIR: Do you recommend that across the board?

The Hon. HENRY TSANG: I raise that as a reminder. I am trying to give Mr Buffier good advice. He should get the agreement signed soon.

Mr BUFFIER: I will take that on notice.

The Hon. HENRY TSANG: The Minister attended the first hearing of the—

The Hon. DUNCAN GAY: Point of order: The Hon. Henry Tsang said that he wished to ask a question but I believe that he is making a statement.

The Hon. TONY CATANZARITI: To the point of order: In fairness, Opposition members have made more than one statement.

The Hon. DUNCAN GAY: You did not stop us.

The Hon. TONY CATANZARITI: I did not, but I might do so from now on.

CHAIR: Order! The Hon. Henry Tsang has been invited to ask questions of departmental representatives.

The Hon. HENRY TSANG: Is it not true that the Minister said he would attend that meeting but he sent apologies as he was unable to come? I am sure you are capable of answering these detailed questions today.

Mr COUTTS: Yes.

The Hon. TONY CATANZARITI: Point of order: Opposition members interject when Government members are asking questions but they want us to be quiet when they are asking questions. Would the Chair rule as to whether or not interjections are appropriate?

CHAIR: Order! I appreciate the honourable member's patience in allowing other members to ask questions. If he so requires he has an opportunity to take points of order. I welcome that approach if he feels the need to do so.

The Hon. TONY CATANZARITI: I am asking you, as Chair, to do that.

CHAIR: I will keep an eye on it. I do not think the interaction was excessive.

Ms LEE RHIANNON: Did the department make a submission to the National Parks and Wildlife Service Scientific Committee on its proposed listing of long-wall coalmining as a key threatening process under the Threatened Species Act?

Mr BUFFIER: I will have to take that question on notice.

Ms LEE RHIANNON: Are not any of the four representatives able to answer that question? I would have thought that you would have been aware of whether or not you had made a submission.

Mr BUFFIER: I have indicated that we will take that question on notice.

Ms LEE RHIANNON: You would be aware that it has been proposed that long-wall coalmining is a key threatening process?

Mr COUTTS: We are aware.

Ms LEE RHIANNON: If the proposed listing of long-wall coalmining as a key threatening process is successful, how will the department respond? What action will you take to evaluate current long-wall coalmining operations that gained approval prior to the listing?

Mr BUFFIER: We will take that question on notice.

Ms LEE RHIANNON: Do I need to read out all my questions on notice? I have more questions that are related to this topic. However, it appears that the people from the department are not able to answer them. Do I have to read them out?

CHAIR: I think they have to be read out. Under current rules we have been instructed to do that.

Ms LEE RHIANNON: Will you review the new subsidence management plan approval process in light of the possible introduction of this key threatening process?

Mr COUTTS: The subsidence management planning process is subject to review, which will take place in either March or April this year.

Ms LEE RHIANNON: If that is successful will that be done in the context of this key threatening process?

Mr COUTTS: I would assume that if there were any issues such as the one to which you are referring that are relevant to the subsidence management planning process, they would be taken into account in that review process.

Ms LEE RHIANNON: What action will you take regarding the proposed long-wall coalmining projects currently being assessed for the subsidence management plan approval by DMR? I would like to flesh out what you have just said.

Mr COUTTS: I do not understand that question.

Ms LEE RHIANNON: You have spoken about the subsidence management plan. A number of long-wall coalmining projects are being proposed and are yet to be assessed. What action will you take regarding projects that are currently being assessed under the subsidence management plan in light of the decision for long-wall coalmining to be nominated as a key threatening process?

Mr COUTTS: If I understand your question correctly, the subsidence management planning process considers applications for long-wall mining. Those considerations take into account the policy issues that are in existence at that time. If there is a subsequent change in government policy, that change will be considered at that point in time.

Ms LEE RHIANNON: So if it were successful in becoming a key threatening process, that is a key policy issue that you would take into account?

Mr COUTTS: Clearly, if it became a policy consideration, we would need to take into account how we would deal with it at the time.

