

GENERAL PURPOSE STANDING COMMITTEE No. 5

Friday 17 September 2004

Examination of proposed expenditure for the portfolio area

ENVIRONMENT

The Committee met at 2.00 p.m.

MEMBERS

Mr I. Cohen (Chair)

The Hon. J. C. Burnswoods
The Hon. D. Clarke
The Hon. K. F. Griffin

Ms S. P. Hale
The Hon. R. M. Parker
The Hon. H. S. Tsang

PRESENT

The Hon. R. J. Debus, *Minister for the Environment*

Department of Environment and Conservation
Ms L. Corbyn, *Director-General*

Environment Protection and Regulation Division
Mr S. Smith, *Deputy Director-General*

Parks and Wildlife Division
Dr T. Fleming, *Deputy Director-General*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

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

CHAIR: Welcome today to you, Minister, and your departmental officers. At this meeting the Committee will examine the proposed expenditure for the portfolio area of the Environment. Before questions commence, some procedural matters need to be dealt with. I point out that Legislative Council guidelines for the broadcast of proceedings are available from the attendants and the clerks. Only members of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos. In reporting the proceedings of this Committee you must take responsibility for what you publish or what interpretation you place on anything that is said before the Committee. There is no provision for members to refer directly to their own staff while at the table. Members and their staff are advised that any messages should be delivered through the attendant on duty or the committee clerks. For the benefit of Hansard, could departmental officers identify themselves by name, position and department or agency before answering a question or referring to them. The Committee has agreed that we would take 20-minute sections of questioning from the Opposition, the crossbench and the Government, and do the rounds again. I take it we do not have to deal with lower House divisions today.

Mr BOB DEBUS: Most certainly.

CHAIR: I declare the proposed expenditure open for examination. Minister, do you wish to make a brief opening statement?

CHAIR: No, I am fine.

The Hon. ROBYN PARKER: Can I get some clarification, please. Could somebody tell me if someone is here representing Waste Services New South Wales?

Mr BOB DEBUS: No, there is not.

The Hon. ROBYN PARKER: We have a number of questions for Waste Services, and I would have assumed that somebody would be here representing Waste Services.

The Hon. DAVID CLARKE: Does that come within your portfolio?

Mr BOB DEBUS: It does.

The Hon. DAVID CLARKE: So we can ask you questions?

Mr BOB DEBUS: Indeed.

The Hon. ROBYN PARKER: Can we have an explanation as to why no-one from Waste Services is here?

The Hon. HENRY TSANG: If the Minister can answer the questions, what is a problem?

The Hon. ROBYN PARKER: In terms of Waste Services, in the 2002-03 annual report it says that 23 consultancies were issued at a total cost of \$735,820. Can you detail each consultancy by company, name of person or persons carrying out the consultancy and the amount paid for each consultancy?

Mr BOB DEBUS: I think by way of preliminary observation I should point out that Waste Services is not within the budget sector of my portfolio.

The Hon. ROBYN PARKER: But it is part of your portfolio and the department.

Mr BOB DEBUS: Yes, which means that I can talk to you about matters of policy, but I do not believe that I am obliged to talk to you about detailed matters of the budget of Waste Services, which is a statutory authority; it is off budget.

The Hon. ROBYN PARKER: Who pays for it? Where does the money come from?

Mr BOB DEBUS: It is a statutory corporation. I am not entirely refusing—

The Hon. ROBYN PARKER: Which comes under your department?

Mr BOB DEBUS: Under my portfolio. I am not entirely refusing to answer questions. If you want to give me some, I can take some questions on notice. Self-evidently, that would be an appropriate question to take on notice

The Hon. ROBYN PARKER: There might be another occasion. We have an opportunity to call people back and have supplementary hearings. Perhaps there might be another occasion when we can get someone to come along.

Mr BOB DEBUS: The same rules would apply.

The Hon. ROBYN PARKER: Perhaps someone from Waste Services might come. We might get them to come along and ask those questions directly.

Mr BOB DEBUS: The same rules apply. A person from Waste Services is not obliged to come along and answer those questions. But if you would like to put some of those matters on notice I will voluntarily do what I can to answer them for you.

The Hon. ROBYN PARKER: Mr Chair, we might call someone from Waste Services to a supplementary hearing, perhaps, for further elucidation.

CHAIR: That will be a discussion in the deliberative meeting afterwards.

The Hon. ROBYN PARKER: Certainly we will talk about it.

The Hon. DAVID CLARKE: There is a budget for Waste Services. Where does the money come from for the budget for Waste Services? Is it supplied by the New South Wales taxpayer?

Mr BOB DEBUS: The point is that the finances of Waste Services are not part of the budget appropriation process. The same is true of dozens of other statutory corporations.

The Hon. DAVID CLARKE: But you would be happy today to answer questions relating to the activities of Waste Services?

Mr BOB DEBUS: To the general policy, yes, of course.

The Hon. DAVID CLARKE: Thank you. And you will take on notice the question that was asked—

CHAIR: I think the Minister has already said that.

Mr BOB DEBUS: I already said that I would.

CHAIR: Please proceed, because we have limited time.

The Hon. ROBYN PARKER: I assume someone here is able to answer questions, certainly you might be able to answer some questions, about the Environment Protection Authority [EPA]. What I would like to know is why the EPA took two years to investigate the illegal dumping of liquid sludge from Waste Services New South Wales liquid treatment plant at Lucas Heights?

Mr BOB DEBUS: I do not think it did, but I will allow Ms Corbyn, the director-general, to respond to that question.

Ms CORBYN: The Environment Protection Authority comes within the Department of Environment and Conservation and we regulate, from our perspective, all waste operators in a fair, transparent and equitable way. We do follow up on illegal dumping matters that may be brought to our attention to make sure that we have investigated them with thoroughness. We have, I believe, done some of the most rigorous investigations into potential allegations that have come forward, most

recently, about illegal dumping that might have occurred associated with Lucas Heights. We have issued a penalty notice of \$5,000 to Waste Services. However, I would have to say it was not illegal dumping. It was claimed, I know, that the illegal dumping was untreated waste, which it was not, from the liquid waste treatment process dumped at Jack's Gully. That is not the case from our perspective.

Waste Services was sending only what is known as treated solid waste to Jack's Gully landfill for temporary storage while they ensured that the waste had been properly treated for disposal. Waste Services did actually breach an approval on the mobilisation standard for its waste, and after investigations by the EPA we did impose a fine on Waste Services of \$5,000. We also took some strong regulatory action to require them, under what is known as the pollution reduction program, to actually take some corrective action. So we have taken some very strong steps to make sure that there was action taken, but I do not think that you could actually call it illegal dumping.

The Hon. ROBYN PARKER: My understanding is that non-compliance was notified in January 2002, yet it took until 2004 for some action. That was the question: why did it take two years?

Ms CORBYN: Simon, do you have some information on the timing?

Mr SMITH: No.

Ms CORBYN: I am not aware that we were actually notified in 2002. I will have to take that on notice and come back with the timing. However, I am aware that we have taken some strong investigative steps to actually understand—

The Hon. ROBYN PARKER: Perhaps you can come back then with the timing?

Ms CORBYN: Yes.

The Hon. ROBYN PARKER: And why it took so long. Could you also—

Mr BOB DEBUS: If it took so long. We have not conceded that it did take so long. That is an allegation.

The Hon. ROBYN PARKER: If it did, perhaps you could come back with that explanation. You have mentioned a fine of \$5,000 for dumping the toxic waste—

The Hon. HENRY TSANG: Treated toxic waste.

Mr BOB DEBUS: It is treated.

The Hon. ROBYN PARKER: A fine of \$5,000, nevertheless. Why was that fine \$5,000 when the Act provides penalties for up to \$1 million for a similar offence?

Ms CORBYN: The Environment Protection Authority [EPA] has quite a rigorous approach to actually assessing what the appropriate steps might be from a regulatory perspective on any occasion when we have actually found a breach of the licence condition, which it was in this case. We have a very strong track record, I might say, of bringing legal action against waste authorities, whether they are public or private, in our assessment. This was an issue of a breach of the licence condition on immobilisation of the waste, but the waste itself was treated. It was actually going to landfill that is managed and has a leachate collection system, so that was not a circumstance where there might be environmental harm caused. We actually issued as well, of course, a pollution reduction program for corrective action. It was our assessment that that was the appropriate approach to take. I might say we have brought other prosecutions against Waste Service which actually have high fines, so we have a very good track record of bringing legal action when it is necessary. We have prosecution guidelines that actually set out the criteria we use.

The Hon. ROBYN PARKER: So you think that \$5,000 is a reasonable fine for what some have described as the biggest illegal dumping of toxic waste in New South Wales?

Ms CORBYN: As I said, from my perspective, this was not illegal dumping of toxic waste. It is actually treated waste, treated solid waste. It was going to the Jacks Gully landfill.

The Hon. ROBYN PARKER: All right. You have told us about that. The EPA put out a press release about this issue on 17 August this year: "We expect there won't be any adverse environmental impacts". I am just wondering how you know that in advance of the environmental audit that you have asked Waste Service to carry out?

Ms CORBYN: We do an assessment when we are going through and trying to determine the appropriate regulatory steps that we actually might be taking. It is my understanding that there was a risk assessment that had been done as part of our overall process, so that we could actually understand what sort of environmental consequences there might have been from the immobilisation not being characterised as we had expected. But I should clarify that this is solid waste that is going through an immobilisation process, so it is mixed with cement and turned into hard waste. It is disposed of at an existing landfill that has collection systems around it, so that is how we made some of our judgments.

The Hon. ROBYN PARKER: So has there been an environmental audit carried out yet?

Ms CORBYN: I will have to ask, if I could, Simon Smith to answer that.

Mr SMITH: I have been quite involved in this issue. When it came to our attention, we acted very quickly. That matter came to our attention, and then the matter led to action about three weeks or four weeks before we issued the infringement notice and the orders of action to be taken. The essence of it is that I think people have a misunderstanding of what is involved in this situation. The liquid treatment plant processes all the liquid waste. The bulk of it, after treatment, goes through the sewer system for final treatment by the Sydney Water Corporation. But what is left over is a residue, and that residue is mixed with cement and immobilised and then placed in a secure landfill facility, so it is not quite the way that it has been characterised.

