

# **PORTFOLIO COMMITTEE NO. 3 – EDUCATION**

**Thursday, 31 August 2017**

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

## **EARLY CHILDHOOD EDUCATION AND EDUCATION**

### **CORRECTED PROOF**

**The Committee met at 1.45 p.m.**

#### **MEMBERS**

The Hon. L. Amato (Chair)

Mr J. Field

The Hon. C. Houssos

The Hon. N. Maclaren-Jones

Reverend the Hon. F. Nile

The Hon. T. Martin

The Hon. Walt Secord

#### **PRESENT**

**The Hon. Sarah Mitchell**, [*Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education*]

## **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**



**The CHAIR:** Welcome to the public hearing for the inquiry into the Budget Estimates 2017-18. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to elders, past and present, of the Eora nation, and extend our respects to other Aborigines present. I welcome Minister Mitchell and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Early Childhood Education, Aboriginal Affairs, and the Assistant Minister for Education.

Today's hearing is open to the public and is being broadcast live by the Parliament's website. In accordance with the broadcasting guidelines, while members 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 would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could answer if only 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 of staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and to 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, would everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will 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 office as a member of Parliament.

**LESLIE LOBLE**, Deputy Secretary, External Affairs and Regulation, Department of Education, affirmed and examined

**GEORGINA HARRISSON**, Deputy Secretary, Educational Services, Department of Education, affirmed and examined

**The CHAIR:** I declare the proposed expenditure for the portfolios of Early Childhood Education, Aboriginal Affairs and Assistant Minister for Education open for examination. The questions in the portfolios of Early Childhood Education and Assistant Minister for Education will run from 1.45 pm to 2.25 pm. We will have a short five-minute deliberative. The questions of the portfolio of Aboriginal Affairs will run from 2.30 to 3.10 pm. As there is no provision for a Minister to make any opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. WALT SECORD:** Minister is it correct that you have responsibility for the regulation of early childhood education, including family day care?

**The Hon. SARAH MITCHELL:** Yes, that is correct.

**The Hon. WALT SECORD:** You would be aware that recently it has been revealed that one-third of operators in New South Wales were shut down.

**The Hon. SARAH MITCHELL:** Yes. In the past 12 months we have had 124 family day care services closed or had their licences cancelled or suspended in New South Wales because of regulatory action that we have taken as a department.

**The Hon. WALT SECORD:** Is it correct that some of the regulatory actions involved failure to carry out criminal checks?

**The Hon. SARAH MITCHELL:** I will check with Ms Loble about that because obviously the department carries out that regulation.

**The Hon. WALT SECORD:** Just a yes or no, Ms Loble.

**Ms LOBLE:** That national law has a "fit and proper person" test and we do look into the authorised officers who are running those services.

**The Hon. WALT SECORD:** Of the 124, how many are back up and running?

**The Hon. SARAH MITCHELL:** They have had their licences cancelled so they are not running.

**The Hon. WALT SECORD:** Absolutely. Minister, are you aware that it can be quite lucrative to run a family child care operation?

**The Hon. SARAH MITCHELL:** Family day care operation?

**The Hon. WALT SECORD:** Yes.

**The Hon. SARAH MITCHELL:** The funding for family day care comes through the Federal Government. Part of the reason we have seen an increase in services in that sector is that there was a financial benefit, and unfortunately there were people who have done the wrong thing and have entered in order to deceive and carry out fraudulent activity. That is why we have had the regulatory activity that we have had, and we have seen the suspensions and cancellations.

**The Hon. WALT SECORD:** To receive those subsidies they have to have approval from you as a regulator. I know that from material that I have looked at. Is that right?

**The Hon. SARAH MITCHELL:** We have to approve services under the national law, and there are requirements about approvals through the department.

**The Hon. WALT SECORD:** How many are now in operation?

**The Hon. SARAH MITCHELL:** I will get that exact figure for you.

**The Hon. WALT SECORD:** Maybe Ms Loble can assist?

**The Hon. SARAH MITCHELL:** It is 296.

**The Hon. WALT SECORD:** Are any of those 296 under investigation now?

**Ms LOBLE:** The procedures we use with all services are at several levels. One is around approvals. The second is compliance visits to ensure that they are complying with the law. Then there is assessment rating, in which we go out to services, assess them and rate against the requirements under the National Quality Framework [NQF]. I will look up the number of assessments and ratings that we have done—221 have had a final rating. As well, we have visited more than 200 services this year to look at assessment, rating and compliance.

**The Hon. WALT SECORD:** Are you aware that, according to a freedom of information request—an executive briefing paper—there is a high volume of new applications and that they are expected to continue to rise, and that you receive three submissions a day to set up family day care operations?

**The Hon. SARAH MITCHELL:** What is important to note about that is that in the past 12 months we have shut 124. We have actually approved only three new family day care services. That is because we have brought in a much higher level of entry. There is now mandatory assessments that educators have to take. There is a maximum number of services that directors can now have within the first 12 months of operation. We are putting in a higher and stricter process in terms of entry into that sector because we want to make sure that parents and families who use those services have faith that the system is there to protect them and the safety of their children.

**The Hon. WALT SECORD:** Do you visit—or have you visited—a family day care operation?

**The Hon. SARAH MITCHELL:** In somebody's home?

**The Hon. WALT SECORD:** Yes.

**The Hon. SARAH MITCHELL:** No, I have not.

**The Hon. WALT SECORD:** Ms Loble, have you?

**Ms LOBLE:** My children were in one.

**The Hon. WALT SECORD:** Ms Loble, are familiar with the concept of "child swapping"?

**Ms LOBLE:** Yes.

**The Hon. WALT SECORD:** Can you please explain to the Committee what is child swapping in a child care context? You can use colloquial language if you wish.

**Ms LOBLE:** In the services there have been occasions when an educator has had, for example, their own children in another educator's service and vice versa. It is an issue particularly for the Commonwealth because they end up funding those children even though if it was the educator's own children typically they would not be funding them. So the Commonwealth has certainly been interested in that.

**The Hon. WALT SECORD:** I seek clarification because your definition was not really that clear. I want to make sure that I understand the concept. So child swapping would be if the Hon. Courtney Houssos and I were brother and sister, I put my children into her home and she puts her children into my home and then we charge the Federal Government or we keep the kids in our own home and bill the Government. Is that correct?

**Ms LOBLE:** Yes. That is roughly the case. The Commonwealth does have its investigative procedures around that.

**The Hon. WALT SECORD:** How many cases have you found in New South Wales?

**Ms LOBLE:** I would have to get that information from the Commonwealth.

**The Hon. WALT SECORD:** You do not have that?

**Ms LOBLE:** It is a Commonwealth funding issue and they provide the payments.

**The Hon. WALT SECORD:** But you said that you have a responsibility. You have regulatory responsibilities. Do you not carry out checks to see whether people are minding their own children? In theory, you could be minding your own children and receiving \$200 per week in Commonwealth payments.

**Ms LOBLE:** We have a number of steps that we take and our regulatory responsibility—

**The Hon. WALT SECORD:** I was asking for a yes or no answer.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: First, the Hon. Walt Secord asked multiple questions. Secondly, the witness must be given an opportunity to answer the question in the way that he or she wishes.

**The Hon. WALT SECORD:** I realise that you are eating up my time. Ms Loble?

**Ms LOBLE:** Our responsibility is to look at the service. There are a number of things we have done to raise the standards of our approach to the family day care [FDC] centres. For example, there is mandatory attendance of new providers at information sessions. We have reduced the cap on the number of educators who can be employed so there is a much closer relationship between supervisors of the service and educators. In addition, we are working closely with the Commonwealth because there is an interaction between their funding responsibilities and the data that they hold about individual children who are enrolled at a service.

**The Hon. WALT SECORD:** As part of your inspections do you routinely check for child swapping—somebody getting paid for looking after his or her own children?

**Ms LOBLE:** The specific information about enrolments is held by the Commonwealth.

**The Hon. WALT SECORD:** But you have regulatory responsibility. The Minister confirmed that in the very first question.

**The Hon. SARAH MITCHELL:** We do. What you are talking about in regard to child swapping and people obtaining funding for a fraudulent purpose—

**The Hon. WALT SECORD:** People who are getting paid for looking after their own children.

**The Hon. SARAH MITCHELL:** Yes, by the Commonwealth Government. We work with the Commonwealth. It has a responsibility in relation to that if there is child swapping.

