

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Wednesday 2 September 2015

Examination of proposed expenditure for the portfolio area

PLANNING

The Committee met at 2.00 p.m.

MEMBERS

The Hon. R. Borsak (Chair)

The Hon. D. J. Clarke
The Hon. M.S. Mallard
The Hon. P. G. Sharpe

Mr D. Shoebridge (Deputy Chair)
The Hon. B. Taylor
The Hon. L. J. Voltz

PRESENT

The Hon. Rob Stokes, *Minister for Planning*

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 to the public hearing for the inquiry into budget estimates 2015-2016. Before I commence I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Stokes and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Planning. Today's hearing is open to the public and is being broadcast live via the parliamentary website.

In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decides to take action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Chamber and support staff or the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Transcripts of this hearing will be available on the web from tomorrow morning. Finally, I ask everyone to turn off their mobile phones for the duration of the hearing. All witnesses from departments, statutory bodies or corporations must be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

JULIAN FRECKLINGTON, Chief Operating Officer, UrbanGrowth NSW,

TERRY BAILEY, Chief Executive, Office of Environment and Heritage, and

MARCUS RAY, Deputy Secretary, Planning Services, Department of Planning and Environment, affirmed and examined:

CAROLYN MCNALLY, Secretary, Department of Planning and Environment, and

LIZ DEVELIN, Deputy Secretary, Growth, Design and Programs, Department of Planning and Environment, sworn and examined:

CHAIR: I declare the proposed expenditure for the portfolio of Planning open for examination. As there is no provision for a Minister to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

The Hon. PENNY SHARPE: Minister, in 2011 the Liberal-Nationals election policy stated that you would completely overhaul the State's 30-year planning legislation to ensure it provides greater certainty, transparency, timeliness and merit-based decision-making. On 2 May this year in the *Sydney Morning Herald* you indicated that you were going to overhaul planning laws and that it was on the cards. You refreshingly stated that, as the Minister, you did not understand our planning laws. You said:

If that's not an indictment on how complex they are, I don't know what is.

And on 9 June in the *Australian Financial Review* you said:

There are many reforms anticipated by the planning act that can be done under existing legislation ... That's what I'm getting on with ...

Then on 10 July Alex Mitchell wrote in *Crikey* that you were introducing procedures to speed up economically and environmentally sustainable development through the passage of a sustainable planning Act covering residential, commercial and industrial projects. Minister, that was a lengthy way to get to my question of what it is you are doing with the planning legislation.

Mr ROB STOKES: I will start with that one first. I am not quite sure where that came from because I have made no statements to that effect, but there are reforms—

The Hon. PENNY SHARPE: That was in 2011 when you first came to government, so you were not the Minister then.

Mr ROB STOKES: Okay. Some long overdue reforms are required to the Environmental Planning and Assessment Act. It was a shame that the Planning Bill 2013 could not proceed. There are many elements of that bill that are sensible and that can be proceeded with through administrative reforms. We are getting on with a number of them. For example, we recently exhibited changes to State environmental planning policies. We are currently looking at omitting 16 of the existing 60 or more State environmental planning policies. We are trying to simplify the system by removing instruments that have become obsolete. We are also looking to increase, in a sensible, incremental and responsive way, the categories of complying and exempt development to make it easier for the less contentious forms of development to proceed smoothly through the process. A number of legislative reforms are anticipated—certainly the reforms around the Greater Sydney Commission—

The Hon. PENNY SHARPE: Thank you, Minister. I will get to that in a minute. Are you saying that no new planning laws will be coming in this year that will deal with the issues outstanding from the last term of government?

Mr ROB STOKES: My legislative agenda for this year is the Greater Sydney Commission.

The Hon. PENNY SHARPE: Does your legislative agenda for next year include planning laws?

Mr ROB STOKES: That is something we will look at. The best way to describe the way that I approach this portfolio was summarised by the British mathematician Alfred Whitehead who once said that the

art of progress is to preserve change amid order and order amid change. The idea of huge utopian bills is probably not the best way to proceed and I think we have learnt that from history over the past 100 years—

The Hon. PENNY SHARPE: Minister, if I can just stop you there, you have made it clear on a number of occasions that you were going to bring in planning laws to adjust the problem and you have indicated how complex and difficult they are. What has made you change your mind and not progress in this way but instead take bites from around the edge of the planning system?

Mr ROB STOKES: Forgive me if I have not been clear. I am not suggesting that there will not be legislative changes. I am suggesting that for this year—you asked me specifically in relation to this year—the big legislative reform that I hope to introduce relates to the establishment of the Greater Sydney Commission, which is significant, standalone legislation that will help to shape planning decision-making into the future. In relation to other reforms, to other elements of planning, particularly the Environmental Planning and Assessment Act, there will obviously be the need for legislative change, but I intend to be consultative and to really listen to the community—certainly in its feedback relating to the Planning Bill 2013—and I will look at doing that once the reforms around the Greater Sydney Commission are bedded down.

The Hon. PENNY SHARPE: I welcome the fact that you will be very consultative on that. We are keen to speak with you about that as well. Before I move on, can I confirm that the Alex Mitchell article in which you talked about some sort of sustainable planning Act is not correct?

Mr ROB STOKES: Can I take that on notice? I cannot recall the reference.

The Hon. PENNY SHARPE: Yes. It was in *Crikey* on 10 July. It was a story essentially about the Greater Sydney Commission but within it he made this assertion that you were working on a separate sustainable planning Act.

Mr ROB STOKES: Right. I can confirm that there is no bill under preparation called the sustainable planning Act.

The Hon. PENNY SHARPE: Okay, thanks. When are we going to get a look at the legislation relating to the Greater Sydney Commission?

Mr ROB STOKES: I propose to introduce some legislation shortly to the Parliament.

The Hon. PENNY SHARPE: By "shortly" do you mean next week or next month?

Mr ROB STOKES: There are a couple of processes still to go through but I anticipate that being available within the next couple of weeks.

The Hon. PENNY SHARPE: Are you going to produce it as an exposure draft before introducing it to the Parliament?

Mr ROB STOKES: No. It would be introduced directly to the Parliament and it would go through those processes.

The Hon. PENNY SHARPE: Do you want to outline to the Committee what your intention is in relation to the Greater Sydney Commission? It has been reported, for example, that you are going to divide Sydney into six regions and that there are going to be plans for housing, jobs, transport and education within that. Can you outline to the Committee where you are going with that?

Mr ROB STOKES: I do not want to spoil the surprise too much, but what I will say—

Mr DAVID SHOEBRIDGE: Some people would call it consulting, Minister.

Mr ROB STOKES: There are parliamentary procedures for it to go through, which is absolutely appropriate. I have learned that for many years there has been talk of setting up a Greater Sydney Commission. The first proposal came through a conference of mayors in 1898. There were bills that went to Parliament in 1915, 1918, 1921 and 1927, and then the County of Cumberland Planning Scheme was developed. That failed because it was too disconnected from the processes of government. The Western Sydney Parklands is what was

left from that exercise in planning. Then there was the State Planning Authority from 1963. That stumbled because it was, I suppose, too dependent or too centralistic in its focus, but it produced the Sydney Region Outline Plan.

Mr DAVID SHOEBRIDGE: And we had Premiers such as Askin.

The Hon. PENNY SHARPE: I appreciate the history lesson, Minister. If you will not tell us, that is fine, I will move on.

Mr ROB STOKES: I am trying to provide some detail because I think it is important. What I am getting at is that there have been different mechanisms to introduce metropolitan governance. They have all met with various levels of success, but what we have learned from them and from different models from overseas—Metro Vancouver, the Greater London Authority, Auckland Council—is that the ones that work are a partnership. They work as a partnership between State and local government, and also across the various agencies of the State. To get metropolitan governance right you need to have a partnership. What I can say is that the model will be based on that concept of partnership and also the districts that you referred to, or the planning subregions, they have been out for some time, and they were consulted on with local councils in preparing those boundaries.

The Hon. PENNY SHARPE: What consultation is happening with industry in the community in the lead-up to the introduction of this legislation?

Mr ROB STOKES: There has been significant consultation in relation to the thinking around the Greater Sydney Commission, so there has been consultation with various local government organisations with the—

The Hon. PENNY SHARPE: Is that individual local governments or Local Government NSW?

Mr ROB STOKES: I will take on notice the specific discussions I have had and that the department has had.

The Hon. PENNY SHARPE: That will be great.

Mr ROB STOKES: Suffice to say there have been consultations at every level with industry groups, with community groups, with local government groups.

The Hon. PENNY SHARPE: Minister, is it still your intention to have the Greater Sydney Commission as part of the Department of Planning and Environment?

Mr ROB STOKES: The idea is that it would be a separate entity, although it would ultimately report, and some of the staff would come from the Department of Planning and Environment so they would be seconded.

The Hon. PENNY SHARPE: Its primary report will be to you or to the Premier?

Mr ROB STOKES: It would be through the secretary, but it would report to me.

The Hon. PENNY SHARPE: The reason I am asking is I am sure you are familiar with Labor's support for the Greater Sydney Commission.

Mr ROB STOKES: For which I am grateful.

The Hon. PENNY SHARPE: It has bipartisan support. I am trying to explore with you—

Mr DAVID SHOEBRIDGE: But you do not know what it is.

The Hon. PENNY SHARPE: I am trying to find out what it is.

Mr DAVID SHOEBRIDGE: You support it but you do not know what it is.

The Hon. LYNDA VOLTZ: We support the concept.

The Hon. PENNY SHARPE: We support the concept of good planning for the city, yes.

Mr DAVID SHOEBRIDGE: But you do not know what it is.

The Hon. PENNY SHARPE: Labor's view is that it should be a central part of government and report to the Premier. I will wait to see where you go with that, although it does not sound like you will take that one up. I am interested in the ability of the commission, as you see it, to get other departments to align their planning to the Metropolitan Strategy that will no doubt come out of the Greater Sydney Commission. Do you have a view about that?

Mr ROB STOKES: Sorry? I was writing down a note.

The Hon. PENNY SHARPE: Labor's view is that one of the things that the Greater Sydney Commission could do is force departments to align their spending plans based on the broader Metropolitan Strategy. Do you agree with that approach?

Mr ROB STOKES: Certainly the vision is for the Greater Sydney Commission. The way in which a body like this will work is for it to have a level of independence from central government, but central government obviously needs to make its decisions. The democratically elected government of the day needs to make decisions about funding priorities. There will always be a tension between these sorts of things. These issues are addressed in the bill. I will say that much to date, but certainly these tensions have been around for a long time. That is why you need the architecture to set up the right conversations.

The Hon. PENNY SHARPE: How will the six divisions or areas with a grouping of councils fit in with your proposals for Fit for the Future in local government reform?

Mr ROB STOKES: The two processes are separate yet interlinked. Obviously the stronger and more independently the councils are able to function the more effective partners they are going to be in being able to engage in strategic planning and development assessment. At the same time, the boundaries have been determined previously in consultation with local councils. If local government reform requires change, we will look at it, although most of the models that have been presented through the Fit for the Future process actually coincide with the district boundaries, because the district boundaries were a result of consultation with local government and they broadly work in respect of the community's interest.

The Hon. PENNY SHARPE: How many of your senior staff within the Department of Planning and Environment have planning qualifications?

Mr ROB STOKES: I will have to take that on notice, although I will defer to the secretary who might be able to provide some more details.

The Hon. PENNY SHARPE: Ms McNally, do you have planning qualifications?

Ms McNALLY: No, I do not, but I have done a lot of strategic planning throughout my career, including the Long Term Transport Master Plan, 17 other regional transport plans, and other plans, and a range of plans in the Commonwealth Government. Recently I have advertised for a chief planner.

The Hon. PENNY SHARPE: We will get to that in a minute. Will you provide me with the number of staff at your level, deputy secretary level and executive director level who have formal planning qualifications? I am happy for you to take it on notice; I do not expect you to be able to answer it now.

Ms McNALLY: I will take that on notice.

Mr ROB STOKES: Can I add also, we need to point out that planning is, in essence, a multidisciplinary discipline. Planning qualifications formally have only been around for about 100 years, so there will be a lot of different—

The Hon. PENNY SHARPE: But no-one is over 100 in the department.

Mr ROB STOKES: You need a mix of skills in the department.

The Hon. PENNY SHARPE: Sure. I am interested in how many people have planning skills, which leads me to my question about the chief planner. I am fascinated that the Department of Planning and Environment has decided that it needs a chief planner. Can you tell us why you have decided to go down that path?

Mr ROB STOKES: I will defer to the secretary in a moment, but I would have thought, and I agree, that the idea of having that sort of specific focus on strategic planning is very important. We have a Chief Architect and a Chief Scientist. I think it is eminently reasonable to also have a chief planner. It certainly points to the importance, we believe, of strategic planning. For many years planning has gone down a route of being focused very strongly on development assessment, which is terrific, but it is also important to ensure that there is an appropriate focus on strategic planning for the future as well. The secretary might have more to add.

Ms McNALLY: I agree with the Minister. I have been in the job now for just over 12 months. I am doing an analysis of the department and what we need going forward to meet the range of Government priorities. I have identified that a lot of what we do requires strong linkages, including across the department and with a range of stakeholders across other departments. To get that visibility it was important to have someone whose job it was to focus on work that was happening around the strategic planning part of our work, work that was happening around the assessment part of our work, and work that was happening at the policy level. A chief planner will not have direct reports, so that person will not run a part of the business. That person will provide a more strategic role within the department working across government and with other stakeholders to help us work together on the planning outcomes we want to achieve long term.

The Hon. PENNY SHARPE: How will they work with the Greater Sydney Commission?

Ms McNALLY: We also have regional planning requirements. I have met with a number of councils. There are peri-urban issues, there are urban issues and there are regional issues.

The Hon. PENNY SHARPE: We have the Department of Planning and Environment, we will have the Greater Sydney Commission and we will have the chief planner. I am trying to understand the role of the chief planner in these different places.

Ms McNALLY: One thing we often need to do is, if we are looking at a priority precinct, for example, look at what kind of strategic planning is needed versus what are the council requirements, and so on.

The Hon. PENNY SHARPE: Is this not the normal role of the department?

Ms McNALLY: I would hope that the department would do it normally but one of the things I have identified since I have been there is that we need to step up in that area. One of the things I did when I first came into the job was to meet with a lot of stakeholders and find out what their concerns were about the department—because there were concerns. One of the issues identified was the need to increase our strategic planning capability.

The Hon. PENNY SHARPE: I will not progress with that. I want to ask you about the Hunter Development Corporation and the resignation of Paul Broad. Minister, do you agree with Mr Broad that you should not be developing in the rail corridor in Newcastle?

Mr ROB STOKES: I note that these matters are currently under consideration by the court, which is considering section 99A of the Transport Administration Act. So in one sense I will listen to what the court has to say but I think there are some terrific opportunities to look at urban renewal in Newcastle more broadly. That of course includes consideration of opportunities that may exist within the rail corridor. If we look back—

The Hon. PENNY SHARPE: I will just stop you there. You have just said to me that this matter is before the court. Why is UrbanGrowth at the moment talking about the range of different designs that would be built within the corridor?