What we did straightaway was an initial assessment by our own specialist investigator or specialist waste staff to assess what the potential of the impact could be. That means looking at the landfill collection systems, looking at where it has been placed, how much has been placed, its nature and so forth. So we had a clear picture about that there was certainly no imminent environmental risk. It seemed like an extremely low probability of any environmental risk. If there was an excess of leachate, it would be collected in the system. But just to make absolutely sure—

CHAIR: Mr Smith, could you just explain to the Committee in relation to the final treatment of that toxic material through Sydney's sewerage system, what is the actual treatment, given that it is still a low-grade perhaps toxic material?

Mr SMITH: The whole purpose of the treatment plant is to prevent people putting material into the sewers that cannot be treated in a normal sewerage system, so it operates as a pre-treatment facility so that liquid waste, instead of going into the sewer or being tankered to the facility, is assessed on arrival and then goes through a complex process of chemical and physical treatments to prepare it.

CHAIR: But then it goes into the sewerage system?

Mr SMITH: But then it goes into the sewer system.

CHAIR: For further treatment, you said?

Mr SMITH: For further treatment, that is correct.

CHAIR: And what is that further treatment?

Mr SMITH: It is the sewage treatment process that operates at the major sewage treatment works.

CHAIR: Is that a tertiary treatment? Is it somehow extracting the chemical?

Mr SMITH: That is the purpose of the pre-treatment—so that it means the same criteria that any other customer of Sydney Water—

CHAIR: I am sorry, I meant other than being expelled in the ocean outfalls. Is there any effective treatment for that type of toxic material at that stage?

Mr SMITH: The point of the liquid treatment plant is so that its output meets the same acceptance criteria that Sydney Water applies.

CHAIR: So it is a further dilution?

Mr SMITH: Well, it does not go into the sewerage system unless it meets the criteria that mean that it can be dealt with, so that ultimately the discharge from the outfall meets the requirements that we impose on it.

CHAIR: Which is a dilution.

Mr SMITH: No. It has a primary treatment process.

CHAIR: That is separation, not dilution.

Mr SMITH: Yes, but the point is that what counts is what is the consequence on the environment of the quality of the discharge that we allow to be discharged from the sewage treatment plant.

CHAIR: I will let Ms Parker proceed. I am sorry to interrupt, but I was just interested because it strikes me as being somewhat suboptimal in terms of what one might imagine treatment to be for toxic material.

Mr SMITH: I would like to make the point that the existence of the treatment plant has a profoundly positive effect on the ultimate environmental outcome because, without that, you have companies putting much more highly polluted materials into the sewer system that could then affect the operation of the—

CHAIR: I appreciate that, Mr Smith. I am just concerned about the final so-called treatment process of the material through the sewerage system.

Mr SMITH: Again, that is where we base the final outcome as being what we did take to be the quality of the beaches and the areas of the ocean next to the outfall. Our monitoring shows that up very well.

The Hon. ROBYN PARKER: Just on a point of clarification, we are talking about non-compliance in 2002. You were talking about breaches. The non-compliance report I have here states in fact that there is a potential breach from the accepted sludge from the Lidcombe waste plant. So you have already admitted—

Ms CORBYN: There was a breach of a licence.

The Hon. ROBYN PARKER: So you did know about it?

Ms CORBYN: There was a breach, which is why we actually issued the \$5,000 penalty infringement notice.

The Hon. ROBYN PARKER: In 2002?

Mr BOB DEBUS: No.

Ms CORBYN: No, I am sorry, that is in 2004.

The Hon. ROBYN PARKER: But you did know about it in 2002?

Ms CORBYN: As I said, I will have to come back to you on that.

The Hon. ROBYN PARKER: Yes, but you did know about it in 2002.

Ms CORBYN: I am not aware of that.

The Hon. ROBYN PARKER: Well, I think you did.

Mr SMITH: Every licensee that we regulate submits to us every year an annual return that says whether it has complied with the licence conditions. I am not familiar with the 2002 annual return from Waste Service, but it is not unusual, because of the kind of transparent system we have, for people to report matters of non-compliance. My belief is that the matters that led to us taking this action this year were not the same as earlier matters; that they were more serious, and that led to us taking the significant action that we did take.

The Hon. ROBYN PARKER: This annual return was received on 22 January 2002.

Ms CORBYN: We will need to take it on notice, from my perspective. We get annual returns, obviously, each year and we do have a process of going through when people are actually required to declare whether they have been in compliance or not in compliance. We generally assess each annual return and determine what appropriate action might be taken. What I was referring to was actually the most recent incident against which we issued a \$5,000 penalty infringement notice, which was about a breach of a licence condition and approval process for any immobilisation process associated with the liquid waste treatment facility.

The Hon. ROBYN PARKER: Can you tell me whether the material contained thousands of litres of toxic organochlorins?

Ms CORBYN: It is my understanding that it was actually treated solid waste. I do not have the composition of the waste with me.

The Hon. ROBYN PARKER: Can you provide that as well?

Ms CORBYN: We certainly can. I will take that on notice.

Mr BOB DEBUS: Can I just be clear that we neither confirm nor deny the incident that you allege in 2002.

The Hon. ROBYN PARKER: Sure.

Mr BOB DEBUS: This is a matter to be taken on notice. No matter how you wish to twist the description of the matter at hand, we are talking about some immobilised, or not quite properly immobilised, toxic residue. We are not talking about anybody pouring things willy-nilly into the environment. We are talking about the standard at which immobilisation was conducted of some material that came out of the liquid treatment plant and was in turn deposited at a landfill.

The Hon. DAVID CLARKE: Minister, in dealing with this 40,000 tonnes of waste, did it contain 7 to 15 per cent oil concentrations?

Mr SMITH: I can respond to that. This was the fundamental issue. The waste contained too much oily material, which meant that the normal process used to stabilise the material did not meet up to the hardness specification that was required. This oily material is just a regular kind of oily and waste material that would come from various industries that would send their waste to the liquid waste treatment plant. When you mix that the oil with the cement, the strength that is necessary is not there. The worry is that ultimately that might lead to some of the oil not being contained within the matrix of the solid material. But the good thing is that what has happened since then as a result of the strong action we have taken is that Waste Service has modified its receiving processes so that oily waste is separated out well before it can find its way into that material.

The Hon. DAVID CLARKE: It is good to hear that, but getting back to this particular incident, it is correct that there was a 7 to 15 per cent oil concentration?

Mr SMITH: I think it was closer to the 7 than to the 15.

The Hon. DAVID CLARKE: That was grossly in excess of the 1 per cent that is allowed on Waste Service's licence, would it not?

Mr SMITH: It was higher than the required level. That is why we had to—

The Hon. DAVID CLARKE: Well, according to your figures, it was 700 per cent higher, in fact.

Mr SMITH: Yes, it was higher.

The Hon. DAVID CLARKE: Did it not involve illegal dumping of oil?

Mr SMITH: No.

The Hon. DAVID CLARKE: You say not?

Mr SMITH: Well, it depends what you mean by the term "illegal dumping".

Mr BOB DEBUS: Well, that is just a piece of rhetoric. "Illegal dumping" in ordinary person's language refers to something done surreptitiously, in the dead of night and in a place where dumping is not allowed. In this case, we are talking about an inadequate process that was nevertheless following through a perfectly reasonable and conventional methodology.

The Hon. DAVID CLARKE: But illegal dumping can also involve dumping something that it is forbidden to dump. This was in excess by 700 per cent of what was allowed under Waste Service's licence.

Mr BOB DEBUS: Well, you can play with the words as much as you like, but illegal dumping is not, in my view, in any way an adequate characterisation of the breach that we all agree occurred.

The Hon. DAVID CLARKE: I see. So these 40,000 tonnes of waste can come in. They are in excess, as far as the oil concentration is concerned—in excess of the law—by 700 per cent and you think that I am playing with words.

Mr BOB DEBUS: I do think you are playing with words. You are manifestly playing with words. We have some more information.

Ms CORBYN: I might be able to do just a bit of clarification in terms of the timing, and we will follow up with the specifics. But it is my understanding that the EPA was notified by Waste Service of non-compliance. It was in late October 2003 and we did, in November, very shortly thereafter, ask Waste Service to investigate how that happened. Early indications that we had were that there might have been some trouble with some particular loads because of the way the trucks actually come into the plant. That investigation was undertaken by Waste Service between November and March. It was in March 2004 that we then understood that—we were advised that—the problem had gone back to 2002. We will have to clarify that because I do not have all the details of that date, but the way the process works, we do require people to notify us of non-compliance when they find out and then we do generally ask them to investigate that. Those investigations can take some time. Depending on the significance of the issue, that can dictate part of the timing of the follow-up. But, as I said, we will take that on notice as to why.

Mr BOB DEBUS: But the point again is that this extra information that we have just received confirms the near certain understanding that I had—that the EPA did begin to investigate

these circumstances as soon as it knew about them. It did not—it absolutely did not—fail to make that investigation for several years, as you had implied.

The Hon. ROBYN PARKER: Perhaps that will be made clearer when you provide documentary non-compliance and return details.

CHAIR: We are out of time. I will give the Hon. Robyn Parker another opportunity.

The Hon. ROBYN PARKER: Sure.

CHAIR: Minister, the possible future member for Kingsford Smith said that the Port Botany and Orica issue was a State issue and not any of his concern. I have received representations from local communities, particularly in recent times, about the toxic plume that is coming from the Orica plant and has already entered Botany Bay and has passed the site where the company is attempting to pump out a certain amount of material. What efforts has the Government made on this issue that has vexed a lot of people for a period of at least 15 to 20 years? And whose responsibility is it?

Mr BOB DEBUS: I will ask Ms Corbyn to describe the circumstance to you and we will come back to the detail during the course of discussion. In general terms, the Environment Protection Authority has responded very quickly to the concerns that surround Orica. Those concerns have taken a number of forms over a number of years. It would be easiest to allow Ms Corbyn to give a narrative.

Ms CORBYN: In answer to part of your question, Orica is responsible. We are working very hard to make sure that Orica is responsible. Everyone knows that groundwater contamination is the legacy of passed heavy industry, particularly in the Botany area. We covered some of these issues initially in last year's estimates committees. Since that time the EPA has taken decisive action to make sure that there is a legal requirement for a clean up that is legally enforceable, and that has been placed on Orica. We have been using the Protection of the Environment Operations Act to do that. We also have taken steps under the Contaminated Land Management Act to progress remediation of the site. From our perspective groundwater is notoriously difficult to regulate, but when we found out in July 2003 about the groundwater contamination—and we had known that there had been contamination—

CHAIR: How long have you known that there was groundwater contamination?

