

PORTFOLIO COMMITTEE NO. 5 – INDUSTRY AND TRANSPORT

Friday, 1 September 2017

Examination of proposed expenditure for the portfolio area

PRIMARY INDUSTRIES, REGIONAL WATER, TRADE AND INDUSTRY

CORRECTED PROOF

The Committee met at 9.00 a.m.

MEMBERS

The Hon. Robert Brown (Chair)

The Hon. Jeremy Buckingham

The Hon. Rick Colless

The Hon. Justin Field

Mr Scot MacDonald

The Hon. Daniel Mookhey

The Hon. Greg Pearce

The Hon. Mark Pearson

The Hon. Mick Veitch

PRESENT

The Hon. Niall Blair, *Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry*

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: Good morning ladies and gentlemen, I will call the hearing to order. I welcome you all to the public hearing for the inquiry into the budget estimates 2017-2018. 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 the elders past and present of the Eora nation and extend that respect to other Aborigines present. I welcome Minister Blair and his accompanying officials to this hearing.

Today the Committee will examine the proposed expenditure for the portfolios of Primary Industry, Regional Water, Trade and Industry. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members or witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also like to remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. There may be some questions a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised they can take questions on notice and they will be asked to provide answers within 21 days of receiving those questions.

Any messages from advisers or members' 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. The transcript of this hearing will be available on the web from tomorrow morning. Please turn your mobile phones off or switch them to silent. 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 of office as a member of Parliament. For all witnesses I will ask you each in turn to state your full name, position and agency, then either swear an oath or make an affirmation.

DAVID WITHERDIN, Executive Director, State Operations, Local Land Services, affirmed and examined

SIMON SMITH, Secretary, Department of Industry, affirmed and examined

SCOTT HANSEN, Director General, Department of Primary Industries, sworn and examined

DAVID HARRIS, Chief Executive Officer, WaterNSW, sworn and examined

The CHAIR: Thank you, Minister. I think you have already been advised that Government members will not be asking questions today. The questions will be divided between the Opposition and the crossbench. We have two crossbenchers here today, representing The Greens and the Animal Justice Party. Before we commence with questions, would you like to make an opening statement?

The Hon. NIALL BLAIR: Just happy to go to questions.

The CHAIR: No opening statements. We will start with the Opposition.

The Hon. DANIEL MOOKHEY: Thank you, Minister and thank you to your officials for your appearance this morning. Minister, when you learnt that the Matthews report that you promised would be available to the Parliament, to this Committee, to the media and to the people of Barwon by 31 August was in fact delayed, is it best to describe your reaction as jubilant?

The Hon. NIALL BLAIR: A couple of things that you make reference to, the commitments that I have made in relation to the Matthews report—

The Hon. DANIEL MOOKHEY: Your public commitments.

The Hon. NIALL BLAIR: Exactly, and some of those commitments were reiterated during the debates that we had in question time and also during the call for papers and the disallowance motion, where we quite clearly said that the report would at that time be available to the Government by the end of August.

The Hon. DANIEL MOOKHEY: That is not accurate, is it Minister?

The Hon. NIALL BLAIR: And released by early September, which is clearly stated.

The Hon. DANIEL MOOKHEY: It is clearly stated in your press statement.

The CHAIR: Order!

The Hon. RICK COLLESS: Point of order: The Minister is attempting to answer the question and is continually being interrupted by the member. I suggest that the Minister should be allowed to complete his answer before the next question is asked.

The CHAIR: I will rule on the point of order. We have plenty of time today. Members will have two or three rounds of questions. I think the Minister should be allowed to complete his answer. Minister, you can answer the question in any way you see fit but I will ask you to be concise please.

The Hon. NIALL BLAIR: Absolutely Chair, thank you. The approach to the secretary was made by Mr Matthews for an extension of one week. It was clearly put in the statement that was released earlier this week. Mr Matthews concern was about any other investigations that are continuing, and we know that there are at least five different agencies looking into the matters that were aired. His concern was that he wanted to make sure that his report did not prejudice any of those other investigations. He approached the secretary and asked for an extension of one week. The statement that was released earlier this week makes the commitment that that report will be released publicly and will be available before the next sitting week of Parliament. I am sure members will have the chance to look at the report. Just like in the last sitting week in the upper House, where I think I was asked 17 different questions during question time in relation to that, the report will be available to members before that sitting week. The one-week extension was at the request of Mr Matthews.

The Hon. DANIEL MOOKHEY: On 26 July you said Mr Matthews will provide an interim report by 31 August. That was not in the sitting week, it was a week earlier.

The Hon. NIALL BLAIR: That is right, and that is exactly what I said earlier.

The Hon. DANIEL MOOKHEY: Sorry Minister, I am just asking a question.

The Hon. NIALL BLAIR: That is what I said earlier—by the end of August.

The Hon. DANIEL MOOKHEY: It is awfully convenient for you and your National Party colleagues that this Committee and this Parliament does not have access to this report at a time where there is tremendous attention on your conduct, on the conduct of your predecessor, on the conduct of your department

and on the conduct of your most senior officials. Do you think it is an acceptable way to treat the Parliament to not meet your commitment to have this report released by 31 August?

The Hon. NIALL BLAIR: Mr Matthews requested a one-week extension to the secretary for the sole purpose of making sure that the report does not prejudice any other investigation or agency. Surely, when we have made the commitment that this report would be thorough and we gave Mr Matthews the autonomy to be able to conduct a thorough investigation and we are going to release his report, the one-week extension sought by Mr Matthews to make sure that nothing in his report prejudices any other agency looking into this was prudent. Surely, as I have clearly articulated in my first answer, we get that report, I get that report and the Committee gets that report before the next sitting week of Parliament. There is no-one shying away from this. We want to ensure that no other investigation is prejudiced by the release of that report. That is why Mr Matthews came directly to the secretary to ask for that extension.

The Hon. DANIEL MOOKHEY: On what date did Mr Matthews come directly to the secretary?

The Hon. NIALL BLAIR: I am happy for the secretary to go through the interactions between him and Mr Matthews, and the timeline associated with that extension.

The Hon. DANIEL MOOKHEY: I would like the secretary to understand the question, and I will give him the opportunity to answer the next question as well. Mr Smith, when did you receive the request from Mr Matthews? In what form was it and when did you inform the Minister?

Mr SMITH: I first make it clear that I have not seen the final report; it is not completed.

The Hon. DANIEL MOOKHEY: I was referring to the request made by Mr Matthews.

The Hon. NIALL BLAIR: The secretary is getting to that. He wanted to clarify that point before he gave his answer.

Mr SMITH: My discussions with Mr Matthews through the process have been informal and regular. Last Friday he advised me that he could see that there was risk that the report would not be provided to us by yesterday. He was concerned that the material he had seen in the course of his investigation and what he wanted to say about it could be prejudicial to other investigations that have been announced and that are underway.

The Hon. DANIEL MOOKHEY: What form of prejudice was he worried about?

Mr SMITH: He might be worried that if another body or appropriate authority was going to investigate a matter of detail it could be prejudicial to the completion of the investigation or information-gathering that another body might seek to do. He was also concerned that he wanted to be as fulsome as possible about what he had found during his investigations. He did not want to set up a situation where any individuals adversely named might commence proceedings against himself or the Government. He wanted to be very careful in checking exactly what he could say so that he could say as much as possible.

The Hon. DANIEL MOOKHEY: Are we to infer from that that when you release the report in seven days none of those risks will exist?

Mr SMITH: There was a fine line. I have encouraged him to be as complete as he possibly can. He does not want to take a legalistic view to the finalisation of the report; he does not want to be overly conservative or not say what needs to be said. That is why I agreed to his request to allow the extra time for him to get advice.

The Hon. MICK VEITCH: I would like to clarify that. You were told last Friday, 24 August—

Mr SMITH: No, he signalled that there was a risk.

The Hon. MICK VEITCH: When did you advise the Minister that that may be a possibility?

Mr SMITH: I told the Minister on Friday afternoon that it was a possibility.

The Hon. DANIEL MOOKHEY: When was the formal request received?

Mr SMITH: I think we talked about it again on Monday. Then it became clear that it was necessary to delay it. I think I advised the Minister that I had agreed with him on Tuesday and put the statement out on Wednesday. I would like to address the earlier question about the Minister's reaction. Obviously I was the one who witnessed his reaction, which was disappointment. There was definitely not any sense of—

The Hon. DANIEL MOOKHEY: Have you seen the draft report? Minister, have you seen it?

Mr SMITH: No.

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Have you seen any of the recommendations? In the informal conversations he has had with you, and the behaviour that you just described—that is, the Minister was concerned—has Mr Matthews foreshadowed or described what that behaviour was?

Mr SMITH: I have not seen the report. He has discussed the direction of the report in general terms.

The Hon. DANIEL MOOKHEY: What did he say?

Mr SMITH: He has discussed the direction of his report in general terms.

The Hon. DANIEL MOOKHEY: What did he say?

Mr SMITH: He said that there were areas where improvement will be required.

The Hon. DANIEL MOOKHEY: What were they?

The Hon. NIALL BLAIR: I have not seen the report and I have not had those discussions with Mr Matthews. I think we should wait for Mr Matthews' report to be released.

The Hon. DANIEL MOOKHEY: Your position before this Committee is that Mr Matthews has told your secretary that there are matters that are concerning, which involve you and your department and that presumably involve your predecessors, but you cannot tell us what they are because you and your secretary consented to delay the report by a week.

The Hon. NIALL BLAIR: I am telling you that Mr Matthews has been given free reign to access all the resources and staff required to thoroughly investigate the allegations made in the *Four Corners* report. He indicated to the Government that he wanted an extra week to ensure that the findings and the things he releases in his report do not prejudice any other investigation. It is prudent that as Minister I wait to see the report once it is completed and that I do not get involved in any interactions about the finalisation of the report. Mr Matthews made the approach directly to the secretary. More than anyone, as Minister I want this thing cleared up. I want people to have confidence in the report. Members may remember that when I became Minister for Water in 2015, embargoes—

The Hon. DANIEL MOOKHEY: You are answering a question I have not asked.

The Hon. RICK COLLESS: Let him finish.

The Hon. NIALL BLAIR: I think it is important that when you are trying to—

The Hon. DANIEL MOOKHEY: Your Government colleagues have waived their time to ask questions. If you wanted the opportunity to deliver a soliloquy you should have told them to ask questions.

The Hon. NIALL BLAIR: I am simply letting you know that we are ensuring that this report is beyond reproach.

The Hon. DANIEL MOOKHEY: When you say—

The Hon. RICK COLLESS: Point of order: It is the same point of order that I raised previously. The member is continually talking over the Minister as he is trying to answer questions. The Minister should be given the opportunity to answer his questions.

The Hon. MICK VEITCH: To the point of order: I have not been here as long as the esteemed the Hon. Rick Colless, but in my 10 years of budget estimates hearings there has been a longstanding agreement or understanding that the member asking the question determines when it has been answered and then asks the next question. It is not up to the Minister to determine when he has answered the question. He can continue speaking for 20 minutes, but it is up to the member who asked the question to decide when it has been answered.

The Hon. NIALL BLAIR: I am happy to move on.

The CHAIR: It is always a balancing act between Ministers and their staff filibustering, and members bullying witnesses. I will not rule on the point of order. However, the Minister should be given the opportunity to answer the questions. There is ample time for members to ask questions. Once again, I ask the Minister to be as concise as possible in providing his answers.

The Hon. NIALL BLAIR: Mr Chair, you will not see me reading long, prepared statements in an attempt to buy time.

The CHAIR: The Committee has agreed that Government members will not ask questions. It is for me to determine the duration of those questions and the order in which they will be asked, not members.

The Hon. DANIEL MOOKHEY: When you say that Mr Matthews has had free reign and adequate resources to get to the bottom of what has been going on, does that include the opportunity to interview you and your office under oath?

The Hon. NIALL BLAIR: I have not been interviewed. However, I am very happy to allow the secretary to outline the resources—

The Hon. DANIEL MOOKHEY: Before you do that, the second part of the question asked whether your office—

The Hon. NIALL BLAIR: Neither I nor my office has been interviewed.

The Hon. DANIEL MOOKHEY: Has Mr Matthews requested to interview you or your office?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: If he were to interview you and your office, would that be done under oath?

The Hon. NIALL BLAIR: I would be happy to attend any interview if asked to do so, but I have not been asked to do so.

The Hon. DANIEL MOOKHEY: Has Mr Matthews had the opportunity to interview Mr Smith?

The Hon. NIALL BLAIR: I will pass that question to the secretary and he can—

The Hon. DANIEL MOOKHEY: And Mr Hansen?

The Hon. NIALL BLAIR: To reiterate, I have not interfered with the investigation. Mr Matthews has had free reign to interview whomever he wants and to conduct site visits. He has also had access to the records he wants. I will ask the secretary to provide the details about how he has conducted the investigation and I will then ask Mr Hansen.

The Hon. DANIEL MOOKHEY: The question was specific. I did not ask about how he was handling the investigation, I asked specifically whether or not he has interviewed Mr Smith, Mr Hansen, Mr Hanlon and other people involved in Department of Primary Industries—Water.

The Hon. NIALL BLAIR: The question is getting broader and broader.

The Hon. DANIEL MOOKHEY: You are the one going in this direction.

The Hon. NIALL BLAIR: As I said, I am happy to—

The Hon. DANIEL MOOKHEY: I am being very specific so that the secretary and the director general know precisely what I am asking.

The Hon. NIALL BLAIR: I am happy to invite the secretary to answer the question.

Mr SMITH: He has not sought to interview me. He has interviewed Mr Hansen and Mr Hanlon. He has also interviewed more than 30 people, but I do not know who they are.

The Hon. DANIEL MOOKHEY: Is one of those 30 people Mr Kevin Humphries?

Mr SMITH: I do not know.

The Hon. DANIEL MOOKHEY: Is one of the 30 people a member of the Harris family?

The Hon. NIALL BLAIR: I think Mr Smith just said that he does not know who the other 30 people are.

The Hon. DANIEL MOOKHEY: Would you like the opportunity to take that question on notice?

Mr SMITH: Yes, we will take it on notice.

The Hon. NIALL BLAIR: Happy to.

The Hon. DANIEL MOOKHEY: Thank you.

Mr SMITH: I do not know that because I have not read the report.

The Hon. DANIEL MOOKHEY: Minister, when do you anticipate receiving the report? What date has this been extended to?

The Hon. NIALL BLAIR: I think the statement said next Friday—is that correct, Mr Smith?

Mr SMITH: That is correct.

The Hon. NIALL BLAIR: Next Friday, I think it is the eighth.