Ms LEE RHIANNON: I understand that a 20-year lease extension has been granted for mines north of Lithgow. As you would be aware, this is why long-wall coalmining has been nominated as a key threatening process under the Threatened Species Act. I am referring now to a question on notice that I asked the Minister last year. I asked why the lease extension was granted to mining companies that have been described in the key threatening process nomination as behaving unethically, in particular, Springvale colliery, prior to the Scientific Committee making a determination on this nomination. The Minister said that he could not comment on this because neither he nor the department were provided with information outlined in the nomination. Was there a communication breakdown in the department? What is the current process? I appreciated the Minister's answer but I was surprised that he was not aware of this.

Mr COUTTS: If that was the Minister's response to your question on notice at the time I have nothing to add to that response other than to say that I am happy to take your initial question on notice and provide you with an answer.

Ms LEE RHIANNON: The Minister said that neither he nor the department were provided with information. Were you not provided with information? What is the process between you and the Department of Environment and Conservation when matters come up that are clearly relevant to mining projects that you are approving?

Mr COUTTS: I can only reiterate my response.

Ms LEE RHIANNON: I want to clarify the question that you are to take on notice. I refer next to the Cataract River task force report. Were the recommendations that were made in that report ever implemented? One of the recommendations was for the minimum interim release of two megalitres a day from Broughtons Pass weir.

Mr COUTTS: From my recollection that recommendation was implemented.

Ms LEE RHIANNON: Another was for an additional interim flow of 10 megalitres a day for three consecutive days in every 12-week period.

Mr COUTTS: I would have to take that question on notice. I cannot recollect that detail.

Ms LEE RHIANNON: The third was that a total of 10 per cent of rainfall which is converted to run-off of the total catchment be released periodically to coincide with rainfall events in the catchment.

Mr COUTTS: I will take that question on notice.

Ms LEE RHIANNON: Are you aware that in October last year there was reportedly an environmental flow averaging 1.7 megalitres a day, which is 750,000 litres per day less than the task force recommendation?

Mr COUTTS: I will take that question on notice.

Ms LEE RHIANNON: How do you account for the fact that the Cataract River task force report recommendations are not currently fully implemented?

Mr COUTTS: I will take that question on notice.

Ms LEE RHIANNON: Will the environmental flows of the Cataract River ever be increased to meet the task force recommendations?

Mr COUTTS: I will take that question on notice.

Ms LEE RHIANNON: What can you tell us about the Cataract River task force report? How has the department has responded to the Cataract River task force report?

Mr COUTTS: I think it would be more helpful if I took that question on notice then I could provide you with the updated position on the status of that report. I do not have that information before me today.

Ms LEE RHIANNON: Are you aware that documents from your department released through the information freedom of information process indicate that the volume of salt being discharged from the Tahmoor and Tower collieries and the Appin mine in the Nepean and Bargo rivers and their tributaries on a regular basis is in excess of acceptable water quality standards?

Mr COUTTS: That would be a matter for the Environment Protection Authority [EPA]. The EPA is the licensing authority for the discharge of water.

Ms LEE RHIANNON: When the Environment Protection Authority undertakes that work does it inform your department that it has found such problems?

Mr COUTTS: I imagine that it probably would. We would become aware of it.

Ms LEE RHIANNON: Are you aware of it?

Mr COUTTS: Not personally, no.

Ms LEE RHIANNON: If you are not aware of it is anyone in the department aware of it?

Mr COUTTS: I cannot answer that question. I will have to take it on notice.

Ms LEE RHIANNON: Do you oversee the Protection of the Environment (Operations) Act 1997 in any way? Is that something that is relevant to your work?

Mr COUTTS: That is administered by the Department of Environment and Conservation.

Ms LEE RHIANNON: So that is not relevant to your work?

Mr COUTTS: It is not administered by our department, but clearly we would be subject to it, should that be appropriate.

Ms LEE RHIANNON: Referring to remedial orders, these problems do not come under your turf at all. Is that what you are saying?