Ms CORBYN: For many years.

CHAIR: For 15 years or 20 years?

Ms CORBYN: The EPA came into existence only in 1992, so I can really only comment from then.

CHAIR: Well, before that the State Pollution Control Commission was the relevant body, is that not correct?

Ms CORBYN: That is right.

CHAIR: Would it have known?

Ms CORBYN: The State Pollution Control Commission was aware of contamination that had occurred, but the significance of July 2003 in particular was that the central plume of groundwater contamination began moving. The groundwater had been contaminated previously from many years of operation by many industries. But it began moving faster than had been experienced historically. That is what caused significant concern for us to move to use the Protection of the Environment Operations Act as a stronger regulatory measure to make sure that we got quick action in relation to the most recent information that we had. It has taken a long time to understand what the contamination was and how groundwater plumes move or not move, and what was actually happening underneath the site. We found out in July that the groundwater plume had started to move differently from previous experience and the EPA issued a legal direction. It took us about two months to get that direction up and running in terms of the detail that we needed. In September 2003 we issued a legal direction to Orica to clean up.

CHAIR: Was that to clean up its site or the plume?

Ms CORBYN: It was to clean up the groundwater. We also have a voluntary remediation agreement, which is a legal agreement but it is brought forward in a voluntary context, for the remediation of the site. Both instruments are operating. With the clean up notice we tried to focus on a staged approach for dealing with groundwater contamination and the movement of it. We directed particularly that it be contained in areas. There is an area called a "primary containment area", which is over the most contaminated part of the plume, on the central part of the site generally speaking. Also there is a "secondary containment area", and that was particularly to try to prevent the spread of the contamination in the groundwater as it moved and also to stop any higher levels of contamination getting to Penrhyn Estuary. That is obviously the concern.

CHAIR: Does your action, your oversight or your work on this guarantee that the plume will not enter the Penrhyn Estuary or the bay?

Ms CORBYN: I believe that our view is, from a technical perspective, that the secondary containment approach and process, which includes about 40 groundwater bores that are being drilled and are pumping out along Foreshore Drive, would prevent more significant contaminated groundwater. We have done some risk assessment work that looks at different levels of contamination.

CHAIR: Yesterday there was a report on ABC radio with a local spokesperson who said that the pollution has already gone past Foreshore Drive and is now in the bay.

Ms CORBYN: I did not hear that radio presentation.

CHAIR: That is the claim that is made.

Ms CORBYN: We believe that there is contamination of groundwater.

CHAIR: We all agree with that.

Ms CORBYN: And low levels of contamination.

CHAIR: Has it entered the bay?

Ms CORBYN: Low levels of contamination of the groundwater may have actually reached Penrhyn Estuary, but the issues that we are interested in particularly are making sure that the levels are above 10 milligrams per litre, which is where the risk actually occurs. It is my understanding that that has not occurred and that the processes in place and directed will prevent levels of contamination of groundwater that might be above that risk level.

CHAIR: Does that risk level the protection to the waterbirds in estuary?

Ms CORBYN: Yes, it is my understanding that it does.

CHAIR: Under the Canberra and the Japan and Australian Migratory Bird Agreement international conservation agreements?

Ms CORBYN: Yes, it is my understanding that it has been designed specifically to address that. We have a risk-based approach that is quite stringent. Obviously it is a concern to stop contamination.

CHAIR: Who is responsible if the contamination gets to unacceptable levels in the bay? If there is dredging for the proposed expansion of the terminal, who is responsible if that exacerbates the rate of the plume entering the bay?

Ms CORBYN: Orica.

Mr BOB DEBUS: Of course Orica is.

CHAIR: What action would you intend taking against Orica now, for example, with the contamination of the bay?

Ms CORBYN: We have taken legal action in issuing the clean-up notice. That process has been designed to try to ensure that we do not have a spread of contamination but that we also get a clean up of the contamination, not only toward the secondary containment site but also to the groundwater in the primary area. Our notice has been quite strict in requiring Orica to develop processes that take a staged approach, not only to come and treat the groundwater which might be approaching either the secondary and later primary containment areas, but also to clean up that groundwater. There is now a process under way that has 40 groundwater bores and at Foreshore Drive, four of which will be operating to bring the contaminated groundwater to a steam stripping unit that will prevent the spread of groundwater in the short term while a groundwater treatment plant is being put into place. An environmental impact statement process should be progressing through that approval processing. We have put in requirements for time frames in the legal notice that is under the Protection of the Environment Operations Act, which have to be complied with so that there are strong sanctions that can be brought through a court process, if they are not met.

Mr BOB DEBUS: The consequence of the notices is that Orica is spending \$50 million on the clean-up program.

CHAIR: I know there are a number of issues on the storage of hexachlorobenzene [HCB] and other toxic materials on the site. I understand the HCB is still in drums in open areas on the site. Last year I raised the issue of the car park area, which is a mountain of toxic material that is capped in asphalt. That is directly on the water table with a plastic liner. Seeing that there has been discussion on this issue for many years, and I did bring it up at the estimates hearings last year, whose responsibility is it? How do you assess the responsibility if that particular mountain of toxic waste and is part of the leaching process that is causing that toxic plume? Who is monitoring it? What proof do we have that that is not adding to the problem?

Ms CORBYN: I will ask Mr Smith to comment on that, but it is Orica's responsibility. We are aware of this and are working to make sure that we understand the interactions. It is one of the challenges of trying to regulate the site. There are a number of areas that we want to make sure are not cross-contaminating as they progress through the clean-up process. It is my understanding that the HCB is not in an open area, it is actually in a covered area.

CHAIR: It has a roof, but no walls—if that is covered.

Ms CORBYN: Yes, it is.

CHAIR: Okay. That is gratifying to know.

Ms CORBYN: We are concerned to make sure as it is continued storage. As you would know, Orica recently made some comments about its change in potential approach for dealing with HCB waste. We are concerned to make sure that that storage is adequate. We are going through and reviewing separately the environmentally hazardous chemicals Act licences that controls that storage. We are taking steps to make sure that we progress strongly the regulatory framework so that action can be taken if what has been estimated to occur does not occur, and to make sure that the time frames are adhered to. It is complicated trying to deal with groundwater that moves in a variety of different ways under various is different circumstances.

We are aware of the need to understand the potential implications of the changes when the groundwater treatment program is functioning. As the new groundwater treatment program comes forward we will need to make sure we understand the interactions of all those activities. We have worked hard to make sure that the bores, the pump and treatment process is designed very carefully. We must ensure that we understand what is happening with the groundwater, that we make sure that gases do not escape from the pump and treat process, because I know there has been some concern about those sorts of issues. Our regulatory controls need to be carefully put through and very technically detailed, which is one of the reasons it takes us some time to do.

Since we understood the movement of the contaminated groundwater had changed, I believe we have taken decisive action to bring forward a regulatory approach that has required Orica to take the steps that they have actually now taken. They have sought to get the approvals that they need to have that clean-up occur in a comprehensive way. But it is clear as well that we have to monitor carefully and require them to report regularly, which our notice does. I think our notice requires them to report three-monthly on whether its projections were accurate as they progress through this overall process so that we have milestones that are short term as well as long term.

CHAIR: Could you comment on the toxic waste? In my experience it was first raised by me 15 years ago. I am a bit concerned about the rate of remediation.

Ms CORBYN: We had much stronger legislation from 1997, in terms of both the Contaminated Land Management Act and the Protection of the Environment Operations Act. Both brought in new powers for us to try to deal with these very challenging circumstances. We took the step of trying to use the Contaminated Land Management Act first, which encourages companies to come forward on a voluntary legal basis and to take a voluntary approach so that we can progress it rather than being in a court process per se. But we used the added regulatory step with the Protection of the Environment Operations Act notices. It is easier to set out regulatory milestones that must be achieved and then, if they are not, they can be dealt with through a court process. So both those regulatory instruments are progressing in parallel now. I think it provides an additional forcing mechanism to ensure that the company takes action. It has shorter-term milestones for a longer-term remediation program.

Ms SYLVIA HALE: Can you explain to me what you mean by "decisive" when you have had a problem that you have known about for 15 years? You just said that you had added powers for seven years. One of the greatest environmental catastrophes is descending on Botany Bay and you are talking about how well we have responded to it. It seems to me that what you are doing is trying to patch up after the event. I cannot think of any incident that is more damning of this Government than its treatment of this problem. The response of the Environment Protection Authority has been one of apathy, negligence and a preparedness to take Orica's assurances on trust. I am not sure at the moment whether there is any independent auditing of Orica's reporting to you, but this is the most damning indictment on the Government, would you not agree?

Ms CORBYN: My comment about decisive action related to what we have done since we last discussed this matter at the estimates committee. I believe there has been decisive action.

Ms SYLVIA HALE: It is a bit late.

Ms CORBYN: My view would be that it is important that we progress it. While we can look to the range of rationales as to why things might not have happened, the important step from now—and I think it has been taken—is the regulatory step that has required the company to come forward with, as the Minister said, a \$50 million program to clean it up. That said, we want to ensure that the information that comes forward to address your question about audits is quite public and that the reporting that comes to us is not reviewed only by us. Community based processes will enable that to be looked at quite often. If there were technical characteristics with which we could not deal internally, using our technical expertise, we would certainly seek outside help.

Ms SYLVIA HALE: Would you not agree that Orica has a record of consistently underreporting and misreporting the extent and nature of the contamination? Are you still essentially relying on Orica to provide you with those base findings?

Ms CORBYN: I agree that historically Orica has not provided the information that we would have liked to be provided. Some of the information that is coming forward is new. But I think that there is a transparent and open process now that will provide information that can be scrutinised not only by the Environment Protection Authority as a regulator but also by the community at large.

Mr SMITH: I add that it is nice to have in mind that there is bad guy who is doing a bad thing. We just need to stop him from doing it. The problem has not been clear right from the start. When, as a regulator, you start to work with the issue, certain information becomes available and you want to take certain steps to address it. I will tell you what has happened in this case. We wanted to

work with the company to trial the potential for lower-cost technology when it was clear that the contaminated groundwater was in a stable position. Jumping into a \$50 million remediation program is a big deal. The minute it became clear that there was not the time, that it was not stable and that it was moving, that is when we moved decisively to much more aggressive intervention.