The Hon. MICK VEITCH: Just to clarify, that is the date that you will get the report—

The Hon. NIALL BLAIR: That is right.

The Hon. MICK VEITCH: —or is it the day it will be released?

The Hon. NIALL BLAIR: I might even have the statement with me to clarify what we have put on the public record. The last sentence of the statement that was put out on Wednesday 30 August says, "The interim report will be completed and submitted by Friday 8 September and released the following week." I think that makes it quite clear.

The Hon. DANIEL MOOKHEY: Will you see it before Friday 8 September?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Will the Secretary see it?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: Why are you not releasing it on the same day as you are receiving it?

Mr SMITH: The Minister will not actually be in New South Wales on that day.

The Hon. DANIEL MOOKHEY: Why is that relevant?

Mr SMITH: Because he is the Minister in charge.

The Hon. DANIEL MOOKHEY: If the Minister happens to be in Queensland, he is not able to issue the order that says, "Release the report."

The Hon. NIALL BLAIR: I will not be in the country.

The Hon. DANIEL MOOKHEY: I am asking you now, Minister, while you are in the country, will you commit to releasing the report the day it is received?

The Hon. NIALL BLAIR: The commitment has been made publicly in the statement that was released on 30 August that the report will be released the following week.

The Hon. DANIEL MOOKHEY: Given this Committee, the Parliament and the media have not had the chance to see the report before we had the opportunity to ask you questions today—

The Hon. NIALL BLAIR: Yes—nor me, nor the Secretary.

The Hon. DANIEL MOOKHEY: Then I am sure you would happily agree to reappearing before this Committee after the report is released, alongside Mr Matthews, so we, the Parliament, can ask questions of you and the person who has undertaken the report.

The Hon. NIALL BLAIR: You will have the report before the Parliament sitting week, which is not next week but the week after, when I am sure we will have plenty of opportunities. Whether or not there is a supplementary hearing into this matter is a matter for the Committee.

The Hon. DANIEL MOOKHEY: But you have no objection?

The Hon. NIALL BLAIR: I am an upper House member.

The Hon. GREG PEARCE: Point of order.

Mr SCOT MacDONALD: Just a procedural matter.

The CHAIR: One at a time, please. Whose point of order is it?

The Hon. GREG PEARCE: Mr Chair, I think you should inform the Minister that the Committee has already resolved that if there is to be a supplementary hearing it will be after receipt of answers to questions on notice.

The CHAIR: I am sure the Minister would have heard that comment, and that is a fact. We will decide whether we will have supplementary hearings after answers to questions on notice have been received. Please proceed, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Minister, why did you narrow the terms of reference to only include four properties suspected of unauthorised behaviour?

The Hon. NIALL BLAIR: The terms of reference were drafted in response to the allegations that were made on the *Four Corners* program. Mr Matthews is also looking at the compliance system more broadly. I am sure that the terms of reference that were given to him will allow him to make adequate recommendations in relation to compliance in New South Wales.

The Hon. DANIEL MOOKHEY: How many reports of water theft, meter tampering, logbook falsification or the failure to maintain logbooks relating to the Barwon-Darling have been received by the department in the past five years?

The Hon. NIALL BLAIR: I would not have that information with me. If we do not have that information here—

The Hon. DANIEL MOOKHEY: Feel free to give us a range.

The Hon. NIALL BLAIR: I am happy to pass that to Mr Hansen to see if he has any record of that. If not, we are happy to take it on notice.

Mr HANSEN: We can give you a range and the fact that across the State there are over 500 allegations that are looked into by our compliance teams—that averages over the last five years and the time frame you have asked about. I do not have the breakdown in front of me as to those by valley, but that is something we can certainly pull up.

The Hon. DANIEL MOOKHEY: Minister, when did you first become aware—

The Hon. GREG PEARCE: Mr Chair, have we resolved to change the time for questions? We are well over 20 minutes for the Opposition. We started at two minutes to the hour.

The CHAIR: No, we are not. I have a time clock sitting here before me.

The Hon. DANIEL MOOKHEY: Can I have extra time?

The CHAIR: No, but you have one minute, so please proceed.

The Hon. DANIEL MOOKHEY: In respect of the figure of approximately 500 which has just been described—I think you just took on notice the valley aspect of it—

Mr HANSEN: Yes. I do not have the numbers in front of me for the individual valleys, but we can certainly pull up those.

The Hon. DANIEL MOOKHEY: Minister, would you describe that level and that volume of allegations of wrongdoing to do with that river system as industrial level water theft?

The Hon. NIALL BLAIR: I think Mr Hansen quite clearly said that that number is the number of reports that we get across the State in a whole range of matters that may be potential breaches of the Water Management Act. I do not think that that clearly relates to or draws the conclusion that you have just made in that question. That is across the State—

The Hon. DANIEL MOOKHEY: Do you believe that there is industrial level water theft taking place today in the Barwon-Darling?

The Hon. NIALL BLAIR: We are happy to take the question on notice to have a look at the numbers for that particular valley. Once we have those individual breakdowns for that valley it will guide a detailed response to the question.

Mr JUSTIN FIELD: Minister, 51 shark nets go back into the water today between Newcastle and Wollongong. You have spent millions to develop new technologies. SMART drum line technology trials on the North Coast show they were far more effective at catching target sharks, cause far fewer deaths to sharks, contribute to our scientific understanding of shark movements and avoid almost all bycatch, including that of animals such as turtles, dolphins, stingrays and non-threatening sharks. Why are you persisting with outdated shark nets off Sydney's beaches that will again kill hundreds of harmless animals when there are better technologies available?

The Hon. NIALL BLAIR: We have had the shark meshing program between Newcastle and Wollongong for decades. I think it goes back to the 1930s.

Mr JUSTIN FIELD: Yes—outdated, as I said, Minister. We know the history of them. We can move forward.

The Hon. NIALL BLAIR: That is the system that we have here at the moment for protection of beachgoers in those areas. That is what we are continuing to roll out here in Sydney, but at the same time we are looking at a whole range of other measures. You have mentioned things like SMART drum lines. I would like to think that the investment that we are making in New South Wales puts a lot of the other States in this country well and truly in the distance when it comes to where we are moving towards on this particular issue. We hope that one day we will have new technologies and a whole suite of things that we can offer not just State Government but local government, surf lifesaving clubs and community groups. We are not there yet. We are still looking. We have announced another trial on the North Coast today to refine what we saw from the trial last year.

Mr JUSTIN FIELD: Miles Godfrey reported in the *Daily Telegraph* this morning that nets will again be used on the North Coast this summer. Is that reporting accurate?

The Hon. NIALL BLAIR: That is right.

Mr JUSTIN FIELD: So shark nets will go back in on the North Coast despite the community surveys showing public opposition to shark nets and despite the North Coast SMART drum line trials showing they were far more effective at capturing target sharks and killed almost no other marine animals.

The Hon. NIALL BLAIR: Yes. The Government has decided to do another trial on the North Coast in the same locations as it did during the last swimming season. We have decided that we need more information to be able to make further decisions about this. We want to have a look at using different mesh sizes on some of the nets on the North Coast as well as other technologies. I might ask Mr Hansen. I do not know that your assumption of the community surveys being opposed to nets is accurate.

Mr JUSTIN FIELD: That is certainly what was reported this morning in the *Sydney Morning Herald*.

The Hon. NIALL BLAIR: I might ask Mr Hansen to clarify whether that is the case, because we have done a lot of community engagement on this issue on the North Coast, including surveys.

Mr HANSEN: The majority of the community still support the trial of the nets. However, that level of support has decreased over the last 12 months. I think that is what was attempted to be reported—that decrease in community support—but we still have a majority of community support for the trial of the nets.

Mr JUSTIN FIELD: They support the nets or they support technology being in the water?

Mr HANSEN: I think it is.

Mr JUSTIN FIELD: Was it quite specific or did it look at the suite of measures that are being used up there? People recognise the difference between shark nets, SMART drum lines and other technologies.

Mr HANSEN: Yes, that is right. And I think it is certainly the fact that we are trialling a suite of activities, some that very much ask: What modifications can be made to technologies and processes that have been in play for decades? What can be changed? What can be done with those to try to reduce bycatch in addition to what new technologies are available to us?

Mr JUSTIN FIELD: The community was really closely following the net and the SMART drum line trials. You were doing monthly reports that were well utilised and I think really contributed to the community having some confidence that the Government was open and transparent about what was happening. Why have you not been doing a similar level of reporting on the other SMART drum lines that are in the water along the coastline? Will you commit to regular monthly reporting across the suite of shark technologies that are in the water at the moment?

Mr HANSEN: Yes.

Mr JUSTIN FIELD: So that will appear in the same sort of spreadsheet format showing the species caught and the outcome for the species on a monthly basis across the coast?

Mr HANSEN: Will you allow me the flexibility of not tying me to the format but doing the same process of reporting. In much the same way that all sharks caught on SMART drum lines at the moment, we are posting in almost real time—

Mr JUSTIN FIELD: We get the Twitter feed but it is hard, unless someone is there typing it into a spreadsheet.

The Hon. NIALL BLAIR: We value the input of the communities on this. I understand that there are different views on some of the technologies. I will go back to what I said earlier. This Government is using technologies that are not seen in other jurisdictions. If you start looking across the board at what some of the

other States are doing you see that we are leaving them for dead. Actually, that is what is they are doing—they are leaving marine life for dead in a lot of cases.

Mr JUSTIN FIELD: We do not have clean hands on this.

The Hon. NIALL BLAIR: No, we do not.

Mr JUSTIN FIELD: I appreciate your comments about community—

The Hon. NIALL BLAIR: I value the fact that our scientists are trying everything possible to reduce bycatch. At the same time, the Government also values the way of life that people have—going to the beach here in New South Wales—and what that brings to coastal communities and the economic impact. There is also the fact that we value human life. That is why we have been willing to go down these paths. That is what we are trying to do here. It is a difficult situation but I believe that we have the right expertise and the right information to make those decisions. But in relation to what we do going forward, we need that information. That is why we are going for another round of trials on the North Coast.

Mr JEREMY BUCKINGHAM: Minister, in relation to the questions put by the Hon. Daniel Mookhey and answered by the Secretary, Mr Simon Smith, I want to confirm the chronology of events regarding the Matthews report. The first time that the Secretary was made aware that there may be an issue about prejudicial information affecting other investigations being a factor in his report was, I think the Secretary said, the Friday before last. That would have been 18 September.

The Hon. NIALL BLAIR: We are only at 1 September now.

Mr JEREMY BUCKINGHAM: Sorry, let me just bring up my calendar. I am talking about the Friday before last. Not last Friday, the Friday before.

The Hon. NIALL BLAIR: I will let the Secretary answer. I do not think you were here when he went through that in detail.

Mr JEREMY BUCKINGHAM: I was listening, though.

The Hon. NIALL BLAIR: He can clearly illustrate it to you.

Mr JEREMY BUCKINGHAM: My mistake—it was 18 August.

Mr SMITH: No, it was last Friday. Even in the very beginning of the investigation it was made clear that care would be required not to include material that would be prejudicial to any subsequent investigation. Ken said to me last Friday that this was going to be quite complex in order to have a report which is as fulsome as possible but does not run the risk of interfering with any other investigation that might take place.

Mr JEREMY BUCKINGHAM: Are you talking about other investigations that are taking place or other investigations that may take place.

The Hon. NIALL BLAIR: I think it is public knowledge that there are at least five investigations into the allegations that were raised on the *Four Corners* program. Again, that is something that Mr Matthews has taken into consideration by seeking that extra week.

Mr JEREMY BUCKINGHAM: So he was cognisant of that through the whole process.

The Hon. NIALL BLAIR: I think he was cognisant of the information that he has seen but which I have not and the Secretary has not. I want this issue to be able to be addressed. I do not want a report that trips up any other issues that may need further action or investigation. This is only one week to make sure that we are right.

Mr JEREMY BUCKINGHAM: I know it is only one week, but it is a week when you are before us now. At no stage, even though you were cognisant of those issues and you were discussing those issues, Mr Smith, did you inform the Minister or the ministerial staff that this could be an issue—that the report could be delayed because of this issue of prejudicial information?

Mr SMITH: No.

Mr JEREMY BUCKINGHAM: In no way, shape—

Mr SMITH: I can share this briefly. We stood up the investigation at lightening speed. Ken hired four investigators who all have experience in law enforcement. They have interviewed more than 30 people and reviewed thousands of documents. They have been working very long hours every day. It has always been a really hard deadline to achieve. It has been touch and go. Ken told me just on Friday that to do a proper job they need the extra week.

Mr JEREMY BUCKINGHAM: But up until Monday—I think that is what you said—you agreed to the request to delay the—

The Hon. NIALL BLAIR: I think he said that Tuesday was agreement and Wednesday was the release.

The Hon. DANIEL MOOKHEY: No.

Mr JEREMY BUCKINGHAM: No, he said Monday it was agreed and Tuesday was the release.

The Hon. NIALL BLAIR: We can go back and look at *Hansard*.

Mr JEREMY BUCKINGHAM: On Monday it was agreed and on Tuesday he told you. On Wednesday it was announced.

The Hon. NIALL BLAIR: Okay.

Mr JEREMY BUCKINGHAM: Prior to that agreement, on the Monday, you did not tell the Minister in any way, shape or form, or the ministerial staff—

Mr SMITH: No, definitely not.

Mr JEREMY BUCKINGHAM: —that a delay was a possibility.

Mr SMITH: No.

The Hon. MARK PEARSON: We are approaching summer.

The Hon. NIALL BLAIR: Yes, it is spring today.

The Hon. MARK PEARSON: As we know, the temperatures are rising and rising, for whatever reasons. We do not need to have a debate about that. My question is about farm animals and shelter. Given that the Prevention of Cruelty to Animals Act makes it very clear that it is an offence to expose an animal to excessive heat and that under section 8 a person in charge of an animal shall not fail to provide shelter "which, in each case, is proper and sufficient and which it is reasonably practicable in the circumstances for the person to provide," would the Minister be willing to send a memo to the Australian Lot Feeders' Association in relation to having sufficient shelter for cattle, or in some cases lambs because lamb feedlots are beginning to grow in number?

Animals in feedlots, particularly long-fed—meaning full of fat—steers or members of the bovine species absorb heat from the ground, including from urine and faeces in pads that heat up, and from radiant heat of the sun itself. So there are three factors bearing down on these animals. Temple Grandin, a world expert on cattle, has looked at vision from one feedlot, in particular, in New South Wales—Bective Feedlot. She said that when you have these three factors the animals may start to pant—they have more than a certain number of pants per minute—and protrude their tongues, with open-mouth breathing. That was documented in these feedlots—including at Ladysmith Feedlot and others. These animals are approaching an excessive heat crisis—I have been to these feedlots recently—yet some of the feedlots still refuse to put any shade cloth up. Some other feedlots refuse to have appropriate shelter and shade provided for all the animals concerned. The question is: Will the Minister be willing to send a memo to the Australian Lot Feeders' Association, putting them on notice that if this is allowed to continue they will be in breach of the Prevention of Cruelty to Animals Act [POCTA] provisions.