Mr COUTTS: Let me give you some background to both the Cataract and the Georges rivers and the general issue relating to mining and rehabilitation. The Department of Primary Industries is the regulator for mining. One of its principal functions is to ensure that if there are any impacts, particularly inadvertent impacts, they are remedied. In the case of the Cataract River there was inadvertent damage to the riverbed—damage that was not predicted at the time. The department has been working closely with BHP to ensure that that damage is rectified. Unfortunately, if you read the report of the Healthy Rivers Commission, the damage to the Cataract River is not solely a consequence of mining. The damage to Cataract River is very complex. It is impacted upon by sewage run-off and agricultural run-off, et cetera.

We have been working with BHP. It would be our expectation that BHP would be taking all appropriate action to ensure the ultimate remediation of both the Cataract and the Georges rivers. We hold significant security bonds on all major mining operations that ensure that remediation takes place. In response to the impact on the Cataract and Georges rivers, the department initiated the southern coalfields remediation committee. It involved all the other key agencies, including what was then the Department of Land and Water Conservation, which is now part of the Department of Infrastructure, Planning and Natural Resources, to ensure that appropriate technical advice was available to the department and to ensure that things could be managed properly.

The department continues to play that role in co-ordinating the Government's response to what damage has taken place in both the Cataract and Georges rivers. One of the complications is that the environmental flow into Cataract River was subject to Sydney Water allowing that environmental flow to take place. That was a matter that had to be negotiated between BHP and Sydney Water to initiate that environmental flow. As you know, that river has been dammed and no water was coming down the river as a consequence of that damming. So the Cataract River issue is fairly complex and one that is not caused solely as a result of the impact of mining.

Ms LEE RHIANNON: Could you, or maybe you need to take it on notice, provide details of who pays for the remediation? Has BHP paid for it entirely, or has the Government, or what proportion is paid for by the Government?

Mr COUTTS: No, the Government has made no payment towards the remediation.

Ms LEE RHIANNON: So is it entirely undertaken by BHP?

Mr COUTTS: BHP, yes.

CHAIR: I wish to move on to the Lake Cowal project. I am wondering whether you can tell the Committee the price that Barrick Gold is paying for electricity to operate the Lake Cowal goldmine?

Mr COUTTS: That is not a matter within our portfolio interest, so it is not one that we can answer.

CHAIR: Can you answer then if the Government is subsidising Barrick Gold through the construction of the Temora to Lake Cowal gold electricity commission mine?

Mr COUTTS: Again, I think that in the answers to questions that you previously put on notice, our Minister has indicated that these questions are really the responsibility for the Minister for Energy and Utilities, so they are not ones that we can answer at this inquiry.

CHAIR: Does the Government or the Minister have any proposal for the future expansion of the Lake Cowal gold project beyond the current project?

Mr COUTTS: The project is subject to the requirements of its development consent, and any variation of that development consent would require a fresh application for a variation of the development consent. There is not one before the Government that I am aware of.

CHAIR: Has Barrick Gold been issued with all the necessary water licences for the operation of the mine?

Mr COUTTS: Again, that is not a question that falls within our portfolio interest. That is a matter for the Minister for the Environment and conservation.

CHAIR: I am just looking at another mine in the Hunter. What action has your department taken or what action will your department take to alleviate the considerable problems facing residents of the small communities of Camberwell and Glennies Creek from the nearby open cut coalmines—problems of noise, dust, vibrations from blasting, and so on, as recently described in the *Newcastle Herald*?

Mr COUTTS: We might take that question on notice.

CHAIR: Thank you. Regarding Mount Owen, Xstrata's latest proposal to DIPNR is to preserve less than 10 hectares of the Ravensworth State Forest at its Mount Owen mine. Does the Minister support this proposal that will see the forest area destroyed?

Mr COUTTS: The question of the extension from Mount Owen was subject to a development consent. The approval of that development consent was one for the Minister for Infrastructure and Planning, and Minister for Natural Resources. Whether the Minister approves or otherwise is not a question I can answer.