Ms SYLVIA HALE: Do you not see that by not intervening earlier we are now in a situation where that contaminated plume is entering the bay? It is all very well to say, "It might have been a bit harsh to have acted earlier", but acting after the event is surely far too late?

Mr SMITH: It is also true that you manage the risks that are before you. The risk at that time seemed quite clear: The groundwater plume was stable under the position of the old factory.

Ms SYLVIA HALE: That risk assessment was all based on misinformation being provided by Orica.

Mr SMITH: It was based on the best available information. We actually commissioned—

Ms SYLVIA HALE: So far as I understand it, there was no independent assessment of that information. What Orica told you was taken on trust. Now the whole community will suffer the consequences.

Mr SMITH: No, that is not correct.

Mr BOB DEBUS: That is not correct at all. You are now committing the manifest error of "after the event" wisdom.

Ms SYLVIA HALE: The community has been complaining. As Mr Cohen pointed out earlier, he raised this matter 15 years ago.

Mr SMITH: I think, Chair, you might have been referring to the storage of HCB waste when you were talking about it 15 years ago.

CHAIR: At the time I was referring in particular to the car park. I observed signs at the car park that said, "Do not pierce the bitumen because there is toxic material underneath." That was quite evident and it was referred to at that time.

Mr SMITH: That is correct. That is a separate issue to the groundwater issues that we are talking about now.

CHAIR: No, because there is a plastic lining underneath that car park. There is a mountain of toxic material. I understood at the time that there was a rising watertable there. So that could well and truly be indirectly implicated with the present toxic plume.

Mr SMITH: We are not sure whether there is a connection between the two things at this point. We are dealing with different pollutants. The material in the groundwater is a less toxic material. In the past there was a common chemical that was in wide use. It was phased out because it was not thought safe for use in occupational settings. It is not the same as the material that is in the drums that are stored there now.

Mr BOB DEBUS: So, in other words, without wanting to overstate a contradiction to some of the more colourful comments that have been made, you are conflating a number of issues together and blaming the Environment Protection Authority for all of them, as if there has been no change in circumstances, no change in understanding of a scientific nature, and no change in the regulatory frameworks that more latterly have been brought into operation.

CHAIR: A bit like a toxic verbal cocktail one might say?

Ms CORBYN: From my perspective, the issue now is to not leave an impression with the community that it is all too late. We believe that the steps that are being taken now will correct the problem. That is the important step rather than focusing on the fact that it is all too late and that is the

impression that is left with the community. We really want to demonstrate clear regulatory steps and how they will operate for the future.

Ms SYLVIA HALE: The problem is that there is no guarantee that it will correct the problem.

Ms CORBYN: That is why we are trying to build in a range of steps that will be progressed not only under the Protection of the Environment Operations Act but also under the Contaminated Land Management Act. We need short-term milestones—every three months—to ensure that we know what is happening. There can be some adaptation if there needs to be. But the program itself will be progressed in a staged way that enables us to deal with the variable movement of groundwater that has changed since we started dealing with it.

Mr SMITH: I just add that we have consulted with colleagues in the United States of America who have much more experience in dealing with contaminated groundwater because they have these kinds of problems from fifty industrial facilities compared to our one. We have taken on board what they agree are the most aggressive tactics that we can. There are multiple efforts—two lines of bores and large water treatment facilities. Basically, it is a legacy problem. It is a very bad situation that no-one would like to see there. But the point that Lisa is making is that we have asked for everything under best practice to be done and to be done as fast as possible.

The Hon. DAVID CLARKE: I refer to the 40,000 tonnes of toxic liquid waste that contained grossly excessive amounts of oil concentration. Mr Smith, when I asked you about that earlier, I said it was between 7 per cent and 15 per cent when it should have been 1 per cent. I think you said it was 7 per cent.

Mr SMITH: I said I thought it was closer to the lower end of the range. It comes in batches. In each period a new batch of the material would have been created and taken to the landfill facility.

The Hon. DAVID CLARKE: Have you seen a media release issued on 17 August by the Environment Protection Authority that states it was between 7 per cent and 15 per cent? Does that ring a bell?

Mr SMITH: Yes. I cannot recall the piece of paper, but I would have seen it.

The Hon. DAVID CLARKE: I have a copy of it in front of me. It is dated 17 August and it is from the New South Wales Environment Protection Authority. It is headed "Waste Service issued \$5,000 fine over sludge". The media release states:

An audit of Waste Service's records found concentrations of between 7 and 15 per cent in sludge going into Lucas Heights.

Mr SMITH: Okay. I guess I was reflecting on the pattern that I was recalling of the different batches that had been assessed.

The Hon. DAVID CLARKE: So the pattern was not up to 7 times but up to 15 times. Would you agree that this dumping breached section 64 of the Protection of the Environment Operations Act 1997—failure to comply with a condition?

Mr SMITH: The situation was that there were two controls operating on the quality of that material. One was site-specific. Basically, we have a system of approvals of technology of immobilisation approvals. Someone comes to us and says, "This is the kind of process that we want to use to treat waste to make it appropriate for a particular end point." An assessment had been done. A number of controls were put in place in relation to the specific operations of the facility. The trap into which Waste Service NSW fell was that it had not referred to our general guidelines that talk about the standard of waste and other waste characteristics that needed to be complied with. So our view was that it was a genuine oversight on the part of organisation, in that it looked only at the one site-specific requirement. It did not look at our generic requirements. So that was the source of its error.

The Hon. DAVID CLARKE: So you do not believe that there was a prima facie breach of section 64 that should have been determined by a court?

Mr SMITH: When people breach licences this happens. We have prosecution guidelines that set out the range of things that we can do. Prosecution for us is not the first or the last resort. As Lisa mentioned earlier, we have prosecuted Waste Service on a number of occasions over the last 10 years. It has had some of the biggest fines that the courts have ever issued. All that takes place in the context of how we perceive a company that is applying itself. When an error is detected we want to encourage people to come forward and we take that into account.

The Hon. DAVID CLARKE: But the courts had no capacity to impose a fine in this case because it was never referred to the courts to be dealt with?

Mr BOB DEBUS: Because of the prosecution guidelines.

Ms CORBYN: We also see it as a legitimate process. The issue of a penalty infringement notice is a step that is built into our legislation. So there is no requirement that every breach of a licence that we find goes to court. The prosecution guidelines lay out the criteria that we use in making decisions about what steps we will take. If it is not severe it can range in hierarchy from issuing a warning letter, to a penalty infringement notice, right through to legal action that is brought before a court.

The Hon. DAVID CLARKE: I will refer to a few more alleged breaches in relation to this issue. Do you believe, *prima facie*, that there was a breach of section 115 of the Act—disposal of waste, harm to the environment? Do you think, *prima facie*, that there was a breach of the Act?

Ms CORBYN: We certainly thought there was breach of the legislation. I am not aware of the specific section under the Act for which we determined that. But we would have done an analysis of the various provisions in the legislation and then made a decision under which section of the Act we thought it most appropriate to bring a legal action.

The Hon. DAVID CLARKE: Would that have been a written assessment?

Ms CORBYN: Not necessarily, no.

The Hon. DAVID CLARKE: Would there be any documentation on your assessment of whether or not these provisions were infringed?

Ms CORBYN: Not necessarily, no. We would be looking at the most appropriate section of the Act to consider, but there is not necessarily a written assessment as to under which provision of the Act we were bringing that infringement.

The Hon. DAVID CLARKE: Would you take that question on notice and produce any such documentation, if it exists?

Ms CORBYN: I will certainly review it and determine whether we prepared a written assessment.

The Hon. DAVID CLARKE: Do you believe there was a breach of section 143—unlawful transporting of waste? Do you think there was a breach?

Ms CORBYN: Not that I am aware of.

Mr SMITH: I can answer that. They broke the law and we applied our prosecution guidelines to look at the best steps to be taken. So we took a mixture of enforcement action and requirement to act through pollution reduction programs, which themselves have penalties for further breaches.

The Hon. DAVID CLARKE: But did they break the law under section 143?

Mr SMITH: What they did that was against the law was that they took material that did not meet our requirements and put it in a place that was not authorised to accept it. Setting aside the

technicalities of which particular provision was breached, it was clear that they had committed a breach. That takes us into the domain of saying, "What are we going to do with this company in order to deal with it and ensure that all factors are taken into account under the prosecution guidelines?" Our first priority is to ask whether there is urgent environmental harm, what steps need to be taken to put it right and what compliance enforcement measures are appropriate in that context.

The Hon. DAVID CLARKE: Breaches of these sections are more than "technicalities". So returning to section 143, would you say that there was no breach of that section?

Ms CORBYN: I do not believe we could make a judgment like that at this table.

The Hon. DAVID CLARKE: Would you have made a judgment at the time?

Ms CORBYN: As I said, we would have made a judgment at the time as to which was the appropriate section of the Act under which to bring action. When there is a particular breach of a licence or an immobilisation approval there is no requirement to necessarily bring responses to that as well.

The Hon. DAVID CLARKE: What about section 144?

Mr BOB DEBUS: I put it to you that a comprehensive and patient explanation of the process of prosecution and remedy has been put before you. You can go through every section of the Protection of the Environment Operations Act and ask the officers whether they think it was breached, but you will get the same reply as has been given now, with clarity, on a number of occasions.

The Hon. DAVID CLARKE: There should be more clarity if there are documents that set out your assessment of whether these sections were breached, and you have undertaken to produce those if you have them.

Ms CORBYN: If we have a written assessment, other than legal advice, I am certainly happy to bring it forward.

The Hon. DAVID CLARKE: Minister, is it true that Waste Service New South Wales gained an advantage of at least \$5 million over its competitors by failing to treat this material properly in the first place?

Mr BOB DEBUS: I will ask the Deputy Director to answer that.

Mr SMITH: The proposition about commercial gain is one that another industry—a competitor of Waste Service—has been raising with various people. Our view is that it is very important to have a level regulatory playing field. We do not really get into the commercial aspects of what various competitors are doing to each other in the waste industry, other than being aware that it is a very competitive industry and that its participants would seek to use every avenue possible to advance their interests. That is fine; that is their entitlement. So the answer is that we are not aware—

Mr BOB DEBUS: Including lobbying the shadow Minister for the Environment.

The Hon. DAVID CLARKE: So it is quite possible that a failure by Waste Service to treat this material properly could have given them an advantage of \$5 million or thereabouts. Is that possible?