The Hon. NIALL BLAIR: I might hand to Mr Hansen to have a crack in a moment but I would say that obviously we expect anyone who operates under the parameters of POCTA to fulfil their requirements. If they are not then it is up to the agencies that are authorised under that legislation to deal with it—whether it is the police, the Animal Welfare League or the RSPCA. I would also say that with the cost of livestock at the moment—cattle and even sheep—I imagine that it would be good business practice for those who are operating those operations to fulfil their legislative requirements when it comes to animal welfare with respect to shade and the provision of water for the welfare of the animals. Also, good animal welfare breeds good carcasses and good livestock outcomes.

The Hon. MARK PEARSON: Not necessarily. The measure is a death—of course, if an animal dies there is a loss—but in this intensive industry of feedlotting it is factored in that most animals will survive. Temple Grandin will say that to put an animal through excessive heat stress, even though it survives, goes up on the truck and off to slaughter, is unacceptable.

The Hon. NIALL BLAIR: And, as I said, Mr Hansen may wish to add to that. But it would be good operations. Anyone who is operating outside the legislation should be dealt with by those who are authorised to

do so. We do not normally write letters to every industry that is responsible under every piece of legislation to remind them of their legislative requirements. That is something that we do not normally do. I have an expectation that people will operate under their legislative requirements. Mr Hansen may wish to add something further to that.

The Hon. MARK PEARSON: Just before you do, does this not strike at the very fundamental flaw in the fact that the Department of Primary Industries, or you as the Minister for Primary Industries, is also overseeing the Prevention of Cruelty to Animals Act? Here you have a situation where your duty or your responsibility is to look after, protect, support, inform and educate industries and at the same time the animals that are being used by those industries are under your wing to be protected. These two worlds are colliding. I am saying is this not a very good example of where this strikes at that fundamental anomaly?

The Hon. NIALL BLAIR: I will let the Director General have a go in a second. I think the difference probably, though, in the values that I have, or the way in which we approach these issues versus maybe your different approach, is that we set the expectations and, yes, we have agencies that are there to provide advice and support and also the inspection and the authority under the legislation. But we believe that the market and the industry should be able to fulfil their responsibilities without us having to be looking over their shoulder and telling them how to do it every day of the week. That is why we have the legislation and we allow them to be able to operate within that the best way that suits their operations. As long as they do not breach what is there, then they should be free to go and do that, and in a way that suits their operations. I might let Mr Hansen and something to that.

Mr HANSEN: Given the fact that the vast majority of animals in this State are actually in the care of primary producers, it is logical for us to be working with primary producers on a joint outcome in terms of the animal welfare outcomes that are being sought as well as the productivity and industry performance outcomes that they equally seek.

The Hon. MARK PEARSON: But I put to you that you cannot always put those two matters together when animal welfare is becoming more of a concern. I mean, I got pushed into this place. Animal welfare is becoming more and more a serious consideration of the people of New South Wales and the people of Australia. That being the case, is the community not going to be rather suspicious?

Mr HANSEN: Certainly, as we come into the hotter months, our staff will be working across a range of sectors to ensure that there is provision of advice and information about the types of technologies and tools available. For example, with heat load in feedlots, it is not just a matter of shade and shelter but also the availability of good weather data to accurately predict where that heat load stress will be loaded with humidity and temperature and wind conditions so that individual feedlots are prepared and are able to either utilise watering technologies or shade technologies to move animals out of pens. There is a range of solutions that are available to each and every business for them to be able to discharge their duties. Our job is to continue to ensure that they are aware of those responsibilities and to continue to work on new technologies and new ways in which they can meet that.

The Hon. MARK PEARSON: The problem that these operators have is that you cannot well predict the weather. When we are going into a heatwave and animals start to become heat stressed, it actually would be against their welfare to move them to an area that is shaded. I understand that shade cloth and shading are complex issues, particularly if you are looking at rising heat or humidity.

Mr HANSEN: And travelling of gases and so forth, which also can be adverse to the animals.

The Hon. MARK PEARSON: Yes. But my understanding is that at the Killara feedlot, the Carroona and others, they have actually worked out the answer, in the main, to those questions.

Mr HANSEN: Yes.

The Hon. MARK PEARSON: Yet, 50 kilometres down the road there is a feedlot that says, "No, I'm not going to put up anything." They are the feedlots that I think need your attention because they are not willing to commit in any way. I mean, I did go and see the Killara feedlot and talked about it and they fixed the issue to a point.

The Hon. NIALL BLAIR: Maybe we should send you? Oh no, that is a bad idea!

The Hon. MARK PEARSON: But there are some that are just not wanting to. Sorry?

The Hon. NIALL BLAIR: No. I am not offering that.

The Hon. MARK PEARSON: Minister, we went through the front door.

The Hon. NIALL BLAIR: Really? Wow! Did Hansard get that?

The Hon. MARK PEARSON: After having had a wander around the back.

The Hon. NIALL BLAIR: Okay, righto. Sorry.

Mr SCOT MacDONALD: Is there a question?

Mr JEREMY BUCKINGHAM: Seven years jail.

The CHAIR: The member is open to ask the question any way he or she decides, but since Mr Pearson is out of time, questioning now will pass to Mr Mookhey.

The Hon. DANIEL MOOKHEY: Going back to Mr Hansen's statement about the 500-odd complaints that have been received, how many of them relate to a company by the name of Clyde cotton?

The Hon. NIALL BLAIR: I do not know that we have that sort of data here.

The Hon. DANIEL MOOKHEY: Does Mr Hansen have that type of data?

Mr HANSEN: No, I do not: one, because we do not—

The Hon. DANIEL MOOKHEY: Okay, thank you. If you do not have it, I will just move on. How many of those are related to a company by the name of Webster Limited?

The Hon. NIALL BLAIR: If you want to run through every farming operation in north-western New South Wales, we can do that. I will give you a generic answer now.

The Hon. DANIEL MOOKHEY: Minister, these are companies that were subject to serious allegations on national television for which you have commissioned an independent inquiry and you are here telling us that you have not even bothered to find out how many complaints your department has received in respect of those companies. I want to continue to ask the questions. You can answer them or not. How many have been received in respect to Burren Downs, Miralwyn, Rumleigh or any operation connected with Peter Harris?

The Hon. NIALL BLAIR: Can I answer by—

The Hon. GREG PEARCE: Point of order: Chair, I do not think it is appropriate for the Hon. Daniel Mookhey to simply defame organisations in the way that he is at the moment. I do not know whether this information is publicly available or whether complaints will be treated on a confidential basis by the department. Certainly, it is not appropriate to be defaming organisations or people in the way that he has.

Mr JEREMY BUCKINGHAM: To the point of order: That is not a point of order. That is a debating point.

The CHAIR: Order! It is a point of order in so far as the standing orders apply to Committees, which also apply to the Parliament: Members and any witnesses are protected by parliamentary privilege. However, as a general practice within committees, we try not to adversely name individuals. Whether we can adversely name companies is a moot point. The second point is that I think the Minister already has indicated that these sorts of matters are being investigated by Mr Matthews. I will allow the question, but I ask the Hon. Daniel Mookhey to exercise a bit of caution.

The Hon. DANIEL MOOKHEY: Thank you.

The Hon. NIALL BLAIR: Chair, the matters, and some of the names that the Hon. Daniel Mookhey read out, were directly part of the terms of reference for Mr Matthews' investigation. For the same reasons that we went through earlier about prejudicing what may come out of the Matthews report, I will not answer those questions in relation to the investigation. Let us wait to see what Mr Matthews says in his report.

The Hon. DANIEL MOOKHEY: Sure. Thank you, Minister. In the past five years, has the department launched any prosecutions against Clyde cotton, Webster Limited, Burren Downs, Miralwyn, Rumleigh or any connection to the Harris family?

The Hon. NIALL BLAIR: Again, the subject or subjects of the allegations made in the *Four Corners* program are directly part of the terms of reference for Mr Matthews and we, rather than potentially prejudice any other investigations, should wait for Mr Matthews' report before we start commenting on any investigations that may be ongoing or may have been concluded in relation to those properties.

The Hon. DANIEL MOOKHEY: Minister, have you or your office ever been informed of a complaint or an investigation or a prosecution against the companies Clyde cotton, Webster Limited, Burren Downs, Miralwyn, Rumleigh or any operation connected to the Harris family?

The Hon. NIALL BLAIR: Again I will say that any of those investigations will be part of Mr Matthews' report but I will also add that my office does not get involved, nor should any of my staff, in investigations or matters of complaint about individual properties in any of the areas of our responsibility. That is why we have compliance teams within our agencies. It would be inappropriate for me or my office to intervene in compliance matters. However, if those investigations are in relation to those properties, we should wait for Mr Matthews' report.

The CHAIR: Minister, regarding the questions that Mr Mookhey has been asking, has the information that he is seeking been made available to Mr Matthews as part of his investigation or will it be made available?

The Hon. NIALL BLAIR: I believe it is part of the terms of reference. I know for at least one of the names of the properties that Mr Mookhey has referred to, I think a concluded prosecution was part of the *Four Corners* program in relation to a meter tampering.

The CHAIR: The question related to whether there have been any past or previous investigations.

The Hon. NIALL BLAIR: Yes. That is what I am referring to. Mr Hansen might be able to give you some detail about at least one of those.

The CHAIR: Yes. If you could clarify whether that information has been made available to Mr Matthews?

Mr HANSEN: Yes, it has. But it is already public knowledge that one prosecution against a Harris family member, which I think was one of the groups of individuals or companies that you mentioned in your list, was successfully undertaken four years ago with regard to meter tampering.

The Hon. DANIEL MOOKHEY: Four years ago; thank you.

Mr HANSEN: So within that five-year period that you also asked about.

The Hon. DANIEL MOOKHEY: Back to your earlier answer, Minister, where you said it would be inappropriate for you or your office to be so involved in such compliance matters. Can you categorically deny having any involvement in any of these prosecutions?

The Hon. NIALL BLAIR: Yes. I have not been involved in any of those prosecutions. That is not my job.

The Hon. DANIEL MOOKHEY: Minister, through you to the secretary, was Mr Humphries' office ever informed of any complaints in relation to that list of companies that I gave?

The Hon. NIALL BLAIR: Again, I cannot answer what people did before I got the job.

The Hon. DANIEL MOOKHEY: I am asking whether or not the department ever provided such advice to Mr Humphries' office when he was Minister.

The Hon. NIALL BLAIR: I am happy to pass that to the secretary.

Mr SMITH: We would need to take that on notice as it also precedes my time as secretary.

The Hon. DANIEL MOOKHEY: Minister, have you ever met with Peter Harris?

The Hon. NIALL BLAIR: Mr Harris has attended one meeting and one function that I have attended. I think they were back in 2015. The first one was a meeting in Moree. I put out a press release after the meeting because I was there to talk to irrigators that were asking me to lift an embargo on flows in 2015 when I became Water Minister, which I was not prepared to do. Members may remember some of the media commentary that accused me of forcing farmers to go down to the back paddock and shoot themselves as a result of my being not willing to lift such an embargo. The second one was at a function in a restaurant where I believe Mr Harris was one of the attendees.

The Hon. DANIEL MOOKHEY: What was that function at the restaurant?

The Hon. NIALL BLAIR: It was a dinner.

The Hon. DANIEL MOOKHEY: What was the purpose of the dinner?

The Hon. NIALL BLAIR: The purpose of the dinner was to get a good piece of Chinese food in Moree and meet some locals when I was visiting.

The Hon. DANIEL MOOKHEY: Were you accompanied by any department officials?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Was it department business?

Mr HANSEN: Yes.

The Hon. NIALL BLAIR: Was it department business?

Mr HANSEN: Yes, I was a late invitee.

The Hon. NIALL BLAIR: Sorry, yes. Mr Hansen was there.

The Hon. DANIEL MOOKHEY: You were at the dinner?

Mr HANSEN: Yes, that is right.

The Hon. DANIEL MOOKHEY: What is the date of this dinner?

Mr HANSEN: It was 2015.

The Hon. NIALL BLAIR: I can take it on notice and come back to you.

The Hon. DANIEL MOOKHEY: Who called the dinner?

Mr HANSEN: It was the day before we made the drought announcement out on a property. There was an arrival of bales being delivered.

The Hon. NIALL BLAIR: That is right.

The Hon. DANIEL MOOKHEY: How many people were at the dinner?

The Hon. NIALL BLAIR: I do not know. The meeting was an industry dinner in October 2015. It was attended by industry groups and water groups.

The Hon. DANIEL MOOKHEY: Which groups?

The Hon. NIALL BLAIR: A number of groups.

The Hon. DANIEL MOOKHEY: How many?

The Hon. NIALL BLAIR: Again, industry groups. My diary and the meetings that I attend are publicly disclosed, unlike yours.

The Hon. DANIEL MOOKHEY: Yes. We have read them.

The Hon. NIALL BLAIR: If you have read them, you already have the answer.

The Hon. DANIEL MOOKHEY: Actually, this one does not appear. Minister, did you discuss with Mr Harris at that dinner or at that meeting any prosecutions, any compliance activity or any investigations that were taking place in respect to his businesses?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Did he ask you any such questions?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: In respect to the Moree function, when you turned up to that meeting with irrigators were they—

The Hon. NIALL BLAIR: Sorry, the meeting or the function?

The Hon. DANIEL MOOKHEY: As I understand the chronology, there was a restaurant dinner in Moree presumably the night before the meeting.

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: No? Please, explain this again.

The Hon. NIALL BLAIR: Yes.

Mr HANSEN: On 29 October, the day before a drought announcement at Lightning Ridge, there was an industry and stakeholder dinner in Moree at which Namoi Water, Cotton Australia, Gwydir Valley Irrigators,

Mungindi Cotton Growers Association and Darling River Food and Fibre were all invited to attend and talk about the—

The Hon. NIALL BLAIR: The other one was a meeting in May 2015 to discuss the water embargoes. It was held at the Crown Lands office. Then on 19 May I released a press release entitled, "Minister Meets With Northwest Irrigators." Those are the two times that I believe I have been at either a function or meeting and Mr Harris was there.

The Hon. DANIEL MOOKHEY: Were the attendees at that meeting, held at the Crown Lands office, under the impression that they could pump water or otherwise defy the embargo because your predecessor had told them?