**The Hon. WALT SECORD:** What do you do when you discover this?

**The Hon. SARAH MITCHELL:** It has the records relating to which children are attending those services because of the way the funding operates.

**The Hon. WALT SECORD:** What do you do when you discover that there is child swapping, Ms Loble?

**Ms LOBLE:** That information is held by the Commonwealth. Our responsibility is to look at the services and their compliance with national law, which goes to things like the health and safety of children and the program that is being offered in family day care and so forth.

**The Hon. WALT SECORD:** If you are concerned about child welfare and the safety of children would it not then occur to you that someone is looking after his own children and getting paid for it? If you are going into these premises and looking at them would you not notice if I was minding my own children and charging the Government \$200 a week? Would you not notice that?

**Ms LOBLE:** We operate under a statutory framework. That statutory framework is the national law. It relates to regulatory issues and standards; it does not relate to issues such as the financial arrangements between services and the Commonwealth.

**The Hon. WALT SECORD:** So if you see it happening you do not say anything about it?

**Ms LOBLE:** That is why we are working with the Commonwealth. We certainly exchange information about that, but they hold the data on who the enrolments are and the amount of funding that has been provided.

**The Hon. WALT SECORD:** Minister, do you think there is a case now that one of your inspection criteria should include child swapping—meaning that you should not be paid by the Commonwealth Government to mind your own children at \$200 per week? Do you think that should be part of the regime?

**The Hon. SARAH MITCHELL:** Our inspection is consistent with the national law. That is what we follow.

**The Hon. WALT SECORD:** But your adviser just said that that is one of the areas of discussion that you are having with the Commonwealth.

**Ms LOBLE:** No. I said that we have arrangements to exchange information with the Commonwealth. We do not have access to that enrolment information or the amounts that the Commonwealth is paying.

**The Hon. WALT SECORD:** Minister, could I get your opinion on a quote? I have a freedom of information document, a Department of Education executive meeting paper, which states:

The potential income from FDC providers is significant, with each child attracting approximately \$200 per week in Commonwealth payments. A provider with 60 educators who each claim for seven children per week would gross \$84,000 per week, or \$4.03 million over a 48-week year.

That is quite a lucrative business, is it not?

**The Hon. SARAH MITCHELL:** As I said, if people are doing that in a fraudulent way with Commonwealth money, that is something for which the Commonwealth Government has responsibility. There cannot be 60 educators anymore. As I have said, we have made some changes to that. You can only have a maximum of 12 educators for new services because we are taking action. Frankly, this State is leading the nation in the number of services that have been suspended and cancelled and how seriously we are taking this issue.

**The Hon. WALT SECORD:** Do you think it is acceptable and do you think Commonwealth money should be spent on people minding their own children in a swap situation?

**The Hon. SARAH MITCHELL:** I have just answered that question. Issues around fraudulent activity with family day care funding and where that money is going is the responsibility of the Commonwealth Government.

**The Hon. WALT SECORD:** Can you cancel a licence if you find that someone is child swapping—meaning that they are looking after their own children or sisters are swapping kids back and forth?

**The Hon. SARAH MITCHELL:** I will have to ask Ms Loble to answer how you can cancel or suspend a licence because there are different regulations under the national law.

**The Hon. WALT SECORD:** Can you cancel that licence, Ms Loble, because we know it exists in New South Wales?

**Ms LOBLE:** The national law under which we have statutory responsibility to operate is quite specific, with seven standards and various specific elements. It does not go to the funding arrangements between the Commonwealth and services.

**The Hon. WALT SECORD:** The answer is you cannot cancel a licence if you find that someone is minding their own children and charging the Commonwealth Government?

**Ms LOBLE:** The law that we operate under does not authorise us to look beyond those issues that the law spells out for us.

**The Hon. WALT SECORD:** I do not expect you to have this information at hand. You can take it on notice, or if you do have it I would like it. How many cases of child swapping have come across your inspections?

**Ms LOBLE:** In general I will take that on notice. But again, those numbers and data are held by the Commonwealth. I will take on notice whether the Commonwealth has notified us of any.

**The Hon. SARAH MITCHELL:** We will see what we can get for you.

**The Hon. COURTNEY HOUSSOS:** A question to Ms Loble, how many inspections does the Federal Government do of family day care centres?

**Ms LOBLE:** I would have to take that on notice.

**The Hon. COURTNEY HOUSSOS:** Are you aware of any routine inspections that the Federal Government does of family day centres?

**Ms LOBLE:** Again, their responsibilities go to the funding arrangements. I do not know whether they have visited services, but certainly I would assume they have procedures in place to monitor the expenditure.

**The Hon. COURTNEY HOUSSOS:** You are saying that you inspected over 200 family day care centres in New South Wales over the last 12 months, is that correct?

**Ms LOBLE:** Yes.

**The Hon. COURTNEY HOUSSOS:** In the course of that inspection, as the regulatory body, you did not cover the issue of child swapping?

**Ms LOBLE:** We do not have the authority to go beyond what the national law permits us to look at.



**The Hon. COURTNEY HOUSSOS:** You are not aware of the Federal Government conducting inspections specifically on this issue of child swapping?

**Ms LOBLE:** We are aware that the Commonwealth has increased its vigilance and effort to keep track and follow the dollars. In fact, I think I recall Senator Birmingham fairly recently talking about the amount of money they have managed to recover.

**The Hon. COURTNEY HOUSSOS:** Do you have any role in recovering that money?

**Ms LOBLE:** No.

**The Hon. SARAH MITCHELL:** It is Federal money.

**The Hon. COURTNEY HOUSSOS:** As the regulatory body, despite cancelling the licences, you do not then have any role in recouping that lost money?

**Ms LOBLE:** No.

**The Hon. WALT SECORD:** May I take you back to the one-third of family day care services that you have said that you closed down. What has actually happened to the children and the parents that were involved in that one-third that has been shut down?

**The Hon. SARAH MITCHELL:** There are a range of other options for families. Interestingly enough, while, as I said, we have had 124 family day care services close, overall the number of services across community preschools and long day care in New South Wales have gone up. There is a process that happens if a service is given notification in terms of being cancelled or suspended, and in terms of what those individual families do, they would find places in other services that meet their family requirements.

**The Hon. WALT SECORD:** You missed the point of my question. What happens to the children that had places in those 124 that closed?

**The Hon. SARAH MITCHELL:** As I said, if those services are no longer operating, those families would then find alternative childcare arrangements.

**The Hon. WALT SECORD:** My time for questions has expired.

**Mr JUSTIN FIELD:** Just to continue along that line, if I could, 124 family day care providers were shut in the previous year. How many educators would that be?

**The Hon. SARAH MITCHELL:** It depends on the size of the service and how many educators they have under that.

**Mr JUSTIN FIELD:** Are all their educators automatically unable to operate if the provider loses their licence?

**The Hon. SARAH MITCHELL:** I will have to ask Leslie Loble to answer that.

**Ms LOBLE:** The educators are employed by the service.

**Mr JUSTIN FIELD:** The educator is the house where the children are going to. The provider coordinates a group of educators?

**Ms LOBLE:** Yes.

**Mr JUSTIN FIELD:** How many houses have been closed effectively for access by children by this many providers losing their licence?

**Ms LOBLE:** I am happy to take that on notice.

**Mr JUSTIN FIELD:** The news reporting around this suggests that most have been closed because of financial irregularities and issues related to the inappropriate and fraudulent claiming of subsidies. How many has the State closed based on your statutory obligations with regard to safety, or how many have been closed in New South Wales? I assume that the Federal Government has closed them. If you do not have statutory responsibility for inappropriate financial dealings, then I assume they were not closed by New South Wales. Is it the case that they were closed by the Federal Government?

**Ms LOBLE:** All of those that closed operated under an approval provided by the State. What we have done is significantly increase our regulatory activity in the sector. Where appropriate, in the case of these services, a number of them have handed back their licences. But for the vast majority of them, based on regulatory issues, we have cancelled their licences.

**Mr JUSTIN FIELD:** It was New South Wales's responsibility to cancel but it may have been because of financial irregularities that were identified by the Commonwealth Government. Have any been closed for safety concerns in the last 12 months?

**The Hon. SARAH MITCHELL:** We can take that on notice and come back to you. The point though is we have a system and, as Ms Loble said, a risk-based assessment process. Particularly the family day care sector has been one that we have been focusing on in the last 12 months because of some of the concerns at a national level that all States have, to be frank; it is something that we have all spoken about. We work in conjunction with the NSW Police, with the Federal police and the Federal department to prioritise the services that need assessment based on risk.