Mr SMITH: It could be zero or it could be—

Mr BOB DEBUS: We cannot confirm or deny the commercial gain or loss that is the consequence of these actions.

The Hon. DAVID CLARKE: If there was a commercial gain of \$5 million and a fine of \$5,000 Waste Service must have thought all of their Christmases had come at once.

Ms CORBYN: I have to comment from a regulatory perspective. We treat waste operators equally and we work hard to treat each incident on its own merits so that there is no one standard approach for dealing with any waste operator. We have a very strong program to make sure that we take equitable approaches to waste operators. There have been allegations by competitors—across the board, I might add—that if a different approach is taken to them we are somehow playing favourites. We do not do that: We have a very standard approach to dealing with waste operators. They compare what happens with each other and we work very hard to make sure that we explain our overall approach.

Mr BOB DEBUS: You could say that they are obsessed with what happens to each other.

The Hon. DAVID CLARKE: Given that you say that you treat everybody in an equitable and equal—

Ms CORBYN: Not equal; I said "equitable". That means that we do not do the same thing for every incident.

The Hon. DAVID CLARKE: Sure. We will come a little later to the issue of whether you do the same thing for everybody. I have a general question: If we put to you examples of others being treated far more severely—as far as fines and the full weight of the law are concerned—for lesser offences, what would you say about that?

Ms CORBYN: I would say that if there are prosecutions—Waste Service had the highest fine of any waste operator as a result of the prosecution by the Environment Protection Authority [EPA]—those companies that may be making those allegations cannot be looking at the facts. Waste Service had a \$100,000 fine against them. The second thing I would say is that if it is a prosecution in court it is the court that makes the judgment about the fine. It would not be accurate to say that the most significant fines have not been issued against Waste Service from prosecutions as a result of court action.

The Hon. ROBYN PARKER: You will be pleased to hear that I have an easy question. Why for the five weeks from 1 September 2000 during the Olympic Games did the Lidcombe waste treatment plant not accept any waste?

Mr BOB DEBUS: I can give you a general answer to that. Throughout its long history the Lidcombe liquid waste plant has struggled to overcome problems with odour. It has been relatively successful in more recent times in preventing odour emissions, but the Government—I cannot say exactly which bit—did not relish the idea that there might be a sudden emission of a very pungent odour on the edge of the Olympic precinct doing the conduct of the Games. So by common and open agreement the plant ceased to operate during that time.

Mr SMITH: If I may add to that, only 18 months or so before that we successfully prosecuted the Waste Service for causing offensive odour and I guess in the lead-up to the Olympics people did not want to take any chances.

The Hon. ROBYN PARKER: No, we would not want Juan Antonio to have a peg on his nose—he would not have said it was the best Games then. What happened to the waste then?

Mr BOB DEBUS: What does that mean?

The Hon. JAN BURNSWOODS: Point of order: We are here to discuss the estimates for 2004-05. I wonder whether the Hon. Robyn Parker might control herself. A question about something that happened in 2000 is a long way from what we are doing and comments like her subsequent interjection are even further away from our discussions.

CHAIR: I appreciate that but the interjection was not directed at anyone at the table; it was just an aside. It was a small comment and, compared with some of the other estimates committees, I think we are acting in a reasonably decorous manner. I ask Ms Parker to continue.

The Hon. JAN BURNSWOODS: But I assume that we will not continue to ask questions about estimates from four years ago.

CHAIR: I take the point. I ask Ms Parker to continue.

The Hon. ROBYN PARKER: I think I was asking what the wastes were.

Mr SMITH: Are we back on the Olympics?

Mr BOB DEBUS: What were what?

The Hon. ROBYN PARKER: What were those wastes?

Mr BOB DEBUS: What were what wastes?

The Hon. JAN BURNSWOODS: Point of order: Mr Chair, these questions have nothing to do with the estimates committee meeting.

The Hon. ROBYN PARKER: To the point of order: The guidelines that I was given led me to believe we could discuss anything involving the department and the Minister's portfolio areas. We have been discussing things that happened 15 years ago. I would have thought that something that happened around the Olympics was relevant to the Minister and his portfolio.

CHAIR: I think the Minister is capable of assessing that.

Mr BOB DEBUS: I gather that you are asking me for a catalogue of the kinds of wastes that are put through the Lidcombe liquid waste plant.

CHAIR: That is how I understand it, yes. Can you provide that information now or take the question on notice?

Mr SMITH: I thought the question was what wastes were not received during the Olympic period.

The Hon. ROBYN PARKER: What did not go to Lidcombe during that period?

Mr BOB DEBUS: Everything.

Mr SMITH: Because nothing went there.

The Hon. JAN BURNSWOODS: Including pegs for noses.

Mr BOB DEBUS: It just stopped operating for two weeks.

CHAIR: The plant stopped operating; I think that is well documented.

Mr BOB DEBUS: All the things that would normally go into it were held in containers around the city and, when the Olympics were over, they put them in.

The Hon. ROBYN PARKER: Where did they go? Where specifically around the city?

Mr BOB DEBUS: Come on! Wastes are brought from all over the State in a variety of containers from a variety of sources, and for a period of two weeks people stopped bringing them. When the two weeks were over deliveries of waste resumed.

The Hon. ROBYN PARKER: So they went to Orica perhaps.

Ms CORBYN: From a regulatory perspective, we certainly looked at this. I cannot comment about the actual operation of the plant, but there was a strong program in conjunction with industry to make sure that industry was able to retain its wastes and, once the Olympics were over, bring it back

to Lidcombe. It is my understanding that the wastes were retained by industries at source. We were very careful to make sure that waste would not be taken elsewhere or dumped illegally. There was a program with those industries that might have been bringing their wastes to Waste Service to contain them on their own sites.

The Hon. ROBYN PARKER: Are you telling me that they did not go to Orica?

Ms CORBYN: That is my understanding. To clarify, if Orica had wastes that went to Waste Service Lidcombe liquid treatment plant there may have been wastes at Orica that did not go back to the plant until that time frame was over. It was dealt with on an individual industry-by-industry basis.

The Hon. ROBYN PARKER: I am trying to clarify that. Did you issue a variation licence?

Ms CORBYN: We did not need to issue a variation licence. But it was my understanding that there was communication with each of the industries that sent waste to Lidcombe and individual strategies were worked out regarding where that waste would be retained according to each industry that might be using the plant.

The Hon. ROBYN PARKER: Right. Are you saying that there was no variation and the EPA did not advise Orica that it was diverting wastes to them?

Ms CORBYN: I will have to take the question on notice, I am sorry. I do not know the specifics.

The Hon. ROBYN PARKER: Could you also provide the documentation that supports your comment?

Ms CORBYN: I guess I was trying to explain the general principle. Each industry looked at where its wastes needed to go or how it stayed on individual sites. But I will take the question on notice because I do not know whether there was direct communication with Orica.

The Hon. ROBYN PARKER: How long did it take to issue a variation of the licence?

Ms CORBYN: I will have to take the question on notice. I do not know the answer.

Mr SMITH: To help us respond, may I clarify whether the question is related to the period during the two weeks of the Olympics?

The Hon. ROBYN PARKER: Yes. It was a five-week period. I assume that the order covered the Paralympics as well, or whatever. The period is from 1 September 2000.

Mr SMITH: Are you asking whether there was a variation to the licence of Orica?

The Hon. ROBYN PARKER: Yes, and when was it issued?

Ms CORBYN: We will take that on notice. I do not know the answer.

Ms SYLVIA HALE: Minister, has your department liaised with Sydney Water to carry out a proper risk assessment of the radioactive emissions at the Cronulla sewage outfall?

Mr BOB DEBUS: I cannot say—but Mr Smith can.

Mr SMITH: I believe that particular matter was a recommendation from the parliamentary inquiry into the Commonwealth's proposed transport of nuclear waste?

Ms SYLVIA HALE: Recommendation 7.

Mr SMITH: Yes. The Government is still preparing its response. The Government's response to the inquiry was to forward it to the responsible body, which was the Commonwealth who is dealing with this. It has not yet made a decision on the way it will respond to the parliamentary

inquiry so we have not commenced specific action in relation to that. But we wait for the Government's decision on how the report will be dealt with. I do want to comment that we have had informal discussions with the Sydney Water Corporation about the adequacy of its own trade waste acceptance policy as it relates to that. Sydney Water already has gone into it in extreme detail, establishing the trade waste acceptance criteria and is quite comfortable that it can receive liquid waste from there that is safe for their sewerage systems. That enables them to ensure that any final discharge from the sewerage system is also safe.

Ms SYLVIA HALE: I presume that you also agree with another recommendation of the inquiry that the risk assessment, if and when it takes place, will include reporting. In addition to emission levels into the ocean, reporting should cover environmental, human health and biophysical impacts similar to that carried out at other Sydney Water facilities.

Mr SMITH: As I said, we would always want to ensure that the discharge from the facilities that we regulate was safe. That is our job; that is what we do. As I mentioned, however, the Government has not actually finalised its response to the parliamentary inquiry, simply because, I suspect, we were hoping to get a better response from the Commonwealth within the Government.

Mr BOB DEBUS: I suppose at a certain time we will have to acknowledge it, if we do not get a reply from the Commonwealth. But, for the present, we still await some type of response to the propositions we have put to it.

Ms SYLVIA HALE: I understand the Dunphy Wilderness Fund has acquired more than 50 properties, protecting more than 70,000 hectares of wilderness. Can you provide a cost per hectare of the fund acquiring the land? How much has it cost the fund to acquire the 70,000 hectares of wilderness?

Mr BOB DEBUS: Obviously I will take that on notice. I cannot remember it off the top of my head.

Ms SYLVIA HALE: Any idea? I understand it is in the vicinity of \$135 per hectare, but please take that question on notice and confirm that. When will government funding of the Dunphy Wilderness Fund lapse?

Mr BOB DEBUS: It is funded until the financial year 2005-06 and decisions will then have to be taken about how it continues to be funded and utilised for the purposes for which it has with spectacular success so far been used.

Ms SYLVIA HALE: Given the proven track record of the fund, has the Department of Environment and Conservation made an application to Treasury to secure further funding for the fund post 2005-06?

Mr BOB DEBUS: It is too soon for that. That is obviously a matter that will be discussed in the budget processes that will begin later this year. But it is too soon for an overt and final proposition of that sort to be made.