The Hon. NIALL BLAIR: Not that I am aware of. The meeting was to discuss the embargoes. There was concern particularly at that time of the year for finishing summer crops. Unfortunately for the irrigators, after that meeting the embargo was still in place.

The Hon. DANIEL MOOKHEY: Have you or your office ever been asked to take an interest in a water compliance matter after being lobbied by a member of Parliament?

The Hon. NIALL BLAIR: Not that I am aware of.

The Hon. DANIEL MOOKHEY: We learned from *Four Corners* that an official of the department named Jamie Morgan became so concerned about the level of water theft taking place in the Barwon-Darling in addition to all the tampering, log book falsification and logbook non-compliance, that he issued a request for a major redeployment of resources to launch an investigation. To whom did he make that request and when did he make it?

The Hon. NIALL BLAIR: I do not know, but that is a direct part of the terms of reference for Mr Matthews' inquiry. I say again that we should wait to see what Mr Matthews has found in relation to the matter.

The Hon. DANIEL MOOKHEY: Mr Hansen or Mr Smith, did that request go to either of you?

The Hon. NIALL BLAIR: I understand your desire, but I also caution—

The Hon. DANIEL MOOKHEY: It is not my desire. It is the desire of the people.

The Hon. NIALL BLAIR: Yes, it is. The people would be very upset if information that is being investigated was released—

The Hon. DANIEL MOOKHEY: It is a straightforward question, Minister.

The Hon. NIALL BLAIR: —then prejudices the outcomes that people in that part of the world that are distressed in relation to these matters would expect. That is the reason why we are waiting for Mr Matthews' report.

The Hon. DANIEL MOOKHEY: Were you ever advised that such a request was made?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Can you rule out yourself, your office or Mr Humphries refusing that request?

The Hon. NIALL BLAIR: I can only speak on behalf of myself and my office, and I will say no. Sorry, yes. Yes, I rule out that we did not get that request. I want to make sure that is very clear.

The Hon. DANIEL MOOKHEY: *Hansard* understood. Probably best in your interests.

The Hon. NIALL BLAIR: Yes.

The Hon. DANIEL MOOKHEY: We then learned that the unit for which Mr Morgan was working was then disbanded, halved in size and shifted out of Department of Primary Industries [DPI] Waters to somewhere else in the department. Why did that take place?

The Hon. NIALL BLAIR: We had a water transformation in relation to personnel from DPI Water and WaterNSW. We put a bill through the Parliament to be able to do this. I am happy to hand to Mr Hansen and then to Mr Harris. We still have people in DPI Water and WaterNSW that have responsibility for compliance. There are more than 100 staff. I think it is 47 and 69 or 60. There are still staff today as we speak that are out there, responsible for water compliance. Can I ask Mr Harris to confirm those numbers? Is it 47 for DPI and 69 for WaterNSW?

Mr HARRIS: Yes.

The Hon. DANIEL MOOKHEY: Did you approve the decision to shut down the strategic investigation unit, shift it and reallocate its resources?

The Hon. NIALL BLAIR: Again, this is a matter of Mr Matthews' inquiry but no, I have not approved any shutdown of any section. Again, there are still compliance operations and staff in both of those agencies.

The Hon. DANIEL MOOKHEY: Was it Mr Smith or Mr Hansen who made that approval or is it just possible that such a unit can be disbanded without any senior official of the department having a say?

The Hon. NIALL BLAIR: Again, Mr Hansen, might clarify.

The Hon. DANIEL MOOKHEY: You might want to let him.

The Hon. NIALL BLAIR: We still have compliance units both in DPI Water and WaterNSW.

The Hon. DANIEL MOOKHEY: That is not what I am asking. I am asking specifically, because you understand that there is an appearance that major complaints are received, that a request comes from your own officials to launch an investigation, that request goes nowhere and then the unit is disbanded. Do you understand that appears as if you disbanded the unit because you did not want them launching an investigation into political support of the National Party?

The Hon. NIALL BLAIR: That request is a direct term of reference for Mr Matthews' inquiry and what happened with that request. Mr Hansen will add something in relation to the compliance units.

The Hon. DANIEL MOOKHEY: I am not asking questions about the compliance units.

The Hon. NIALL BLAIR: Going back to the questions that you asked. If you want the answer, we have got plenty of time.

The CHAIR: Order! Members are reminded that the witnesses are allowed to answer questions in whichever way they think fit. I ask the Minister to ensure that any clarifications are concise and to the point.

Mr HANSEN: Management makes the decisions about organisation of staff and their capabilities into work units.

The Hon. DANIEL MOOKHEY: Who in management made the decision?

Mr HANSEN: This was a decision that was tied to a decision around transformation—the re-allocation of roles and responsibilities between WaterNSW and DPI Water. That was a decision that was made about the structural units that would then deliver those functions.

The Hon. DANIEL MOOKHEY: I understand what the decision was, I am asking specifically who made the decision?

Mr HANSEN: It would be the leader of our regulatory group.

The Hon. DANIEL MOOKHEY: I appreciate that. Minister, will you re-establish the special investigations unit, staff it appropriately and reinstate former staff members?

The Hon. NIALL BLAIR: We will wait for Mr Matthews' recommendations into the structure, the functions and the issues in relation to water compliance, and make the appropriate decisions from there.

Mr HANSEN: That reorganisation of human resource does not remove the human resource. Officers that were part of the special investigations unit were either put back into the normal water regulatory units from which they had been pulled in the first place, or moved across, as part of the transformation, to WaterNSW. There may have been some staff who did not make the transition across or who have left subsequently.

The Hon. DANIEL MOOKHEY: Your view is that this is simply routine adjustments that just happened to take place after a request was made to launch a major investigation, which was then ignored.

The Hon. NIALL BLAIR: This is part of Mr Matthews' investigation. Your line of questioning is a specific part of the terms of reference. We will wait for Mr Matthews' conclusions and recommendations and then we will go from there.

The Hon. DANIEL MOOKHEY: You are asking us to believe that that unit was disbanded and if it happened to coincide with the interests of the National Party, so be it.

The Hon. NIALL BLAIR: Your conspiracies are something that Mr Matthews can have a good look at as part of the terms of reference.

The Hon. DANIEL MOOKHEY: Are you calling it a conspiracy? Do you think that these allegations, all the wrongdoing that has happened, which has caused you to commission an investigation report which we have just heard from the Secretary has raised major concerns—we have heard about 30 interviews, thousands of documents—is a conspiracy?

The Hon. NIALL BLAIR: No, what I am clearly articulating is that the allegations that were made on *Four Corners* warranted thorough investigation. Your conspiracy theory about this being some National Party led motivation, are all things, including the allegations, that Mr Matthews is looking into. We will wait for his report.

Mr JEREMY BUCKINGHAM: He is investigating the conspiracy.

The Hon. DANIEL MOOKHEY: Do you agree with the Deputy Prime Minister when he says that this was simply a fiction of *Four Corners*?

The Hon. NIALL BLAIR: We are taking this matter very seriously. The allegations that were made on the *Four Corners* report are something that we have asked Mr Matthews to look into quickly. He has all of the resources to do so and we will receive his report next week.

The Hon. DANIEL MOOKHEY: Since you became Minister, how many times have you met with, phoned, emailed, had your office email, had briefed or attended events with, Gavin Hanlon?

The Hon. NIALL BLAIR: I would have to check.

The Hon. DANIEL MOOKHEY: Would you describe it as being regular, semi-regular? He was the deputy director-general of your department relatively recently, was he not?

The Hon. NIALL BLAIR: That is right. I meet with senior officials from my agencies regularly and if you want me to have a look at some of the numbers, I can go and have a look to see how many meetings that he may have attended with me.

The Hon. DANIEL MOOKHEY: He answers to Mr Hansen or he did when he was head of DPI Water?

Mr HANSEN: Correct.

The Hon. NIALL BLAIR: Yes.

The Hon. DANIEL MOOKHEY: Of course Mr Smith does the reporting. How often would you meet with him to ensure that he was doing his duties appropriately?

Mr HANSEN: At least weekly, if not more frequently.

The Hon. DANIEL MOOKHEY: When you say more frequently, what are you talking about?

The Hon. NIALL BLAIR: Sometimes more than one.

The Hon. DANIEL MOOKHEY: Mr Hansen, I presume in addition to just simply meeting with him, you corresponded with him regularly? You would phone him, you would email him, you would seek briefings from him?

Mr HANSEN: Correct.

The Hon. DANIEL MOOKHEY: You would seek to make sure that his work was being discharged in accordance with departmental procedure?

Mr HANSEN: Still correct, yes.

The Hon. DANIEL MOOKHEY: You would ensure that all departmental protocols were being accounted for?

Mr HANSEN: To the best of my ability, yes.

The Hon. DANIEL MOOKHEY: You would inform the Minister that you were doing so, because you were the director-general of the department with serious responsibilities?

Mr HANSEN: I would then have regular conversations, meetings and performance discussions with my boss, the Secretary.

Mr JEREMY BUCKINGHAM: Who made the decision to effectively move Mr Gavin Hanlon sideways rather than to sack him or stand him down?

The Hon. NIALL BLAIR: The Secretary is the employer of the executive and he made that decision.

Mr JEREMY BUCKINGHAM: Was that in consultation with you?

The Hon. NIALL BLAIR: The Secretary makes the decisions in relation to his personnel. He does not need my approval to manage his staff. I do not employ the staff.

Mr JEREMY BUCKINGHAM: Were you consulted about the recommendation of the Secretary?

The Hon. NIALL BLAIR: I will allow the Secretary to talk through the process in relation to that.

Mr SMITH: No, the Minister was not consulted, he was advised that I had made that decision.

Mr JEREMY BUCKINGHAM: Are you comfortable with that decision, Minister? Do you think that is appropriate?

The Hon. NIALL BLAIR: The Secretary is the employer of the staff and I believe that he is free to make those decisions as he sees appropriate.

Mr JEREMY BUCKINGHAM: I understand that he sees it as appropriate, do you see it as appropriate?

The Hon. NIALL BLAIR: I support the Secretary.

Mr JEREMY BUCKINGHAM: You support that decision? I will take that nod as a yes.

The Hon. NIALL BLAIR: Yes, the Secretary—

Mr JEREMY BUCKINGHAM: Yes, that will do.

The Hon. NIALL BLAIR: —needs to make sure that at the moment we have seen allegations. The natural justice principles apply. If you want to talk through the process of why he made that decision, I am happy for him to do so.

Mr JEREMY BUCKINGHAM: I would prefer not.

The Hon. NIALL BLAIR: You do not like the answer, is that why you would prefer not to actually have him say why he made that decision?

Mr JEREMY BUCKINGHAM: No. What investigation, if any, is being undertaken by the department into Mr Hanlon's conduct?

The Hon. NIALL BLAIR: The Matthews investigation.

Mr JEREMY BUCKINGHAM: That is the only vehicle for any investigation?

The Hon. NIALL BLAIR: That is the most appropriate investigation at this stage, to look at all of the issues that were raised in the *Four Corners* program and the terms of reference clearly cover that component.

Mr JEREMY BUCKINGHAM: The *Four Corners* program had some audio in it of Mr Hanlon saying that he had to be seen to be consulting with other stakeholders, but in terms of "high level information, I only do that here". What is your reaction to hearing that from Mr Hanlon?

The Hon. NIALL BLAIR: My reaction was to make sure that Mr Matthews was engaged quickly to investigate all of those matters appropriately, thoroughly, quickly and to report back to the Government. That was my reaction.

Mr JEREMY BUCKINGHAM: Is it acceptable for there to be a senior public servant still in charge of a significant division of the Department of Industry who has been caught sharing confidential government information with a private business who clearly regards consultation with the community as a tick and flick exercise?

The Hon. NIALL BLAIR: As the Secretary is the employer of him and made that decision, I am happy for him to answer that question.

Mr SMITH: When I made the decision to move Gavin out of his role, the key thing for me was to make sure there was public confidence in the independence and rigour of the investigation. On the other hand, I did not want to prejudice what the result of that investigation might be, because there is always more to a story once you start digging into it.

Mr JEREMY BUCKINGHAM: You gave him the benefit of the doubt, rather than stand him down on full pay?

Mr SMITH: That would have been the alternative, stand him down on full pay. My view was that would be taxpayers' money wasted when there was important other work to do which would be well removed from his Water responsibilities, so I have put him to work doing that other work.

The Hon. JEREMY BUCKINGHAM: Potentially an officer who may be found to have acted corruptly.

The Hon. GREG PEARCE: It is our system of law that people are presumed innocent—

The Hon. JEREMY BUCKINGHAM: I understand, but you do stand—

The CHAIR: Order! No banter across the table, please.

The Hon. JEREMY BUCKINGHAM: In terms of the Strategic Investigations Unit, has there been a net increase or decrease in compliance officers in New South Wales over the last four years?

The Hon. NIALL BLAIR: I am happy to hand that to Mr Hansen and maybe Mr Harris to look at some numbers.

The Hon. JEREMY BUCKINGHAM: In terms of across the whole—

The Hon. NIALL BLAIR: We understand the question.

Mr HANSEN: Equally, I might get some advice from Mr Harris, given the fact that as of mid last year as part of that transformation trend, compliance activities moved across to Water NSW. However, over the last four-year period, what we did have was increases in numbers that were project driven, funded by a national water compliance enforcement framework project, which allocated additional resources for the State to increase both legal and compliance activities to ensure that all States, all jurisdictions, were able to align their work processes and practices. That came to a conclusion and, with the ceasing of that funding, so did the revenue and funding for a number of those compliance and legal staff. However, I would have to take on notice the difference over the last four years of total compliance numbers from the base level.

The Hon. JEREMY BUCKINGHAM: You cannot say whether there are more or less in terms of base figures?

The Hon. NIALL BLAIR: Rather than have a stab, we will take the question on notice and come back with the complete breakdown of the last four years for you.

The Hon. JEREMY BUCKINGHAM: You, Minister, seemed to know exactly the numbers before.

The Hon. NIALL BLAIR: I know the numbers now, but you have asked—

The Hon. JEREMY BUCKINGHAM: But you do not know what they were.

The Hon. NIALL BLAIR: I was not the Minister four years ago. You have asked what the numbers are now. I have told you. I have taken the question on notice. We are happy to do a comparison, unless Mr Harris has some more information—

Mr HARRIS: I have only got last year.

The Hon. NIALL BLAIR: He has only got last year.

The Hon. JEREMY BUCKINGHAM: Take it on notice. I have limited time. Minister, what are the procedures and probity measures used by the DPI Water for the sale or grant of public assets to private companies or individuals, and are these measures always followed?