**Mr JUSTIN FIELD:** My son has just started in family day care recently, so I am interested.

**The Hon. SARAH MITCHELL:** It is something I have talked to the sector about too that there are some very good people who operate in family day care and a lot of families who rely on them and they become part of their family, and they have done so for many years. Certainly the feedback that I get, particularly from the peak bodies, are that they are as interested and invested as we are in taking this action because they do not want to be tarred by the brush of those who, unfortunately, are setting out to exploit children and families because of Commonwealth monetary gains.

**Mr JUSTIN FIELD:** I want to turn now to the national partnership agreement, preschool attendance and the like. I have been looking at the Bureau of Statistics 2016 data around preschool. It shows that New South Wales has the lowest attendance rates for preschool across the country—around 84.5 per cent compared to approximately 95 per cent in other States. Would you update the committee if those figures have changed? Why are we so far behind? What do you see as the main contributors to that?

**The Hon. SARAH MITCHELL:** Those figures are the latest that we have; we will not have any new figures until next year. But what I can tell you is that effectively we have been playing catch-up and that is why we have been investing so heavily in early childhood education. Every year that we have been in Government we have put in more than the year before, and particularly around our Start Strong funding model which we have introduced at the beginning of this year. Initially it was a \$115 million commitment. Now, in the last budget we have announced that it will be \$217 million through to 2021.

The idea behind that funding is that the parameters have changed. So it is all about increasing the attendance for 600 hours in the year before school, which equates to about 15 hours per week for four- and five-year-olds and also for equity three-year-olds—so children from low socio-economic and Aboriginal disadvantaged backgrounds as well. What we have done is put more money in and we have also tweaked how we direct that funding to improve that outcome. The previous figures had us at 75 per cent, and we have gone up to about 85 per cent. So we know that changing that model of funding has been working and we anticipate that we will see that further next year as well.

**Mr JUSTIN FIELD:** When would you see New South Wales reaching parity with the rest of the country at around that 95 per cent mark?

**The Hon. SARAH MITCHELL:** Obviously we want to do it as soon as we can. We have a national agreement to reach that 95 per cent and, as I said, that is why we have put the Start Strong funding model in. The early indicators we have had is that that is working, and we hope that will be confirmed in the next round of figures that come out next year.

**Mr JUSTIN FIELD:** The other thing about New South Wales is that we have the highest fees for accessing preschool services, according to these statistics. If we are investing more money to try to catch up, how is that being directed towards fee relief?

**The Hon. SARAH MITCHELL:** The average fees for community preschool in New South Wales is about \$35 a day. For equity children, as I mentioned before, it is about \$18. What we have done with the Start Strong funding package is the overwhelming majority of preschools have received either the same amount or more funding, but we have required that 75 per cent of that additional funding is passed through to parents in terms of a fee reduction. I see it as I visit services where at times previously fees were \$30 or \$40 a day and are now down to \$20. For equity children it can be under \$10. We have had a census of all our community preschools that just finished in August where we have asked for data relating to fees. What we expect when those figures come next month will be that that average of \$35 and \$18 for equity children should drop again, and that is why we have directed the funding the way that we have and we have required it to pass through to parents to make it more affordable for families, because we know that it is an issue.

**Mr JUSTIN FIELD:** We are scrambling just to catch up. Look at OECD countries and countries in Europe: They are providing two years free— [*Time expired.*]

**The CHAIR:** Thank you, Mr Field.

**Mr JUSTIN FIELD:** No worries. Cut off!

**Reverend the Hon. FRED NILE:** Thank you, Minister, for your attendance. Following those questions, it occurred to me to ask whether that national partnership agreement between New South Wales and the Commonwealth needs any modification or review.

**The Hon. SARAH MITCHELL:** The way our current national partnership arrangement is is that we have a commitment from the Federal Government through to the middle of next year, through to 2018, and negotiations are now on the table very much for the years going forward, because we have made it clear in New South Wales we do want a bit of longer-term certainty and commitment from the Federal Government in terms of how that partnership works. Other States have expressed the same thing. It is something that I have certainly raised with Federal Minister Simon Birmingham. We have another Education Council meeting in a couple of weeks. I am sure it will be raised there, because we want more certainty from the Federal Government going forward.

**Reverend the Hon. FRED NILE:** Would that certainty be in having a five-year program or something like that?

**The Hon. SARAH MITCHELL:** Yes. I might ask Ms Loble to talk a little bit about the history of the funding arrangements and the agreements but, as I said, at the moment we have had an extension for another 12 months, which we welcomed, but we need to give the sector some long-term certainty. That is why in New South Wales, with our Start Strong program, we have committed to that model through to 2021 because a lot of services did change their operating hours and the way that they were set up in terms of having that increase in kids in the year before school. We want to keep that certainty of that program for services. As I visit services, they are really happy to know that we are committed to that for the next four years, because it means that the changes that they have made to their business model can stay, but obviously we need the Federal Government to come to the party with their arrangements and responsibilities as well. Did you want to add anything, Ms Loble?

**Ms LOBLE:** Just to underscore that we have been on a year-to-year arrangement for a while, and that makes it quite difficult. The payments often have been up to seven, eight or nine months after the fact, so we have sought a much more stable relationship, whether that is a longer-term agreement or even a more permanent arrangement.

**Reverend the Hon. FRED NILE:** Would it be more efficient for the Federal Government to supply the State with a lump sum payment and for the State to then allocate that to the various individual operations?

**Ms LOBLE:** Historically, the Commonwealth has funded long day care, particularly because of its responsibilities around employment and labour markets. Then in more recent times it has seen, as the evidence shows, that early childhood has such important educational effects that it now has stepped in and started to contribute. It makes a very, very important contribution to preschooling, whether that is in the community setting, a public setting or a long day care. The State, conversely, has historically funded the preschool side, particularly community-based preschools but also some public preschools. Now, much like with all education, it is becoming increasingly important that both levels of government provide some sustainable funding.

**Reverend the Hon. FRED NILE:** Has the State Government conducted any studies recently concerning trends in early childhood education?

**The Hon. SARAH MITCHELL:** I would have to ask the department—

**Ms LOBLE:** I am just wondering, Reverend, is there something specific in mind? We certainly do frequently look at evidence and certainly keep ourselves abreast. We work closely with the sector, which also assists us in that way.

**Reverend the Hon. FRED NILE:** You have not conducted any studies—is that what you are saying?

**The Hon. SARAH MITCHELL:** Do you have a suggestion?

**Reverend the Hon. FRED NILE:** You have not conducted any studies. That is what I am trying to find out. If you have not, do you have any plans for studies in the coming years?

**Ms LOBLE:** One aspect that we are looking at and working with the University of Wollongong on is particularly professional development for educators in services and understanding the sorts of professional

development that works particularly well in terms of enhancing skills and then what impact that has on children's educational outcomes and social outcomes.

**Reverend the Hon. FRED NILE:** Even though the Commonwealth has the primary responsibility for providing the funding, what have been the trends in the cost of early childhood education in New South Wales over the past 10 years?

**The Hon. SARAH MITCHELL:** Past 10 years. As I said, in the—

**Reverend the Hon. FRED NILE:** The most recent period.

**The Hon. SARAH MITCHELL:** The most recent one. The community preschool sector, as I said, is the area we fund—those figures that I gave for \$35 a day for children and \$18 for equity. We do every year with preschools an August census where we look at things like costs and fees. As I said, we are expecting the next round. We have just finished that most recent census and we would expect the results within the next month or so. In terms of the long day care sector, we have similar information, but if you wanted a breakdown of the last period of time in relation to fees and any changes or trends, we can certainly get that information for you on notice.

**Reverend the Hon. FRED NILE:** If you take that on notice, could you relate it to these categories: public secular, public religious, private secular and private religious?

**The Hon. SARAH MITCHELL:** If that is possible, we can do that for you, Reverend. Is it possible?

**Ms LOBLE:** Yes. I am happy to take that on notice. Can I also clarify you are interested in long day care as well as preschooling?

**Reverend the Hon. FRED NILE:** No, this is early childhood education.

**Ms LOBLE:** Okay.

**The Hon. SARAH MITCHELL:** Okay, because there are differences—as I said earlier, we have long day care, community preschools, department preschools, mobile services. But we can take that on notice and give you a breakdown for what we have available in terms of information.

**Reverend the Hon. FRED NILE:** What have been the trends in the educational outcomes in the same period, broken down into those four categories?