Ms SYLVIA HALE: It is obviously something at the forethought of your thinking in your approaches to Treasury.

Mr BOB DEBUS: Well, what is at the forethought of my thinking is the continued successful acquisition of land for the national parks system in ways that actually best serve its management.

Ms SYLVIA HALE: Will the Government ensure that funds gifted to the wilderness fund will not result in a reduced Treasury allocation to the fund?

Mr BOB DEBUS: You can play a lot of ducks and drakes with that kind of figuring. I cannot guarantee that Treasury will always give the same amount of money for land acquisition on a year-by-year basis. I cannot, therefore, guarantee that there will be some kind of permanent proportionate relationship between money so given and money that comes from consolidated revenue

or other sources. Obviously, money so given will itself be protected and used for the purposes for which it is gifted.

Ms SYLVIA HALE: In order to keep track of what is happening to the fund, and whether it is being properly resourced, presumably it would need a separate account rather than just the line item?

Mr BOB DEBUS: I suppose it has separate accounts. It will always have separate accounts. It is always identifiable.

Ms SYLVIA HALE: It is not simply a line item in the department's accounts?

Mr BOB DEBUS: It is an identifiable item. In the budget papers it is a line item. In the accounts of the National Parks and Wildlife Division of the department it is an identifiable, transparent separate account.

Ms SYLVIA HALE: Noting that land acquisition is sometimes a protracted process, what assurances can the department provide that allocated funds will not be diverted from this specific program by being returned to consolidated revenue as not being expended by the end of the financial year as required by current funding arrangements?

Mr BOB DEBUS: Dr Fleming can answer that, but you are speaking still of money that is gifted and donated or are you speaking of money from consolidated revenue?

Ms SYLVIA HALE: I presume it is allocated funds.

Mr BOB DEBUS: No, I cannot speak for Treasury. I will let Dr Fleming give you some more detail but I cannot guarantee that no matter what happens money will continue to be set aside, although I will always argue for it.

Dr FLEMING: As the Minister said, I cannot give guarantees on behalf of Treasury about the processes of how they deal with funds at the end of the year if it is underexpended. But I must say to date the Dunphy Wilderness Fund has been able to be expended, yes, and has been identified as a separate line item. The process is very clear how that has been allocated and properties which have been acquired by it.

Mr BOB DEBUS: So it is, generally speaking, a normal thing for unspent funds for acquisition to be rolled over.

Ms SYLVIA HALE: In relation to philanthropic contributions to the fund, will the Government ensure that the fund is kept in a separate statutory account that is not open to transfer back to consolidated revenue?

Mr BOB DEBUS: I have already answered that, and the answer is yes.

CHAIR: Do you acknowledge the direct link from decreased flows and pollution in the Hawkesbury River due to irrigation and sewage treatment plants and the current salvinia outbreak? How is your department responding to the need for a comprehensive solution to addressing the central problem of water use in dealing with the salvinia? How is your department resourcing a solution to this issue?

Mr BOB DEBUS: Direct dealing with salvinia is the responsibility of the Department of Agriculture but there is a relatively recent report of a forume into the Hawkesbury Nepean River which makes some recommendations concerning environmental flows. Those recommendations are under consideration, especially in the context of the metropolitan water strategy that is to be published in coming weeks—I cannot say exactly when. Certainly I acknowledge that the present salvinia outbreak is the consequence of drought, high nutrient loads in the river and, it follows, a low flow regime. Attention is being paid to the question of more appropriate environmental flow regimes in the river.

CHAIR: From your perspective as Minister for the Environment, are you comfortable with the use of glyphosate in dealing with the salvinia problem? Are you aware of the money expended in this regime to deal with this problem?

Mr BOB DEBUS: I am only aware of the approaches that have been taken by local government and the Department of Primary Industries in a general way. I cannot really comment on the use of any particular chemical but I freely acknowledge that there are both short-term and long-term issues to be addressed with respect to salvinia. The longer term issue, as you have implied, involves achieving a better environmental flow in the river.

CHAIR: Perhaps Ms Corbyn can address this acute problem.

Mr BOB DEBUS: Ms Corbyn is a great expert on pesticides and may well be able to assist.

CHAIR: That is what I am very interested in, given that I understand the so-called Roundup that they were intending to use has instructions on it that it is not to be used near waterways.

Ms CORBYN: We have a particular role. The herbicide that is being used—I am not sure that it is Roundup to which you have referred. I cannot remember the name of what is being progressed, but the Australian Pesticides and Veterinary Medicine Authority [APVMA] sets the controls. It is my understanding that it is the Commonwealth setting the requirements. It has given its approval for the use of the particular herbicide that is being used for salvinia. We have a role in controlling the use, according to the labels that have been approved by the APVMA. It is my understanding that, yes, we have gone through to make sure that the environmental factors are being met and would not be harmful from an environmental perspective. Our people have looked at the application, but it is the Commonwealth APVMA that has given the approval for use in this particular circumstance. It would go through, from a Commonwealth perspective, and make sure the requirements take into account the environmental considerations as well as the weed. I think from our perspective it is an appropriate use for the circumstances.

CHAIR: The regulatory body has more practice in looking at agricultural circumstances, and we are dealing with a sensitive environmental issue. We have downstream impacts on the prawning and fishing industry and on the recreational fishing industry. Does that not make it a direct issue for the Environment Protection Authority?

Ms CORBYN: Certainly the way the pesticides legislation works, it is the Commonwealth APVMA that sets the requirements and does the assessments. But it is my understanding that it has done that in this particular case and has given an approval. What we do from a regulatory perspective is to enforce the control of use according to the requirements that have been set out by the APVMA. It is my understanding that that has occurred and that there has been good consultation in relation particularly to salvinia. As the Minister said, we are also interested in making sure that there is a comprehensive package in dealing with environmental flow for the long-term to deal with the issue of weed growth in the Hawkesbury and Nepean for the long term.

CHAIR: Can you give an indication of the total budget for the production of the alpine resorts plan?

Mr BOB DEBUS: I will have to take that on notice. No, I do not. The Department of Infrastructure, Planning and Natural Resources is responsible for its preparation.

CHAIR: We will opt out of that one for the moment.

Mr BOB DEBUS: Legitimately.

CHAIR: But you do have a role in that the National Parks and Wildlife Service has a role in indicating the economic analysis that deals with the impact that the resorts will have on the regional economy, does it not? So would it not be a shared responsibility?

Mr BOB DEBUS: National Parks makes input into the DIPNR process. Dr Fleming is a great expert on this matter, and I am sure he can further—

CHAIR: I do not want to expose your turf warfare with DIPNR, but perhaps we can get some information.

Mr BOB DEBUS: He is also an expert on keeping peace with DIPNR.

CHAIR: Good. Thank you, Dr Fleming.

Dr FLEMING: As the Minister said, the alpine resorts plan is the responsibility of the Department of Planning. You will recall that some legislative changes over the past couple of years transferred the decision-making on resort areas to that other department, and that plan is the consequence of one of those legislative changes. At the same time, we have sat on a committee that has been involved in the development of that plan. So, although we are not responsible for its development, we have provided comment on and been involved in the consultation process regarding development of the plan. That plan was put out for public exhibition a little earlier this year. In parallel with the development of that plan, we have been developing the Kosciuszko National Park plan of management for the whole of the national park. So those two planning exercises have been occurring in parallel.

CHAIR: How does that fit with the concern that no studies have been done of how regional economies will be impacted by having the resorts constructed within the national park, as opposed to existing gateway towns? That must be of concern to your department.

Dr Fleming: Issues concerning the economics of those resort areas are being dealt with through the alpine resorts plan, so it is not really a matter for me to directly comment on. I think that is better left to DIPNR to talk to directly. Studies have been done in which both ourselves and DIPNR have been involved, looking at the economic benefits of resort areas to surrounding regional economies. Both departments have been involved in commissioning studies to that effect, as have agencies across the alps been looking at the ski resort areas more generally.

CHAIR: Would that be before it begins to determine the development application for the park?

Dr Fleming: I am not sure which development application you are talking to. They are determining development applications on a day-to-day basis for individual lodges and other activities within the resort areas.

CHAIR: I am thinking more of the whole issue of transferring from gateway towns—the concept of outside the park and transporting people in, as opposed to talks constructed within the national park.

Dr Fleming: My understanding is that, in developing the alpine resorts plan, they took account of the economic analysis that was done about the regional economic impacts of the ski resort areas, so that some analysis was done. But, again, regarding the detail of their process, I think it would be better if you talk to that department.

CHAIR: The independent scientific committee was engaged by government to provide advice to the planner's management review process. Is the Government aware that the current exposure draft alpine resorts plan and the plan of management have presented use and development proposals that contradict the findings and recommendations of the ISC?

Dr Fleming: The independent scientific committee was a process that we initiated. It brought together a range of people from academic disciplines who had a lot of experience and produced a really useful report about the scientific issues that we needed to take into account when we developed the plan of management for Kosciuszko. I know it has been drawn upon by DIPNR in the development of that plan.

CHAIR: Has your department heeded the advice of that committee on impacts of climate change, impacts of resort development, and the need for effective feral animal control?

Dr Fleming: Only some of the issues raised by the scientific committee are capable of being dealt with in the words of a plan of management. Some of it goes to more detailed operational activities. I am confident that the draft plan of management, which has been on exhibition until recently for Kosciuszko, takes a great deal of account of the work of the scientific committee as a very important part of the development of that plan.

Mr BOB DEBUS: Notwithstanding the odd piece of what I might describe as general ritual criticism of the process of preparation for the new plan of management, I must say that the plan of management for Kosciuszko seems to me to be quite exemplary. It has had more work done on it, and has been the subject of more consultation with interested parties, than any plan of management ever implemented by National Parks.

CHAIR: I would like to move to another area, and that is the potential Illawarra Escarpment National Park. Minister. Could you explain whether any budgetary resource has been put into the investigation of that project? Is it something that we could see come to fruition? My question comes from a direct request from the people of the Illawarra.

Mr BOB DEBUS: I am certain it is funded. I do not know whether we have sufficient detail in the papers before us to be able to tell you which walking tracks and lookouts and plans of management will be put into effect.

CHAIR: I am talking about the overall concept of the Illawarra Escarpment National Park. We know that there have been projects that have been effective, but we are looking at the whole concept of that escarpment.