Mr ROB STOKES: There are four options as part of the design in Newcastle. The community is being consulted on those. One envisages little to no development of the rail corridor. The others imagine more intensive forms of development. So it is an iterative process of consultation with the community. Obviously

there are polarised views in the community about the truncation of the rail network. I think it is ironic that back in the—

The Hon. PENNY SHARPE: I am not asking that; I am asking about the preservation of the corridor for the future. Mr Broad said that when the Hunter Development Corporation [HDC] was putting the renewable report together—as you know they have supported truncation strongly for a long period of time—they believed that they had a pact with the community that they would not be developing the corridor. Do you disagree with that?

Mr ROB STOKES: I think it is absolutely appropriate that UrbanGrowth are engaged in a process of consultation and looking at options that include looking at the development opportunities within the rail corridor.

The Hon. LYNDA VOLTZ: They are not consulting. They put out four options and said, "Here, vote on which one you like the best."

Mr ROB STOKES: I reject that characterisation. They have obviously put out some options to spur some discussion. I have been to one of the consultation events and there was a wide range of views, all sorts of ideas that were raised. Those ideas were put out there. This is part of a longer process. There was a Revitalising Newcastle process beforehand. I am not sure if Julian has anything more to add.

The Hon. PENNY SHARPE: That is fine. The other comment that Mr Broad made was that there had been "a massive shift in power from Newcastle to Macquarie Street". Do you agree with that view?

Mr ROB STOKES: No.

The Hon. PENNY SHARPE: You do not believe that people in Newcastle are being run over by UrbanGrowth coming in?

Mr ROB STOKES: No, because as I have already referred to, this is an organisation that prides itself on deep and strong community engagement and has a long history of doing so. As part of these processes there has been strong consultation—talking to the people of Newcastle to find out what they want for their city.

Mr DAVID SHOEBRIDGE: Two of the principal objectives of the Landcom Corporation Act, which is what UrbanGrowth operates under, are: to exhibit a sense of social responsibility by having regard to the interests of the community; and to protect the environment by conduction operations in compliance with the principles of ecologically sustainable development. Are you aware of those objectives?

Mr ROB STOKES: I am aware of section 6.

Mr DAVID SHOEBRIDGE: Why is there not a single board member that reflects either of those principles? There is nobody to speak up for the environment and nobody within the organisation to speak up for any kind of social responsibility.

Mr ROB STOKES: What I will say is that every board member is expected to deliver on the outcomes outlined within the objectives of the organisation. But I can confirm that I have not made any appointments to the board.

Mr DAVID SHOEBRIDGE: No, you are stuck with a board that is chaired by John Brogden. I assume he is there because of his political connections and his experience in the financial sector. Is that right?

Mr ROB STOKES: I cannot comment on an appointment that I did not make.

Mr DAVID SHOEBRIDGE: Do you know what skills he brings to the board, apart from his political connections and his experience in the financial sector? It is a board that reports to you.

Mr ROB STOKES: He has been, in my estimation, an excellent chair. He is very responsive and he keeps me updated with what is going on. He has strong skills in relation to corporate governance. He is, in fact, the CEO of the Australian Institute of Company Directors.

Mr DAVID SHOEBRIDGE: You have Robert Hamilton on the board. He has had 50 years in the property industry and is co-founder of Mirvac, a developer. He does not have any experience in ecologically sustainable development or on issues in relation to social responsibility. He is a developer.

Mr ROB STOKES: I will make a couple of points. Landcom does operate as a development corporation; it is appropriate that it has skills in the development industry.

Mr DAVID SHOEBRIDGE: They are the only skills on the board. Karen Penrose is chair of ASX boards, non-executive director with Marshall Investments and sits on the board of a retail property trust. Matthew Quinn was managing director of Stockland, up until 2013. The only board member who is not in the property or finance industry is Ken Maher, who is an architect. You have nobody to speak to a sense of social responsibility or to protect the environment. It is a big miss, is it not?

Mr ROB STOKES: I disagree. I think all of the members of the board are there to deliver on the objectives of the corporation. That is what they are there to do. They have a broad range of experience and they have my confidence.

Mr DAVID SHOEBRIDGE: Not one of them has experience with community engagement. Not one of them has the appropriate experience in terms of dealing with the environmental issues that should be at the forefront of UrbanGrowth's business model.

Mr ROB STOKES: Certainly, some members have had experience of development companies like Mirvac and Stockland. These are companies that have a strong involvement in relation to sustainability and building communities.

Mr DAVID SHOEBRIDGE: Seriously, your evidence to this committee is that the guys—and apart from Karen, the property developer directors are all blokes—that come from the property development industry are what stands between UrbanGrowth and environment destruction. I am talking about two representatives from the property industry.

Mr ROB STOKES: No, they have a wide range of experience. They are there to do a job and the job is articulated in the legislation.

Mr DAVID SHOEBRIDGE: They are there to do a job, it is right, is it not, to maximise the development yield regardless of the environmental or social impacts? That is what is happening in Newcastle.

Mr ROB STOKES: They are there to act consistent with the legislation.

Mr DAVID SHOEBRIDGE: What about the corporate management team? What proportion of the management team of UrbanGrowth come from the property development sector? From what I can tell from their public profiles, it is at least six out of 11. Perhaps Mr Frecklington can assist. What proportion of the corporate management team comes out of the property sector?

Mr FRECKLINGTON: I think you just answered the question: six out of 11.

Mr DAVID SHOEBRIDGE: It was six out 11 who are in the public. I will not name them all but there are a whole series who do not have any public profile, so we cannot tell.

Mr FRECKLINGTON: There is a diverse skills set in the corporate management team which includes people with—

Mr DAVID SHOEBRIDGE: Property, property, property and property. That is about as diverse as it gets.

The Hon. SHAYNE MALLARD: Point of order: Mr David Shoebridge has asked a question. He should let the witness answer the question rather than harassing him.

Mr FRECKLINGTON: As the Minister said, I think it is appropriate, given that UrbanGrowth is involved in urban transformation, that we have people in senior management that have development expertise. If you look more deeply at the skill set throughout the organisation you will see that we have engineers, planners,

people with media and communications background and lawyers. Forty-six per cent of our staff are women. We have a very diverse range of skills and gender to bring to the table. I would also add in relation to our board members that Ken Maher is chair of the CRC [cooperative research centre] for Low Carbon Living and is intimately involved in environmentally sustainable development and brings that flavour to our board.

Mr DAVID SHOEBRIDGE: Perhaps you could provide a detailed answer on notice about the corporate management team.

Mr FRECKLINGTON: As you pointed out, there are six out of 11—that is just over half—have development expertise, which is right for an organisation that focuses on urban transformation. As I said, there is a diverse skill set across the senior management team and more broadly within the organisation.

Mr DAVID SHOEBRIDGE: Do you know if Robert Hawes, the General Manager of the Hunter Development Corporation, still has property interests at Wickham?

Mr FRECKLINGTON: I will defer to the Secretary. My understanding is—

Mr DAVID SHOEBRIDGE: She had no idea last time I asked.

Mr FRECKLINGTON: I will defer to the Secretary but I will open with a preliminary comment. I understand, from my briefing, that he had a part share in a property that has been sold. I understand that the other is being prepared for sale. That is a much more minor interest, as a proportion.

Ms McNALLY: That is correct. The first property, he has sold. I think the finalisation of the sale arrangements is in October. The other property is up for auction later this month.

Mr DAVID SHOEBRIDGE: Do you know whether, in the course of those sales, he obtained a financial benefit as a result of the changes that happened to Newcastle planning that were partly driven by the Hunter Development Corporation?

Ms McNALLY: I am not aware that there were any financial benefits directly as a result of those.

Mr DAVID SHOEBRIDGE: Have you made any investigations?

Ms McNALLY: I have asked him those questions.

Mr DAVID SHOEBRIDGE: You have asked him?

Ms McNALLY: That is correct.

Mr DAVID SHOEBRIDGE: And he said "No".

Ms McNALLY: That is correct.

Mr DAVID SHOEBRIDGE: And that has been your due diligence, seriously?

Ms McNALLY: He is required to provide me with advice about any conflicts of interest or any particular—

Mr DAVID SHOEBRIDGE: But he has a conflict of interest in providing that advice. You asked him if he made a profit as a result of the changes in the zone or the rezoning proposals from the Hunter Development Corporation. He said "No", and you said, "Terrific." Was that the investigation?

Ms McNALLY: No. I did not say "Terrific"; I asked him the questions.

Mr DAVID SHOEBRIDGE: What did you say?

Ms McNALLY: He has actually provided his information to the department. He has updated it twice in the past six months and he is keeping me aware of the process.

Mr DAVID SHOEBRIDGE: Can you provide full details on notice of his current property holdings in the area?

Ms McNALLY: I can.

Mr DAVID SHOEBRIDGE: And perhaps details of whatever due diligence you have made to ensure that he did not have a conflict of interest, and does not continue to have a conflict of interest as a result of those property dealings and holdings.

Ms McNALLY: All officers are required to declare any potential conflicts of interest. He has updated his conflict of interest form at least twice in the past few months and he is keeping me abreast of the transactions.

Mr DAVID SHOEBRIDGE: Dealing with a conflict of interest is not just putting it on the table and saying you have it. It is you putting in place a strategy that makes sure that the general manager's conflict of interest does not conflict with his duties. Apart from disclosure, what have you done to ensure that the conflict of interest that he tables does not conflict with his duties?

Ms McNALLY: A range of activity has happened. One is that he is required to declare, prior to any activity, that he is involved in or associated with the corridor and what his conflicts would be. He has excused himself from any activity related to the corridor. He has excused himself from any relevant board meetings. No papers are provided to him on any of those topics as they are considered at board meetings. And so as a result of him declaring his conflict of interest, a number of measures have been taken to make sure that he does not have information and that he is not party to any discussions on those matters.

Mr DAVID SHOEBRIDGE: But development on the corridor and any issues relating to development at or about the corridor is a big part of what the Hunter Development Corporation is looking at, is it not?

Ms McNALLY: The Hunter Development Corporation has some roles and there are other officers that are taking on those duties.

Mr DAVID SHOEBRIDGE: Is that a long way of saying, "Yes. It is a big part of what the Hunter Development Corporation is looking at"? Your general manager, because he has a conflict of interest, is running out of the room every time it comes up. Is that seriously what is going on at the Hunter Development Corporation?

Ms McNALLY: There is a range of activity that the Hunter Development Corporation undertakes. They are involved in a number of activities. In relation to anything to do with the corridor, there is another officer that has responsibility for managing those matters.

Mr DAVID SHOEBRIDGE: So you have the general manager there. You have this key issue about the corridor going and every time any issue about the corridor arises, you tell me he sticks cottonwool in his ears, calls out "La, la, la, la, la", and runs out of the building. Is that really what is going on?

The Hon. BRONNIE TAYLOR: Point of order: The witness has answered the question. She said that she will take aspects of the question on notice.

Mr DAVID SHOEBRIDGE: No, she did not.

The Hon. BRONNIE TAYLOR: Mr David Shoebridge keeps repeating the same question.

The Hon. LYNDA VOLTZ: To the point of order: We have had interruptions like this in the past. If a member wants to take a point of order he or she should do so by way of standing orders. Members are entitled to ask questions that relate to the brief of the Minister, and that is exactly what the member is doing.

CHAIR: Order! There is no point of order.

Mr DAVID SHOEBRIDGE: Is that what happens? Every time that anything about the corridor arises, he basically has to stick cottonwool in his ears, cover them, and run from the room screaming "La, la, la, la, la", to avoid dealing with a matter where he has a conflict.

Ms McNALLY: I believe I have already answered that question.

The Hon. SHAYNE MALLARD: It works in councils.

Ms McNALLY: He excuses himself from those proceedings and he is not provided with any paperwork.

The Hon. LYNDA VOLTZ: It does not work on the Auburn council.

Mr DAVID SHOEBRIDGE: It does not work on councils since you changed the law.

The Hon. PENNY SHARPE: That is right.

Mr DAVID SHOEBRIDGE: They can stay in the councils.

The Hon. LYNDA VOLTZ: You might want to rethink that one, Shayne.

Mr DAVID SHOEBRIDGE: That brings me to section 451 of the Local Government Act. Minister, your department is responsible for signing off on changes to local environmental plans [LEPs], including LEPs where councillors who for the better part of the past three years have had a direct pecuniary interest in the outcomes and have voted on those rezoning proposals. What have you done in your department to ensure that the public interest is protected in that process?

Mr ROB STOKES: In relation to section 451 and the processes within local government, that is really a matter for the local government Minister. Once a planning proposal that is prepared by a council under the processes of part 3 of the Act—I think it is section 55, from memory—comes to the department, it goes for a process of gateway assessment through the LEP panel where it is tested under section 56, I believe, to determine whether it exhibits strategic merit. So there is a peer review process of the planning proposals that are developed and put forward by local councils. It is only if those proposals are found to exhibit such merit for consistency with strategic planning that they are then able to be made.

Mr DAVID SHOEBRIDGE: You just say that you hope it has had some sort of integrity as a result of the changes made to section 451 and then you do not look at that any further. Is that right?

Mr ROB STOKES: No, that is not what I said. The process by which a council votes on an application is clearly a matter for the council and is regulated under the Local Government Act. Where it comes into intersection with the Planning Act, any proposal that is prepared by or on behalf of a council then goes through a process of, if you like, a form of peer review or testing within the department to check that it exhibits merit.

Mr DAVID SHOEBRIDGE: Moving on then to the pre-gateway review, you have tabled the papers, I think, today—or released the discussion paper today—of the findings and recommendations reported on the pre-gateway review. In regard to the benefit of the pre-gateway review, the benefits identified that the 29 pre-gateway review requests determined to proceed to gateway determination would deliver a combined capacity of approximately 4,737 homes and 4,485 jobs. Then you say that the number of pre-gateway review requests equates to approximately 7 per cent of planning proposals submitted to gateway annually. That is the beginning and the end of your assessments of the benefits of the gateway review in this report. Why is there so little?

Mr ROB STOKES: That report is not my report; it is a report commissioned by the former Minister and it has been released, and I have acted on the basis of it.

Mr DAVID SHOEBRIDGE: I am happy to ask the secretary, through you—whoever is best positioned to speak to the report the following question. The report's only consideration of the benefits of the pre-gateway review seems to be the number of construction jobs and the number of buildings.

Mr ROB STOKES: No. I certainly do not concede it that way. I will provide some preliminary comments.

Mr DAVID SHOEBRIDGE: That is what I am asking about.

Mr ROB STOKES: I will then refer to the secretary. I think one of the key issues involved in planning proposals is that under section 73 of the Environmental Planning and Assessment Act, councils are required to keep their plans under constant review to ensure that they reflect the aspirations of their local communities. We have examples where the fundamental rezoning has not really been examined for many years and things have changed in the community, and those plans do not necessarily reflect the reality, or the demand or the aspirations of the community. The pre-gateway process was really a way in which, if a council had refused an application or when a council had not made a decision within 90 days—and in fact in the case of regional councils about 44 per cent of gateway review requests from the regions related to where the council had failed to make a decision—there was really a need for a vehicle for those planning proposals to be tested and to see whether there was strategic merit in those proposals getting ahead.

I guess the challenge—and what I was keen to ensure—was that there was an appropriate test and rigour around that idea of strategic merit so that the presumption is that the decision of council is the right decision. But of course there are many instances where councils do not always get it right and where there is an opportunity to test that. That is now going to the Joint Regional Planning Panel rather than directly through the department.