**The Hon. SARAH MITCHELL:** In terms of educational outcomes, is there any specific information that you wanted?

**Reverend the Hon. FRED NILE:** How are you measuring the success?

**The Hon. SARAH MITCHELL:** How are we measuring what, sorry?

**Reverend the Hon. FRED NILE:** The success of those programs.

**The Hon. SARAH MITCHELL:** The success of early childhood education. We can certainly have a look at what is available. But one of the things that I see as I visit services—and particularly when we look at transition to school—is when children who have had that quality early childhood education, particularly for the 600 hours in the year before school, in things like their Best Start assessment when they begin in kindergarten, is a marked improvement in terms of where those children are up to. Some recent data that I saw was that, if a child has had one year of quality early childhood education, they start school about three to five months ahead of a child who has not had any. If they have had two years, they start school about eight months ahead of a child who has not had any. [*Time expired.*]

**The Hon. WALT SECORD:** Minister, the Auditor-General says that New South Wales has the lowest participation, the lowest funding and the highest fees. I am just giving context here: the lowest participation, the highest fees and the lowest funding. It also says here that your own inspectors found that every one of the 412 centres checked had failed on accreditation levels.

**The Hon. SARAH MITCHELL:** "Of the 412 centres checked"—which type of service are you meaning?

**The Hon. WALT SECORD:** Family day care.

**The Hon. SARAH MITCHELL:** Family day care, or just—

**The Hon. WALT SECORD:** Family day care—I was continuing on my family day care line of questioning.

**The Hon. SARAH MITCHELL:** "Of 412 family day care services checked"—

**The Hon. WALT SECORD:** Yes. This is an article in the *Daily Telegraph*. It says:

ONE-third of the state's ... operators have been shut down ...

and:

Childcare inspectors found failures at every one of the 412 centres ...

Can you tell me now—

**The Hon. SARAH MITCHELL:** "The 412"—we do not have 412 family day care services in New South Wales any more.

**The Hon. WALT SECORD:** Okay, but we are talking about in the past.

**The Hon. SARAH MITCHELL:** All right.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: Maybe Mr Secord might want to clarify where the documents come from so it can assist the Minister.

**The Hon. WALT SECORD:** The *Daily Telegraph*, Natasha Bitu. I am mindful of my time. I will give you a specific case and you can tell me if either you or your staff are aware of this. In June, a fire alarm was set off in an apartment building on Chapel Road, Bankstown, and two operators came out onto the street with 20 children. What checks do you have on ensuring that home child care arrangements have backyards and they are not in apartment blocks? What is part of the criteria, Ms Loble? Is access to a park one of the criteria?

**Ms LOBLE:** There are a number of elements, including access to outdoor space. One of the reasons that we significantly reduced the ratio of supervisors to the number of educators was to ensure that those supervisors which have the responsibility of working with those educators did not have as many that they had to cover and that it was a much tighter ratio, as the Minister referred to. We also do have procedures when we check services.

**The Hon. WALT SECORD:** What is the current ratio for parent to children?

**Ms LOBLE:** At the moment, for the first 12 months it is—

**The Hon. SARAH MITCHELL:** How many educators per supervisor, or how many children per supervisor within an individual family? I am trying to work out what you actually want.

**The Hon. WALT SECORD:** What I want to find out is how many children can you have?

**The Hon. SARAH MITCHELL:** What is the requirement for a single educator in a family day care service?

**The Hon. WALT SECORD:** What is the ratio?

**Ms LOBLE:** For an educator it is 1:7.

**The Hon. WALT SECORD:** It is possible to have seven kids in a one-bedroom apartment in Bankstown? [*Time expired.*]

Can I have an answer to that question?

**The CHAIR:** Yes.

**Ms LOBLE:** The ratio is 1:7, and there are other factors that we would be looking at, including space that is available to each child, the staffing arrangements, and so on and so forth.

**The Hon. WALT SECORD:** The answer is yes or no?

**The CHAIR:** It is time for Mr Justin Field to ask questions.

**Mr JUSTIN FIELD:** Over 90 per cent of early childhood educators are women. They are paid around about \$30,000 less per year than school teachers, despite the fact that the National Quality Framework is looking to increase the capacity and skills in the early education sector. What can the New South Wales Government do to improve the pay rates for women working in this sector?

**The Hon. SARAH MITCHELL:** Obviously the issues around pay parity and the difference between those in the early childhood sector and schools is something that is very topical. It does come up and is raised with me as the Minister. As you would probably know or be aware, the rates of pay are set by the Fair Work Commission at a Federal level. We do not have a direct role to play in how much early childcare workers are

paid. That is set by the Fair Work Commission. In New South Wales, most recently we have brought in a couple of things, making sure that educators understand how valued and important the services that they provide for our kids are. We have accreditation, so they are accredited in the same way as teachers are. We also have scholarships available for people who want to upskill.

**Mr JUSTIN FIELD:** For clarification, I am sure the acknowledgement is great; but being able to afford to live in Sydney would be a challenge, despite that. You have departmental preschools.

**The Hon. SARAH MITCHELL:** Yes.

**Mr JUSTIN FIELD:** I assume that the educators in those centres would be paid the rates of a school teacher under the State award. Whereas early educators in a long day care centre, who would be providing a preschool program, are probably paid significantly less. Would that be the case?

**The Hon. SARAH MITCHELL:** I will ask Ms Harrison to reply to that.

**Ms HARRISSON:** I will have to take on notice the specifics of the salary arrangements under the award for our staff in department-run preschools. I will be happy to come back to you.

**Reverend the Hon. FRED NILE:** Moving on to Education. I know your role is Assistant Minister and you may not be able to answer every question. What were the estimated actual costs or expenses associated with the cancellation of the Safe Schools program?

**The Hon. SARAH MITCHELL:** As Assistant Minister for Education I have certain responsibilities, but the matter relating to Safe Schools falls under Minister Stokes. You will have to ask those questions of him when he appears because that is not something I have responsibility for.

**Reverend the Hon. FRED NILE:** I understand that there is a new anti-bullying program being introduced into State schools in place of the Safe Schools program. Do you have any idea of the funding or cost of that program?

**The Hon. SARAH MITCHELL:** Again, they are matters for Minister Stokes. I do not have a role to play in relation to that particular program.

**Reverend the Hon. FRED NILE:** Moving on to the TAFE system. Can you answer any questions on that?

**The Hon. SARAH MITCHELL:** No, Mr Adam Marshall is the Assistant Minister for Skills.

**The CHAIR:** I think that comes under Minister Stokes' portfolio.

**The Hon. SARAH MITCHELL:** TAFE is with the Deputy Premier or Assistant Minister Marshall.

**Reverend the Hon. FRED NILE:** That concludes my questioning.

**Mr JUSTIN FIELD:** Mr Chair, if the crossbench could continue, I wanted to go back to preschool funding. You acknowledge the great benefits of increasing the amount of early childhood education access. Most Organization for Economic Cooperation and Development [OECD] countries are offering government-run preschool education of 30 hours a week for two years. Where would you like to see us land in New South Wales?

**The Hon. SARAH MITCHELL:** At the moment the focus is on the Start Strong program, getting our numbers up for the year before school for four- and five-year-olds, that 600 hours up to the 95 per cent benchmark. The reason we are also putting money into three-year-olds from equity backgrounds is because research shows that particularly kids who are disadvantaged benefit the most. That is why we have the focus on those three-year-olds at this point of time and that is the current focus for us as the Government.

**(Short adjournment)**

**JASON ARDLER**, Head of Aboriginal Affairs, Department of Education, affirmed and examined

**The Hon. COURTNEY HOUSSOS:** How many Indigenous deaths have there been in New South Wales institutions since 1 April 2011?

**The Hon. SARAH MITCHELL:** I will take that question on notice; I do not have that information with me. Do you mean in New South Wales institutions more generally?

**The Hon. COURTNEY HOUSSOS:** Yes.

**The Hon. SARAH MITCHELL:** Obviously I will have to get information from my colleagues who have responsibility for the institutions. I will take the question on notice.

**The Hon. COURTNEY HOUSSOS:** How many Indigenous deaths have occurred in New South Wales institutions since you were made Minister?

**The Hon. NATASHA MACLAREN-JONES:** Point of order: The Minister has taken that question on notice.

**The Hon. COURTNEY HOUSSOS:** My first question related to deaths since 1 April 2011. This question relates to deaths since she was made Minister. It is a new question and the Minister can take it on notice.