Mr BOB DEBUS: That was announced as part of the unbroken chain of national parks from the southern suburbs of Sydney to the northern suburbs of Melbourne. I think there needs to be formal gazettal of several pieces of land, particularly some Sydney Catchment Authority land, which may not yet be complete. We could find out the detail that for you.

CHAIR: I would appreciate that detail, Minister.

Mr BOB DEBUS: We will take that on notice—assuring you generally, however, that money is allocated, both this year and for some years into the future, for the upgrading of park facilities and the preparation of plans of management; and that appropriate programs are under way to gazette pieces of land that are in various tenures to bring about the formal reservation.

The Hon. DAVID CLARKE: Ms Corbyn, is it true that in March 2001 the EPA issued a clean-up notice to Waste Service for its Eastern Creek landfill?

Ms CORBYN: I will have to take that on notice. I do not know the detail of individual clean-up notices across the board.

The Hon. DAVID CLARKE: Will you also take on notice that a clean-up notice was issued for polluted water being discharged to a creek and for leachate discharging into a stormwater dam and onto an adjoining parcel of land?

Ms CORBYN: At which site?

The Hon. DAVID CLARKE: At the same site.

Ms CORBYN: At Eastern Creek?

The Hon. DAVID CLARKE: Yes.

Ms CORBYN: I will have to take that on notice, because I do not know the detail of 2001 clean-up notices.

The Hon. DAVID CLARKE: And can you take on notice why it was there was no fine issued for that, apart from \$320 for what I think is an administrative cost of issuing a clean-up notice?

Ms CORBYN: Yes, I will take that on notice. Could I explain generally that clean-up notices are a regulatory instrument for which we have an administrative fee. They do not attach fines. So, generally, you would not expect necessarily to have a fine associated with a clean-up notice.

The Hon. DAVID CLARKE: Can you also take on notice whether you had the power to issue a fine, in addition to that clean-up notice?

Ms CORBYN: I would be happy to.

The Hon. DAVID CLARKE: And, if you did have that power, why you did not issue a fine on that occasion? And, if the facts are as I say, what fines have you imposed on private sector landfill operators for similar offences?

Ms CORBYN: I would be happy to take that on notice.

The Hon. DAVID CLARKE: Thank you.

Mr BOB DEBUS: We are taking it on notice bearing in mind the almost endless description that we have so far provided of prosecutorial guidelines under which the EPA works, without fear or favour, to private or public sector participants in the waste industry.

The Hon. DAVID CLARKE: Thank you for that clarification, Minister. Ms Corbyn, did you become aware in late 2003 that landfill gas—methane—had been detected on properties neighbouring Waste Service's Eastern Creek landfill?

Ms CORBYN: I am not sure of the date, but I am aware that we are dealing with landfill gas—not only on Waste Service sites but also on Collex sites. In particular we have taken what we believe to be a consistent approach when dealing with landfill gas.

The Hon. DAVID CLARKE: So you will take on notice my specific question on the Eastern Creek landfill?

Ms CORBYN: I can give you some further information on that.

The Hon. DAVID CLARKE: Thank you.

Ms CORBYN: We have required Waste Service most recently to monitor landfill gas levels and to implement landfill gas extraction measures to address the offsite migration of landfill gas. We also worked with Waste Service, which voluntarily brought forward quite an extensive program for dealing with offsite migration of landfill gas at that site, and I am aware that they had actually spent about \$1 million to bring that program forward. I am also aware, from discussions that I have had with other waste industries, Collex for example, that we have had a similar sort of situation at their Riverstone site, where they had a very similar problem with offsite migration of landfill gas. And we have also required Collex to monitor and implement control measures simile to those of Waste Service. So I am happy to take on notice the date aspect of the question.

Mr SMITH: If we could clear that up, we would not have to take it on notice. It was November 2003 when we became aware of it.

The Hon. DAVID CLARKE: That would be the period that I am talking about.

Mr SMITH: I think the crux of the question is consistency of treatment within the waste industry. There is a misunderstanding within the industry of the way that we work.

The Hon. DAVID CLARKE: That is not the question that I am going to ask you.

Mr BOB DEBUS: We will judge that matter when we have heard the question.

The Hon. DAVID CLARKE: Thank you. I am going to put the question now. Is not methane flammable and potentially explosive at concentrations as low as 5 to 15 per cent? And is it not possible that it can migrate along the route of pipelines kilometres from a landfill site? Is that not in fact what has been happening at Eastern Creek? Is that not a matter that should be of great concern to the people who live in that area?

Mr BOB DEBUS: Mr Smith is more directly associated, at an operational level, with these kinds of matters.

Mr SMITH: It is true that methane is potentially an explosive gas. You find it in coalmines and landfill. It is associated with the breakdown of material associated with coal. It is not an unusual thing for us to be dealing with it in landfill facilities. Most landfills require methane collections to be put in place. In fact, in many cases it becomes a source of valuable fuel for the generation of electricity. So it is quite a normal thing to be dealing with that in landfill. In the case of the Eastern Creek facility, yes, landfill gas, methane, was detected. And, as a result of that, we worked with the Waste Service to require them to fix it, to put in place a whole series of collection bores to collect that gas and to make sure that it was safely flared into the atmosphere so as to address the safety issues.

The Hon. DAVID CLARKE: Because otherwise it would have been a very dangerous situation.

Mr SMITH: As I say, methane is a fuel, and so it needs to be managed. That is correct.

The Hon. DAVID CLARKE: If the Waste Service cannot control the migration of landfill gas from the existing landfill at Eastern Creek, how can you approve the extension of the landfill to accommodate a further three million tonnes of waste?

Mr SMITH: The matter of approval of an extension of the waste facility is also the responsibility of the Minister for Planning. However—

The Hon. DAVID CLARKE: Well, I will ask the Minister.

Mr SMITH: That is a usual matter to be considered with an extension proposal.

The Hon. DAVID CLARKE: Minister, could I ask you for your reply to that question?

Mr BOB DEBUS: If you had adopted different lines of questioning about matters of policy regarding waste disposal, I might have given you a very great deal of information about our approach towards questions of alternative waste technology through which we are attempting to reduce the amount of putrescible waste in particular that goes to landfill. There is a very large, and apparently brilliant and successful, plant that has been opened at Eastern Creek within recent days for exactly that purpose.

But I put it to you that there is just no point in attempting to construct an argument that suggests that because you get methane coming out of a landfill, as it has come out of most landfills in most places throughout history, that somehow or another there should be no expansion of a landfill area when, without it, the city will have nowhere to put its waste. Over time we hope to have less and less landfill, but the fact that there is some gas leak at a particular occasion, which is, by the way, a problem that has been addressed, is no way an argument for not increasing the land available for landfill. That would be a planning catastrophe.

CHAIR: The methane has been used for electricity generation on that new plant.

Mr BOB DEBUS: On the new plant?

The Hon. ROBYN PARKER: Chair!

CHAIR: He is adding some more information.

Mr BOB DEBUS: The new plant, I can mention, actually is so good at converting waste that it is not connected to the water and sewerage system at all. It makes its own water. And it is connected to the electricity grid in order that it may feed electricity back into the grid.

Ms CORBYN: If I could comment? It is also the case that often with newly designed features of industry you can actually design good systems to be put in place, whereas we are trying sometimes to retrofit old systems, which is what we have required in the historical circumstances around landfills.

The Hon. HENRY TSANG: Is this technology being exported?

The Hon. ROBYN PARKER: Chair!

CHAIR: We are just in the middle.

The Hon. HENRY TSANG: I am just following up.

CHAIR: You can ask the question.

The Hon. HENRY TSANG: I am just following the same question. This sounds like a good electricity generating technology. The question is whether that is being exported.

Mr BOB DEBUS: It may well be of particular interest to the Hon. Henry Tsang that there are, as I understand it, exploratory negotiations under way at the present time with a number of authorities in China for the purpose of exporting this technology.

The Hon. ROBYN PARKER: In relation to the National Parks and Wildlife Service, have you cut staff as a result of your restructure?

Mr BOB DEBUS: I think over time we expect voluntary redundancy of about 55 people.

Ms CORBYN: And I might say that is equivalent full time [EFT] as we call it, so they are positions that may actually be a mix. It may be less than that depending on the mix of salaries that actually might be associated with the positions that might be reduced in the Parks and Wildlife division. At the present time I think the voluntary redundancies that we have actually received in Parks and Wildlife are five.

The Hon. ROBYN PARKER: Where have they gone?

Ms CORBYN: I do not know. They are voluntary redundancies. Some of the people—

The Hon. ROBYN PARKER: When you say over time, what are you talking about, in the next financial year and in the next six months?

Ms CORBYN: Yes, two years.

Mr BOB DEBUS: Over two years.

Ms CORBYN: Over two years. Some of those people may, in fact, be on Job Search leave, those who have accepted voluntary redundancies, if that is your question.

The Hon. ROBYN PARKER: I am just wondering how this is going to impact on your ability to carry out work in national parks.

Mr BOB DEBUS: The arrangements are being conducted with very great care to ensure that they do not affect so-called front-line activity. I think Dr Fleming might be able to explain that to you in just a little more detail.

Dr Fleming: The areas where we have sought savings in terms of salary dollars have been primarily in Hurstville, in the head office component of National Parks and also in what are called

operational support and co-ordination areas, which are the regional centres. We have specifically done everything we can to avoid the need for salary savings from existing field staff, rangers, field officer positions and the like.

Mr BOB DEBUS: I would like, by the way, to put some perspective around this matter. The budget for National Parks—not for the whole Department of Environment and Conservation—has increased from \$63 million in 1995 to \$190 million this year, which means that the amount of money allocated for the management of National Parks land has almost trebled.

CHAIR: Does that include acquisitions?

The Hon. ROBYN PARKER: Chair!

CHAIR: Sorry, I am just interested.

Mr BOB DEBUS: Yes, it would include acquisitions costs, which are relatively minor, though.

The Hon. ROBYN PARKER: That overall budget, though, in terms of salary funding can you provide some details on that? My understanding is that there has been a cut in the budget in staff funding.

Mr BOB DEBUS: I was explaining to you the historical situation. My point being that the adjustment in consequence of budget reductions in the present financial year are, relatively speaking, very minor.

The Hon. ROBYN PARKER: An \$8 million cut is minor?

Mr BOB DEBUS: It is not \$8 million.

The Hon. ROBYN PARKER: How much is it?