Mr DAVID SHOEBRIDGE: Minister, the review does not recommend a presumption at all.

Mr ROB STOKES: Well, that is my construction of synthesising the details in the report.

Mr DAVID SHOEBRIDGE: It does not say it anywhere. It does not say that the onus is on the developer. It does not say there is a presumption in favour of the planning controls.

Mr ROB STOKES: Well, I am saying it now.

Mr DAVID SHOEBRIDGE: Are you saying something different to what the document says?

Mr ROB STOKES: No, it does not say something different at all. If you look at the process by which strategic merit is determined—and I do not have it in front of me and I cannot recall the page, but it is clear—

Mr DAVID SHOEBRIDGE: Page 17.

Mr ROB STOKES: —you will find that a planning proposal can only get ahead if it exhibits strategic merit, and the way in which it might exhibit strategic merit is because it is consistent with either the local environmental plan or the regional plan and in a way that the council failed to recognise.

Mr DAVID SHOEBRIDGE: If you wanted to work out whether pre-gateway reviews have been successful or unsuccessful, surely you have to do more than look at the number of houses and jobs that were done. You have to look at the quality of the built outcomes—the quality of the environmental outcomes from the decisions. The review has fundamentally failed to do that. Can you explain why that was not part of the review?

Mr ROB STOKES: I commissioned the review and I can talk to the outcomes.

Mr DAVID SHOEBRIDGE: It was commissioned by the previous Minister.

Mr ROB STOKES: Pardon me; it was commissioned by the former Minister. I have responded to that review. I cannot talk to the terms under which the review was established, but perhaps the secretary can shed some light.

Ms McNALLY: It was outlined in the report that the pre-gateway review was set up for particular purposes: to provide a mechanism for applicants to have council rezoning decisions reviewed; to ensure that decisions on planning proposals that are well located, planned and assist with housing and job supply can be independently reviewed; and to provide transparency and greater certainty in plan making. Those were the aspects that we looked at, which was the basis upon which the pre-gateway process was set up originally.

Mr DAVID SHOEBRIDGE: Are you telling me that actual environmental outcomes, the built outcomes, were never part of the review?

Ms McNALLY: They were never part of the review.

Mr DAVID SHOEBRIDGE: How could you possibly work out whether it is a good or a bad thing to see the better part of 30 occasions when local councils' views have been overridden by the pre-gateway process? How could you possibly work out whether it was good or bad without looking at the built outcome, the final result?

Ms McNALLY: Part of the process continues to involve councils. Councils then approve the development application that is put onto the rezoning space.

Mr DAVID SHOEBRIDGE: Because you have done a job on them by overturning their local planning controls. You have not even gone and had a look at the effect on the ground. Do you understand how that would infuriate communities?

Ms McNALLY: We looked at the process that was put in place. A process was put in place for a particular purpose which I just outlined, and we said we would look at whether that was still needed in that process.

Mr DAVID SHOEBRIDGE: Before you assumed the position of Minister you said that the pre-gateway review should not provide endless backdoor opportunities for disreputable developers to push their proposals. But no threshold has been put in place, no threshold proposed as a result of this review. You can still have rats and mice development being pushed forward through pre-gateway reviews, as we have had to date, little three-storey walk-ups.

Mr ROB STOKES: Good developers can push for small proposals and bad developers can push for big proposals. The size of the proposal does not matter; it is the quality that counts.

Mr DAVID SHOEBRIDGE: You will be opening the door for rezoning proposals for potentially an extra floor or an extra two floors, putting councils through the entire cost and expenditure and process of a joint regional planning panel [JRPP] review for tiny outcomes like that, and you think that is good planning.

Mr ROB STOKES: No, that is not what I said at all.

Mr DAVID SHOEBRIDGE: Fifty-five per cent of them, to date, have been for projects of less than \$20 million.

The Hon. SHAYNE MALLARD: Can I ask what document Mr David Shoebridge is quoting from?

Mr DAVID SHOEBRIDGE: The Minister knows. It is a review document.

The Hon. PENNY SHARPE: We know the Hon. Shayne Mallard does not have much to do, but the Minister knows the document.

The Hon. SHAYNE MALLARD: I was not directing my question to the Hon. Penny Sharpe.

The Hon. LYNDA VOLTZ: You should not be directing questions at all.

Mr ROB STOKES: Sorry, I have lost the thread.

Mr DAVID SHOEBRIDGE: Fifty-five per cent of the proposals that have gone through the process to date have been for projects of less than \$20 million, rats and mice developments which have no impact on strategic planning outcomes. They put communities to enormous cost and expense and you will open the opportunity for more.

Mr ROB STOKES: No. I reject your characterisation of them as rats and mice developments. Developments that are less than \$20 million can have great impacts on local communities. I do not think you can disregard them as inconsequential. They are still of consequence.

Mr DAVID SHOEBRIDGE: Not to the local communities but in regard to strategic outcomes I can, which is what you say they are for.

The Hon. PENNY SHARPE: I bring you back to the rail corridor issue in Newcastle. Why has the Government departed from the Cabinet decision as outlined in Cabinet minute 71 about keeping the corridor in public hands?

Mr ROB STOKES: When was that Cabinet minute?

The Hon. PENNY SHARPE: It would have been in the previous Government. You were in Cabinet in the previous Government.

Mr ROB STOKES: What was the date?

The Hon. PENNY SHARPE: Sorry, I cannot give you the date. There was a Cabinet decision. It is the number 71 decision relating to the corridor.

Mr DAVID SHOEBRIDGE: The number 71 document.

The Hon. PENNY SHARPE: Yes, the number 71 document. Will you take it on notice?

Mr ROB STOKES: I simply cannot comment because I was not part of Cabinet at the time.

The Hon. PENNY SHARPE: I think you were, but will you take it on notice and come back to me?

Mr ROB STOKES: If I was I will take it on notice.

The Hon. PENNY SHARPE: Are you looking at changing the building heights in relation to what is being proposed in Newcastle?

Mr ROB STOKES: I met with a local residents group, the Newcastle Inner City Residents Association, and it expressed concern in relation to building heights.

The Hon. PENNY SHARPE: Particularly in the east end.

Mr ROB STOKES: Yes. I listened to their concerns and I asked UrbanGrowth NSW to consider its requests in its investigations of what developments it might put in. I understood its concerns in relation to human scale and also in relation to the heritage fabric of the east end. I strongly agree with those threshold considerations. I have sought that UrbanGrowth work with council to get a mutually agreeable outcome.

The Hon. PENNY SHARPE: That is very good; I am very happy about that.

Mr DAVID SHOEBRIDGE: Does that mean that you will hand planning controls back to council in that regard?

The Hon. PENNY SHARPE: Mr David Shoebridge has already had an opportunity to ask questions. I come back to Ms McNally and to the general manager of the Hunter Development Corporation. I refer to due diligence about managing potential conflicts of interest. Have you ever done a land title search in relation to him and to his land holdings?

Ms McNALLY: No, I have not.

The Hon. PENNY SHARPE: Would you consider doing that as part of the role of ensuring that conflicts of interest are dealt with properly?

Ms McNALLY: We have a conflicts of interest policy in place in the department. It is the responsibility of individuals to identify all their holdings and then to declare any conflicts in relation to those holdings. We have a large number of executives across the portfolio, and to do a land title search on all those executives would be fairly extensive. They are required to declare not only the conflicts but also all the land holdings they have, whether it is their family home, holiday home, or whatever.

The Hon. PENNY SHARPE: I have a question for UrbanGrowth. How many staff are located at the Elizabeth Street office of UrbanGrowth currently?

Mr FRECKLINGTON: We have approximately 200 staff, of which I would say approximately two-thirds are located either in the Elizabeth Street office or in a number of small project satellite offices in the city, with the other third remaining in our Parramatta office.

The Hon. PENNY SHARPE: How many staff are at the King Street office?

Mr FRECKLINGTON: Again, I take that question on notice for the specifics but I would say of the order of 10 to 15.

The Hon. PENNY SHARPE: Is that growing?

Mr FRECKLINGTON: We hope to consolidate the King Street office and the Elizabeth Street office at some point in time so we have a CBD office and retain our Parramatta Western Sydney office.

The Hon. PENNY SHARPE: But two-thirds will be in the CBD, is that right?

Mr FRECKLINGTON: Approximately two-thirds.

The Hon. PENNY SHARPE: Is the office in Parramatta in Eclipse Tower?

Mr FRECKLINGTON: Yes.

The Hon. PENNY SHARPE: Is it on level 14?

Mr FRECKLINGTON: Yes, the reception is on level 14.

The Hon. PENNY SHARPE: You say there is a third there so there are about 70 staff, is that right?

Mr FRECKLINGTON: Approximately.

The Hon. PENNY SHARPE: What is the capacity for staff in that office?

Mr FRECKLINGTON: The capacity is adequate to accommodate those 70 staff.

The Hon. PENNY SHARPE: Did you have excess capacity in relation to this?

Mr FRECKLINGTON: Previously when we were based 100 per cent at Parramatta that office was full. There is currently some excess capacity and we are considering our options regarding more utilisation of that premise, including some subleasing options.

The Hon. PENNY SHARPE: Are you saying there are about 100 empty desks sitting in Eclipse Tower in Parramatta?

Mr FRECKLINGTON: I would need to confirm the specific number. I will take that question on notice.

The Hon. PENNY SHARPE: But it would be about 100?

Mr FRECKLINGTON: I would have to take that question on notice.

The Hon. PENNY SHARPE: Minister, are you happy about UrbanGrowth consolidating its staff out of Western Sydney and into the central business district [CBD]?

Mr ROB STOKES: UrbanGrowth is not consolidating all its staff out of Western Sydney.

The Hon. PENNY SHARPE: You just said it was.

Mr ROB STOKES: No, it is going to maintain a Western Sydney presence, and that is something I have insisted upon.

The Hon. PENNY SHARPE: We started with 200 staff in the Eclipse building in Parramatta. We are down to 70, so approximately 120 are going to be in the CBD. Is that not a consolidation in the CBD and taking jobs out of Western Sydney?

Mr ROB STOKES: There are two processes underway that go to part of UrbanGrowth's functions. Obviously these are matters for the CEO and the board, but I will say there are two specific roles for UrbanGrowth. One relates to its traditional greenfield product and increasingly it relates to urban infill products which are distributed not just in Western Sydney but also in other locations across the city.

The Hon. PENNY SHARPE: Minister, as the planning Minister you would be aware of the jobs deficit between the Sydney CBD and Western Sydney. Your Government has said many fine words in relation to staff moving to Western Sydney but today you are confirming that the staff are consolidating in the CBD. Is that right?

Mr ROB STOKES: There is one great opportunity from the fact that we have already committed that the Greater Sydney Commission will be based in Western Sydney, at Parramatta.

The Hon. PENNY SHARPE: UrbanGrowth is supposed to be based there too, but only a third of them are left there.

Mr ROB STOKES: There is a terrific opportunity to look at whether there might be some capacity within UrbanGrowth premises for that purpose.

The Hon. PENNY SHARPE: Mr Frecklington, what is the total rent on the Eclipse Tower with all its spare capacity? You can take that question on notice but I hope you can answer it.

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

The Hon. PENNY SHARPE: Please also provide me with the rent being paid at all the other locations in the CBD.

Mr FRECKLINGTON: Again I would have to take that question on notice.

The Hon. PENNY SHARPE: I appreciate that. I turn to the Fishermans Bay development, particularly the process that allowed consideration of the destruction of very fragile bushland to proceed as far as it did. Minister, I am confident you are across the issue. I visited that area the week prior to the joint regional planning panel [JRPP] rejecting any evidence from locals that there were koalas in that area. When I arrived, you will be pleased to know that there was a koala in a tree—I have a photo of this koala in an area that was about to be completely cleared. Are you happy with the way the process proceeded?

Mr ROB STOKES: I am happy that an agreement has been reached between the resident action group, the South Tomaree Community Association, and UrbanGrowth to discontinue the proceedings on the basis that UrbanGrowth quite appropriately, I think, surrendered the consent from the joint regional planning panel.

The Hon. PENNY SHARPE: Are you concerned about the JRPP process that essentially rejected what the community was saying. Community members look after koalas, are very aware of this local area and have been documenting koalas in that area for many years, but the JRPP dismissed that out of hand?

Mr ROB STOKES: I certainly respect the independence of these panels to make determinations on the basis of the evidence before them.

The Hon. PENNY SHARPE: Surely you are concerned that they rejected that evidence, given my photo of a koala there, exhibit 1?

Mr ROB STOKES: I am certainly very pleased with the outcome reached between UrbanGrowth and the local residents action group.

The Hon. PENNY SHARPE: What do you see as the future for that parcel of land?

Mr ROB STOKES: From recollection that land is administered by the Minister for Lands and Water—

The Hon. PENNY SHARPE: Through Crown lands.

Mr ROB STOKES: —through Crown lands and so that would be a question best directed to him.

The Hon. PENNY SHARPE: Do you have a view on returning it to Tomaree National Park?

Mr ROB STOKES: There are all sorts of great opportunities to consider strategic additions to national parks. This may be one of them, but that is really a matter for the Minister for the Environment and—

The Hon. PENNY SHARPE: Do not worry, I will ask him.

Mr ROB STOKES: —the Minister for Lands and Water.

Mr ROB STOKES: Given the court case and that the Fishermans Bay development is not going ahead, which I think is a very sensible decision, what was the cost of the process UrbanGrowth undertook for what is essentially a folly?

Mr ROB STOKES: I will refer that to Mr Frecklington.

The Hon. PENNY SHARPE: It can be taken on notice, if you want.

Mr FRECKLINGTON: I would have to take it on notice, but I would say that our involvement in Fishermans Bay was one of our legacy projects. UrbanGrowth is in transition to focus on new urban transformation projects. We reviewed our role and made the decision the Minister has referred to. The part of the question specific to costs I will take on notice.

The Hon. PENNY SHARPE: Minister, I turn to the Bays Precinct and comments in relation to transport. It appears Mr Pitchford is not here. Do you agree with your CEO's comments on transport to the Bays Precinct?

Mr ROB STOKES: In regard to transport access, it is a precondition to determine the potential uses and development outcomes of any site. It is quite appropriate that a consideration of transport is a threshold consideration.

The Hon. PENNY SHARPE: Sure, but do you agree with the CEO of UrbanGrowth who said it will be a disaster without major new transport infrastructure?

Mr ROB STOKES: I stand by my comment that any development that does not pay adequate attention to or focus on the need for access will end up with suboptimal outcomes.

The Hon. PENNY SHARPE: Minister, you would be aware of the planning process your Government has been undertaking. The first plan was the Long Term Transport Master Plan, which Ms McNally is familiar with. The second was the Infrastructure NSW plan and a few things have been picked up from that but not a lot. Then we had the metro strategy. I am concerned about how the long-term master plan is going to deliver transport into large urban renewal projects. I draw your attention to the Long Term Transport Master Plan, which is supposed to set out a 20-year agenda for how spending will happen and where the priorities should be. It only mentions the Bays Precinct by saying White Bay is a port facility. It never envisaged the 16,000 people you are looking at putting into that area. How will you resolve that one example of the problems with the way the planning system has evolved in the past four years?

Mr ROB STOKES: I can say in relation to the plan that you mentioned a figure. My approach is not to start with a figure but to start by looking at the access opportunities and how that relates to potential yield of a site.