**The Hon. SARAH MITCHELL:** In terms of deaths in Corrective Services NSW facilities since I have been the Minister, I am aware of two. However, in terms of New South Wales institutions in general, I would have to seek advice from my colleagues who have responsibility for institutions and provide a response on notice.

**The Hon. COURTNEY HOUSSOS:** Can you talk me through the two deaths in custody since you have been the Minister?

**The Hon. SARAH MITCHELL:** I am aware of two relatively recent occurrences. They are both under active investigation through Corrective Services NSW. There is a process in place whereby my office is notified by Aboriginal Affairs when those incidents unfortunately occur.

**The Hon. COURTNEY HOUSSOS:** Are you notified only of Indigenous deaths, or are you also notified if a serious or life-threatening incident involving an Indigenous person occurs in a prison?

**The Hon. SARAH MITCHELL:** As I said, I have been notified of two deaths in custody, but I am not notified of serious incidents, and I do not believe the department is notified either.

**The Hon. COURTNEY HOUSSOS:** What is involved in the notification process?

**The Hon. SARAH MITCHELL:** The department is notified by Corrective Services NSW, and that information is relayed to me as the Minister.

**The Hon. COURTNEY HOUSSOS:** I am interested in when you as the Minister are notified of these occurrences.

**The Hon. SARAH MITCHELL:** I am notified by the department as soon as it is made aware. We introduced a process in my office when I became the Minister that if or when any unfortunate incident occurs I will make formal representations to the Minister responsible. On both recent occasions I made representations to the Minister for Corrections, the Minister for Police and the Attorney General asking to be kept up to date with regard to the ongoing investigations. I also specifically requested that any interaction with the families of those who passed away be respectful and culturally appropriate.

I spoke to my department about providing support for the families, and whether it would be appropriate for the department or for me as the Minister to make contact with them. As I said, the incidents are both relatively recent and are still under active investigation. The advice from my department so far is that there has not been any approach from the families for assistance. However, we will continue to monitor that as the investigations continue.

**The Hon. COURTNEY HOUSSOS:** When you say there has been no approach for assistance, was it deemed not appropriate for you to contact the families?

**The Hon. SARAH MITCHELL:** The advice from my department is that that should not occur at this time because the families are grieving and, as I said, investigations are underway in both cases. I will continue to monitor the situation and to seek advice. Should it be appropriate for me to do that, I will. I respect that these families have lost a loved one and I do not want to insert myself into the situation as a politician. I want to ensure that any dealings they have with Corrective Services NSW, which is entirely responsible for these investigations, are culturally appropriate. We continue to monitor feedback in relation to those investigations.

**The Hon. COURTNEY HOUSSOS:** Obviously the two most recent cases under investigation have been canvassed in the media. What information can you provide about them?

**The Hon. SARAH MITCHELL:** I will seek advice about what I can say while respecting the families' privacy.

**Mr ARDLER:** Not much. Both cases are under investigation, including by the Coroner.

**The Hon. COURTNEY HOUSSOS:** Two Indigenous deaths in prison have been discussed in the media, including one last month. There was one Indigenous death in police custody in 2016, and at least one in a prison in 2015. Can we agree on that?

**The Hon. SARAH MITCHELL:** Yes.

**The Hon. COURTNEY HOUSSOS:** There have been three Indigenous deaths in custody over the past three years in New South Wales.

**The Hon. SARAH MITCHELL:** Yes.

**The Hon. COURTNEY HOUSSOS:** Can you explain the role of the Aboriginal Legal Service when an Aboriginal person is taken into custody in New South Wales?

**The Hon. SARAH MITCHELL:** We have the Custody Notification Service in New South Wales. Obviously those questions would be more appropriately answered by the Minister for Police. However, when an Aboriginal person is taken into custody the Aboriginal Legal Service is notified through that notification system.

**The Hon. COURTNEY HOUSSOS:** You would be aware that the Aboriginal Legal Service has had to cut back its services severely in New South Wales.

**The Hon. SARAH MITCHELL:** Yes. The funding of the Aboriginal Legal Service is the responsibility of the Attorney General. I do not have a role to play in terms of the funding the service receives.

**The Hon. COURTNEY HOUSSOS:** But you do have a role to play in ensuring that Indigenous people taken into custody in New South Wales are handled in a culturally sensitive way.

**The Hon. SARAH MITCHELL:** As I said, that is what I have asked of those three Ministers in respect of the two recent deaths in custody. I have asked them to ensure that any interaction with the families is culturally appropriate. I do not know whether Mr Ardler would like to add anything on behalf of the department. There are officers within Corrective Services NSW who have a role to play in that regard. Those questions should be directed to the Minister for Corrections because it is not something for which I have responsibility.

**The Hon. WALT SECORD:** A public debate is occurring in Australia at the moment about Australia Day, constitutional recognition, monuments and Australian history.

**The Hon. SARAH MITCHELL:** Yes.

**The Hon. WALT SECORD:** You have been absolutely silent during this debate. What is your position on Australia Day? What is your position on recognition of Indigenous culture in Australia? You are the Minister for Aboriginal Affairs and you have been absolutely silent about these issues.

**The Hon. SARAH MITCHELL:** That is the first time you have asked me questions about any of those issues, and I am happy to answer them. Decisions about when we have public holidays are a matter for the Federal Government.

**The Hon. WALT SECORD:** No, I will correct you: Holidays are gazetted State by State.

**The Hon. SARAH MITCHELL:** If the member would like me to continue, I will. All States must cooperate with regard to public holidays, but, as I said, they are primarily a Federal Government responsibility. The New South Wales Government's position is that the date on which Australia Day is celebrated will not be changed. Obviously I am aware of the current media debate about this issue. I have also been asked a question in the Chamber about it by a member of The Greens. When I visit Aboriginal communities, people talk to me about the day-to-day issues they face.

**The Hon. WALT SECORD:** That was not my question.

**The Hon. SARAH MITCHELL:** I am answering your question.

**The Hon. WALT SECORD:** No, you are not.

**The Hon. SARAH MITCHELL:** Yes, I am.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: The member has asked the Minister a question and she is entitled to answer it as she sees fit.

**The Hon. WALT SECORD:** She is not answering the question.

**The Hon. NATASHA MACLAREN-JONES:** She is entitled to answer it as she sees fit.



**The Hon. SARAH MITCHELL:** As I was saying, the issues being raised with me are education, employment opportunities and languages. Neither my office nor I have had representations about changing the date of Australia Day. I am aware of the media reports and that some Aboriginal people have spoken publicly about this issue. Of course I am aware that for cultural reasons there are some sensitivities about that date for Aboriginal people across New South Wales. However, I advocate on issues that people raise with me and about which they want me to advocate on their behalf. To date, I have heard nothing—

**The Hon. WALT SECORD:** Minister, we are giving you the opportunity right now. What is your position?

**The Hon. SARAH MITCHELL:** I have stated the New South Wales Government's position—

**The Hon. WALT SECORD:** No, what is your position?

**The Hon. SARAH MITCHELL:** I am giving you the position as Minister.

**The Hon. WALT SECORD:** I am asking you a question.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: Is this meant to be a debate or are you asking a question? The Minister has answered the question.

**The Hon. WALT SECORD:** I am asking a question.

**The Hon. NATASHA MACLAREN-JONES:** The Minister has answered the question.

**The Hon. WALT SECORD:** She has not answered the—

**The Hon. SARAH MITCHELL:** I have. I have answered that. The position of the New South Wales Government is that there is no change to the date of Australia Day.

**The Hon. WALT SECORD:** What is the New South Wales Government response to the current debate for a treaty?

**The Hon. SARAH MITCHELL:** In the context of a lot of the discussions federally around constitutional recognition, which is being raised again through the Federal Government processes, we in New South Wales were the first State to recognise Aboriginal people within our own Constitution. The discussion around treaty is very interesting. A lot of the work we are doing under opportunity, choice, healing, responsibility, empowerment [OCHRE]—which is our Aboriginal Affairs plan, as you would know—really contains a lot of the elements of treaty. They are discussions that would be ongoing but, as I said, at this point in time the work that we are doing in Aboriginal Affairs is consistent with a lot of the modelling around treaty.

**The Hon. WALT SECORD:** What do you think about the proposal that on the Queen's Birthday weekend the focus be shifted to recognise Indigenous culture in Australia?

**The Hon. SARAH MITCHELL:** I am assuming you are referring to the proposal from the Leader of the Opposition, Luke Foley.