Mr BOB DEBUS: It is a 5 per cent cut—

Ms CORBYN: In budget terms.

Mr BOB DEBUS: —against, as I say, and expansion over the last decade of enormous proportions. I would rather it had not happened, but that is a circumstance and it needs to be kept in perspective.

The Hon. ROBYN PARKER: In the last financial year was there not a wages drop of some \$20 million or something like that?

Ms CORBYN: There is a budget saving in this financial year of \$16 million, but that is across the entire department, which, actually, not only includes the people who work on National Parks, but a range of other agencies, including the EPA. We have five or six different divisions, all of which would share in the budget savings that have been brought forward. We have been very clear to minimise the impact, as Dr Fleming said, on the front-line services in Parks and also in the regulatory side.

The Hon. ROBYN PARKER: The area of land managed by the National Parks and Wildlife Service is going to increase by 300,000 hectares in 2004-05. Whereabouts are those extra 300,000 hectares located?

Mr BOB DEBUS: We do not know. We are not sure where that figure comes from. But I can tell you in a general way that the major increases that are presently happening in the National Parks and Wildlife reserves are occurring in western New South Wales with the acquisition over recent years and continuing of a substantial number of former sheep and cattle properties, and in the northern directorate of the National Parks Service as we complete the process of the regional forest

agreement buying up leasehold land, Crown leases, and purchasing land through the Dunphy Wilderness Fund. There has been a large amount of land.

CHAIR: Time is up.

The Hon. ROBYN PARKER: I just have—

CHAIR: Time is up. I am sorry.

The Hon. ROBYN PARKER: We have been interrupted several times during questioning, Chair.

CHAIR: Ms Hale?

Ms SYLVIA HALE: The 2004-05 budget papers have forecast a gross income to Treasury from the waste levy of \$102 million in this current financial year, \$107 million next year, \$109 million the year after and \$108 million in 2007-08. For the 2004-05 year the Government has committed to hypothecate \$29 million, or 28.4 per cent, which means that the net amount of \$73 million will go to Treasury. Can you provide answers to the following: How would this funding be allocated each year for the next four years? Specifically, how much will be hypothecated each year and will the balance be allocated to entire metal expenditure? If not, what will it be spent on?

Mr BOB DEBUS: I will let Ms Corbyn answer all these questions of finance. But I think the main answer is that we cannot talk about what will happen in future budgets.

Ms SYLVIA HALE: But you can make forecasts as to income so you must be able to make forecasts as to how it will be expended?

Mr BOB DEBUS: No, it does not follow.

Ms CORBYN: It is a policy decision in terms of hypothecation. It is really within the budgetary process. We are not capable, from a departmental perspective, of actually responding to what the hypothecated amount will be. But what we can say is that for this budget the Government has been quite clear that we would have \$29 million to expend to be able to progress the programs. We have actually laid out those programs for this coming year and we require ministerial approval for waste programs. They are directed to achieve the objectives of the waste strategy that the Government has brought forward, and that waste strategy actually has a target in it to which we then direct the programs to try to achieve. There is a range of targets dealing with reduction of waste in various sectors, whether they be municipal or commercial or domestic, that we actually direct those programs to. Those programs are defined and then the Minister must approve them.

Ms SYLVIA HALE: Will you continue funding from the waste levy to ensure that recycling programs become economically viable instead of requiring ongoing subsidisation from local councils rate basis? Can the levy fund a council recycling rebate scheme, such as the one that operated successfully in the early 1990s?

Mr BOB DEBUS: Just very recently we had the first year report on the Government's recently announced waste strategy, produced by Resource New South Wales, which is now within the Sustainability Division of the Department of Environment and Conservation. Recycling targets were set for 2014 and the progress being presently made is pretty good. The target for 2014 is 66 per cent municipal recycling. In the last year it has increased from 26 per cent to 39 per cent. The commercial recycling target is 63 per cent, which has increased from 28 per cent to 33 per cent, and the construction industry recycling, which has a target of 76 per cent, has increased from 65 per cent to 75 per cent over the last year, which is a long way round of saying that really substantial improvements are being made and I do not think that I want to be in the situation of committing to detail policy arrangements when we are still assessing the degree to which existing arrangements are being successful. Mr Smith has something to add.

Mr SMITH: I just wanted to add that the strongest financial support that the Government could give to recycling is, in fact, the establishment of the levy because by adding the \$21.20 to every

tonne of the cost of putting waste into the landfill is \$21.20 support towards every tonne that goes into recycling, and that is a much more profound and effective way to stimulate the best, most effective sorts of recycling, rather than picking off individual programs for subsidy.

CHAIR: Could you confirm the variation in the budget now available for managing threatened species under the Threatened Species Conservation Amendment Bill as opposed to the resources allocated to managing threatened species under the current Act?

Mr BOB DEBUS: I think we should take it on notice. We have announced that, with the passage of the new bill, there will be an allocation. It comes from Minister Knowles' portfolio and I think it is associated with the native vegetation reforms—sorry, planning reforms. We have announced that there will be \$700,000 immediately available to finance teams of people from DIPNR, DEC and, presumably, one or two other places to work with councils in areas that are identified for high priority to establish threatened species conditions that will be incorporated into local environment plans. That actually includes the northern coast and the Sydney metropolitan area and the Canberra-Sydney corridor. We are going to give that really critical assistance through local government to get its act together very quickly on the question of the identification of threatened species and the implementation of protective measures within their own LEP.

CHAIR: In relation to the implementation of those processes that you have described, Minister, will not the lack of community rights of appeal in this legislation further endanger threatened species in this State?

Mr BOB DEBUS: I am sorry, would you say that again?

CHAIR: Just continuing on, will not the loss of community rights to third party appeals further endanger threatened species in this State under this new legislation?

Mr BOB DEBUS: I think that that is an incorrect implication. I will ask Simon Smith to respond. I might say to you generally that I am of the belief that the new threatened species legislation will be, as a matter of practical benefit, far more effective than the old threatened species legislation and it will be a win-win in the sense that it will be better for developers because it will give them more certainty, but it will be much more effective at actually protecting species.

CHAIR: Am I wrong that—

Mr BOB DEBUS: On the question of third party appeals, I will let Mr Simon Smith give a quick response.

Mr SMITH: The effect of the bill that is currently before Parliament is to increase the opportunities for the community to participate at the stage when it is actually going to make a difference because the bill sets out that the new planning instruments may or may not merit biodiversity certification from the Minister for the Environment. That provides a mechanism by which threatened species considerations get rolled in at the proper level, the strategic planning level. Under the current arrangements, it is only when you get down to the stage of individual development applications [DAs] that the public really gets to have a say about the landscape outcome and protection across the landscape for biodiversity conservation.

By the time you get down to individual development applications, as members would know, it is almost certainly too late to get a win-win outcome. It is just death by a thousand cuts if you look at it at the individual DA stage, whereas the reforms that are put in place provide for looking at the whole of a local government area, identifying the threatened species habitats, the corridors that need to be protected, and the whole areas that need to be set aside for management for conservation. At that stage the community can fully participate in the consideration of a draft LEP under the processes that already exist under the Environmental Planning and Assessment Act.

CHAIR: We will wait and see whether that can be a win-win between developers and conservation.

Mr SMITH: It is certain to be more successful than the current arrangements, in my view.

CHAIR: But it lessens the power of the community.

Mr SMITH: No, it increases it.

Mr BOB DEBUS: No, it increases it.

The Hon. HENRY TSANG: Up front.

Mr BOB DEBUS: And greatly increases the power of local government, which you may regard as a problem.

CHAIR: We are over time. Minister, I thank you very much.

Mr BOB DEBUS: May we seek an extension of time?

CHAIR: Absolutely, with pleasure. This is a first. I am honoured.

Ms CORBYN: I took a question on notice and I have got some additional information—a question on notice about what happened with the waste associated with the Olympics and the liquid waste treatment facility. I have received some advice that there may have been some waste that was diverted to Orica during the Olympics. We have taken that on notice and we will provide that information. I would not wish to leave the impression that there was no waste, so we will provide that information.

The Hon. ROBYN PARKER: If you like, I have the variation certificates here—if you would like to see that. Could I just also clarify something, seeing as we have an extension of time? Firstly, perhaps we could discuss that variation. I have got that here, if you wanted to go through that.

The Hon. JAN BURNSWOODS: Point of order: I am not sure what is meant by—

The Hon. ROBYN PARKER: The Minister asked a question before. I just wanted to clarify—

CHAIR: The Minister sought an extension of time.

The Hon. ROBYN PARKER: The Minister asked for an extension of time.

The Hon. JAN BURNSWOODS: My point of order is that to grant an extension of time would require a decision of the Committee. The Minister asked for it to add a few things, but of course there is also another committee in here shortly. If there is an extension of time, clearly it would be a matter for the Committee but it would certainly also be a matter of determining how that might be done, given that the other committee starts here in 10 minutes.

The Hon. DAVID CLARKE: I will move for an extension of five minutes.

Ms SYLVIA HALE: It might be worth asking the Minister to come back for a second hearing.

The Hon. JAN BURNSWOODS: I am not sure of the rules that relate to this.

CHAIR: I appreciate what Ms Burnswoods is saying. We are over time, and if there is another committee I appreciate that Hansard has to set up. Minister, as part of this process, I foreshadow that I think there is a possibility that you and your staff will be asked to return for further deliberations. Perhaps we can resolve it that way. We may well have to call another committee hearing. I do appreciate your generosity of the extension, but we are over time. I think we will have a deliberation about that.

The Hon. ROBYN PARKER: It is just a clarification relating to a question the Minister asked.

CHAIR: No more, thank you.

The Hon. HENRY TSANG: Put it in writing.

The Hon. ROBYN PARKER: It is in the budget papers.

CHAIR: There is ample opportunity for clarification on notice followed by further hearings at an agreed time that we can facilitate. Minister, I thank you and your departmental officers for your attendance here today. I advise witnesses that the Committee has resolved to seek the return of answers to questions taken on notice at the hearing within 35 calendar days. As I say, we will need to determine the Minister's availability and the availability of his departmental officers at a mutually agreed time, if we need two hearings.

Mr BOB DEBUS: Mr Chairman, strictly speaking, I believe that my officers are obliged by your various motions to be available, but I am not.

CHAIR: It would be a request that may be made.

Mr BOB DEBUS: It is a matter that I will take on notice.

The Committee proceeded to deliberate