CHAIR: With Anvil Hill, will the Minister oppose the proposed Anvil Hill open cut coalmine because of the significant ecological value of the exploration area to New South Wales?

Mr COUTTS: Again, Anvil Hill, if it is to proceed to a mining proposal, will have to undertake a full EIS and will be subject, presumably, to a commission of inquiry and all those various issues will be canvassed at the commission of inquiry.

CHAIR: Is it the fact that there is going to be a commission of inquiry? Does this have some bearing on the fact that Centennial Coal is not attending the local community meetings to present to interested parties, or hold its own open community meetings on its proposals for the Anvil Hill open cut coalmine project, despite agreements that broad-ranging consultation would take place? Is your department supporting this approach to community consultations? Are you able to comment on the adequacy or otherwise of community consultation in this respect?

Mr COUTTS: I cannot make any comments on what Centennial Coal may or may not be doing, but I can say that the department has a very strong view that community consultation is critical to successful mining projects and it does encourage mining companies to engage in consultation with local communities, and in a number of cases has actually encouraged the establishment of community consultation committees. I understood that Centennial had an Anvil Hill consultation committee and that that had been meeting on a regular basis and that there were various open days. But if that is not the case, I am happy to take that question on notice and provide the Committee with further information.

CHAIR: If that is in fact not the case, what options does the Minister have open to him or to the department to actually rectify that, given that there is certain disquiet in the community about the lack of consultation?

Mr COUTTS: Again, I cannot necessarily speak for the Minister, but certainly from my experiences of the Minister, the Minister has taken a fairly strong line with companies in ensuring that

they do have community consultation processes. Certainly when the Anvil Hill project was first mooted and there was considerable concern from local communities about the impacts of exploration, the then Minister of the day, and supported subsequently by the current Minister, ensured that there was a community consultation committee established and, if necessary, we can make that part of the lease conditions if that is required, but generally it is not required.

CHAIR: So when you say that you can make it part of the lease conditions, can the Minister designate that there be a certain number of adequately run community consultations? Is there any way that the Minister can have input in designing the opportunity for the community to have their say and be listened to?

Mr COUTTS: If he chose to, he could.

Ms LEE RHIANNON: Has he ever chosen to?

The Hon. DUNCAN GAY: Yes.

Mr COUTTS: He actually has, by establishing these community consultation committees, by appointing independent chairpersons to them—Margaret McDonald Hill has been appointed as chair of a number of committees—and by that process is ensuring that the various local interest groups are represented on the committee. I think if you look at most of the major mining proposals of more recent times, they have all had a community consultation committee established. As I say, I do not have the information on Anvil Hill with me but certainly I understood that Anvil Hill had a consultation committee established, and certainly Centennial Coal Company is one that is supportive of the community consultation process. I would be very surprised if they did not have one.

CHAIR: Perhaps you can give an undertaking to raise this matter with the Minister and provide some further information in terms of his intention on this matter back to the Committee?

Mr COUTTS: I am happy to do that.

CHAIR: Mr Gay, did you have further questions?

The Hon. DUNCAN GAY: No. I think I certainly remember having meetings over this particular matter. You have a role in directing them to actually do that?

Mr COUTTS: Yes.

The Hon. DUNCAN GAY: That is why I was surprised at some of your earlier comments.

The Hon. TONY CATANZARITI: Mr Chairman, is that a question from the Deputy Leader of the Opposition?

CHAIR: I think it was an elucidation and I think he was actually complimenting Mr Coutts on his role.

The Hon. TONY CATANZARITI: I believe there was a point of order earlier because it was not a question from our side, and now here we are letting it go.

CHAIR: In that case, if Mr Gay would like to create a question out of that?

The Hon. DUNCAN GAY: No.

The Hon. TONY CATANZARITI: Well, leave your statement at home.

Ms LEE RHIANNON: Just to continue with the issue of community consultation, could you provide the Committee with any examples where a mine project has been changed because of community consultation?

Mr COUTTS: I am sure we can take that question on notice and endeavour to do so.