**The Hon. WALT SECORD:** Yes, I am.

**The Hon. SARAH MITCHELL:** Again, I heard that in the media. I have not heard any Aboriginal people call for that as a particular day. I think anything we do to recognise and encourage people to be aware of the importance of Aboriginal culture and history is very important. There are other events throughout the year that we do to celebrate that. We have NAIDOC Week, which are whole of community celebrations of Indigenous culture; and we have Reconciliation Week. Luke Foley has come up with an arbitrary date in a media interview that he has put forward, and that is his position, but I have not had anyone from the Aboriginal community advocate on behalf of that with me directly.

**The Hon. WALT SECORD:** Minister, are you familiar with the annual Myall Creek Massacre Commemoration?

**The Hon. SARAH MITCHELL:** I am aware of it, yes.

**The Hon. WALT SECORD:** It is in a place in northern New South Wales.

**The Hon. SARAH MITCHELL:** I am aware of where Myall Creek is.

**The Hon. WALT SECORD:** You are? Okay. Are you aware that there is a well advanced plan to establish a museum and education centre there to commemorate a massacre in 1832. The Attorney General and Solicitor-General at the time prosecuted the perpetrators of the massacre and it was the first time in Australian

colonial history that a black life was equal to a white life. There is an active proposal. Have you received any representations or given any consideration to support the project?

**The Hon. SARAH MITCHELL:** I am not aware of any representations I have received in relation to that. I will ask Mr Ardler if the department has—

**Mr ARDLER:** No.

**The Hon. SARAH MITCHELL:** I am happy to receive that information from those who would like to see that and consider it, but at this stage I am not aware of receiving any.

**The Hon. WALT SECORD:** Thank you.

**The Hon. SARAH MITCHELL:** That is okay.

**The Hon. COURTNEY HOUSSOS:** Minister, the Auditor-General and the NSW Ombudsman have both called for greater transparency and accountability in the design and delivery of programs and services to Aboriginal people. Why then in the budget papers this year was Aboriginal health funding as a line item removed?

**The Hon. SARAH MITCHELL:** Aboriginal health funding would be the responsibility of the Minister for Health, not me as Minister for Aboriginal Affairs, so you will have to direct that question to him.

**The Hon. COURTNEY HOUSSOS:** So you were not consulted on this change?

**The Hon. SARAH MITCHELL:** I will have to take that on notice.

**The Hon. COURTNEY HOUSSOS:** You can take it on notice.

**The Hon. WALT SECORD:** Can the adviser—

**The Hon. SARAH MITCHELL:** Is there anything that you can add?

**Mr ARDLER:** No.

**The Hon. SARAH MITCHELL:** No. We will have to take that on notice.

**Mr ARDLER:** We are not consulted on the budgets—

**The Hon. SARAH MITCHELL:** We are not consulted on other budgets—there you go.

**The Hon. COURTNEY HOUSSOS:** So you are not consulted if there is a specific line item relating to Aboriginal people is removed from the budget?

**Mr ARDLER:** No.

**The Hon. SARAH MITCHELL:** No.

**The Hon. WALT SECORD:** Minister, what is the current Aboriginal incarceration rate?

**The Hon. SARAH MITCHELL:** I do not have an exact figure. That would be with the Minister for Corrections. What I can tell you—

**The Hon. WALT SECORD:** Maybe your adviser could assist.

**The Hon. SARAH MITCHELL:** What I can say to you is that in 2016, the latest figures that I have, Aboriginal people in New South Wales were 11.3 times more likely than non-Aboriginal people to be incarcerated.

**The Hon. WALT SECORD:** Are there any programs or initiatives that you are doing to cut Aboriginal incarceration rates?

**The Hon. SARAH MITCHELL:** There is a range of measures in place, as I said, run by the Ministers who have responsibility for that, such as the Attorney General. You will have to direct those questions to him.

**The Hon. WALT SECORD:** Okay.

**The Hon. COURTNEY HOUSSOS:** What is the current status of negotiations for the formal hand back of Me-mel to the original owners?

**The Hon. WALT SECORD:** Goat Island.

**The Hon. COURTNEY HOUSSOS:** Goat Island.

**The Hon. SARAH MITCHELL:** I will have to ask Mr Ardler to update you on that.

**Mr ARDLER:** I do not know the current status of that.

**The Hon. COURTNEY HOUSSOS:** Are you able to take that on notice?

**Mr ARDLER:** Absolutely.

**The Hon. SARAH MITCHELL:** We will take that on notice for you.

**The Hon. COURTNEY HOUSSOS:** Have you, in your time as Minister for Aboriginal Affairs, escalated anything to solutions brokerage?

**The Hon. SARAH MITCHELL:** Yes. There are a few things under solutions brokerage that I took over when I became the Minister. Mr Ardler may want to talk through the detail, because obviously the department has more detail. Bowraville is one example of something that is under solution brokerage. Obviously that is of interest to many upper House members, including me, as I was on that committee.

**Mr ARDLER:** In fact, in reality, the authority to declare solution brokerage rests with me, not with the Minister, so it is my responsibility. There are currently four matters.

**The Hon. WALT SECORD:** What are the four matters?

**Mr ARDLER:** The four matters are Bowraville—the work to build community resilience in Bowraville. There is work that we are doing with the department of planning around removing barriers to people being able to utilise their landholdings for economic outcome or improved services in the case of former reserves. There is a matter that is wrapping up in Eden that was about resolving a long-term dispute between the New South Wales Government and Eden land council arising out of the late 1990s regional forest agreement process. The fourth one is some work around integrated early childhood development services in the far west of the State.

**The Hon. WALT SECORD:** With these deaths in custody—

**The Hon. NATASHA MACLAREN-JONES:** Point of order: Time has expired.

**The CHAIR:** Ms Dawn Walker.

**Ms DAWN WALKER:** I too was interested in Australia Day and whether the Government was looking at perhaps changing the date under the Public Holidays Act 2010. I take your answer. Given that it looks like it will remain on 26 January at this stage, does the Government have any thoughts on making the day more culturally sensitive?

**The Hon. SARAH MITCHELL:** As a resident of regional New South Wales I see—and I am sure you would too—that many Australia Day celebrations across the State are run by local governments which are very culturally appropriate and include members of the Aboriginal community as well. Ultimately individual celebrations and events within the community are primarily run by local government, but I have certainly seen firsthand in my community and in others that it is very much about celebrating all Australians, including Aboriginal people.

**Ms DAWN WALKER:** You have mentioned consultation and that you have not had a lot of people raise this issue with you. Do you have any plans for proactive consultation on the issue with Indigenous communities in the near future?

**The Hon. SARAH MITCHELL:** As I said, every week I visit different communities across New South Wales and meet with Aboriginal people, whether it is land councils, working parties, peak organisations, individuals or elders, depending on where I am and what we are up to. I am always happy and interested to engage on any issues that they want to raise with me. As I said, to date changing the date of Australia Day has not been something that has been raised with me by any of those groups with whom I have met. Last week, for example, I was in Wagga Wagga and met with the land council. We were talking about the early childhood service that they have there and also housing opportunities. Different issues are raised around the State depending on what those local issues are. They tend to have similar themes around education, employment opportunities and so on. The work we are doing with languages at the moment is particularly relevant. To date nothing has been raised on Australia Day, but if people do want to raise that with me to talk about it, my door is open.

**Ms DAWN WALKER:** Perhaps more specifically, we have seen councils in Victoria being stripped of their citizenship ceremony powers for supporting changing the date. How will the New South Wales Government support New South Wales councils who make this same decision?

**The Hon. SARAH MITCHELL:** That is a matter between those local councils and the Federal Government in citizenship ceremonies. We do not play a role in that.

**Ms DAWN WALKER:** Moving on to the "Unfinished Business" stolen generation report, the Government committed to establishing the Stolen Generations Healing Fund following recommendation No. 3 of the "Unfinished Business" report. Can you tell us how far you are with allocating funds?

**The Hon. SARAH MITCHELL:** The healing fund specifically?

**Ms DAWN WALKER:** Yes.

**The Hon. SARAH MITCHELL:** I can get the details on that for you. More broadly, the payments that were going to survivors has started. We have had 136 survivors receive those payments since the beginning of the program. The healing fund, as you rightly point out, was also about what support was available for the families more broadly. We have set up the Stolen Generations Advisory Committee. We have had the first meeting of that group, which I attended. The second meeting is coming up in a couple of weeks. That is going very well. It is an opportunity for those organisations to sit with me as Minister and the heads of many government departments to talk through issues.