The Hon. NIALL BLAIR: I would have to refer that to maybe Mr Hansen or take it on notice.

Mr HANSEN: Sorry, could I have the question again?

The Hon. JEREMY BUCKINGHAM: It is in relation to the H2OX, the water trading. I will give you a preamble. Following the conclusion of the \$425 million Water for Rivers program 2015, all the data which had been gathered by the program relating to water use and trading was given to private water trading platform H2OX, established by the former chief executive officer of Water for Rivers, Neville Smith, in August 2015. H2OX was launched by Kevin Humphries at New South Wales Parliament House. When was this data made available to H2OX, and are you comfortable that it was made available to it?

The Hon. NIALL BLAIR: Sorry, that is a different question. Do you want us to answer the first question about—

The Hon. JEREMY BUCKINGHAM: No, I want you to answer that one.

The Hon. NIALL BLAIR: Okay. I will have to take that on notice, because—

The Hon. JEREMY BUCKINGHAM: Was the data that was made available to H2OX sold or given to it?

Mr HANSEN: Sorry, I will have to take that on notice. I do not have those details.

The Hon. JEREMY BUCKINGHAM: You do not know whether or not all that data was given or sold to this private company?

Mr HANSEN: I would have to take it on notice and come back to you on what the process was.

The Hon. JEREMY BUCKINGHAM: You are not familiar with it at all?

The Hon. NIALL BLAIR: That is the reason we are taking it on notice.

The Hon. JEREMY BUCKINGHAM: Minister, who supports the \$500 million pipeline from the Murray River to Broken Hill?

The Hon. NIALL BLAIR: It is an important piece of infrastructure that will provide long-term certainty for the people of Broken Hill. It is something that the Government has done an extensive review into. It looked at a whole range of other options and it is the option that comes out as the most appropriate for that long-term water supply.

The Hon. JEREMY BUCKINGHAM: Of those 19 possible projects—but why will you not release the assessment of those 19 possible projects?

The Hon. NIALL BLAIR: I will not release it while we are in the middle of the tender process. We are in the market at the moment trying to get the best deal to construct this pipeline for the people of New South Wales.

The Hon. JEREMY BUCKINGHAM: Do you think the people of Broken Hill support the pipeline?

The Hon. NIALL BLAIR: I think the majority of people of Broken Hill do support the pipeline because it will provide water assurance to that community, something that they have not had when they have had to rely upon the variability of the Menindee Lakes for their water. That will be out of their minds now. They will be able to have a reliable water source. We looked at a range of options. We are in the market at the moment trying to get the best deal to construct that, so we will not release—

The Hon. JEREMY BUCKINGHAM: Why will you not release the business case, though?

The Hon. NIALL BLAIR: Because it does not make sense, while you are in the market trying to get—

The Hon. JEREMY BUCKINGHAM: The business case does not make sense.

The Hon. NIALL BLAIR: —the best deal for the people of New South Wales, to release a report and all of our costings and workings. Once we have concluded that part of the process, we are more than happy to have a look at this issue.

The Hon. JEREMY BUCKINGHAM: The question is: Did Gavin Hanlon lie when he stated at a community roundtable meeting in Broken Hill on 30 March that the Murray Broken Hill pipeline business case was already uploaded to the Water NSW website and, if it was not, he would make it available as soon as possible?

The Hon. NIALL BLAIR: I cannot speak as to what happened in a meeting in Broken Hill that I did not attend. Mr Hanlon is not here. I will say quite categorically we are happy to look at the issue of the business case and its release once we have concluded the tender process to get the best deal to construct that pipeline—a pipeline that is needed, a pipeline that has been talked about before and a pipeline that I am sure—

The Hon. JEREMY BUCKINGHAM: Has been rejected before.

The Hon. NIALL BLAIR: No, people walked away before. That is what happened. People walked away when this community needed them. We did not do that. We have come through with the funds to build the pipeline. I note that members of the Opposition now are saying they will not get rid of or decommission the pipeline if they come into government. It is the best long-term solution for that community. A number of options

were looked at. I am happy to look at the issue of the pipeline business case once we have completed the tender process. *[Time expired.]*

The Hon. MARK PEARSON: Minister, has Chief Rabbi Moshe Gutnick of the New South Wales Jewish community written to you at any stage stating that it is no longer required to have an exemption of the Prevention of Cruelty to Animals Act to slaughter animals in accordance with the precepts of the Jewish religion?

The Hon. NIALL BLAIR: I think roughly 6,000 pieces of correspondence are addressed to my office. I am happy to take that on notice. It is not something that rings a bell. I am happy to take that on notice and come back to you.

The Hon. MARK PEARSON: Are you aware that the only slaughterhouse in New South Wales, Hawkesbury Valley Meats, was shut down by the police and the NSW Food Authority about six years ago because cameras depicted brutal and unacceptable practices in ritual slaughter?

The Hon. NIALL BLAIR: Six years ago I was only just in this Parliament. It is not something that I am right across.

The Hon. MARK PEARSON: My question goes to the issue that, if an animal which is not being slaughtered by a rabbi in a way that does not use pre-stunning or immediate post-stunning anywhere except in an abattoir, that would be a breach of the Act, because it would be considered to be killing an animal in an inhumane way. This is not an issue about religions: It would not matter which religion had this requirement as a precept to its practices. Minister, can you continue to allow animals to be slaughtered in a manner purely for a religious purpose which would otherwise be considered to be an act of cruelty under the statute?

The Hon. NIALL BLAIR: I think there is legal interpretation mixed in with that question. As a gardener and not a lawyer, I will take that question on notice and get our people to have a good look at that, and come back to the interpretation that you have presented, for a fulsome response.

The Hon. MARK PEARSON: The reason I ask whether Rabbi Gutnick has written to you is that, in a meeting with him when we talked about this issue, he stated that he and the Jewish community formed a view that the killing of cattle without immediate post-stick stunning—percussive stunning—clearly has the cattle extremely distressed and suffering a great deal while they are being exsanguinated. In the case of sheep and goats, he was of the view that they do not require any post-stick stunning. I asked him would he write to the Minister and say if he believed that this method of killing sheep and goats is the most humane, equally as humane as if they were post-stick stunned, and he does not need this exemption. This is why I have asked

The Hon. GREG PEARCE: Why don't you ring the rabbi and ask him whether he has written the letter?

The CHAIR: Order!

The Hon. MARK PEARSON: Here we have a situation where there is one set of rules for animals that are killed under a religious precept and one set of rules for animals that are killed normally. Can we tolerate that anomaly or that indifference to those particular animals?

The Hon. NIALL BLAIR: If we go back two questions, whether the rabbi has or has not written the letter is something that we are happy to have a look at. I am not aware of it. The Director General, who would also potentially see a letter like that, is not aware. We will take that on notice. As to the previous question in relation to the interpretation of that part of the legislation and how it intersects with the religious practices that you described for the different types of livestock, again, it is something that I am happy to take on notice and have a look and see whether your interpretation is accurate—not that I am suggesting it would not be, but we may be looking at legal interpretation. I am happy to take it on notice.

The Hon. MARK PEARSON: If it were to be shown that—

The Hon. NIALL BLAIR: We are now into hypotheticals. I have agreed to take it on notice and let us have a look at what it says.

The Hon. MARK PEARSON: If the Minister was convinced that it is in fact an act of cruelty that is unacceptable under the Prevention of Cruelty to Animals Act, will the Minister move to remove the exemption?

The Hon. NIALL BLAIR: Let us have a look and see what the interpretation is. I will take that on notice. I do not get to run away from more questions because members get to see me in question time all the time. I will take the question on notice and the member will get a response.

The Hon. MARK PEARSON: I will get a chance to ask another question.

The Hon. NIALL BLAIR: I am more than happy for you to bowl it up during question time when we get back into the House.

The Hon. MARK PEARSON: Okay, I am done.

The CHAIR: We will move to Opposition questions.

The Hon. DANIEL MOOKHEY: This question is for the Minister or the Secretary. I am looking at the terms of reference that were commissioned in the wake of the *Four Corners* program. They say, "The concerns raised and summarised are...", then it lists them. It seems to avoid one of the major allegations that was raised by *Four Corners* and that was to do with the conduct of Mr Humphries. Why was Mr Humphries and his conduct not included in the terms of reference?

The Hon. NIALL BLAIR: We have decided to get Mr Matthews to look at these issues. I believe that there are other investigations and investigative bodies that are looking at a whole range of matters as well.

The Hon. DANIEL MOOKHEY: Which are they?

The Hon. NIALL BLAIR: We have got our terms of reference. I know that Labor wants it to go further—wanted it to go further. These are the terms of reference that we have got.

The Hon. DANIEL MOOKHEY: Did you speak with Mr Humphries in between *Four Corners* going to air and these terms of reference being settled?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Did your department or your secretary? Did anyone have any contact with Mr Humphries?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: Did Mr Humphries endeavour to make contact with you or to speak with you at all?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: How is it that Mr Humphries was not included? For that matter, why were you not included, and your office included, in the terms of reference?

The Hon. NIALL BLAIR: Do you have some specific allegations as to why I should be included?

The Hon. DANIEL MOOKHEY: Because you were the Minister when—

The Hon. NIALL BLAIR: I was not the Minister when some of the allegations were made on the *Four Corners* program.

The Hon. DANIEL MOOKHEY: You were the Minister when some of them were.

The Hon. NIALL BLAIR: And if you have any specific allegations as to why I should be included in the terms of reference, then please offer them up. We have had an extensive look at this in question time. We have had debates on this matter. If you believe you have something that warrants me being investigated, please either offer it up or go to the relevant agencies and refer it to them.

The Hon. DANIEL MOOKHEY: Let us start from the top. Perhaps it is the widespread allegations of industrial water theft that were received by your department while you were the Minister, maybe it is also the Strategic Investigations Unit being disbanded.

The Hon. NIALL BLAIR: All matters that are being investigated by Mr Matthews.

The Hon. DANIEL MOOKHEY: Maybe in addition to that we then have the conspiracy that Mr Hanlon had with the irrigators, which took place while you were the Minister?

The Hon. NIALL BLAIR: Sorry, what conspiracy was that?

The Hon. DANIEL MOOKHEY: Maybe in addition to that we have the creation of a plan to exit the Murray-Darling Basin Plan, created while you were the Minister. Do you think that perhaps—

The Hon. GREG PEARCE: You are getting pretty fanciful now.

The Hon. NIALL BLAIR: Every one of those matters that you have just referred to—

The Hon. DANIEL MOOKHEY: Let me finish the question. You said just then that, if there are allegations to do with your conduct—and given the media, the people of Barwon, the people who are affected in

these communities want to know your level of responsibility, what you knew, when you knew it and what you did—why were you not included and why was Mr Humphries not included?

The Hon. NIALL BLAIR: Every single matter that you have just listed there—every single allegation that you have just listed—is directly in the terms of reference of Mr Matthews, including those allegations that were made during my tenure as Minister. They are being investigated. My point earlier though was that if you have any other information that you believe relates directly to my conduct you should either offer it up or refer it to the relevant agencies. Every one of those matters that you have referred to is being investigated by Mr Matthews and we will see his report next week. You will see that report before we get back to Parliament.

The Hon. DANIEL MOOKHEY: The *Daily Telegraph* said that you created the ability to retrospectively pardon irrigators and other people involved in the Barwon-Darling from wrongdoing in respect of water theft, illegal channel clearing and tampering or the adjustment of Crown land. Was the dominant purpose of you making that decision to be able to retrospectively pardon those irrigators?

The Hon. NIALL BLAIR: What you make reference to is amendments that we have made to create a process for people to apply to have works approved. It is not a process that automatically grants approval; it is a process for those things to be assessed for approval.

The Hon. DANIEL MOOKHEY: Retrospectively.

The Hon. NIALL BLAIR: Assessed for approval.

The Hon. DANIEL MOOKHEY: Retrospectively, after they have been constructed.

The Hon. NIALL BLAIR: That is right. And that may include, and it is consistent in—

The Hon. DANIEL MOOKHEY: How many applications have you received so far?

The Hon. NIALL BLAIR: I do not receive applications.

The Hon. DANIEL MOOKHEY: How many has the department received?

The Hon. NIALL BLAIR: I am happy to refer that to Mr Harris, who is the chief executive officer [CEO] of the State Owned Corporation that receives those applications.

The Hon. DANIEL MOOKHEY: Mr Harris, how many have been received?

Mr HARRIS: This provision operates in a number of water sharing plans.¹

The Hon. DANIEL MOOKHEY: How many?

Mr HARRIS: Three. I will have to take on notice the total number of applications made.

The Hon. DANIEL MOOKHEY: Who were the three from?

The Hon. NIALL BLAIR: He said three water sharing plans.²

Mr HARRIS: Three water sharing plans.³ I can confirm that there have been three applications in respect of Barwon-Darling.

The Hon. DANIEL MOOKHEY: Who from?

¹ In [correspondence to the committee](#) received on 29 September 2017, Hon Niall Blair MLC provided the following clarification:

I would like to clarify a particular issue that came up during questioning at the hearing concerning applications for approval of flood works in the Barwon-Darling. The dialogue involves committee members Mr Jeremy Buckingham and Daniel Mookhey, witnesses Mr David Harris, CEO WaterNSW and Mr Scott Hansen, Director General, Department of Primary Industries and myself.

During these discussions there was repeated reference to “water sharing plans” when in fact the dialogue related to floodplain management plans, and in particular the Barwon Darling Floodplain Management Plan.

² See footnote 1.

³ See footnote 1.

Mr HARRIS: We have already provided on notice an answer as to who at least one of those—

The Hon. DANIEL MOOKHEY: Who?

Mr HARRIS: Peter Harris was one of those applicants.

The Hon. DANIEL MOOKHEY: When did Peter Harris lodge his application?

Mr HARRIS: If you give me a moment I will tell you.

Mr JEREMY BUCKINGHAM: Zing! You did not want to say it in the House.

The Hon. DANIEL MOOKHEY: By the way, was he the first person to apply?

Mr HARRIS: I do not believe so, but just give me a moment.

Mr JEREMY BUCKINGHAM: How many hours after it went through did he apply?

The Hon. DANIEL MOOKHEY: Perhaps while Mr Harris is getting the paperwork I might ask the Minister: Were you informed that Mr Harris had made the application—was one of the three?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Did you consent to it?

The Hon. NIALL BLAIR: I do not consent to applications that people make.

The Hon. DANIEL MOOKHEY: Were you notified?

The Hon. NIALL BLAIR: No, I do not get notified when people make applications to State Owned Corporations.