Ms LEE RHIANNON: Yes, if you could.

CHAIR: Regarding the Bickham coal project near Blandford, the Minister has already approved the mining near Blandford by digging a 25,000 tonnes coal sample under an exploration licence. This is effectively a mini-mine which allows for the exportation of coal to potential customers to see whether it meets their needs with associated risks of spontaneous combustion. I understand the mining company now wants to increase the tonnage of sampling. Has the Minister approved this application?

Mr COUTTS: I will take that on notice.

CHAIR: Perhaps, if he has not approved it, could you also look at the point of whether he plans to and also what community consultation has taken place or will take place in relation to the application, and what conditions have been attached or will be attached to the approval?

Mr COUTTS: Yes.

CHAIR: Does the Hon. Tony Catanzariti have any more questions?

The Hon. TONY CATANZARITI: It is not our turn yet.

CHAIR: Actually, the Hon. Henry Tsang took your turn before.

The Hon. TONY CATANZARITI: But it is not our turn now.

CHAIR: Well, I have made the offer, so Mr Gay?

The Hon. DUNCAN GAY: Tony is right.

CHAIR: Okay. Mr Harwin?

The Hon. DON HARWIN: Mr Bowman, in relation to the Nardell court case, what was the total legal cost for the case? How has that been funded?

Mr BOWMAN: The total costs were about four hundred and something thousand. I will get you the right figure. I will take that on notice. It is about four hundred and something thousand but I will take it on notice. The supplementation was provided by Treasury.

The Hon. DON HARWIN: For the whole amount?

Mr BOWMAN: For the additional amounts needed. It was probably about \$150,000 above our budget. I will take it on notice, but the supplementation was provided by Treasury.

The Hon. DON HARWIN: In your answer to the question on notice, can you just clarify how much of it therefore came out of your existing budget for legal costs?

Mr BOWMAN: Sure.

The Hon. DON HARWIN: And how much of it was based on Treasury supplementation?

Mr BOWMAN: Shall do.

The Hon. DON HARWIN: And the total cost?

Mr BOWMAN: Yes.

The Hon. DON HARWIN: Finally on this general area, are there any other cases currently being fought by the Coal Compensation Board that may impact on the board's budget? If so, what are the potential impacts?

Mr BOWMAN: Yes, there are other cases. We are currently in litigation on some three appeals by the Franks estate, and depending on the outcome of those appeals—I mean, if we were to lose the appeals in the worst fashion imaginable—

Mr BUFFIER: We will need to take the rest of that on notice.

Mr BOWMAN: I will take it on notice.

The Hon. DON HARWIN: Thank you, Mr Buffier.

Mr BUFFIER: I think that the matter is before the court, and I mean this is of some considerable interest.

The Hon. DON HARWIN: It may well be before the courts, but it will not be a problem if you could just detail what the issues are in those appeals in relation to the Franks estate.

Mr BOWMAN: There are other cases as well, so I presume I am taking all of those on notice?

The Hon. DON HARWIN: Yes. But you are not able to given comment on what the issues are now?

Mr BUFFIER: No.

CHAIR: I think in fairness it needs to be taken on notice in case there is an issue of sub judice.

The Hon. DON HARWIN: Okay, that is fine.

The Hon. DUNCAN GAY: My question is to Mr Buffier. Is it correct, as alleged by the Hon. Henry Tsang, that the Minister has deliberately advantaged you by not having you have a performance agreement?

Mr BUFFIER: I indicated to the previous questioner that I would take to this on notice.

The Hon. DUNCAN GAY: And you will come back with an answer on that?

Mr BUFFIER: Yes.

The Hon. DUNCAN GAY: Mr Buffier, can you tell the Committee what proportion of the \$300 million in coal royalties the New South Wales Government has received from coalmining just in the Hunter Valley—this is just the Hunter Valley—that has been spent on social, rail and ports infrastructure improving the water quality and environmental projects in the Hunter?

Mr BUFFIER: Yes—I am sorry, the answer is that no, I cannot. The Department of Primary Industries does not have any control all authority over royalty income, and it is not part of our budget considerations.