The Hon. PENNY SHARPE: When you say "a figure", do you mean the 16,000 in housing?

Mr ROB STOKES: Yes.

The Hon. PENNY SHARPE: Leaving aside that figure, the problem is that the Long Term Transport Master Plan did not envisage the urban renewal projects happening in Eveleigh and on Parramatta Road and we are playing catch-up. How is the money going to be allocated to get public transport into those areas?

Mr ROB STOKES: The first thing to point out is that the Long Term Transport Master Plan, like all good planning documents, is to be regularly reviewed. I think the next update is expected in two years, so it is a living document and it is expected it will be reviewed in light of new infrastructure challenges that emerge. I cannot recall the name of the document, but one document relating to the Bays Precinct talked about the principles within the Long Term Transport Master Plan and was mindful of ensuring that those principles were addressed in the development of the plan. To that extent it is appropriate that, particularly with brownfields sites, we should be concerned about access issues—you are right about that and I agree with you. Of course, these are terrific opportunities to capitalise on sites with changed use and that are underutilised. To get them right we need to look at the appropriate mechanisms to transport people to and from those sites. It is also important to recognise that we do, though the planning process, need to change the way in which we plan. Previously, you had sprawling dormitory suburbs and everyone drove by private vehicle to some central employment node. We need to mix up jobs and homes more thoughtfully.

The Hon. PENNY SHARPE: Minister, I take you back to how you are going to resolve the transport issue at the Bays Precinct. Mr Pitchford said the solution would involve government spending an unpalatable amount of money. How are you going to fund the transport needed for that area?

Mr ROB STOKES: Given what I understand was the context at the time, Mr Pitchford was referring to different solutions to achieve different outcomes. It depends on what the transformation plan, which is based on the feedback received to date, envisages as the different uses of the bay.

The Hon. PENNY SHARPE: They are strong words from your chief adviser that it will be a disaster and that it will cost an unpalatable amount of money to get it right.

Mr ROB STOKES: I respectfully suggest that you are characterising his words in a particular way. I do not think he said it was a disaster; I think he said it would be a disaster if we got it wrong. To that extent, I agree. Any important urban renewal opportunity must be carefully and iteratively planned in consultation with the community, and that involves a careful assessment of the infrastructure requirements to support sustainable growth.

The Hon. PENNY SHARPE: I refer to open space and planning for open space as we tackle the 1.6 million people coming our way. There have been reports of loss of open space over time as a result of a range of different local council policies. There are also issues with how we count and how we get it right. Do you know or are you working on how we can get a reliable figure for total open space?

Mr ROB STOKES: The short answer is yes. A preliminary analysis of the latest audit of open space in Sydney indicates that the total has increased from 550,784 hectares a decade ago to 589,494 hectares today. That audit indicates that about 90 per cent of Sydney's residents live within a five to 10 minute walk of green space.

The Hon. PENNY SHARPE: How is green space defined? Is green space a pocket park or a larger park? Can you provide a breakdown of that?

Mr ROB STOKES: Yes. I would like to work across the Parliament on this issue. Regardless of our badge, it is important to everyone. Obviously, as Sydney grows we have a shared obligation to make the city better. Access to passive and active green spaces is an important part of that, along with the role that green space plays in dealing with the urban heat island effect. Given that 30 per cent of our urban population already lives in apartments, green space will become more and more of a premium.

The Hon. PENNY SHARPE: I agree that we must plan for them. That also has not been helped by the number of trees chopped down under 10/50. Are you working with local government to establish a standard method so that we are always talking about the same thing?

Mr ROB STOKES: I will take that question on notice in terms of what the department is doing about liaising with local government. We must look at resourcing to ensure that we are not engaging in unnecessary

work if the information has already been gathered. That will involve conversations with local councils. We are certainly committed to the philosophy of the green grid and to trying to reimagine some of these disused spaces, and riparian corridors particularly, which perform an important function within the ecology of the city. There are also opportunities to do bush regeneration and to engage new communities in bush-care and dune-care activities. These spaces can help to join communities. A good example is the goods line that was opened on the weekend.

The Hon. PENNY SHARPE: I do not think we are disagreeing; I am simply interested in how we can get it right and how it can be fixed.

Mr DAVID SHOEBRIDGE: Minister, you said earlier that the Greater Sydney Commission will have a metropolitan governance role. What do you mean by "metropolitan governance"? Will it be a consultative body or a decision-making body?

Mr ROB STOKES: There will be elements of both. Again, I will wait to comment until I have introduced the legislation. I am sure to talk to you about it then.

Mr DAVID SHOEBRIDGE: Will it involve devolution of power from the State Government down to the Greater Sydney Commission, or is it simply about sucking powers from local government?

Mr ROB STOKES: No, it is more about devolution and shared arrangements where they currently exist. It is about using existing powers more efficiently and more transparently.

Mr DAVID SHOEBRIDGE: Evidence provided to an upper House inquiry into the local government Fit for the Future agenda constituted a warning to the Government that if the Greater Sydney Commission has only planning powers it will be set up to fail. It must involve a whole-of-government approach to transport, education, health and other services. Whilst it is being championed by your office and the department, will it have buy-in from other parts of the State Government?

Mr ROB STOKES: Yes. You are right to point to what has been the long-term challenge in planning for Sydney. As I said, it is not only about the relationship between the State Government and local councils across Sydney; it is also about relationships between different agencies within the State that may have competing priorities. This is designed to provide a spatial focus as much as anything else on Sydney specifically and the needs of the metropolitan region.

Mr DAVID SHOEBRIDGE: So it is more of a facilitating role rather than a decision-making role? Or is it primarily a decision-making role?

Mr ROB STOKES: There will be elements of both in the model that I will present to Parliament.

Mr DAVID SHOEBRIDGE: Minister, you have proposed winding back the changes made to the mining State environmental planning policy [SEPP] in—

Mr ROB STOKES: May 2013.

Mr DAVID SHOEBRIDGE: Yes. You are effectively repealing clause 12AA.

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: Has that happened yet?

Mr ROB STOKES: I understand that that change is effective as of today.

Mr DAVID SHOEBRIDGE: The intent was to change the rules of the game back to where they were before the May 2013 SEPP changes; is that correct?

Mr ROB STOKES: The best way to characterise the change—

Mr DAVID SHOEBRIDGE: We are talking about what is happening today.

Mr ROB STOKES: Yes. There is a principal piece of legislation—the Environmental Planning and Assessment Act—that provides in section 5 that there is to be a balancing of social, environmental and economic considerations, and that environmental planning instruments made under section 26 can have reference to those objectives. In addition, assessment of proposals under section 79C (1) must also consider environmental, social and economic factors, and it is open to the decision-maker—the consent authority—to have regard to those factors depending on the evidence and the situation.

Mr DAVID SHOEBRIDGE: They are compelled to.

Mr ROB STOKES: That is correct. It is my understanding that the amendments to the mining State environmental planning policy provided that while consent authorities are already required to consider these things under the principal legislation, there is a level of disconnect between the resource significance sections in clause 12AA of the SEPP and the issues that consent authorities are required to consider under section 79C (1) of the Act.

Mr DAVID SHOEBRIDGE: The section states:

In determining an application for consent for development for the purposes of mining, the consent authority must consider the significance of the resource that is the subject of the application, having regard to:

(a) the economic benefits...

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: So it made economic issues the principal consideration overwhelming the others.

Mr ROB STOKES: Of course, the point is that there is a level of inconsistency with the principal legislation, which requires all of those things to be considered. It seemed to me that it was important for the delegated legislation to line up consistently with the principal legislation.

Mr DAVID SHOEBRIDGE: I assume that when you made the decision to gazette the changes it was not only because of some untidiness but also because it was the direction in which you wanted to take the law. I assume that you wanted to get rid of the idea that the significance of the resource should be the consent authority's principal consideration. Were you comfortable with that?

Mr ROB STOKES: Can you repeat the question?

Mr DAVID SHOEBRIDGE: In determining mining applications, I assume you wanted to get rid of the concept that the significance of the resource is to be the consent authority's principal consideration. I assume you wanted to go back to the balancing task.

Mr ROB STOKES: Yes. I am saying that there was not an alignment between the considerations consent authorities were already to have regard to in the principal Act and considerations they were asked to have regard to in the delegated piece of legislation.

Mr DAVID SHOEBRIDGE: But you have effected a change, have you not?

Mr ROB STOKES: That balance that is referred to in the principal Act needed to be clearly reflected, in my view, in the SEPP as well. When we exhibited, it was clear that the community agreed.

Mr DAVID SHOEBRIDGE: You wanted to restore some balance in the SEPP so that the SEPP so far as possible matched the balance that is meant to be in the Act.

Mr ROB STOKES: That is there in the Act, yes.

Mr DAVID SHOEBRIDGE: Ms McNally, would you be surprised that when your own department most recently considered the draft SEPP, as it was at the time it was considering it, in relation to the extension its conclusion was:

The department has considered the proposed changes to clause 12AA to be a draft environmental planning instrument for the purposes of section 79C. The department is satisfied that the proposed repeal of clause 12AA would have no bearing on the outcomes of the department's assessment of the project or the conclusions reached regarding its net overall benefits.

The department has just disregarded it. How do you explain that?

Mr RAY: If I could answer that, Mr Shoebridge, the department did not disregard it. The department had regard to the draft SEPP, as it then was, and considered the impact of the draft SEPP. As the Minister said, in the principal legislation there is required to be a consideration of economic, social and environmental impacts from the proposal. Those impacts include the impacts in the locality but also in a broader area. They include the impacts that are adverse as well as the impacts that are beneficial. On that basis, the department considered the economic significance of the resource—of course, not as a principal consideration, but—

Mr DAVID SHOEBRIDGE: So in the previous application it misapplied the law? It did not apply clause 12AA? Because in its previous review—I think it conducted a review in April, which is what this most recent August document was referencing—it applied the principal consideration test and came up with exactly the same answer in August when it did not apply the principal test, and it did not have any additional reasoning. It seems like the department is ignoring the Minister.

Mr RAY: The department assesses the applications in accordance with the law as it is from time to time. So at the time of the most recent report the draft SEPP was in existence. It was a matter that had to be considered in relation to the assessment. The department considered the impact of that draft SEPP and considered the implications for the proposal. It was still obliged to consider the economic benefits and economic impacts as well as the environmental and social impacts. It made that consideration. Obviously it has to balance each of those impacts across the board and then it comes to its conclusion—and that is what the department did.

Mr DAVID SHOEBRIDGE: There was no balance in it at all. You just ignored it. The Minister is going to change the direction of the mining SEPP and your department just says, "That has no bearing on the outcomes of the department's assessment." You have just brushed off the Minister's change to the SEPP as though it did not exist because your department is so committed to approving mining.

Mr RAY: No, that is not correct. The department fully considered the impact of the draft SEPP as it then was and absolutely considered all the impacts again. On this case the department came to the view after weighing the economic, social and environmental impacts as required by section 79C that it would not have changed the department's recommendation that the project be approved with the strict conditions that were then attached to the report.

Mr DAVID SHOEBRIDGE: The department dismissed what is considered by many in the State to be an important rebalancing of the mining SEPP in a paragraph and a half with none of the detailed consideration you are speaking of, Mr Ray—dismissed it in a paragraph and a half with just a wave of the hand that it will have no bearing on the outcome of the department's assessment. Is this more fiction than fact, the change that has been made to the mining SEPP?

Mr RAY: I can assure you that the department carried out a full assessment of the impacts of the proposal including the impacts of the draft SEPP as it was proposed at the time and considered all the impacts in relation to economic, social and environmental issues—the benefits and the disbenefits—and the department recommended that the mine could be approved subject to the planning assessments consideration with a range of strict conditions.

Mr DAVID SHOEBRIDGE: Minister, there have been at least two occasions where development applications from the Illawarra have been considered by the department where political donations have not initially been disclosed. They have been assessed at length by the department and then when a belated disclosure happens the department is embarrassed and the matter is referred to the Planning Assessment Commission. What has the department done in order to put in place proper checks and balances to ensure this does not happen in the future?

Mr ROB STOKES: I will start with a preliminary comment and then hand to the secretary to deal with the procedures. You are quite correct—there is a clear requirement under section 147 of the Environmental Planning and Assessment Act for the disclosure of political donations relating to a relevant planning application. There are provisions dealing with penalties to apply where that process is not followed. But in relation to the specifics of those projects I refer to the secretary.

Mr RAY: The department has reviewed its own internal procedures about how it checks to see that disclosures are made. That process has been undertaken and the procedures are in the process of being revised to tighten up the process for ensuring that—

Mr DAVID SHOEBRIDGE: How?

Mr RAY: In a number of ways. The obligation is on the proponent to make those disclosures. Proponents are asked at the time that they make an application. Before they make an application it is pointed out about whether they should make the disclosure. It is also pointed out at the time that they request environmental assessment requirements. It is raised again at the time they make the application.

Mr DAVID SHOEBRIDGE: But none of that has worked to date, so what are you doing going forward?

Mr RAY: We are strengthening those requirements.

Mr DAVID SHOEBRIDGE: Changing the font?

Mr RAY: We are trying to make it much clearer at different stages of the process to remind proponents of their obligation.

Mr DAVID SHOEBRIDGE: What do you mean "strengthening"? Are you changing the font, or changing the colour of the notation? What are you doing?

Mr RAY: We are putting in new procedures to make sure that—

Mr DAVID SHOEBRIDGE: What are they?

Mr RAY: —the proponents are asked and they are reminded of their obligations at different stages of the process.

Mr DAVID SHOEBRIDGE: But that has already been the process. They have already been prompted to date. So what are you doing differently?

Mr RAY: Yes, and we are prompting them more often and we are trying to raise that in discussions as often and as early as we can.

Mr DAVID SHOEBRIDGE: The most recent case was in May this year when a large donor to the Liberal Party, Adam Blackwell, failed to disclose \$1,050 donated to the Liberal Party, and in fact—

The Hon. SHAYNE MALLARD: Big donor.

Mr DAVID SHOEBRIDGE: And I hear the sotto voce interjection from Mr Mallard that it is a "big donor". The original declaration signed by Mr Blackwell was that no donations had been made. What have you done in relation to that application?

Mr RAY: In relation to that application we are currently investigating the failure to disclose the donation.

Mr DAVID SHOEBRIDGE: It is an offence, is it not?

Mr RAY: Yes, it is.

Mr DAVID SHOEBRIDGE: Was it done by way of a statutory declaration?

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

Mr DAVID SHOEBRIDGE: What are you doing to ensure that the law is upheld and that people who have made false declarations are being prosecuted? What steps is the department taking to ensure the law is being upheld in this regard?

Mr RAY: The department carries out a range of activities relating to that obligation to disclose donations. So as I have said we are reviewing the procedures to make proponents more aware and we are giving proponents more opportunities to honour their obligations. We also respond—

Mr DAVID SHOEBRIDGE: More opportunities to honour their obligations. We are not talking about honouring their obligations; we are talking about complying with the law.

The Hon. LYNDA VOLTZ: What happens when they do not?

Mr DAVID SHOEBRIDGE: In this instance, a significant donor of the Liberal Party has not complied with the law. What are you doing to ensure that people who break the law are adequately prosecuted for breaking the law?

Mr RAY: The department has prosecuted.

Mr DAVID SHOEBRIDGE: When did you last prosecute someone for failing to make such a declaration?