The Hon. DANIEL MOOKHEY: Did you inquire?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: At the same time you were proclaiming this in regulation—when was it, June 30, or just before—you never bothered to ask when or who would be seeking this?

The Hon. NIALL BLAIR: No. Neither did I do it for any other water sharing plans⁴ that it is applicable for as well.

The Hon. DANIEL MOOKHEY: Do you not think it is a bit derelict?

The Hon. NIALL BLAIR: We make the rules that are available to everyone within the water sharing plans.⁵ Who applies is up to the individuals. That is not something that the Minister should inform himself of.

The Hon. DANIEL MOOKHEY: The water sharing plan for the Barwon-Darling I think, from memory, was gazetted around 30 June 2017.

The Hon. NIALL BLAIR: The water sharing plan came in in 2012.

The Hon. DANIEL MOOKHEY: Sure, the regulation. We then had a disallowance debate—you and I participated; it was fun. When did Mr Harris put the application in?

The Hon. NIALL BLAIR: I do not know.

The Hon. DANIEL MOOKHEY: Mr Harris is checking.

Mr HARRIS: I have to take that on notice. I am sorry, I do not have that detail.

The Hon. DANIEL MOOKHEY: Let us go back to Mr Hanlon. Mr Hanlon, we have learned from *Four Corners*, engaged in a series of phone calls with a bunch of irrigators. And, of course, he suspected that he might be criticised for doing so. He said:

...I think I can manage that sort of a conversation by being seen to and occasionally meeting with everyone and anyone, but in terms of having structure and detail and discussions in confidence, I only do it here.

Is that an approved Department of Primary Industries method of stakeholder engagement?

⁴ See footnote 1.

⁵ See footnote 1.

The Hon. NIALL BLAIR: That is a matter being directly investigated by the Matthews' inquiry.

Mr JEREMY BUCKINGHAM: Hide behind that one.

The Hon. DANIEL MOOKHEY: How many of these meetings took place?

The Hon. NIALL BLAIR: That is another issue that I am sure Mr Matthews is looking at because it directly relates to the terms of reference.

The Hon. DANIEL MOOKHEY: When did they start?

The Hon. NIALL BLAIR: I can keep throwing back to you. These are all things that I am sure Mr Matthews is examining.

The Hon. DANIEL MOOKHEY: How many were held?

The Hon. NIALL BLAIR: The results of Mr Matthews' inquiry will be available next week.

The Hon. DANIEL MOOKHEY: Who was involved in the calls?

The Hon. NIALL BLAIR: I refer to my previous answer.

The Hon. DANIEL MOOKHEY: Was Webster Limited or were any of its representatives involved in the calls?

The Hon. NIALL BLAIR: I refer to my previous answer.

The Hon. DANIEL MOOKHEY: What about Clyde Cotton?

The Hon. NIALL BLAIR: I refer to my previous answer.

The Hon. DANIEL MOOKHEY: What about the Harris family?

The Hon. NIALL BLAIR: I refer to my previous answer.

The CHAIR: We are wasting time. If the Minister is going to continue to answer in that fashion and given the time limits, the member would be better off moving on to other issues.

The Hon. DANIEL MOOKHEY: Were any Department of Primary Industry Water [DPIWater] officers other than Mr Hanlon involved in the phone calls?

The Hon. NIALL BLAIR: Mr Matthews is looking into that matter. I am not aware of who was involved in any of those calls.

The Hon. DANIEL MOOKHEY: Was Monica Morona involved in the phone calls?

The Hon. NIALL BLAIR: Mr Matthews is looking into that as part of the terms of reference.

The Hon. DANIEL MOOKHEY: She is the DPI Water director of stakeholder relations. Is that correct?

The Hon. NIALL BLAIR: I am not sure.

Mr SMITH: That is correct.

The Hon. DANIEL MOOKHEY: She has previously worked for irrigators and Nationals Ministers in both Victoria and New South Wales. Is that correct?

Mr HANSEN: I would have to take that question on notice. I am not sure of her previous employment.

The Hon. DANIEL MOOKHEY: Given that Mr Hanlon was stood aside for his participation in these calls, why did you not check to establish whether any other DPI Water officials were involved in these calls who should also have been stood down?

The Hon. NIALL BLAIR: The decision about Mr Hanlon was made by the secretary. I do not employ staff or move them around. The teleconference is part of Mr Matthews' terms of reference, and that is something he is looking into.

The Hon. DANIEL MOOKHEY: Were you informed that these calls were taking place?

The Hon. NIALL BLAIR: No.

The Hon. DANIEL MOOKHEY: Mr Hansen, were you aware that these phone calls were taking place?

Mr HANSEN: I was aware that there were conversations with representatives of the irrigation industry, including New South Wales irrigators.

The Hon. DANIEL MOOKHEY: Were these phone conversations minuted?

The Hon. NIALL BLAIR: We would have to establish whether Mr Matthews is looking at that.

The Hon. DANIEL MOOKHEY: Were they recorded?

Mr HANSEN: Again, I am not privy to those conversations so I am not aware of the details.

The Hon. NIALL BLAIR: We know from *Four Corners* that something was recorded because it was aired on the program.

The Hon. DANIEL MOOKHEY: Mr Hansen, I refer to your previous answer in which you said that you met with him every week and that you would speak to him far more frequently than that. Is it your evidence that this never came up in the course of those weekly meetings and those far more frequent conversations?

Mr HANSEN: My evidence is that we would have frequent conversations about contact with targeted stakeholders. However, never was there a conversation about the composition of those hook-ups or the subject matter.

The Hon. DANIEL MOOKHEY: Did you approve Mr Hanlon having conversations using this method?

Mr HANSEN: Again, without ever having been aware of the hook-ups, but knowing that he was having targeted conversations with New South Wales irrigators, which is what I expected him to be doing, I am not sure how I can answer in any way other than to say that I knew he was having targeted conversations with stakeholders. However, I was not aware of the nature of the hook-ups.

The Hon. DANIEL MOOKHEY: Mr Hanlon then went on to offer irrigators the establishment of something like Dropbox where they could stick documents to share them safely and to circulate information. Is that an approved method of exchanging documents with stakeholders?

The Hon. NIALL BLAIR: That is a direct reference to Mr Matthews' inquiry. He will be will be looking into that and he will be reporting back next Friday.

The Hon. DANIEL MOOKHEY: Was it an attempt to evade the Government Information (Public Access) Act?

Mr HANSEN: More broadly, no, that is not a usual framework or methodology for sharing information with external stakeholders.

The Hon. DANIEL MOOKHEY: Were you aware that was taking place?

Mr HANSEN: No.

The Hon. DANIEL MOOKHEY: We then learn that Mr Hanlon offered to assist lobbyists in their fight with the Murray-Darling Basin Authority. He says, "There's a whole lot of ammunition we have at the moment. There's a good discussion to be had with a group like this confidentially about at what point do you roll out and start firing these things off. We can put together a few paragraphs to assist. Obviously we would have to debadge it." Why was Mr Hanlon engaging in a joint campaign with irrigators against a plan to which New South Wales had signed up and which he was legally expected to enforce?

The Hon. NIALL BLAIR: It is a direct part of the terms of reference. Mr Matthews is looking in detail at all aspects of that meeting. Hopefully we will see some of the answers to your questions next week.

Mr JEREMY BUCKINGHAM: We can only hope for some answers.

The Hon. DANIEL MOOKHEY: Mr Hansen, in the course of your weekly and more frequent meetings with Mr Hanlon, did he ever tell you that that was what he was doing?

Mr HANSEN: No.

The Hon. DANIEL MOOKHEY: Did you make any inquiries about whether that was what he was doing, or did you have any reason to make inquiries?

Mr HANSEN: The inquiries were always about how we best progress New South Wales interests within the delivery of the Murray-Darling Basin Plan.

The Hon. DANIEL MOOKHEY: Is stripping internal documents of departmental logos and debadging them an approved Department of Primary Industries procedure?

Mr HANSEN: No.

The Hon. DANIEL MOOKHEY: We hear that Plan B would also be interesting. "Plan B is scary," Mr Hanlon said. What is Plan B and what is he referring to?

The Hon. NIALL BLAIR: I am sure that is something that will come out of the investigation.

Mr JEREMY BUCKINGHAM: That is 50 times you have said that.

Mr SMITH: We are trying to assist the Committee.

The Hon. DANIEL MOOKHEY: You are being very helpful.

Mr SMITH: Once the investigation was established it was important that we did not seek to double up on its activity and cut across it. That is why we—

The Hon. DANIEL MOOKHEY: I appreciate your answer.

Mr SMITH: —have not looked into these matters.

The Hon. DANIEL MOOKHEY: However, as parliamentarians it is of course our job to ask as well.

The Hon. NIALL BLAIR: We understand that.

The Hon. DANIEL MOOKHEY: Who ordered the commissioning of Plan B?

The Hon. NIALL BLAIR: Who ordered it?

The Hon. DANIEL MOOKHEY: Did you instruct the creation of a plan B for New South Wales to exit the Murray-Darling Basin Authority?

The Hon. NIALL BLAIR: The meeting and things said in that meeting are directly part of the investigation.

The Hon. DANIEL MOOKHEY: I am asking a totally separate question. Have you ever ordered the department to prepare contingency plans for New South Wales to exit the Murray-Darling Basin agreement?

The Hon. NIALL BLAIR: I have asked the department to look at what would happen to New South Wales if we were to walk away from the plan. The fact that we are still in the plan clearly shows that we are continuing with our commitment to the Murray-Darling Basin Plan.

The Hon. DANIEL MOOKHEY: Is that what Mr Hanlon was referring to?

The Hon. NIALL BLAIR: I do not know because I was not involved in that conference, and Mr Matthews may look at that. However, I make the point that I do not think anyone who has travelled across the State and who has spoken to irrigators would not have had someone ask, "Why don't you just walk away? Why don't you walk away from the Murray-Darling Basin Plan?" Any member of Parliament who has spoken to an irrigator would have heard that question. It has been looked at. It would probably subject our irrigators to two different water Acts. It would also probably put a big call on the money that has been put into the plan. The simple fact that New South Wales is still in the plan—I have publicly reaffirmed that commitment—means that we are continuing down the path to deliver the plan.

The Hon. DANIEL MOOKHEY: Why then is the deputy director general of your department handing over those documents to irrigators if in doing so he is allowing them to act in opposition to your Government's policy direction?

The Hon. NIALL BLAIR: This is a direct part of the Matthews' inquiry terms of reference. We will see his report next week.

The Hon. DANIEL MOOKHEY: Will you release the contingency plan you referred to?

The Hon. NIALL BLAIR: I do not have anything to release. The report will be released next Friday.

Mr SMITH: No.

The Hon. NIALL BLAIR: I am sorry, we will get the report next Friday and it will be released the week after.

The Hon. DANIEL MOOKHEY: I am glad you were picked up on that.

The Hon. NIALL BLAIR: That is why he is here.

The Hon. DANIEL MOOKHEY: Of course, that is why he earns the big bucks.

The Hon. NIALL BLAIR: He is paid to do things like that, which is great.

The Hon. DANIEL MOOKHEY: Who ordered the commissioning of the legal advice that Mr Hanlon then offered to provide to irrigators about what the New South Wales position would be and how the Murray-Darling Basin Authority would respond?

The Hon. NIALL BLAIR: That is directly part of the terms of reference.

The Hon. DANIEL MOOKHEY: Have you seen that advice?

The Hon. NIALL BLAIR: I have not seen the legal advice.

The Hon. DANIEL MOOKHEY: Will you release it?

The Hon. NIALL BLAIR: That is part of the terms of reference. Mr Matthews is looking at the whole issue about the meeting and the things discussed.

The Hon. DANIEL MOOKHEY: If it is okay for Mr Hanlon to share all of these documents with irrigators, why can he not share them with the Parliament and the people of New South Wales? Why can you not share them?

The Hon. NIALL BLAIR: We are looking at this matter through Mr Matthews' investigation and his inquiry.

The Hon. DANIEL MOOKHEY: A week after *Four Corners* aired this allegation there were allegations about the Environment Protection Authority [EPA]. The Government's position then was to stand down the head of the EPA while the investigation took place. Why is Mr Hanlon anywhere near your department now?

The Hon. NIALL BLAIR: Mr Hanlon and his employment and his roles are a matter for the secretary, and I believe the secretary has clearly answered the question as to Mr Hanlon's current role earlier this morning.

The Hon. DANIEL MOOKHEY: Why did you not insist that he be stood down?

The Hon. NIALL BLAIR: Because the secretary is the person who employs the staff.

The Hon. DANIEL MOOKHEY: But you are the Minister who is responsible for the secretary's conduct, are you not? It is not as though you are an automaton. You have discretion. You have power. That is why you are the Minister.

Mr SMITH: He is the Minister and the department is subject to his legal direction, but in the matter of employment decisions, that is a decision that I make under the Government Sector Employment [GSE] Act.

The Hon. DANIEL MOOKHEY: Mr Smith, what threshold of wrongdoing is required before you would stand down a deputy director general whilst an independent investigation is taking place and four other investigations are taking place?

Mr SMITH: It is not so much the character of the allegation. The way that I view the situation is that there are two things. There is one part, which is what is necessary to maintain confidence in the response that is to be made to serious allegations. The other is avoiding premature rush to judgement based on highly incomplete information.

The Hon. DANIEL MOOKHEY: How would standing someone down on full pay jeopardise those two concerns?

Mr SMITH: I believe that standing someone down on full pay is a waste of taxpayers' money if there is productive work they can do.

The Hon. DANIEL MOOKHEY: Mr Beaman, the head of the Environment Protection Authority [EPA], has been stood down whilst on full pay. Is taxpayers' money being wasted?

Mr SMITH: I think he is actually taking recreation leave, and he is not the head of the EPA. The EPA is a much smaller organisation. Because we have a very large department, I am able to put Mr Hanlon into an area that is completely disconnected from the activities of water.

The Hon. DANIEL MOOKHEY: What other steps have you taken to ensure that Mr Hanlon does not have contact with DPI Water? In addition, are there any other staff members of DPI Water who are also under investigation?

Mr SMITH: I have taken quite a lot of steps to make sure that Mr Hanlon could not either be seen to or actually interfere with the investigation. We have retrieved his iPad and iPhone for forensic examination by the Matthews' review. We have closed access to records so that he has no chance to interfere or alter any records. We have established a protocol for if he does seek to access records for the purpose of preparing for interview by Mr Matthews that that takes place through the legal branch and requests are specified and information is only provided on request. I have spoken to Mr Hanlon on the one hand to satisfy myself about his personal welfare as I am his employer, because this is a very stressful time for him, but also to make sure that he has fully understood that he is not to be speaking to colleagues about the water.