The Hon. DUNCAN GAY: The New South Wales Government received \$400 million statewide from coal royalties this year. Will that revenue go straight into Treasury's consolidated revenue?

Mr BUFFIER: The answer is that the royalties are collected by us and go to Treasury.

The Hon. DUNCAN GAY: So the answer to that is yes?

Mr COUTTS: Correct.

Mr BUFFIER: Yes. I am sorry, there are a number of parts to that question, I think. The figure of 400 million; was that part of the question?

The Hon. DUNCAN GAY: Yes, it was.

Mr COUTTS: We cannot say yes to that.

Mr BUFFIER: I am not in a position to say yes to that because I am not sure of that.

The Hon. DUNCAN GAY: Might be more?

Mr COUTTS: It will not be more, but it might be less.

The Hon. DUNCAN GAY: For a big year.

Mr COUTTS: It might be less.

Mr BUFFIER: A very big year in terms of coal prices, but the "yes" related to the money going straight to Treasury.

The Hon. DUNCAN GAY: Could you, when you get that information, come back with a figure on the \$400 million?

Mr COUTTS: We will not have the figure until the end of the financial year.

Mr BUFFIER: Where would that leave us in terms of our response time for these questions?

CHAIR: I think we are going to deliberate on that, but we do have a 3 March deadline overall in terms of budget estimates.

Mr BUFFIER: I know that, yes.

CHAIR: I suggest that whatever you can answer will be answered by the end of February, hopefully. This is something that the Committee will deliberate on. I suggest it is not really your problem beyond that date.

Mr BUFFIER: No.

CHAIR: Perhaps it is something that will flow into a refreshing new round of questioning at the next budget estimates.

Mr BUFFIER: I was reflecting on the fact that until the money is collected we cannot tell you how much is collected.

CHAIR: That will be left in abeyance.

The Hon. DUNCAN GAY: Given that everyone in the industry accepts that the ballpark figure of \$400 million, give or take, is reasonably close to the actual figure, does the mineral resources section of the DPI have an opportunity to apply to Treasury for funding for projects such as upgrading ports and rail facilities to improve the infrastructure that the industry depends upon? Have any submissions been made to Treasury by the mineral resources section of the DPI?

Mr BUFFIER: I can only reiterate what I said earlier, that the DPI has no control over what happens to royalty income.

The Hon. DUNCAN GAY: I accept that but my question is not dependent on that; it is discrete.

Mr BUFFIER: It is not an area that we would normally be involved in because we do not have any control of ports and, to my knowledge, we have not made those submissions.

The Hon. DUNCAN GAY: But surely you would have a concern about the infrastructure that supports the industry for which you are responsible.

Mr COUTTS: Ports and rail are not under the auspices of the DPI. As the honourable member well knows, in the structure of government, Ministers are very careful to ensure that other departments do not involve themselves in their affairs. Rail and port infrastructure are matters for other Ministers.

The Hon. DUNCAN GAY: I understand that the DPI in its new grand form has no concern whatsoever in its planning or its requests to the Government about the infrastructure that supports the industry that it is—

Mr COUTTS: I think the word "concern" is a problem.

Mr BUFFIER: If there are issues in which we believe we need to be involved then we would make a bid to Treasury for supplementation of our budget generally. It is irrelevant that the mining royalties are collected by the department. If we believed that supplementation was required, we would apply to Treasury for that funding and supplementation in the broad course of activities. We do not tie it to any particular source of funds or income. There is nothing preventing the department from going to Treasury and asking for supplementation or from making representation in areas—

The Hon. DUNCAN GAY: But you just have not done it.

Mr BUFFIER: —that we believe are germane to the department, its authorities and its responsibilities.

The Hon. DUNCAN GAY: Have you received any proposals from mining companies to mine under the streams in the Hunter Valley? If so, how many proposals have been received and have any been approved?

Mr COUTTS: I will take that question on notice.