I will see what we have on the specifics around the Stolen Generations Healing Fund. We have allocated \$5 million over 10 years, and there is \$500,000 allocated each financial year from 2017-18 onwards. It is all about supporting collective healing initiatives, as you said. If you are after some specific examples we can take that on notice and come back to you.

**Ms DAWN WALKER:** For example, have the stolen generation healthcare cards been implemented?

**Mr ARDLER:** The Department of Premier and Cabinet is leading the conversations with the Commonwealth on those. The healthcare card is a matter for the Commonwealth, and our commitment was to advocate to the Commonwealth around that issue.

**The Hon. SARAH MITCHELL:** The important point is that when we meet in the Stolen Generation Advisory Committee we have the heads and representatives of Commonwealth and State agencies to talk about the range of measures that came out of that report, and the recommendations and the actions. They are the sorts of issues that are discussed and progressed through that council, using the direct feedback from the representatives of the survivor groups.

**Ms DAWN WALKER:** Finally, I had some questions on Aboriginal land councils. Under the Aboriginal Land Rights Act you have the power to appoint administrators—

**The Hon. SARAH MITCHELL:** Yes.

**Ms DAWN WALKER:** —and investigators into local Aboriginal land councils with the approval of the New South Wales Aboriginal Land Council. How many land councils are currently being run by administrators?

**The Hon. SARAH MITCHELL:** There are three that are currently under administration: Mungindi Local Aboriginal Land Council, Awabakal Local Aboriginal Land Council and also Albury and District Local Aboriginal Land Council. As of this week those are the three.

**Ms DAWN WALKER:** In the past five years, how many?

**The Hon. SARAH MITCHELL:** I will have to take that on notice. I do not have that with me.

**Ms DAWN WALKER:** That is fine. The other thing I am interested in is how long each of them has been run by administrators.

**The Hon. SARAH MITCHELL:** We can take on notice the detail for those three under current administration. Did you want those for the past five years as well?

**Ms DAWN WALKER:** Yes, in the past five years.

**The Hon. SARAH MITCHELL:** That is fine. It depends on the nature of the investigation and how long the administrator needs to help resolve those issues. There is not a set time. There are opportunities for extension if there is more work that needs to be done. We can get a breakdown of that for you on notice. That is fine.

**Ms DAWN WALKER:** How is their performance or that of the administrator assessed?

**The Hon. SARAH MITCHELL:** I get monthly reports and updates from the administrators, which talk about a range of issues. Again, it depends on the individual circumstances of the land council and the reason they have gone into administration. I get updates each month from the administrators about the progress that they have made so far. In some cases, as I said, they apply for extensions based on the work that they need to do. I take advice on that through the department and the registrar.

**Mr ARDLER:** That is right.

**The Hon. SARAH MITCHELL:** It really depends on the individual nature of each land council under administration.

**Reverend the Hon. FRED NILE:** Following up in that general area, in regard to Aboriginal land claims I was pleased to be able to vote for that legislation in 1983 but I hear reports of very long delays—sometimes up to 20 years—for approvals. What is the current situation? How many claims have been approved, how many are awaiting approval and what are the time delays? What is your Government doing, and what are you doing to speed up that process so that members of the Aboriginal community can get some benefit while they are alive?

**The Hon. SARAH MITCHELL:** Obviously the main responsibility around the administration and processing of land claims falls to Minister Toole as Minister for Lands and Forestry. But the figures that I have—as until 25 August this year—is that the number of claims that were lodged by Aboriginal land councils were 44,930. Claims granted by Crown Lands were 2,709. Claims refused by Crown Lands were 7,932. The current number of claims that are undetermined is 33,350. Obviously there are some 33,000 outstanding land claims. Most recently we have been able to bring in a process of Aboriginal Land Agreements. The idea behind that is that a voluntary agreement is entered into between the land council and the local council, effectively to expedite bulk numbers of claims.

They can sit down and negotiate and work through the claims in their areas and see what they can do to help resolve that number. That is something we have brought in recently. There are four local government areas in which we are piloting that. We are hopeful that that will result in a more expedient settlement of a larger number of claims when that is the desire of the land council and those involved. It is a voluntary process, as I said. We have to be aware that every land claim that has been submitted needs to be considered. It is about how we can put in place a more effective process. We feel that the Aboriginal Land Agreements process will help with that number.

**Reverend the Hon. FRED NILE:** It is a good move. What is the time delay for those 33,000 outstanding claims? How many are 20 years old, 10 years old and five years old?

**The Hon. SARAH MITCHELL:** I will have to refer that question to Minister Toole because, as I said, his agency is responsible for processing land claims. That is not something in which we have a role in Aboriginal Affairs.

**Reverend the Hon. FRED NILE:** Could you inquire why some of them, if they are 10 years old or 20 years old, have not been processed—either approved or rejected?

**The Hon. SARAH MITCHELL:** We can ask that question. We can take it on notice. As I said, I will have to get that information from Minister Toole and his agency.

**Reverend the Hon. FRED NILE:** Should there be a closer relationship between your department and Mr Toole's department so that you are involved in the process?

**The Hon. SARAH MITCHELL:** We work closely with him. He and I meet and speak about it. Obviously it is in our best interests to have these claims dealt with, particularly for land councils where it gives them opportunities for economic development. We do not want to see undue delay but we also have to have our due diligence process. I know that our department works with Crown Lands. I do not know whether Mr Ardler would like to add anything.

**Mr ARDLER:** We work very closely with the Department of Industry—Lands and Forestry. I meet with the Deputy Director General of Lands on a regular basis. These issues are front of mind for us. We regularly talk about ways and means of improving efficiency in the processing of land claims. Certainly in developing the Aboriginal land agreement framework we worked hand and glove, and we work with the State Land Council. We do meet regularly, and we are working through these issues.

**Reverend the Hon. FRED NILE:** I appreciate that you have a genuine concern. I am troubled as to whether Minister Toole's department is as concerned for the welfare of Aboriginal people as your department. What can we do to have a greater sympathy for Aboriginal people?

**The Hon. SARAH MITCHELL:** Obviously it is my role as Minister to advocate in relation to these issues. That is what the department also does.

**Mr ARDLER:** I am confident from my dealings with senior officers within Lands that their hearts are in the right place. Like all of us, they are dealing with the legislation that we have to deal with.

**Reverend the Hon. FRED NILE:** You keep an eye on their hearts and they are genuinely sympathetic?

**Mr ARDLER:** Believe me, I do.

**Reverend the Hon. FRED NILE:** There have been questions in these other areas that I was going to raise. For example, with the Australia Day celebrations, which are huge in Sydney, are you aware of Aboriginal groups participating in the Australia Day celebrations on Sydney's foreshores? If so, what are the numbers?

**The Hon. SARAH MITCHELL:** I have to be honest; I tend to spend Australia Day in Gunnedah in the country where I live. I have not been in Sydney for Australia Day or seen it myself. But, yes, anecdotally I am aware of Aboriginal groups being involved in celebrations in Sydney.

**Reverend the Hon. FRED NILE:** The other issue that is obviously concerning people is the debate about monuments. Have you had any feedback from the Aboriginal community concerning colonial monuments such as Captain Cook and so on?

**The Hon. SARAH MITCHELL:** No.

**Reverend the Hon. FRED NILE:** Is there any movement finding these objectionable and wanting them removed?

**The Hon. SARAH MITCHELL:** Not directly. I will say in relation to the incidents over the weekend where there was graffiti in Hyde Park that I do not condone that behaviour at all. I do not think that is the way to get messages across if people have a view about changing things like the plaques on monuments. My understanding is that the City of Sydney, which is responsible for Hyde Park and those monuments, is conducting its own investigation. I know that there has been some talk about whether it would be appropriate to have more monuments that better reflect our Aboriginal history and culture within the City of Sydney. I would welcome discussions around that. I think anything that we can do to raise awareness of Aboriginal history and culture anywhere in the State is important but ultimately it is up to councils to make decisions relating to the monuments in Hyde Park—that is, the City of Sydney.

**Reverend the Hon. FRED NILE:** I am not suggesting in any way that Aborigines were involved in the vandalism. I am pretty sure they were not.

**The Hon. SARAH MITCHELL:** No, I did not take it that way.

**Reverend the Hon. FRED NILE:** I have had some discussions with Aboriginal groups who are planning some special recognition celebrations in 2018 in the Botany Bay area. I was wondering whether you were aware of those discussions. Have you had some involvement with them?

**The Hon. SARAH MITCHELL:** I have not been approached about that. Again I would be happy to take your advice and have discussions if that is what they would like.