Mr RAY: I think it might have been about 2013, but I will have to take that question on notice.

Mr DAVID SHOEBRIDGE: Can you give me details of all the prosecutions and give me details of how the investigation is being conducted to ensure that it is independent?

Mr RAY: The investigation is being conducted in accordance with the department's policies, which are available on the website.

Mr DAVID SHOEBRIDGE: Who does it?

Mr RAY: The department's compliance team carries out the investigation.

Mr DAVID SHOEBRIDGE: Who signs off on a prosecution?

Ms McNALLY: There are a couple of things that we do. First, a compliance team gets involved to find out what the issues are. We have doubled the number of compliance officers in the past 12 months so that we have more people on the ground to do that work.

Mr DAVID SHOEBRIDGE: You know the issue here is false declaration?

Ms McNALLY: We have a legal team in place that is an investigation team to undertake that work, and when we identify there have been breaches we engage external counsel and seek external advice.

Mr DAVID SHOEBRIDGE: Who signs off on the prosecution?

Ms McNALLY: In other cases we also undertake a probity review and undertake different analyses about what the issues were and why we got to that point.

Mr DAVID SHOEBRIDGE: Has there been a probity review here?

Ms McNALLY: On this particular project we are going down the investigation route.

Mr DAVID SHOEBRIDGE: So no probity review?

Ms McNALLY: We are going down the investigation route.

Mr DAVID SHOEBRIDGE: Does that mean no probity review?

Ms McNALLY: We are going down the investigation route.

Mr DAVID SHOEBRIDGE: It is a simple question: Does that mean no probity review?

Ms McNALLY: That will be part of the investigation.

Mr DAVID SHOEBRIDGE: So there is a probity review?

Ms McNALLY: As part of the investigation.

Mr DAVID SHOEBRIDGE: Who signs off on a prosecution, you or the Minister?

Ms McNALLY: I sign off on prosecutions.

Mr DAVID SHOEBRIDGE: What do you do to ensure that there are Chinese walls between you and the Minister when signing off on a prosecution involving a significant Liberal Party donor?

Ms McNALLY: I am not really sure of the point of that question.

Mr DAVID SHOEBRIDGE: There is obviously a conflict of interest and if there is a Liberal Party donor—

Mr ROB STOKES: I interject to say that I have never asked a question, nor would I, and nor have I had a conversation with the secretary in relation to any of these matters.

Mr DAVID SHOEBRIDGE: I am not saying you have, Minister. I am trying to find out what procedures are in place to ensure there are Chinese walls so you do not find yourself in that situation.

Ms McNALLY: That is the responsibility of the secretary and I take advice from my legal counsel who often take advice from external counsel.

Mr DAVID SHOEBRIDGE: This is a board that oversees private certifiers. What is the current funding for that board?

Mr ROB STOKES: Due to a change in the allocation of Acts, that is a matter within the portfolio of the Minister for Innovation and Better Regulation. I can take it on notice or you could direct it to him.

Mr DAVID SHOEBRIDGE: In respect of the procedures that are in place to ensure compliance by private certifiers, has that gone to a different Minister as well?

Mr ROB STOKES: The administration of that legislation is with the Minister. There are provisions in the Environmental Planning and Assessment Act—I think section 109—that deals with private certification works and work that is able to be certified. But in relation to the conduct and registration of certifiers, that is another portfolio.

Mr DAVID SHOEBRIDGE: Do you accept, Minister, where you have developers that have a significant amount of ongoing work and they have an opportunity to give one private certifier job after job after job, there is a clear conflict of interest between the commercial interest of the private certifier to retain the work and the public interest in ensuring that the developer is held to account for any breaches?

Mr ROB STOKES: I accept that, in planning, as you would be well aware, there are potential conflicts and interests all over the place.

Mr DAVID SHOEBRIDGE: I am asking you about this specific one.

Mr ROB STOKES: This is an issue that needs to be managed through the legislation and that is why the legislation was set up. For specifics, you would have to speak to the responsible portfolio Minister.

Mr DAVID SHOEBRIDGE: Minister, whether or not private certifiers work is a key integrity issue for the planning system. You would agree with that?

Mr ROB STOKES: I think the development application process and certification process are integral to the planning system and of course they need to be administered carefully and properly.

The Hon. PENNY SHARPE: Minister, I take you back to UrbanGrowth. When was the decision made to locate UrbanGrowth at Parramatta? Was it around 2012 when that was established?

Mr ROB STOKES: That was before my time. I defer to Mr Frecklington.

Mr FRECKLINGTON: I cannot give you the exact date of Landcom before UrbanGrowth was based in Parramatta, and UrbanGrowth, when it was created, was also located in Parramatta.

The Hon. PENNY SHARPE: It was envisaged it would always be at Parramatta?

Mr FRECKLINGTON: That was before our scope was enlarged to move into urban transformation projects with a significant central business district [CBD] focus.

The Hon. PENNY SHARPE: You had everyone out there. Was that 200 staff at that time?

Mr FRECKLINGTON: That is when we had 61 land subdivision projects scattered throughout Western Sydney. It was before we moved into the urban transformation portfolio on projects like—

The Hon. PENNY SHARPE: Can you give me the exact number of staff that were there?

Mr FRECKLINGTON: I cannot tell you the exact number.

The Hon. PENNY SHARPE: Were there at least 200?

Mr FRECKLINGTON: It would be of the order of 200.

The Hon. PENNY SHARPE: When was the decision to move into the CBD made?

Mr FRECKLINGTON: It would have been made towards the end of 2013 when the major urban renewal portfolio was established.

The Hon. PENNY SHARPE: Was that agreed with the Minister at the time?

Mr FRECKLINGTON: Yes, I believe it was.

The Hon. PENNY SHARPE: Remind me: Was it Ms Goward or Mr Hazzard?

Mr FRECKLINGTON: Mr Hazzard.

The Hon. PENNY SHARPE: Was it publicly announced that you were moving into the city?

Mr FRECKLINGTON: I would need to take that on notice.

The Hon. PENNY SHARPE: You are not sure?

Mr FRECKLINGTON: It was certainly made in the public domain. I do not know whether it was a specific media announcement in relation to the relocation.

The Hon. PENNY SHARPE: When you say "public domain" do you mean change of address on the website or some sort of statement?

Mr FRECKLINGTON: No, it would have been a clear statement that we were establishing a CBD office, but I do not know whether that was a specific media announcement or, as you say, an update of our address and a communication to our key stakeholders.

The Hon. PENNY SHARPE: Going back to the issue of jobs in Western Sydney and the jobs deficit, do you understand that it is a significant step for the Government to move that many jobs back into the CBD?

Mr FRECKLINGTON: Sorry, is that a question for me?

The Hon. PENNY SHARPE: If you want to answer it. If not, I am happy for the Minister to answer it.

Mr ROB STOKES: I was not party to that decision at the time. I really cannot provide anymore feedback. I certainly insisted that there be a strong presence in Western Sydney when I learned—

The Hon. PENNY SHARPE: It is one-third of what it was, Minister.

Mr ROB STOKES: —of the changes that had been agreed, and I also think that there is a terrific opportunity for the Greater Sydney Commission to make use of the existing premises.

The Hon. PENNY SHARPE: So you are submitting that the Greater Sydney Commission, which is not yet established and for which we do not have legislation, might have some staff in it at some point—

The Hon. SHAYNE MALLARD: Which you support.

The Hon. PENNY SHARPE: Yes but, in the meantime, you have more than 120 empty desks, you are paying money for that area, and you are now paying rent to move those staff into the city. Would you consider ensuring that UrbanGrowth be moved back to the west?

Mr ROB STOKES: I think there is a strong presence in Western Sydney—

The Hon. PENNY SHARPE: Minister, it is one-third of what it was.

Mr ROB STOKES: Yes. I think that is an appropriate presence, given the level of projects in Western Sydney, and I will always be looking for more opportunities to locate people in the west.

The Hon. PENNY SHARPE: Minister, do you know whether the Premier, who is also the Minister for Western Sydney, is aware of this move?

Mr ROB STOKES: I have not spoken to him about it but, again, those decisions were taken before I was the Minister.

The Hon. PENNY SHARPE: I will move on. Minister, I want to ask you about the Blue Mountains draft local environmental plan [LEP]. You would be aware that there have been a lot of issues. Previously, under two other Ministers, the department had been very supportive of allowing the draft LEP to be prepared; there was a lot of strong community support for that LEP. It appears that since you became the Minister that has changed and there is some confusion about whether you will allow the special zoning that had been previously negotiated between the department and the Blue Mountains City Council to go ahead.

Mr ROB STOKES: No.

The Hon. PENNY SHARPE: You can update me if that is not the case. I would be happy to know.

Mr ROB STOKES: I am delighted to allay your concerns. The issue with Blue Mountains is that it is located within a World Heritage area—it is pretty significant. We must get the planning right. There is significant local character and I understand that is why the urban character zone is being proposed. I am aware, of course, that when we are talking about potentially new zoning instruments that that can have consequences across the State. We went through a process when Labor was last in government of standardising the zoning instrument and streamlining the number of zones. Currently we have 35 zones. So when we have a local government that wants to look at creating a new zone, that obviously has a significant precedent impact across the State.

The Hon. PENNY SHARPE: Sure, but the whole idea about the standard instrument was always that you were allowed to adapt to your particular circumstance. You would agree that the Blue Mountains is a particular circumstance, with the World Heritage listing?

Mr ROB STOKES: I agree. The idea, to my mind, is that the standard instrument is there to provide a glossary of terms that can be used interchangeably across the State. They are going to be used to describe different things in different areas. But it was important to make sure that a 2A zone meant the same thing in different areas. That is what it is designed to do. If we are going to introduce a new zone, I am very happy to look at that—

The Hon. PENNY SHARPE: My understanding is that you have been looking at that for a while.

Mr ROB STOKES: Yes.

The Hon. PENNY SHARPE: I know there has been concern from council, the local conservation societies and the local member. How long is it going to take?

Mr ROB STOKES: I will defer to Marcus for some specifics in a moment. But I just want to engage with the idea that I am not supportive of the locals being able to come up with instruments that describe their area. I think that it is a terrific idea.

The Hon. PENNY SHARPE: I am very pleased to hear it.

Mr ROB STOKES: Again, I just want to make sure that we get the instrument right because others are going to want to use the same zone. So let us make sure that it is something that has applicability in other areas, potentially, as well. There is a particularly tricky issue. Again, Marcus will have more details. Councils want to allow non-confirming uses to extend into the environmental conservation zone. That is a bit of a tricky issue. Generally, the environmental conservation zone is there for a particular reason and when you are having non-confirming development uses allowed in that zone it is something that you need to manage very carefully.

The Hon. PENNY SHARPE: I do not really want to get into the detail. There are two issues that I am raising. One is that the reports that I have had are that, essentially, the Blue Mountains City Council has been pretty happy with the negotiations that have been going on with the Government, but since the election that seems to have changed. It thought that everyone was on the same page. It had exhibited the draft LEP [local environment plan] and there was a great deal of community consensus about that. There is significant concern in the community now that that is not going to be allowed to occur and that they are going to be forced into the LEP. Can you confirm to me that that is not going to be the case?

Mr RAY: Since April the department has been working quite well, from our perspective, with council staff to resolve the remaining issues that were identified.

The Hon. PENNY SHARPE: What is the time frame on that, do you think?

Mr RAY: There are about six or seven issues that were identified early on. At the moment, as I understand it, apart from the question of this additional zone and the encroachment into the E2 zone that the Minister mentioned, most of the other issues that were raised have been addressed in the discussions. There is one remaining issue that we are currently working on. I think we have had five meetings with council staff during that period. There are a number of provisions that the council wants that have not before been seen in the standard instrument, so it is a very special place. We are endeavouring to accommodate them as much as we can but there are material and clauses that we have not dealt with before. So that does take a little bit of time.

The Hon. PENNY SHARPE: I really just wanted to confirm that you were open to that because, as I said, the reports that had been given to me were that there had been a change of attitude in terms of where it was going. I feel reassured by your answer.

Mr RAY: I do not think that that was the case. I know that there have been reports. You would have to ask the people who raised those concerns about that, but it is not the case from our perspective.

Mr ROB STOKES: I will commit here that I am very happy to meet with the Blue Mountains Conservation Society to go through their concerns.

The Hon. PENNY SHARPE: I know that they have requested a meeting. That would be good. I am very pleased that you will do that.

Mr ROB STOKES: Yes.

The Hon. PENNY SHARPE: If these are not able to be accommodated, do you believe that it will be appropriate to reissue the LEP for community consultation, given the changes, if they are to be changed?

Mr RAY: I am not quite sure that they will necessarily be changed. The provisions were largely exhibited as the site is proposed to be developed now. It is a question of just getting over the technical, legal and planning issues to make sure that they can be effective provisions. In relation to the other matters that have been mentioned, council has deferred the request for the urban character zone from this LEP to enable it to be made. We would be looking to try to resolve the issues as quickly as we can.

The Hon. PENNY SHARPE: What is that like? Is that a month? Is that six months?

Mr RAY: We would be very keen to get this sorted out as quickly as we can, whether it is a couple of months or certainly before the end of the year. We would be very keen to do that.

The Hon. PENNY SHARPE: That is the sort of time frame that you are thinking of. That is good; I appreciate that.

The Hon. LYNDA VOLTZ: Minister, could you give us an update on the current status of the Callan Park site.

Mr ROB STOKES: I had a meeting with the local member, representatives of the Friends of Callan Park and the local council.

Mr DAVID SHOEBRIDGE: A very good local member.

Mr ROB STOKES: I remember him from university. He was there when I arrived and he was there when I finished.

Mr DAVID SHOEBRIDGE: There is only one way he is leaving.

The Hon. LYNDA VOLTZ: Can we get back to the point rather than reminiscing about the member for Balmain.

Mr ROB STOKES: We had a productive meeting where the council particularly put forward the trust proposal that they had developed. The Callan Park (Special Provisions) Act 2002, through the allocation of Acts, is now with the Minister for the Environment. I think you would agree that that is an appropriate ministry in which that precious site should sit.

The Hon. LYNDA VOLTZ: Could you update me on what is happening with the Cumberland Hospital East precinct.

Mr ROB STOKES: You are referring to Parramatta North?

The Hon. LYNDA VOLTZ: Yes, I am referring to the Cumberland hospital site, Parramatta North.

Mr ROB STOKES: That is currently part of the precinct that is being planned through UrbanGrowth. UrbanGrowth has submitted a planning proposal, which is currently under assessment by the department.

The Hon. LYNDA VOLTZ: In fact, that planning proposal proposes 3,900 apartments and a large commercial precinct in an area that has some of the most significant heritage buildings in the country.

Mr ROB STOKES: It is a very important precinct.

The Hon. LYNDA VOLTZ: Can you explain to me why there is a difference between the two sites.

Mr ROB STOKES: I am sorry?

The Hon. LYNDA VOLTZ: Why is Callan Park, with its heritage retention and open space, so important, but the Cumberland Hospital East precinct area, where there is some of our oldest heritage and much community concern about the size of the development, there is such a different approach? What is the difference between Balmain and Parramatta?