The Hon. DUNCAN GAY: Is there funding in the minerals budget for rehabilitation and environmental projects, including fighting water salinity? If so, what is the value of that allocation?

Mr COUTTS: The department receives \$1.7 million in its budget for rehabilitation of derelict mines.

Ms LEE RHIANNON: Does Barrick Gold have a management plan in place for the transport, storage and use of cyanide at the Lake Cowal goldmine?

Mr COUTTS: I will have to take that question on notice.

Ms LEE RHIANNON: Is that plan publicly available or will it be publicly available?

Mr COUTTS: I will have to take that question on notice.

Ms LEE RHIANNON: What arrangements does the department have with Sydney Water or the Sydney Catchment Authority regarding the allocation of water to environmental flow to mitigate environmental damage caused by long-wall coalmining?

Mr BUFFIER: We will take that question on notice.

The Hon. DUNCAN GAY: How much was spent on mine rehabilitation last financial year?

Mr COUTTS: Last financial year the department had \$1.6 million for the rehabilitation of derelict mines, and that funding was expended. The department also received \$3.2 million over the previous three years from the Environmental Trust for a number of significant projects, and that has also been expended.

Ms LEE RHIANNON: When a mine site is rehabilitated what proportion of the cost is paid by the company concerned?

Mr COUTTS: All the costs. When a mine is put forward for approval, part of the approval process requires it to lodge a security deposit to address any issues of rehabilitation post mining. In the case of Lake Cowal, for example, a \$12 million security deposit is held by the Government in the case of any rehabilitation being required. Generally speaking, the companies do the rehabilitation and the money is returned once the rehabilitation is satisfactorily completed.

Ms LEE RHIANNON: You referred to the Government's budget for rehabilitation.

Mr COUTTS: I referred to derelict mines, that is, orphan mines. Usually they are mines from many years past and no current leaseholder has responsibility.

Ms LEE RHIANNON: What is the cut-off point? When do you not chase up a company to carry the costs?

Mr COUTTS: We always chase up a company if it is a current leaseholder.

Mr BUFFIER: However, if it is bankrupt, we do not pursue that matter. Many of the derelict mines fit into that category.

Mr COUTTS: Most of the derelict mines are historical mines that date back to the 1930s, 1940s and 1950s and the owner has either gone bankrupt or the requirements on those mines were not as stringent as they are today. In the case of more modern mines, the Government holds very significant security deposits. No mine would get approval without a significant security deposit held by the Government. If the company were to walk away, the Government would use the security deposit to rehabilitate the site.

The Hon. DUNCAN GAY: I refer to mine monitoring and, once again, to an article in the *Newcastle Herald*. This article refers to a resident who lives near the Ashton open-cut mine. The resident complained about dust and noise from the blasting. I understand that the company does the monitoring. What is the situation? Was the monitoring done? Was it done to a suitable standard? Was DPI notified about this issue?

Mr COUTTS: I am not aware of the specific incident. The issue of noise and blasting is generally covered by the Environment Protection Authority [EPA]. In most mines, and I imagine at Ashton, monitoring devices are required as part of the approval process. Those monitoring devices will monitor blasts vibrations and the like. If there are repeated occurrences of blasting or noise beyond the licence limits, the EPA will take action against the mine and impose a fine if appropriate.

CHAIR: Bengalla Mine and Rosemount Estate had a significant issue some years ago. It was discussed in Parliament and in the Land and Environment Court. What is the state of play in that relationship? Is the mine operating? Is Rosemount satisfied with the environmental conditions of that mine and its impact?

Mr COUTTS: Bengalla Mine is operating. It is one of the largest open-cut mines in the Upper Hunter Valley. I understand there are no major environmental issues with that mine at the moment. The relationship between Bengalla, the local community and the Muswellbrook council is good.

CHAIR: Has there been any further complaint by the owners of the Rosemount Estate?

Mr COUTTS: If memory serves me correctly, Rosemount sold that property for a large amount and moved a considerable part of its operations to Mudgee and Orange and it is no longer an issue.

The Committee proceeded to deliberate.