**Reverend the Hon. FRED NILE:** Good. I will get the information for you.

**The Hon. SARAH MITCHELL:** Not a problem. That is fine.

**The Hon. WALT SECORD:** Minister, you would be aware of the explosive revelations aired by ABC's *Four Corners* about a month and a half ago concerning water theft in western New South Wales?

**The Hon. SARAH MITCHELL:** The ABC program about the Murray-Darling Basin? Yes, I am aware of that.

**The Hon. WALT SECORD:** Yes, The Nationals donors who stole billions of litres of water upstream. Have you had any discussions with or representations from Aboriginal communities downstream that were deprived of water?

**The Hon. SARAH MITCHELL:** I am not aware of any direct representations to my office relating to that. I am aware of media reports, with some members of the Aboriginal community, particularly those in the far western parts of New South Wales, airing their concerns. After I saw those media reports I made a formal representation to Minister Blair asking for advice around what involvement local Aboriginal people have had in the Murray-Darling Basin plan. He has responsibility for that area, as you would know.

**The Hon. WALT SECORD:** And what was the response to your representations?

**The Hon. SARAH MITCHELL:** I have not received a response as yet.

**The Hon. WALT SECORD:** Earlier my colleague the Hon. Courtney Houssos asked about solution brokerage. You went through four items that were referred to it.

**Mr ARDLER:** Yes.

**The Hon. WALT SECORD:** Given that there have been three Aboriginal deaths in custody in the past two years, why have you not referred preventable deaths in custody to that?

**The Hon. SARAH MITCHELL:** Through solution brokerage? Do you want to explain the mechanisms for solution brokerage?

**Mr ARDLER:** Yes, sure. Solution brokerage was not established as a mechanism for escalation of issues that are clearly the responsibility of particular agencies or portfolios. Solution brokerage is more a mechanism for finding innovative solutions to issues that tend to fall through the gaps and are not the responsibilities of particular agencies. If there was an agency that had a particular responsibility for an issue and it was not dealing with that issue appropriately in the eyes of some there would be—

**The Hon. WALT SECORD:** But do you not think that preventable deaths in custody would be an example of something that would warrant attention like this?

**Mr ARDLER:** It could be.

**The Hon. WALT SECORD:** Are you aware that there are three tiers to the solution brokerage?

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

**The Hon. WALT SECORD:** So what would be a tier one?

**Mr ARDLER:** Tier one is generally a local issue; probably a local coordination issue.

**The Hon. WALT SECORD:** Okay. What would number two be?

**Mr ARDLER:** Number two tends to be more regional in nature or a more complex local issue.

**The Hon. WALT SECORD:** And number three?

**Mr ARDLER:** Number three would be an issue with significant statewide implications.

**The Hon. WALT SECORD:** I refer to the opportunity, choice, healing, responsibility and empowerment [OCHRE] program which states:

...Tier Three for major policy reform, including statewide issues.

Would not preventable Aboriginal deaths in custody warrant a tier three referral by you or the Minister?

**Mr ARDLER:** It could be. The items that are declared are usually items that are referred to me.

**The Hon. WALT SECORD:** Give me an example of a tier three then.

**Mr ARDLER:** A tier three would be the work we are doing with the Department of Planning around planning solutions to economic outcomes on Aboriginal lands, because those lands are obviously all over the State.

**The Hon. WALT SECORD:** Would you say that it is an oversight or neglect not to refer preventable deaths? We went 16 years from 1991 with no Aboriginal deaths in custody in New South Wales and then there have been three in the past two years. Do you not think that preventable deaths in custody would be a tier three, to quote your own document—a major policy reform?

**Mr ARDLER:** It could be.

**The Hon. WALT SECORD:** Do you think it should be?

**The Hon. SARAH MITCHELL:** I think Mr Ardler has answered that question

**The Hon. NATASHA MACLAREN-JONES:** Point of order: I think the Hon. Walt Secord is asking a member of a department about policy and his opinion on policy.

**The Hon. WALT SECORD:** I will ask the Minister about that. Minister, is not preventable deaths in custody a tier three item? Should it not have been referred by you?

**The Hon. SARAH MITCHELL:** Solution brokerage decisions are made by the department, not by me as the Minister. Mr Ardler answered the question and said that it could be.

**The Hon. WALT SECORD:** It could be?

**Mr ARDLER:** It could be.

**The Hon. WALT SECORD:** Will you then look at—

**Mr ARDLER:** Yes, sure. I am happy to. We would have to scope a clear issue and a problem that would be resolved. So yes, I am inclined.

**The Hon. WALT SECORD:** Sorry, would be or should be?

**Mr ARDLER:** That would be the process.

**The Hon. SARAH MITCHELL:** There are parameters around solution brokerage, as Mr Ardler has explained. He said that he is happy to give consideration to what you have said.

**Mr ARDLER:** Yes, happy to give consideration.

**The Hon. WALT SECORD:** So you would give consideration to making preventable deaths in custody a tier three as part of the solution brokerage?

**Mr ARDLER:** Sure, absolutely. The way that a solution brokerage works is that anybody can nominate any issue.

**The Hon. SARAH MITCHELL:** That is correct.

**The Hon. WALT SECORD:** Would you accept that it is an oversight not to have put it in that category now?

**Mr ARDLER:** Not necessarily.

**The Hon. SARAH MITCHELL:** We have already answered that.

**The Hon. WALT SECORD:** I am trying to make the point that it is an oversight; it should have been in there and you should have done that.

**The Hon. SARAH MITCHELL:** That is your view. Mr Ardler, as the person who has responsibility for solution brokerage, said that he would take that under consideration. We will take it on notice.

**The Hon. WALT SECORD:** So it looks like he has accepted that it was an oversight?

**The Hon. SARAH MITCHELL:** No.

**Mr ARDLER:** That is not what I said.

**The Hon. SARAH MITCHELL:** You are not putting words in his mouth. He said that he will take what you have said into consideration.

**The Hon. WALT SECORD:** Okay.

**The Hon. COURTNEY HOUSSOS:** Minister, as Minister for Aboriginal Affairs and as a resident of Gunnedah what have you done to assist the protection of local Aboriginal culture in connection with the proposed Watermark mine?

**The Hon. SARAH MITCHELL:** I will take that on notice because your time has expired.

**Ms DAWN WALKER:** Minister, I have a question about the budget estimates papers. This year's budget estimates papers indicate that the \$73 million of reparations for the stolen generation are included in last year's \$74.1 million budget for Aboriginal Affairs.

**The Hon. SARAH MITCHELL:** Yes.

**Ms DAWN WALKER:** Does this mean that nearly all of last year's budget was spent on reparations alone?

**The Hon. SARAH MITCHELL:** No. What it means—and it says it there in the budget papers—is that we have agreed to the payments to the stolen generations under that scheme. As you have said, under Australian accounting standards, all the payments over the life of the scheme are recognised in the 2016-17 budget, even though the actual payments to claimants may be made in the years of the program. There was



money also in last year's budget for the operational expenses of the Aboriginal Affairs department and also for the Aboriginal Centre of Excellence.

**Ms DAWN WALKER:** So this year's budget is close to \$50 million?

**The Hon. SARAH MITCHELL:** It is \$49 million.

**Ms DAWN WALKER:** Were the services that this budget funds not funded last year?

**The Hon. SARAH MITCHELL:** No. The day-to-day operational budget of Aboriginal Affairs was consistent between last year and this year. I think it is slightly higher this year.

**Ms DAWN WALKER:** Thank you.

**Reverend the Hon. FRED NILE:** I have been involved with the New South Wales Aboriginal Land Council [NSWALC], which is planning some special events in September. One of them I think they are calling a Black Parliament in the Assembly Chamber. Are you aware of those and are you giving any support? They may not have asked you, but I hope they have.

**The Hon. SARAH MITCHELL:** I am aware of those plans to celebrate the New South Wales Aboriginal Land Council. I have had correspondence and discussions, as has my office, with NSWALC for that event. I will be hosting them at Parliament. We have approached the Speaker to be able to have an event within the Legislative Assembly Chamber, as you have rightly recognised. From memory there will also be a lunch or a morning tea—I will have to double-check—in the Jubilee Room which will be open to all members of Parliament. Events will be held in Parliament House in which I am actively engaged with the NSWALC in recognition of those celebrations.

**Reverend the Hon. FRED NILE:** Good, I am pleased.

**The CHAIR:** Thank you very much, Minister Mitchell. Thank you to your officers for attending this hearing.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**