Mr ROB STOKES: There are some significant open spaces that are important as part of the Cumberland Hospital site. That site is not currently open to the public. So there are some terrific opportunities to open that up and ensure that the heritage there—I have inspected it and much of it is in dire need of conservation work and repair. There are great opportunities to open up that site to better relate it to Parramatta Park, which it sits immediately adjacent to, and also to open up, for example, access to areas like the Wisteria Gardens, which are currently within NSW Health and again the community do not have access to. There are terrific opportunities there to provide more open space. There is also a mechanism whereby we can provide the return necessary to make the significant investment to ensure that the important heritage buildings on site are properly maintained and upgraded.

The Hon. PENNY SHARPE: Some of those buildings, as you are well aware, are going to be up for World Heritage listing. Do you think it is reasonable that you are relying on urban infill development around that site to look after the upkeep of these buildings that are incredibly important not just for Parramatta but for all of Australia?

Mr ROB STOKES: Certainly there is a planning proposal that is currently under consideration. Those are some of the issues that will be alive as part of that consideration. The plan has been carefully developed in consultation with the New South Wales heritage office. I have been out on site and met with the local community and listened to their concerns and made sure—

The Hon. PENNY SHARPE: You would accept that they are very concerned about this.

Mr ROB STOKES: Unsurprisingly, given the nature of it—for example, the Female Factory dates from 1818; it is an extraordinarily important structure. There are terrific opportunities to make sure that they are appropriately managed and repaired.

This is an opportunity that is very important to manage carefully. That is why there has been long engagement with the New South Wales heritage office. I understand that significant changes were made to the planning proposal on the way through to address those concerns.

The Hon. LYNDA VOLTZ: But your own party argued against the use of infill to protect heritage on Callan Park. Why is it now appropriate on Cumberland?

Mr ROB STOKES: No, I have not made any statement in relation to—

The Hon. LYNDA VOLTZ: No, not you. Your party at the time argued against the use of infill to protect heritage buildings in Callan Park. Why is it now appropriate in north Parramatta?

Mr ROB STOKES: I cannot speak to statements that may have been made in the past by people other than me, but what I can say is you need mechanisms in which to preserve heritage. Similar issues are going to have to be dealt with in all sorts of heritage sites. The important thing is to make sure that the balance is right. I hope you would agree that we cannot continue with what has been the process to date, which has been really to allow demolition by neglect, when I look at some of the status of some of the buildings on site at Cumberland Hospital.

The Hon. PENNY SHARPE: Minister, I think the point we are trying to make, though, is the tale of two cities and the way in which these are being dealt with: Callan Park is one example and there was a similar example last week. There is a master planning process happening for this entire precinct along Macquarie Street, recognising the importance of these buildings here. No-one is suggesting that you have apartments smack bang up against them. They are being dealt with appropriately and looking at the many people coming to see it, it just seems to us that Parramatta is the poor cousin and that the very special heritage there is not being given equal treatment.

Mr ROB STOKES: No. I would strongly reject that assertion. For example, in Balmain on one side of Balmain we have the 80 hectares of land and 94 hectares of waterways with the bays precinct and we do have

significant parkland asset at Callan Park. The two are very close together and need to respond to one another. In the same way we have very significant and important parkland at Parramatta Park and we have the Cumberland Hospital adjacent to it. The two need to speak to each in a similar way.

The Hon. LYNDA VOLTZ: Except the big difference is that at north Parramatta we have probably our most significant heritage buildings. I went out there three years ago and wrote to the Minister about what was happening with the Female Factory and it was ignored by your Government. Why is it that heritage is important in the central business district [CBD]? Why is it that some of our most significant heritage in Parramatta is being ignored and that your only solution to that is not what you are imposing on everyone else and not what you are doing in the city, but you are imposing on the people at Parramatta that they will have large high rise that will overshadow this heritage? There has been significant concern in Parramatta, throughout the region, about your plan to put 3,900 apartments and large commercial development on this site.

Mr ROB STOKES: No. Again I reject your assertions because I see a synergy, as I have mentioned, between Callan Park, which is within the administration of the Minister for the Environment, and Minister for Heritage and has significant heritage items on it, and the redevelopment at the bays, which also has some significant heritage items; similarly with Parramatta Park, which is also in the administration of the Minister for the Environment and Minister for Heritage; and the UrbanGrowth plans at north Parramatta, which also have significant heritage items. The key is to make sure that these lands are properly managed; that the heritage assets are properly looked after and restored; and that there are opportunities to maximise public access that currently do not exist.

The Hon. PENNY SHARPE: Minister, if we were to assume that the Female Factory will be World Heritage listed, as it should be—and I think that everyone actually agrees that that is a good idea—can I just confirm that you think that is a good idea and you support World Heritage listing of the Female Factory?

Mr ROB STOKES: Well, the story—

The Hon. PENNY SHARPE: I know it is not specifically up to you, but—

Mr ROB STOKES: Certainly. I understand that UrbanGrowth is supportive of the current nomination and that it is certainly a significant building, both for its architectural merit—it is a Francis Greenway designed building—and also the stories it has for the thousands of lives that were affected through—

The Hon. PENNY SHARPE: Can you guarantee that the assessment that is being done is being done on the basis that it is a World Heritage listed building?

Mr ROB STOKES: Yes. As I mentioned, UrbanGrowth is supportive of the current nomination process.

The Hon. PENNY SHARPE: No, but are they assessing it on the basis that it is World Heritage listed?

Mr ROB STOKES: I will have to take that on notice in terms of the assessment process underway within the Department of Planning and Environment. But, off the top of my head, they would be doing an assessment consistent with their obligations at law.

Mr DAVID SHOEBRIDGE: Minister, I think that is where the rubber hits the road.

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: At the moment it is not World Heritage listed; therefore, there is no legal obligation to consider it as a World Heritage listed site. The question is: Will you ensure that in any assessment being done by your department that it is considered as though it was a World Heritage site, with those protections?

Mr ROB STOKES: Sure. Can I take that one on notice because I have to consider the implications? I think the listing is very important but I need to consider how that might be best captured.

CHAIR: At this juncture, Minister, we will take a break and resume at five minutes to four.

(Short adjournment)

<12>

Mr FRECKLINGTON: Can I update the record on the head count in Parramatta, as I have just received advice?

CHAIR: Please do.

Mr FRECKLINGTON: I have received advice that we have 111 out of 212 people based in our Parramatta office, which is 52 per cent. The Parramatta north team is moving out there. Currently there are only 10 empty desks.

Mr DAVID SHOEBRIDGE: Earlier we were talking about the Parramatta Female Factory and the surrounding Cumberland precinct. Your position is that you support World Heritage listing. Do you support World Heritage listing.

Mr ROB STOKES: Let me be clear: My understanding is that we are going for national heritage listing. Is that the case?

The Hon. LYNDA VOLTZ: No, World Heritage listing.

Mr DAVID SHOEBRIDGE: I am happy to break it down into two. Do you support national heritage listing?

Mr ROB STOKES: Yes, of course.

Mr DAVID SHOEBRIDGE: As the custodian of the land would you support World Heritage listing?

Mr ROB STOKES: It is a hypothetical, but I certainly think it is worthy of a World Heritage nomination.

Mr DAVID SHOEBRIDGE: I will ask the same two questions to Mr Frecklington. Does Urban Growth support national heritage listing?

Mr FRECKLINGTON: My current understanding is that we were talking about national heritage listing, and certainly national heritage listing so far as it is compatible with our program.

Mr DAVID SHOEBRIDGE: Does Urban Growth support national heritage listing, or do you simply say that it does not get in the way of your program?

Mr FRECKLINGTON: These critical heritage buildings are extremely important to our program and the revitalisation of the precinct is integrally connected with making these heritage buildings flourish and bringing them back to a situation where they can be set up for, I guess, the next wave of their life. Regarding how they fit with national heritage listing, we need to understand how that works with the program, but we are certainly working closely with the Heritage Council and working up a conservation management plan with the Heritage Council. We have support from Parramatta council in terms of how we are proceeding with the project.

Mr DAVID SHOEBRIDGE: Does Urban Growth support national heritage listings of the sites? It is a pretty simple question.

Mr FRECKLINGTON: Yes we do.

Mr DAVID SHOEBRIDGE: When you say that Urban Growth needs to understand the impact that your development would have on heritage listing, surely that is something you would have done well before coming up with your plans or in the process of coming up with your plans?

Mr FRECKLINGTON: The objective of the Parramatta north project, one of the fundamental drivers, is to restore and conserve heritage.

Mr DAVID SHOEBRIDGE: Does the NSW Heritage Office support the current plans?

<13>

Mr ROB STOKES: You would have to ask the Office of Environment and Heritage. My understanding is it is being developed in consultation with the New South Wales Heritage office. I point to urban transformation projects that UrbanGrowth has done at places like the Prince Henry site. It is used to working with and around heritage items and I am confident that it can produce a really good outcome.

Mr FRECKLINGTON: If I could add to that, throughout the design and development we have been working closely with the New South Wales Heritage office. As a result of that close collaboration we have, throughout that process, amended the application by removing and reducing the buildings to ensure the critical heritage aspects, such as the Female Factory, can be restored and conserved as appropriate.

Mr DAVID SHOEBRIDGE: It is lucky you are here, Mr Bailey. You were probably wondering what your purpose was. Your purpose, in part, is to answer this question. Does the New South Wales Heritage office support the current plans?

Mr BAILEY: I should clarify that my primary purpose for being here today is for the responsibilities that we fulfil for the Minister for Planning. Friday will be an opportunity to talk about the responsibilities for the Minister for the Environment, and Minister for Heritage. We will be present then and there will be an opportunity on Friday, when the Minister for the Environment, and Minister for Heritage has his hearing. I note that today Mr Frecklington made comments that there has been close cooperation with the Heritage Council and that the Heritage Council continues to give clear and good advice on this project.

Mr DAVID SHOEBRIDGE: You cannot be a little pregnant, Mr Bailey. In giving answers about the role of the Heritage office in relation to the project in Parramatta North, does the Heritage office support the current plans from UrbanGrowth?

Mr ROB STOKES: Can I intervene? I think Mr Bailey is in a difficult position. He is not here in a capacity to answer questions on the Environment and Heritage portfolio; he is here to answer questions relating to the way in which his office provides services directly to me, as Minister for Planning.

Mr DAVID SHOEBRIDGE: We will come back to that on Friday. Mr Frecklington, you said earlier in answer to questions on World Heritage listing, as I understand, that you misunderstood those questions as being about national heritage listing?

Mr FRECKLINGTON: Correct.

Mr DAVID SHOEBRIDGE: Does UrbanGrowth support World Heritage listing of the Female Factory and the Cumberland Hospital site?

Mr FRECKLINGTON: Conversations to date with the Heritage office have been in relation to the conservation management plan and national heritage listing. I would have to take on notice our position in relation to World Heritage listing, but I will say that the preservation and restoration of heritage features in the Parramatta North project is one of the fundamental drivers of this project.

Mr DAVID SHOEBRIDGE: Has UrbanGrowth, in its plans, worked out the impact of the current proposal regarding the World Heritage listing of the Female Factory and the Cumberland site?

Mr FRECKLINGTON: Again, I will take that on notice.

Mr DAVID SHOEBRIDGE: Minister, would you expect UrbanGrowth, as basic due diligence from an authority like UrbanGrowth that sits under your department, to understand the impact of its proposal on potential World Heritage listing?

Mr ROB STOKES: I would expect the agency to be mindful of the critical heritage fabric in line with its current listings. The reason I am choosing my words carefully is that you are asking me to confirm whether they have taken into account matters—

Mr DAVID SHOEBRIDGE: No, how these proposed plans would impact on potential World Heritage listing and what would be a reasonable expectation of you, as Minister.

Mr FRECKLINGTON: I can only speak for myself, not others in the organisation of UrbanGrowth.

Mr DAVID SHOEBRIDGE: I understand. You can take it on notice.

Mr FRECKLINGTON: There could well be other people within the organisation who are aware of it.

Mr DAVID SHOEBRIDGE: Minister, you have not answered one way or another, so you can take it on notice.

Mr ROB STOKES: I think it is a reasonable expectation of an agency such as UrbanGrowth to consider the implications of its development on a whole range of things, including potential World Heritage listing.

Mr DAVID SHOEBRIDGE: Minister, have you been to Port Arthur?

Mr ROB STOKES: No, I have not.

Mr DAVID SHOEBRIDGE: I suggest you visit it because it is an extraordinary World Heritage site, full of colonial fabric that post-dates the Female Factory. It is treated as an enormously important World Heritage site. When you go there you will find it is not surrounded by apartments, infill and urban subdivisions—

Mr ROB STOKES: I understand it is on a peninsula that is nowhere near a town. Is that right?

Mr DAVID SHOEBRIDGE: Not only the buildings but also the curtilage is protected. Do you understand that the proposal from UrbanGrowth is for buildings all over the curtilage of the Parramatta Female Factory and the Cumberland site? By doing that, the development will destroy the World Heritage character.

Mr ROB STOKES: I do not agree with that. Those are matters for assessment by the department. Having visited the site on several occasions, I am aware of a health facility adjacent to the site that is pretty densely developed and a few car parks, which is one of the sites where there are opportunities for more intensive development. That hardly forms a curtilage to the heritage fabric at the moment.

Mr DAVID SHOEBRIDGE: How you deal with those car parks and what development happens on them will be fundamental to the integrity of the site.

Mr ROB STOKES: I entirely agree and my expectation for the parameters around the planning is to maximise the opportunity to restore, maintain and improve public access to the heritage. At the moment the land uses around the site have horribly compromised the heritage and there is a great opportunity to restore that, give better public access and better view corridors and so forth.

Mr DAVID SHOEBRIDGE: Minister, who will make the final decision on the planning proposal?

Mr ROB STOKES: The planning proposal goes to the department and it will ultimately come to me.

Mr DAVID SHOEBRIDGE: Have you considered whether it would be appropriate to have the Planning Assessment Commission undertake some kind of public review—not a binding decision—to allow for a public hearing on the planning proposal?

Mr ROB STOKES: It is currently before assessment. I will take your suggestion on notice.

Mr DAVID SHOEBRIDGE: Do you think that a public process, where members of the community's submissions can be made directly to the decision-maker, would improve any final decision?

Mr ROB STOKES: As I said, I will take your suggestion on notice.

Mr DAVID SHOEBRIDGE: At Spring Gully in Bundeena there is a proposal to change the zoning and the land use on a parcel of beautifully intact forest and heathland that directly adjoins the Royal National Park. Are you aware of that proposal?

Mr ROB STOKES: Are we talking about Otford Farm or the Lady Carrington Estate?

Mr DAVID SHOEBRIDGE: We are talking about Spring Gully, Bundeena.

Mr ROB STOKES: I wonder whether we are talking about the same place. I am certainly aware of the issues concerning Helensburgh and I have had meetings.

Mr DAVID SHOEBRIDGE: This is the other side of the park, the north side of the park.

The Hon. LYNDA VOLTZ: It is a little beach behind the park.

Mr DAVID SHOEBRIDGE: Catch the ferry from Cronulla station and you arrive in Bundeena.

Mr ROB STOKES: I am aware of Bundeena.

Mr DAVID SHOEBRIDGE: It is at the northern entrance to that coastal walk.

Mr ROB STOKES: I know where you are and I would have to defer to Mr Ray.

Mr RAY: Is this in relation to the former Scout land?