The Hon. DANIEL MOOKHEY: Does Mr Matthews have subpoena power?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: Does he have the ability to put a witness under oath?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: Does he have the ability to subpoena or otherwise inspect the Minister's officers at all?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: What legal Act is he acting under?

Mr SMITH: He has been commissioned by me as an investigator to look into the matters in the terms of reference.

The Hon. DANIEL MOOKHEY: On what legal authority?

Mr SMITH: He is using the same process of investigation that we use to investigate all matters of internal conduct. That is why from the very outset all of the matters that were raised in the *Four Corners* allegations were referred.

The Hon. DANIEL MOOKHEY: But under which Act? I am inferring from your answer that you have delegated your authority to run an investigation. I am asking which powers he is operating under.

Mr SMITH: Under the general powers of the GSE Act to investigate staff conduct.

The Hon. DANIEL MOOKHEY: Do public servants who make disclosures to him have whistleblower protection?

Mr SMITH: No. We have established an arrangement so that when members of staff come to Mr Matthews to provide information they are advised that they should make a public interest disclosure under that piece of legislation, and a number have done so.

The Hon. DANIEL MOOKHEY: Is lying to Mr Matthews an indictable offence?

Mr SMITH: I do not believe so.

The Hon. DANIEL MOOKHEY: Then why are you not calling a special judicial inquiry where all these protections would be there, subpoena power would be available, the power to put people under oath would be available and telling a lie to Mr Matthews would see you go to jail? Why has that not been taken?

The Hon. NIALL BLAIR: We will wait and see. We wanted to make sure that we had a prompt investigation into these matters. We have engaged Mr Matthews. We believe that Mr Matthews will be able to conduct a thorough investigation. We will wait and see what his report says. We also do know that there are other agencies looking at these matters. We know that Mr Hanlon referred himself to ICAC. There are matters that are being looked at. We know that there are at least five different investigations either in New South Wales or at a Commonwealth level that have been publicly announced. I believe the shadow water spokesman said in the media that he had made referrals to other agencies. This matter is being looked at. Mr Matthews is going to provide us with a report very quickly and it will be released.

Mr SMITH: We are probably not going to see anything out of the other investigations for half a year. We have taken the proactive step to get information to illuminate all of the facts early out into the public domain.

Mr JEREMY BUCKINGHAM: Minister, would you rule out a special commission of inquiry if the Matthews' investigation raises significant issues?

The Hon. NIALL BLAIR: I am not going to rule anything in or out at this stage, particularly while we have the investigation that we have initiated continuing.

Mr JEREMY BUCKINGHAM: Who drafted the terms of reference for the Matthews' inquiry?

Mr SMITH: Our general counsel.

Mr JEREMY BUCKINGHAM: How many iterations of the terms of reference were there?

Mr SMITH: Probably two or three.

Mr JEREMY BUCKINGHAM: Were any of those terms of reference relayed to the Minister or Minister's staff?

Mr SMITH: Yes, for information.

Mr JEREMY BUCKINGHAM: Was there any feedback on those terms of reference suggesting changes?

Mr SMITH: I cannot recall.

Mr JEREMY BUCKINGHAM: Do you recall, Minister, whether or not you asked for any additions or deletions to the terms of reference?

The Hon. NIALL BLAIR: Not that I can recall. We wanted to make sure that Mr Matthews had a terms of reference quickly. The secretary has said it was drafted by the legal component and we have the terms of reference in front of us, which we released publicly.

Mr JEREMY BUCKINGHAM: Would you be prepared to table the drafts?

Mr SMITH: Yes. We have no objection to that.

Mr JEREMY BUCKINGHAM: The various iterations.

Mr SMITH: Yes. The tricky bit in drafting the terms of reference is the very precise specification of what the outcome could be, because we have to consider natural justice. The legislation that applies to staff misconduct is very clear as to the processes that must apply. We have to ensure that we adhere to those processes, so we had to be very clear exactly what point the investigation could take us to under that legislation.

Mr JEREMY BUCKINGHAM: Mr Mookhey referred to the new regulation that was gazetted on 30 June. According to Mr Harris it applies to three water sharing plans⁶ and there have been three applications—

The Hon. NIALL BLAIR: The provision exists in three separate water sharing plans.⁷ This is not the first time that that regulation has been made. It has been made in other water sharing plans.⁸

Mr JEREMY BUCKINGHAM: But it is now live in the Barwon-Darling water sharing plan.⁹

Mr HANSEN: That is right. The 30 June regulation was for Barwon-Darling.

Mr JEREMY BUCKINGHAM: That is exactly right.

The Hon. NIALL BLAIR: But there were more before that—same provision, just other sharing plans.¹⁰

Mr JEREMY BUCKINGHAM: That is right. And since that time, 30 June, there have been three applications under, I think, section 38 or section 39 for approval of works.

The Hon. NIALL BLAIR: That is what Mr Harris said earlier.

Mr JEREMY BUCKINGHAM: And one of those is from Mr Peter Harris.

⁶ See footnote 1.

⁷ See footnote 1.

⁸ See footnote 1.

⁹ See footnote 1.

¹⁰ See footnote 1.

The Hon. NIALL BLAIR: That is what Mr Harris said earlier.

Mr JEREMY BUCKINGHAM: Has that application been forwarded to you, Minister, for approval?

The Hon. NIALL BLAIR: No. I do not provide the approvals.

Mr JEREMY BUCKINGHAM: Are the applications not approved by the Minister?

The Hon. GREG PEARCE: No. He has already answered this before.

Mr JEREMY BUCKINGHAM: I am just getting across it. Are the applications not approved by the Minister?

Mr HARRIS: No. That is the function of WaterNSW. The department sets the flood management plans. We do the assessment of works under these provisions or under the normal provisions. We do the assessment of those works as an independent body.

Mr JEREMY BUCKINGHAM: Under sections 38 and 39?

Mr HARRIS: That is the structure of regulatory arrangements relating to flood plans.

Mr HANSEN: Specifically clause 39 places the statutory responsibility for assessing applications on WaterNSW.

Mr JEREMY BUCKINGHAM: Do they make a recommendation on that?

Mr HANSEN: We make a determination as to whether the works comply with the provisions of the plan.

Mr JEREMY BUCKINGHAM: You make a determination. At any stage did you inform the Minister or the Minister's office that Mr Harris had made an application?

The Hon. NIALL BLAIR: There was a question on notice that was put to us. We get informed through that process.

Mr JEREMY BUCKINGHAM: When was that?

The Hon. NIALL BLAIR: I would have to go back and see.

Mr HARRIS: Last week.

Mr JEREMY BUCKINGHAM: That is when you became aware that Mr Harris had made an application.

The Hon. NIALL BLAIR: I think I was asked in the House in the last sitting week about who the applicants were. At that time I think my answer was along the lines that Water NSW does not normally disclose publicly—that was my belief—who makes those applications. Subsequently a question was put on notice. Through the answering of that question I was informed that he was one of those applicants.

Mr JEREMY BUCKINGHAM: It was only at that point?

The Hon. NIALL BLAIR: I believe that the answer I gave in the House—

Mr JEREMY BUCKINGHAM: You or your staff did not investigate that further after you were asked by the media or by me in the House as to whether Mr Harris was an applicant?

The Hon. NIALL BLAIR: You have asked us today about whether he is. We have said yes. We were asked through a question on notice—

Mr JEREMY BUCKINGHAM: I am asking when you found out, or when you asked.

The Hon. NIALL BLAIR: I have just explained that.

Mr JEREMY BUCKINGHAM: The first that you were informed he was an applicant was when a question on notice was answered by the department?

The Hon. NIALL BLAIR: You have asked me in the House, you have asked me today and it has been asked in a question on notice.

Mr JEREMY BUCKINGHAM: Yes. When did you find out?

The Hon. NIALL BLAIR: The answer in the House was that I was not aware at that time who the applicants were because Water NSW is not normally in that process. Actually the normal process is that the

Minister does not get informed who makes applications under a series of procedures for any of my agencies. It is not how it operates.

Mr SCOT MacDONALD: Point of order: I have listened for a while. The member is not letting the Minister answer the questions and is repeatedly interrupting while he tries to answer the question.

The CHAIR: I uphold the point of order. The Minister appears to have answered the question. If the answer was not adequate for Mr Jeremy Buckingham he should allow the Minister to complete his answer and then reword his question.

Mr JEREMY BUCKINGHAM: The first that you knew Mr Peter Harris was an applicant under this provision was when the department answered a question on notice and informed you.

The Hon. NIALL BLAIR: Questions on notice come through me for my signature because they are being lodged back to members in my name.

Mr JEREMY BUCKINGHAM: Yes, and that was the point when you became aware.

The Hon. NIALL BLAIR: That is what I have just explained—the processes and the timelines.

Mr JEREMY BUCKINGHAM: That is a yes?

The Hon. NIALL BLAIR: That is what I have explained.

Mr JEREMY BUCKINGHAM: I know that is what you have explained. Is your answer yes? Is that when you first became aware he was an applicant?

The Hon. NIALL BLAIR: I refer to my previous answers.

Mr JEREMY BUCKINGHAM: No, do not dodge this one. When did you first become aware that Mr Peter Harris was an applicant under this provision?

The Hon. NIALL BLAIR: When you asked me the question in the House I was not aware of who the applicants were.

Mr JEREMY BUCKINGHAM: When did you first become aware, and how?

The Hon. NIALL BLAIR: I was informed through answering the question on notice that Mr Harris was one of the applicants. You have asked the question today. We have clearly said that, yes, he was.

Mr JEREMY BUCKINGHAM: Was that the first time that you—

The Hon. NIALL BLAIR: I do not know how more clear I can be about answering your question.

Mr JEREMY BUCKINGHAM: Just say yes.

The Hon. NIALL BLAIR: I was informed through answering—

Mr JEREMY BUCKINGHAM: Was that the first time that you were made aware?

The Hon. NIALL BLAIR: If I was not aware when you asked me in the House and then I became aware through the production of an answer to a question on notice clearly that would have to be the process through which I was informed that he was one of the applicants.

Mr JEREMY BUCKINGHAM: That was the process—you were not informed in any other way?

The Hon. NIALL BLAIR: I do not call up my agencies asking who has applied for any types of approvals. That is not appropriate. The agency is responsible for receiving, processing and determining those applications—not the Minister.

Mr JEREMY BUCKINGHAM: I know, but you were asked questions about it. There was a two-page spread in the *Daily Telegraph* about it. I find it quite remarkable—these questions were specifically put to you—that neither you nor any of your ministerial staff requested that information of the department. Is that your evidence here?

The Hon. NIALL BLAIR: Let me clearly explain. Going back to the question that you asked me in the House, from memory my answer was that we do not publicly release the names of people who make applications. It was my understanding that I would not be told because of that privacy provision. Then through the advice that was sought in the compilation of the answer to the question on notice it was revealed that we can release that information.

Mr JEREMY BUCKINGHAM: The advice that was sought?

The Hon. NIALL BLAIR: When a department is asked about a specific individual surely it seeks advice about whether or not it can release that information. That is the process that would have been gone through in relation to the response to that question on notice. I was advised that that can be put into the answer. That is how I found out that he was one of the applicants.

Mr JEREMY BUCKINGHAM: That was the first time you found out that he was one of the applicants?

The Hon. NIALL BLAIR: Yes. That is exactly what I have been saying to you for the past 10 minutes.

Mr JEREMY BUCKINGHAM: That is good; we got there. I am very surprised by the answers that the secretary has given regarding the issue of H2OX.

The Hon. NIALL BLAIR: We have not given any answers; we have taken them on notice.

Mr JEREMY BUCKINGHAM: I know. That is exactly right.

The Hon. NIALL BLAIR: That is our right. If we do not have an answer with us, or if we are unsure, we are allowed to take those questions on notice and come back.

Mr JEREMY BUCKINGHAM: H2OX was launched by Kevin Humphries at Parliament House. That is correct. It was launched by the then Minister.

Mr HANSEN: I will have to take your word for it. I did not attend the launch and I was not aware.

Mr JEREMY BUCKINGHAM: Is the Minister or the department aware of H2OX?

The Hon. NIALL BLAIR: Yes.

Mr JEREMY BUCKINGHAM: It is a big private water-sharing platform.

The Hon. NIALL BLAIR: You asked specific questions about the data and access to the data, which we have agreed to take on notice to give you a fulsome response.

Mr HANSEN: My understanding is that the specific question was: What was the process that was undertaken to enable them to get hold of government data in their establishment?

Mr JEREMY BUCKINGHAM: Yes.

Mr HANSEN: That is something I will have to come back to you on because I do not have that information available.

Mr JEREMY BUCKINGHAM: You are not aware of that in any way, shape or form?

Mr HANSEN: No.

The Hon. NIALL BLAIR: That is why we take questions on notice if we do not have the answers here. I am already sworn, as part of my job. The gentlemen who are at the table with me have been sworn in today. We are taking the question on notice because we do not have an answer to the question that you have asked today.

Mr JEREMY BUCKINGHAM: There is some conjecture about whether or not the Broken Hill pipeline will be a public or private pipeline. A press release from the Premier dated 19 May 2017 states:

I am delighted to announce four providers are now invited to prepare and submit bids to build, own, operate and maintain a pipeline on behalf of the state's bulk water provider, Water NSW.

The key word there is "own". A Water NSW information sheet dated 17 June states that Water NSW will "construct, own and operate" the Murray to Broken Hill pipeline. Which is it?

The Hon. NIALL BLAIR: I am happy for Mr Harris to answer that.

Mr HARRIS: Water NSW will own the pipeline. We will contract with the successful tenderer to build and operate that pipeline.

Mr JEREMY BUCKINGHAM: Will that operator be given any concessions?

Mr HARRIS: What do you mean by that?

Mr JEREMY BUCKINGHAM: A concession agreement.

Mr HARRIS: No.

Mr JEREMY BUCKINGHAM: So the Premier's statement was incorrect.

The Hon. NIALL BLAIR: Can I just clarify? Water NSW is a State-owned corporation. That is why Mr Harris is appearing at budget estimates with me today. Water NSW owns that pipeline.

Mr HARRIS: There will be no concession given at all.

Mr JEREMY BUCKINGHAM: It said, "Providers are now invited to submit bids to build and own the pipeline."

The Hon. NIALL BLAIR: Can you read the statement that you read earlier in full?

Mr JEREMY BUCKINGHAM: It says:

I am delighted to announce four providers are now invited to prepare and submit bids to build, own, operate and maintain a pipeline on behalf of the state's bulk water provider, Water NSW.

The Hon. GREG PEARCE: It is an invitation to the public to put forward proposals.