Mr DAVID SHOEBRIDGE: Yes, part of it is the former Scout land because some of that former Scout land has been incorporated into the national park. We are talking about some of the former Scout land, up to Spring Gully, so from the current northern extremity of the national park to Spring Gully and to the edge of Bundeena.

Mr RAY: I understand that this was zoned as part of the Sutherland Shire Local Environmental Plan [LEP].

Mr DAVID SHOEBRIDGE: That is correct.

Mr RAY: And it was zoned for environmental use with an additional use of ecotourism activity.

Mr DAVID SHOEBRIDGE: That is correct. The development application predates the change in zoning.

Mr RAY: The information I have is that there were development applications for a recreation camp and the clearing of an unformed road on the site. Is that your understanding? Are we talking about the same development applications?

Mr DAVID SHOEBRIDGE: Yes.

Mr RAY: The information I have is that council refused both applications.

Mr DAVID SHOEBRIDGE: And they are now before the Land and Environment Court.

Mr RAY: Yes, they are currently before the court.

Mr DAVID SHOEBRIDGE: What, if any, consideration has been given by the department to the proposition that the land be placed on the Land Reservation Acquisition Map in the Sutherland Shire Local Environmental Plan? Would you like to take that question on notice?

Mr RAY: I will have to take it on notice.

Mr DAVID SHOEBRIDGE: Perhaps you will also take on notice whether you support that land being put on the Land Reservation Acquisition Map and it ultimately being zoned so that it is protected within the national park. I accept that that is a detailed question and you might need to take it on notice.

Mr ROB STOKES: Sure.

Mr DAVID SHOEBRIDGE: I refer to the Luna Park site in North Sydney. It was agreed in 2004 as part of a deed and the development consent that the land adjacent to the Milsons Point site—I think it is called Harry's Park—would be landscaped and turned over to public use. That has never happened. Why not?

Mr ROB STOKES: I am not aware of the details of a 2004 agreement. However, the Luna Park Site Act is within the administration of the Minister for Finance, Services and Property.

Mr DAVID SHOEBRIDGE: Can you take on notice what, if any, action your department and/or any other relevant agency in government has taken to ensure that the land is set aside for Harry's Park and that the land required to be set aside for public use is put to public use?

Mr ROB STOKES: I am happy to take that question on notice.

Mr DAVID SHOEBRIDGE: If a proposed development in the Scenic Hills involving the Bowraville Cemetery on St Andrews Road is approved, it will be one of the first developments of its type on that stretch of the Scenic Hills, which has been protected under environmental planning policies since the Second World War. What are you doing to ensure that the Scenic Hills retain their environmental and heritage protections?

Mr ROB STOKES: I am well aware of the application lodged by the Catholic Cemeteries Trust and Crematoria and the history of its progress through Campbelltown City Council and the pre-gateway process, and its referral to the South West Joint Regional Planning Panel [JRPP]. I understand that the panel unanimously recommended that the proposal be supported. I also understand that the council declined the department's offer to be the relevant planning authority, meaning that—

Mr DAVID SHOEBRIDGE: Because the council does not support that outcome.

Mr ROB STOKES: —the panel will assess the rezoning and also any subsequent development application submitted for the site. I also understand that the determination issued in relation to the planning proposal requires a detailed heritage investigation of the cultural landscape. That will include consideration of the visual amenity and character of the Campbelltown urban area and the preparation of a conservation management plan for Bowraville House and the heritage and scenic values of the site.

Mr DAVID SHOEBRIDGE: Do you believe that as Minister for Planning you have a responsibility to retain the environmental and heritage values of the Scenic Hills?

Mr ROB STOKES: That is a very important part of the fabric of the Campbelltown area, and particularly the view corridors to the Scenic Hills. Any application should be assessed in light of the need to preserve those landscape qualities.

Mr DAVID SHOEBRIDGE: Do you not think the heritage assessment that is one of the conditions issued by the JRPP should have predated any decision made about such a large development proposal in what has previously been the protected Scenic Hills?

Mr ROB STOKES: I will not canvass the JRPP's decision or a process that predates my time as Minister.

Mr DAVID SHOEBRIDGE: As I understand it, your concerns—at least before you became a Minister—were that the pre-gateway process was open to exploitation and would allow for inappropriate applications to be made by developers. I do not mean to verbal you; that is a summary.

Mr ROB STOKES: I was concerned that there be opportunities to tighten up the process, and particularly that it should not provide an avenue for inappropriate proposals that did not exhibit strategic merit to be assessed.

Mr DAVID SHOEBRIDGE: I think your words were stronger than that, but I will not quote them to you because I support what you have said.

Mr ROB STOKES: I stand by my words then. I am agreeing with myself today that I believe—

Mr DAVID SHOEBRIDGE: I assume you would agree with yourself, but that is not always the case.

Mr ROB STOKES: There have always been provisions in the Act for spot rezoning, and it is always an area that needs to be carefully managed. It is appropriate that where there are opportunities for a council's decision to be reconsidered it should be done on the basis that the planning proposal truly exhibits strategic merit. If it does not, it should not go through the process.

Mr DAVID SHOEBRIDGE: When you say, as you just did, that there have always been opportunities for spot rezoning—

Mr ROB STOKES: From memory, that is in section 101.

Mr DAVID SHOEBRIDGE: However, you forget to say that it has always been in the gift of the councils and that there has been, until the pre-gateway process was put in place, scope for an appeal on a spot rezoning to be imposed upon a local council by the State Government, or one of its government-dominated planning bodies.

Mr ROB STOKES: I have a couple of comments. First, it is important to provide opportunities to test decisions at every level of the planning system. I certainly do not think it is inappropriate that there be an opportunity to test a local government authority's decision. That is entirely consistent with the comments I made on this issue in the Legislative Assembly as a backbencher. I believe it is appropriate to be able to test or peer review a council's decision. However, I also believe it is important that that process be transparent and based on an assessment of strategic merit. I do not accept that the JRPP is necessarily dominated by the State Government.

Mr DAVID SHOEBRIDGE: You appoint the chair and two members.

Mr ROB STOKES: No. The chair is selected by the Minister in consultation with Local Government NSW. The two expert members are State Government appointments, the council appoints two members and there is an independent chair.

Mr DAVID SHOEBRIDGE: You appoint the chair, but you consult with local government, and you also appoint two members. The local council has only two appointees. It is a State Government-dominated panel no matter how you look at it.

Mr ROB STOKES: No. I have explained the role and manner of the selection of the independent chair. As with a judge or a magistrate, I have no power—nor would it be appropriate for me to have the power—to seek in any way to influence their decisions.

The Hon. PENNY SHARPE: Minister, I heard your comments on radio this morning about the technology park. I want to confirm your view about it being used as a technology park and not zoned residential. Am I to assume from those comments that anything that is approved on that site will not involve residential development?

Mr ROB STOKES: I cannot know what applications will be lodged by a future owner. However, I am certainly not suggesting that there should be any change to the current B7 zoning, which provides for the development of a business park. That is consistent with current use.

The Hon. PENNY SHARPE: Obviously there is significant rail heritage at that site. Will you provide a similar guarantee about the preservation of the Australian Technology Park site at Eveleigh?

Mr ROB STOKES: Yes, I will defer to Mr Frecklington for further details on this point but there are certainly covenants in relation to the requirements for the invited tenderers, and the covenants would be placed on title as part of any transaction to conserve the heritage of the site and to maintain public access to the site.

My understanding is that those issues are also germane to the selection of the tenderer through the selection criteria.

Mr FRECKLINGTON: I can confirm what the Minister has just said and note that buildings and items are covered by existing legislation, the Heritage Act 1977, and an existing conservation management plan endorsed by the Heritage Council of New South Wales. In terms of the assessment criteria for selection of tenderers, it includes their ability to look after the vital elements of heritage going forward as well as public access. As the Minister said, covenants will be imposed in relation to the transfer of the site.

The Hon. PENNY SHARPE: Can I just confirm that that means the sheds will be able to remain as they are? Are you familiar with the site?

Mr FRECKLINGTON: Yes.

The Hon. PENNY SHARPE: There are all of those old rail sheds there. Currently there are a whole lot of different businesses that are in there. There is also an open, preserved site. Locomotive 3801 is there. Would you be keeping the roofs on those sheds or do you envisage that you could build up over the top of those sheds?

Mr FRECKLINGTON: I cannot comment on the specifics of the roofs on the heritage sheds. Certainly the site is being disposed of as a whole with three significant development parcels therein, which will be obviously subject to the controls under the existing planning regime which preclude residential development—

Mr DAVID SHOEBRIDGE: Unless they get a pre-gateway review.

Mr FRECKLINGTON: As for the specific heritage features, they are covered by the conservation management plan which I referred to earlier.

The Hon. PENNY SHARPE: Could you come back to the Committee and outline what they are?

Mr FRECKLINGTON: I will take that question on notice.

The Hon. PENNY SHARPE: That would be great. Minister, I have one more question about this. You indicated this morning that the money from the Central to Eveleigh project could be used to do a proper upgrade of Redfern Station, is that correct?

Mr ROB STOKES: Yes, that is correct.

The Hon. PENNY SHARPE: Are you aware that yesterday the Minister for Transport and Infrastructure when asked about Redfern station said there were no plans to upgrade it further?

Mr ROB STOKES: All of this relates of course to the urban renewal opportunities around Central to Eveleigh. As part of that we will obviously, in the same way as for the Bays Precinct, need to look very carefully at the necessary transport and infrastructure upgrades. The opportunity from ATP [Australia Technology Park] is for those monies when realised—the tender being selected on the basis of the weighting for not just price but also those other aspects that are important for the site—to be directed towards the infrastructure upgrades that will be required as part of the Central to Eveleigh urban transformation. Redfern station is obviously a key part of that.

The Hon. LYNDA VOLTZ: Minister, I return to the processes around the Newcastle rail line. I will set aside for now the fact that the Government still does not have legislation through to close that railway line and go to the processes of consultation. Ms McNally can probably advise the Minister that there was significant criticism in an upper House inquiry into the Newcastle planning process last year in regards to consultation with the community run by UrbanGrowth NSW. It was done by invite only. Some 100 people attended. Some people made the criticism that they suspected people were paid to attend. It was a very restricted attendance list. It would appear that the four options that have been put forward came from that meeting, where people were not consulted but rather presented with options.

I have had a look at the website. The consultations that you are talking about in regards to those four options include a young leaders' forum, a business and industry breakfast, and two upcoming Revitalising Newcastle community forums. There are no details of where or when those will be held, only the dates. If you want to go along to those events you have to register. I assume that you then have to wait for an invite before you can attend those community forums. Do you think that is an appropriate way of holding community consultation?

Mr ROB STOKES: I think they are all appropriate. I think the process of consultation involves all sorts of different engagement strategies. I know that UrbanGrowth NSW takes very seriously its obligation to consult. Certainly I can say in relation to the business breakfast, as I was there, that it was at the Newcastle Town Hall. It was an excellent opportunity to engage with the community on some of these plans and on their ideas. In relation to the different layers of engagement, some of it is going to be self-selected. Some people in the community are going to choose to participate. For others you are going to have to go out and actively seek their participation, and that is what some of this process is about.

The Hon. LYNDA VOLTZ: Minister, you went to the business and industry breakfast but did you go to any of the community forums?

Mr ROB STOKES: Sadly, I think some of those events were held during parliamentary sitting periods so I was not able to attend. But I did let Tim know I was going.

The Hon. LYNDA VOLTZ: How were people selected to go to those forums?

Mr ROB STOKES: I will take that question on notice, or I can defer to Mr Frecklington.

Mr FRECKLINGTON: Again, I will take that on notice.

The Hon. LYNDA VOLTZ: Minister, despite your saying that they are appropriate, certainly the residents who turned up to the upper House inquiry considered the way the last set of consultations were held to be highly inappropriate. They also considered it inappropriate that the evidence being used to base the assumptions on was funded by the GPT Group. UrbanGrowth in fact quoted two reports that it used—"Decay to Destination", which was funded by property developers, and a telephone survey which was also funded by property developers. Indeed, the only people surveyed within that were from Newcastle, Charlestown and Merewether and not from areas such as Maitland and Lake Macquarie, which are the biggest users of the rail line.

Mr ROB STOKES: I can say that community consultation is a very important area. It is a very vexed area because there all sorts of different engagement strategies. Ever since Sherry Arnstein wrote that famous treatise *A ladder of citizen participation*, where she articulated that there are very low levels of participation where you can simply advertise and seek submissions—

The Hon. PENNY SHARPE: I recommend his thesis; I have had a read of it.

The Hon. LYNDA VOLTZ: I think UrbanGrowth should read it.

Mr ROB STOKES: At the higher levels you actively engage by going out and starting to try to identify particular groups that may not otherwise choose to engage. I applaud the efforts of UrbanGrowth to actually go out and do this. I think councils can learn from these processes. I think we should encourage efforts to consult with all sorts of different groups. None of this of course takes away from the groups who want to participate. They are able to participate through the normal channels. It is about providing additional channels for groups that may not have the interest or the capacity to be able to contribute otherwise.

The Hon. LYNDA VOLTZ: I thought when we were talking about the community that we were not talking about groups but rather talking about people.

Mr ROB STOKES: But the people are in groups so we have groups of people. You can consult on different levels. You can consult with particular groups; you can consult with individual people; you can consult with young leaders; you can pick young people in the community. There are all sorts of different groups. They can self-select or they can be identified.

The Hon. LYNDA VOLTZ: Minister, do you think it appropriate that UrbanGrowth relied on research that was paid for by the largest property developer in the area, which would benefit from the closing of the rail line?

Mr ROB STOKES: I am unaware of what you have just raised. I would have to undertake my own investigation and take it on notice.

The Hon. LYNDA VOLTZ: I suggest you look at who funded the "Decay to Destination" report.

Mr ROB STOKES: Just to pause there though, I do think there are all sorts of different reports that are prepared for all sorts of different reasons by all sorts of bodies. Surely the information and the rigour of the information contained within them is what is important about them.

The Hon. LYNDA VOLTZ: I guess that is the point. For example, the Department of Transport recommended to Cabinet that light rail should go up the existing rail line. Yet here we have UrbanGrowth deciding to run a consultation process that builds on the very rail line that the Department of Transport has said is where the light rail should go. And that is before you even have legislation to close the rail line.

Mr ROB STOKES: I recall that Mark Twain once said in 1895 that Newcastle is one big long street with a graveyard at one end and a gentlemen's club at the other with no gentlemen in it. That was an uncharitable reflection on Newcastle, but it does point to the opportunities to better revitalise Hunter Street and to make sure that there is an urban renewal opportunity. I think part of the route that was proposed through advice from UrbanGrowth was to relate to not just the opportunities for a transit system but also the opportunities that that transit system provided for urban renewal.

The Hon. LYNDA VOLTZ: Against the best evidence from the people in Government who actually decide where transport routes should go.

Mr DAVID SHOEBRIDGE: Or hopefully should decide.

The Hon. LYNDA VOLTZ: The people you would think would decide but actually do not—Mark Twain aside from whenever Mark Twain visited Newcastle, which I suspect was a long time ago—is that right?

Mr ROB STOKES: It was 1895. Anthony Trollope visited too. That was a statement, not a question.

The Hon. LYNDA VOLTZ: Sorry?

Mr ROB STOKES: Yours was a statement not a question.

The Hon. LYNDA VOLTZ: Oh, I thought yours was a statement. Mine was a question. Mine is a very real question about the fact that there is a section of Government whose role is to look at the overarching transport needs for the people of New South Wales. They have specifically said to Cabinet—and provided a document—that it is crazy to send light rail up Hunter Street because it will impede the flow of a whole range of traffic movement through that area, that it should go down the existing rail line. Putting aside the fact that that is the advice that UrbanGrowth has received, you also do not have legislation to close the Newcastle rail line and yet we are relying on a process of deciding what goes on it. Is it appropriate to now be deciding on a process of what goes on a rail line that is against the advice you have received from your own Government departments—experts in the field, one would suspect—and when you do not have the permission of the Parliament to close it?

Mr ROB STOKES: The first thing I will say is that certainly the transport department has excellent advice and expertise in relation to transport matters, but it is also important to recognise that light rail solutions are transport solutions but they are also urban renewal and activation opportunities. They are just as much about retail development, commercial development, reinventing spaces and making cities more liveable and productive as they are about transport. That is the first thing to note. The second thing to note is, as I have already explained earlier in this hearing, I believe it is quite appropriate for UrbanGrowth to be talking to the community about their aspirations for the rail corridor. Yes, there are court proceedings currently underway, but I do not think that means that it is inappropriate for UrbanGrowth to be having those conversations with the community.

The Hon. LYNDIA VOLTZ: Let me put it this way then: Is UrbanGrowth having those conversations with an expectation that legislation will be brought before this House?

Mr ROB STOKES: I cannot speak as to UrbanGrowth's motivations. What I can say is that it is quite appropriate, I believe, for them to be having this conversation with the community. I also need to point out at this point—and this is getting into the realm of hypotheticals—that if there were to be development applications submitted for particular developments along the corridor, all of that would have to go through the processes with Newcastle City Council. I am very pleased that UrbanGrowth has concluded a memorandum of understanding with the city council. That is a very important way of ensuring that the opportunities that might be identified are those with multiple layers of consultation—not just the consultation activities that UrbanGrowth is engaged in individually but also the opportunities to match that up with the democratic will of the people through the council.

Mr DAVID SHOEBRIDGE: Minister, the current state of the law has been determined by a judgement of the Supreme Court that says your Government cannot build on the railway line in Newcastle. Do you understand that?

Mr ROB STOKES: Yes, I understand there is an appeal that is currently underway.

Mr DAVID SHOEBRIDGE: But the appeal has not stayed the decision. The appeal has not overturned the decision. The current state of the law as expressed by the highest court in the State, the Supreme Court, is that you are not permitted by law to build on the railway corridor. Do you understand that?

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: Mr Frecklington, why is UrbanGrowth engaging in a public consultation process proposing development on the railway corridor that is directly in breach of the current statement of the law by the Supreme Court?

Mr FRECKLINGTON: As the Minister said, we are proceeding under a memorandum of understanding with Newcastle City Council. We are proceeding with Newcastle council in terms of our approach to consultation. Until the decision in relation to the corridor is made, it is somewhat academic. We are simply proceeding with the council in terms of considering revitalisation options for Newcastle.

Mr DAVID SHOEBRIDGE: This is not academic, Mr Frecklington. The Supreme Court has made a decision. You may not like it, but that is the state of the law. It is unlawful to build on the corridor. Why are you engaging in a public consultation process that at root is unlawful?

Mr ROB STOKES: Can I—

Mr DAVID SHOEBRIDGE: You are right, Minister. Why are you engaging in a public consultation process that contains an option for development on the corridor which, at its root, is unlawful?

Mr FRECKLINGTON: I think the point that has been made is it is an option and it is hypothetical until such time as there is a clarification regarding what could or could not be possible in that corridor.

Mr DAVID SHOEBRIDGE: What do you mean "a clarification"?

Mr ROB STOKES: It is currently before the court; there is an appeal underway.

Mr DAVID SHOEBRIDGE: There is an appeal underway. The appeal does not overturn the decision of the first instance judgement. There is no stay on the first instance judgement. The law as we sit here today is clear: You cannot build on the corridor.

Mr ROB STOKES: But the law may change in the future on the basis of the court.

Mr DAVID SHOEBRIDGE: Your proposal is unlawful under the status of the current law. How are you going about as a statutory authority proposing something that is unlawful?

Mr ROB STOKES: The consultation is not unlawful.

Mr DAVID SHOEBRIDGE: No, but one of the options being proposed, which has development on the corridor, is in breach of the law of the State of New South Wales. Why are you going through a consultation process that proposes something that is unlawful?

Mr FRECKLINGTON: Many of our projects are in the inception phase where we are considering alternate uses for land that is otherwise not zoned for a purpose. In many cases, most of our urban transformation projects are reimagining places within a city that can be brought back to life for urban transformation, to revitalise cities and to think about alternate land uses. It is not unusual for us to contemplate additional or alternate uses for parts of land that today are not otherwise zoned for development.

Mr DAVID SHOEBRIDGE: This is not just "not zoned for development". There is a statutory prohibition for any development on the railway corridor. Do you understand that? It is not a zoning question; it is a statutory prohibition under the Transport Administration Act.

Mr FRECKLINGTON: Yes, you have made that point clear.

Mr DAVID SHOEBRIDGE: What you are proposing is unlawful. What is a statutory authority doing proposing unlawful development?

Mr ROB STOKES: I interject in relation to this to say that what is being proposed is literally some options for what the future might hold. In relation to urban renewal projects all over the place, some of the ideas that would come up would not be compatible with current uses. This is no different to any of those other opportunities.

Mr DAVID SHOEBRIDGE: Minister, if I were to go through the documentation and have a look at the proposal that involves the development on the corridor, would I find a notation anywhere in it that says, "This current proposal is unlawful because of the provisions of the Transport Administration Act," or anything to that effect?

Mr ROB STOKES: If you were to look at any urban renewal project, whether it be for Parramatta Road, the Bays Precinct or any of the other projects, some of the things that are being discussed and thought about there would not be lawful under current zoning or land use controls.

Mr DAVID SHOEBRIDGE: It is quite one thing to be putting forward a planning proposal that is recommending changes to zonings, which is within the gift of your department and you as the Minister. This is not within your gift. This is a statutory prohibition established by the Parliament. Do you understand the distinction, Minister?

Mr ROB STOKES: Yes, I do. But I do not think it is therefore inappropriate to be reimagining what might be possible if the court were to decide that the city could be rejoined with its harbour.

Mr DAVID SHOEBRIDGE: That is not the issue before the court, as you well know. The issue before the court is whether or not what you are proposing—or have done—allows you to avoid the strictures of the Transport Administration Act. Do you understand that that is the question before the court?

Mr ROB STOKES: Yes, I do understand. There is the legal argument on one side, which is obviously the foundational issue here. But the wider issue as well is the opportunities that exist within Newcastle for urban renewal in such a way as it will reconnect the city with its harbour and provide more opportunity. We know that in the years until 2031, I think the figure is we are likely to see an extra 10,000 workers in the city of Newcastle. The issue is the opportunities available to them. It is quite appropriate to consider what might be alternative uses for a range of landholdings within the city.

Mr DAVID SHOEBRIDGE: I turn now to the Redfern to Eveleigh urban renewal project. What proportion of the housing proposed for the Redfern to Eveleigh corridor do you think should be set aside for affordable and social housing?

Mr ROB STOKES: As I understand it the transformation plan is currently being developed. A lot of the land holdings in the corridor are held by the Land and Housing Corporation. So there is clearly going to be

an important focus on the opportunities for affordable and social housing. I will refer to Mr Frecklington for any further details on the project.

Mr DAVID SHOEBRIDGE: Minister, you understand that in the Barangaroo project only a tiny fraction—I think less than 2 per cent of the housing—was set aside to have anything like affordability and I think the median income proposed there was something in the order of \$80,000 to \$90,000 to access the so-called affordable housing at Barangaroo. Surely you accept that there is an obligation to do much better on the Redfern to Eveleigh urban renewal project?

Mr ROB STOKES: Yes, I would agree with that.

Mr DAVID SHOEBRIDGE: What are you doing in terms of giving directions to UrbanGrowth to ensure that we have a much better mix of housing and that it just does not become another urban elite living within five kilometres of the CBD?

Mr ROB STOKES: That has certainly been consistent with the discussions I have held with UrbanGrowth and it is certainly my expectation that one of the key opportunities in this area is for social and affordable housing.

Mr DAVID SHOEBRIDGE: Are you engaged in a process with UrbanGrowth about targets to ensure that it does not become a high-minded exchange in this Committee meeting, but it actually means at the end of the day that we have 20, 30 or 40 per cent of the housing units for key workers in affordable housing?

Mr ROB STOKES: We are not at that stage in the urban transformation talk about specific targets, but certainly that will be one of the things that I will be focused on at the site. I think there is a tremendous opportunity. We need affordable housing located close to jobs in the CBD and this is the logical place to look for those opportunities.

Mr DAVID SHOEBRIDGE: Mr Frecklington, what processes are in place within UrbanGrowth to review the affordable, social and key worker housing issues for the Redfern to Eveleigh corridor? What are you doing?

Mr FRECKLINGTON: A Plan for Growing Sydney proposes provision of affordable housing on all government-led urban renewal projects.

The Hon. PENNY SHARPE: Can I just confirm that includes the Bays Precinct?

Mr FRECKLINGTON: A Plan for Growing Sydney has an instruction to look at affordable housing in relation to urban renewal projects. As for what we are doing within each of the projects, because these projects are emerging at a conceptual stage we are working in close collaboration with the Department of Premier and Cabinet to determine a whole-of-government approach in relation to how we proceed. There are no specific targets set in relation to any projects other than to note that we derived the imperative to address this from A Plan for Growing Sydney.

Mr DAVID SHOEBRIDGE: It is a pretty simple question. Who are you consulting with, apart from the Department of Premier and Cabinet, to ensure that we get a large proportion of social, affordable and key worker housing on the Redfern to Eveleigh precinct?

Mr FRECKLINGTON: We have been in close collaboration with the City Of Sydney and some community housing providers to understand the needs, I guess, of how to construct potential affordable housing models. We will then be feeding that through to a whole-of-government approach led by the Department of Premier and Cabinet so we can then determine what that application is in relation to urban transformation projects.

Mr DAVID SHOEBRIDGE: Are you considering having a public invitation at an early stage to get feedback upon social, affordable and key worker housing for the Redfern to Eveleigh precinct as an essential part of your information gathering?

Mr FRECKLINGTON: It has been an essential part of the information gathering—to your point—in terms of community consultation that we have run to date on the Central to Eveleigh program. In fact, we have

received feedback from the community in relation to the Bays Precinct and all urban transformation projects on this key element.

Mr DAVID SHOEBRIDGE: I am going to get to the Bays Precinct in a bit.

Mr FRECKLINGTON: We will then feed that information back into the Department of Premier and Cabinet for a whole-of-government response to this.

Mr DAVID SHOEBRIDGE: Given how important these two sites are—the Bays Precinct and the Redfern to Eveleigh, some of the last big development opportunities surrounding the CBD—do you not think that you have a responsibility as Minister to have some kind of public consultation upfront to ensure that we get enough affordable, social and key worker housing on these sites?

Mr ROB STOKES: Certainly I can point to the forum that has already been held on these issues. At a forum on 26 May the Minister for Family and Community Services, and Minister for Social Housing and I sought that level of engagement from community housing providers, financiers and developers from across the State to figure out how we could develop the most appropriate models to deliver these sorts of products on government-owned sites. It is a key action in A Plan for Growing Sydney to identify government-owned sites for affordable housing product, and that work is underway.

Mr DAVID SHOEBRIDGE: Do you get a sense of how sceptical the community is about the Government's commitment to affordable, social and key worker housing when to date I think we have seen less than 2 per cent of the housing at Barangaroo for mock affordable housing, we are seeing public housing sold off at Millers Point and we are seeing a reduction in public housing at Redfern, yet we have not heard any firm commitment about social or affordable housing from the Government for the two big projects that are going on either side of Barangaroo and Redfern?

Mr ROB STOKES: I can say that affordable and social housing are obviously big opportunities in these and other urban renewal locations across Sydney. I can also say that from a planning perspective the Affordable Rental Housing State Environmental Planning Policy, for example, has delivered about 8,000 affordable housing units to date. Then there is SEPP 70. There is a whole range of different mechanisms within the planning portfolio. There is the capacity to work with local councils to develop levies under—I think it is—section 93F for affordable housing schemes. We are absolutely looking at the opportunities, particularly on these government-owned sites where we can capture some of that value and direct it towards providing housing for the vulnerable in our community.

Mr DAVID SHOEBRIDGE: The biggest government-owned development site at the moment is Barangaroo. Ms McNally, what proportion of housing at Barangaroo has been set aside for affordable, social or key worker housing?

Ms McNALLY: I would have to take that on notice.

Mr DAVID SHOEBRIDGE: Would you accept that it is in the range of less than 2 per cent?

Ms McNALLY: I certainly was not involved in the planning for Barangaroo so I do not have that information.

Mr DAVID SHOEBRIDGE: If it was less than 2 per cent, and I assure it is, do you not agree that that is a huge missed opportunity? Some 22 hectares of public land right in the heart of the CBD and a tiny fraction set aside for mock affordable housing? That is a huge missed opportunity, is it not?

Mr ROB STOKES: I am not going to reflect on processes past, but what I will say in terms of these key urban growth sites is that one of the things that is being genuinely and deeply looked into is how we can use these sites to provide affordable housing into the market and social housing where appropriate as well.

Mr DAVID SHOEBRIDGE: Mr Frecklington, can you provide on notice a list of the bodies and the persons you have consulted about this issue?

Mr FRECKLINGTON: Yes.

Mr DAVID SHOEBRIDGE: For both the Bays Precinct and for the Redfern to Eveleigh corridors?

Mr FRECKLINGTON: Bays Precinct is that much earlier in its stage of transformation, but certainly for Central to Eveleigh I can.

Mr DAVID SHOEBRIDGE: If it is on the Bays Precinct at this stage, can we have that answer as well?

Mr FRECKLINGTON: As I said, I will take it on notice and respond.

Mr DAVID SHOEBRIDGE: Minister, one of the key heritage parts of the Eveleigh railway yards—I am talking about the ATP site on the eastern side of the line—is the blacksmith shop.

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: One of the last continuing blacksmith shops in the State—an amazing place. Are you going to ensure that there are protections for the ongoing operation of that blacksmith shop in any sale documents?

Mr ROB STOKES: I understand that that is the subject of one of the covenants that I have spoken of. I will defer to Mr Frecklington for more details and, if he does not have them, we can take the question on notice.

Mr FRECKLINGTON: Apologies, I will have to take that on notice.

Mr DAVID SHOEBRIDGE: That is alright. The heights in the east end of Newcastle are a very contentious issue—these are sites partly owned by UrbanGrowth and GPT. Did I hear you correctly when you said that you were happy to have decisions on heights in that part of the CBD returned to the local council?

Mr ROB STOKES: I have asked UrbanGrowth to talk to the council in terms of the proposal that they might put forward in that area—I think the RL40 was the height that council wanted in the area—and to see if it is possible to achieve that outcome.

CHAIR: Minister, I note that you have taken a number of questions. We ask that you supply the answers to those questions within 21 days. I thank you all for attending this hearing.

(The witnesses withdrew)

(The Committee adjourned at 4.50 p.m.)