Mr JEREMY BUCKINGHAM: It says "to own" it.

Mr HARRIS: I can confirm again that Water NSW will own that pipeline.

Mr JEREMY BUCKINGHAM: So the Premier's statement is incorrect.

Mr HARRIS: The documentation that has been issued for the tender incorporates a design-and-build contract jointly with an operation and maintenance contract. There is no ownership of that pipeline by the private sector.

The Hon. NIALL BLAIR: That is terminology that you use when you are going to market, I am advised by the secretary. Water NSW, as Mr Harris has clearly stated, will be the owner of the pipeline.

Mr JEREMY BUCKINGHAM: What is happening with the Wilcannia Weir? When are you going to build the Wilcannia Weir? Will you ever build it?

The Hon. NIALL BLAIR: As you know, this is an issue you and I have been talking about for some time. There was an investigation into the options for the weir. The findings came back with some expensive-in-comparison options. I know that work is being done on a water study by the council which the Department of Primary Industries [DPI] is helping the council with. We are hoping to still progress that issue. Mr Hansen might have other information that he may want to add but—

Mr JEREMY BUCKINGHAM: Progress the water study, the council's water study, or progress the weir?

The Hon. NIALL BLAIR: Both are progressing, hopefully.

Mr JEREMY BUCKINGHAM: You would hope that the water—

The Hon. NIALL BLAIR: Obviously, the water study is something that DPI is working with the council to deliver. The options around the weir and what happens there long term obviously are still being looked at, and the water study is one of them. There was an investigation into options for the weir—a number of different sites.

Mr JEREMY BUCKINGHAM: With respect, Minister, how much is "expensive"?

The Hon. NIALL BLAIR: I said "in comparison".

Mr JEREMY BUCKINGHAM: In comparison with what?

The Hon. NIALL BLAIR: The original figure that came out I think was around \$10 million for one of the options that was presented, but that is still being looked at.

Mr JEREMY BUCKINGHAM: One of the options was \$10 million?

The Hon. NIALL BLAIR: I think so.

Mr JEREMY BUCKINGHAM: In comparison to what? What were you comparing that option to?

The Hon. NIALL BLAIR: No.

Mr HANSEN: I am sorry, I cannot answer the "what was the comparison to" part.

The Hon. GREG PEARCE: Not building it?

Mr HANSEN: The individual investigation, which originally looked at the Wilcannia Weir, is now part of a broader suite which the Central Darling Shire Council currently is undertaking, funded by the Country Towns Water Supply and Sewerage Program. It is looking at not just Wilcannia but also at White Cliffs and Ivanhoe in terms of water supply and water quality. They are looking, as part of that investigation as they should for the delivery agency for water for Wilcannia, at the options in a broader sense around replacement of the existing weir.

The Hon. NIALL BLAIR: Obviously, the term that I used "in comparison"—

Mr JEREMY BUCKINGHAM: Yes?

The Hon. NIALL BLAIR: —the costs-benefit ratio for that project is what I mean by that. The cost-benefit ratio for the benefit versus the construction costs are the issues.

Mr JEREMY BUCKINGHAM: At this stage it does not stack up.

The Hon. NIALL BLAIR: Yes; but, you know, these are some of the issues that frustrate me sometimes. A project like this cannot be judged just on what it says on a spreadsheet, right?

Mr JEREMY BUCKINGHAM: Yes, I agree.

The Hon. NIALL BLAIR: Particularly for the Indigenous community in Wilcannia. That is why this issue is still being looked at because, if it was just about a mathematical formula saying, "No", because the computer says no—

Mr JEREMY BUCKINGHAM: You would not build the Broken Hill pipeline for \$500 million.

The Hon. NIALL BLAIR: No, no. The Broken Hill pipeline has a whole range—

Mr JEREMY BUCKINGHAM: You cannot cough up \$10 million for Wilcannia!

The Hon. NIALL BLAIR: The issue is still being looked at. It is being looked at also in the broader water needs for that area. I understand the concern in the community of Wilcannia. I understand that the construction of a piece of infrastructure like this is not just about the water security. It provides amenity. It provides recreational opportunities for the community and, for a community of Indigenous Australians that refer to themselves as the Water People, it provides significant cultural connection, particularly for the youth in that area.

I know Mr Jeremy Buckingham does not like the fact that we have not come out and said, "Yes" right now, but we are still looking at this in a broader sense to try to make sure that we can deliver an outcome for that community. That is ongoing. I am frustrated that there has not been an answer. This is a conversation that has been raised with me by many different people. It is something that is being looked at.

The CHAIR: Questioning will now pass to the Opposition. Mr Searle is a participating member.

The Hon. ADAM SEARLE: Minister, what assistance has your Government provided to the community of Lithgow to assist in responding to the closure of the Wallerawang power station?

The Hon. NIALL BLAIR: I will have to refer that to the secretary, if that is something that falls in his area.

Mr SMITH: I will have to take on notice the list of specific contributions that we have made in the Lithgow area.

The Hon. ADAM SEARLE: Okay. Can I ask you what plans your Government is making to respond to further closures or potential closures of coal-fired power stations, such as Liddell and Bayswater?

The Hon. NIALL BLAIR: That would be a matter of Government policy.

The Hon. ADAM SEARLE: You are the Minister. You get to answer.

The Hon. NIALL BLAIR: You were looking at the secretary. I am sorry, I thought you were directing the question to him.

The Hon. ADAM SEARLE: No, I am happy for you to answer, Minister.

The Hon. NIALL BLAIR: Again, that is something that the secretary will take on notice to answer. I am happy to come back with some further information, if there is some, in relation to that question as well.

The Hon. ADAM SEARLE: Okay. Do you know of anything that your Government has done in that space?

Mr SMITH: Generally, the local responses on regional development issues are the responsibility of the Deputy Premier. The staff who support him in that role are now in the Department of Premier and Cabinet [DPC].

The Hon. ADAM SEARLE: This is really about structural adjustment. Surely that is an industry matter, is it not?

Mr SMITH: It is, generally, but on-the-ground activities in support of planning for the economic development of every region of New South Wales is led out of DPC.

The Hon. ADAM SEARLE: The reason I ask is that when I asked the Leader of the Government in the upper House this question in April, he said that he was proud of an extensive list of assistance given and he would get back to me, but when he got back to me on 11 May he said that further questions in relation to this matter should be directed to the Hon. Niall Blair, the Minister for Trade and Industry.

The Hon. GREG PEARCE: It has taken you a while to get around to it.

The Hon. DANIEL MOOKHEY: But got him big, though.

The Hon. ADAM SEARLE: It is estimates now. I thought I would give them a bit of time to see if they could get their act together. You cannot provide an answer?

The CHAIR: Order!

The Hon. NIALL BLAIR: We have just said that we will take the question on notice.

The Hon. ADAM SEARLE: Thank you very much.

The Hon. MICK VEITCH: Minister, I explored yesterday with the Deputy Premier that he is the boss of the National Party and we have actually worked out that you are the boss. He is the Deputy Premier but you are the boss.

The Hon. NIALL BLAIR: I am the cluster leader when it comes to budget matters.

The Hon. MICK VEITCH: That is what he said. He said you are the cluster leader and he is the Deputy Premier.

The Hon. NIALL BLAIR: I am the cluster lead when it comes to budget matters.

The Hon. MICK VEITCH: So you are the boss.

The Hon. NIALL BLAIR: I am under no illusion as to who is my parliamentary leader.

The Hon. MICK VEITCH: Well, I know. Everyone knows you are the boss.

The Hon. NIALL BLAIR: I am the Deputy Leader and Minister Barilaro is the leader of my party.

The Hon. DANIEL MOOKHEY: At this stage.

The Hon. NIALL BLAIR: I therefore view him directly as my boss.

The Hon. MICK VEITCH: Yeah.

The Hon. NIALL BLAIR: But as the cluster lead for this cluster, I am very happy to take responsibility for the budgetary matters of the cluster.

The Hon. MICK VEITCH: Thank you. With regard to allegations of illegal clearing of a travelling stock reserve on the properties owned by Peter and Jane Harris, the North West Local Land Services wrote to the Harrises on 2 July requesting that, over a two-year period, they peg the boundary, allow the area to recover, and actively revegetate the area if natural recovery of the grassland does not occur within a two-year period. What is the status of those works, Minister?

The Hon. NIALL BLAIR: I think I would have to take that on notice. What was the date of that, sorry?

The Hon. MICK VEITCH: It was 2 July 2014 and it is a letter from the North West Local Land Services.

The Hon. NIALL BLAIR: Okay. We will take that on notice and come back to you. Obviously that was a period before I was the Minister. We are happy to take that on notice.

The Hon. MICK VEITCH: Thank you. Minister, as you appreciate, there are pretty serious issues that we have been prosecuting today and there are a lot of really important issues relating to agriculture that I would like to get to as well.

The Hon. NIALL BLAIR: Well, you had better hurry up.

The Hon. MICK VEITCH: Biosecurity legislation implementation is one of those.

The Hon. NIALL BLAIR: Yes.

The Hon. MICK VEITCH: A number of farmers have raised with me at AgQuip, Primex and a whole range of other places this issue about utilities accessing farms and the impact on their biosecurity provisions of that access.

The Hon. NIALL BLAIR: Yes.

The Hon. MICK VEITCH: Through a Government Information (Public Access) [GIPA] Act application, the GIPA included an email of 2 June from Ausgrid to the department saying they would like to know how this is going to work. It was put in place in July. On 2 June they asked the department what was going to happen.

The Hon. NIALL BLAIR: Yes.

The Hon. MICK VEITCH: On 29 June, which is nearly four weeks later, in dealing with this very important piece of biosecurity legislation—a paradigm shift—the department wrote back and said, "If you have a moment, it would be great to have a discussion about the new Biosecurity Act and what it means for the service providers, such as Essential Energy. The Act commences on 1 July." Literally, a couple of days before it starts, they are going to get in touch. Is that acceptable?

The Hon. NIALL BLAIR: It is my advice that the utilities have been directly consulted now. It is a matter that has been—obviously, we put the legislation through in 2015. We have spent the last 12 months developing the regulations. It is no surprise to landholders generally, whether a public or private landholder, that the legislation was coming in. We are also consolidating a lot of the existing requirements into one piece of legislation. Having worked in that area before I entered Parliament, as a large public land manager I am sure the utilities were aware of the importance of biosecurity but they have now been directly consulted because prior to those letters they were not and that is not acceptable.

The Hon. MICK VEITCH: You are saying that it is not acceptable when two days before it is to come into place the manager of projects and programs biosecurity, a bloke by the name of Scott Barrett, is writing to them and saying, "I would like to have a chat about it," after they approached him four weeks in advance and said, "We had better talk about this before it comes into place"?

The Hon. NIALL BLAIR: As I said, it is my understanding that they have now had direct consultation but they also would have been aware that this was certainly a requirement that we have had previously. Weeds, et cetera, is not a new issue in New South Wales. They have now been directly consulted on the new regime. Mr Hansen might provide some further information on that.

Mr HANSEN: I agree that the timelines between receiving—I do not know whether it was an email or a letter that was received—and when it was responded to.

The Hon. MICK VEITCH: It was an email.

The Hon. GREG PEARCE: To clarify, the first material you mentioned was from Ausgrid, was it not? And the second is Essential?

The Hon. MICK VEITCH: Ausgrid made the approach.

The Hon. GREG PEARCE: And the second is Essential?

The Hon. MICK VEITCH: Yes, and then it took four weeks for someone to—

The Hon. GREG PEARCE: We do not know that. We only know that there was a message to Essential which was separate to the message to Ausgrid.

The Hon. NIALL BLAIR: No. Mr Scott Barrett corresponded two days before 1 July.

Mr HANSEN: But the question that was asked is: Was that second letter a response directly to the Ausgrid response or was it separate?

The Hon. MICK VEITCH: That was after prompting from the department to say, "We should do something about this Ausgrid."

The CHAIR: No, he was asking whether one is a reply to the other.

The Hon. NIALL BLAIR: No, we are just trying to match up the timelines. We also do not know if there were phone calls or other approaches.

Mr HANSEN: What we do know is—

The Hon. MICK VEITCH: I agree with the Minister; that is not acceptable.

Mr HANSEN: If that is the timeline for a letter and response then I agree. To reiterate what the Minister has said, consultation was undertaken in the lead-up to the introduction of this bill into Parliament and in the lead-up to the development of extension materials. Service providers were heavily involved in that consultation and in those discussions. Now we have switched to the phase of talking to individual groups on the ground, not policy coordinators from within those groups. We have staff, for example, in Port Macquarie today talking to Essential Energy's local staff to reiterate their local, on-the-ground responsibilities in meeting their general biosecurity duty. There was a lot of discussion, negotiation and communication with service providers in the lead-up to the introduction of the bill into the House so that there was an understanding of what we were trying to achieve and how best to achieve it. Now we are in that stage of talking to individuals on the ground about what their responsibilities are and how they should discharge them.

The Hon. MICK VEITCH: But it is in place. It started on 1 July.

Mr HANSEN: Yes, and I reckon it will take years of continuing to communicate and remind people of what their obligations and duties are.

The Hon. MICK VEITCH: Minister, it has also been, at those previous forums that I have spoken about such as AgQuip, Primex—

The Hon. NIALL BLAIR: I did not see you there.

The Hon. MICK VEITCH: I was there.

The Hon. NIALL BLAIR: You were not at your stand when I turned up. I have a photo.

The Hon. MICK VEITCH: The big issue being raised is the implementation of things like the biodiversity reforms and biosecurity reforms by Local Land Services [LLS]. A real concern is the capacity of LLS to do this. Do you carry the same concerns that the implementation of these reforms may bring down your reform agenda?

The Hon. NIALL BLAIR: Our commitment to LLS, particularly for the implementation of the biodiversity reforms and the role they will play, was spelt out in real terms in the increase of the budget that we gave to LLS and the fact that we are continuing to employ more boots on the ground for the implementation of this reform. We have had a dedicated hotline for farmers to ring, ask questions and register prior to the switching of registration codes, which happened on 25 August. I am confident that LLS is adequately resourced to be able to implement that. Confidence was reiterated with the increase to the budget specifically so that LLS can be able to implement this important reform. The numbers of staff that have been training and attending workshops means that I am confident in their ability to be able to deliver that.

Mr HANSEN: With regard to biosecurity it is interesting to note that since the Act has been turned on we have had two positive detections of Hendra in this State. We all know how serious that is. The ability of LLS working on the ground with private veterinarians, industries, communities and DPI and using the framework of the new Biosecurity Act—touch wood—it has been an enabling tool for fast responses for those sorts of biosecurity outbreaks that we have had since 1 July.

The Hon. MICK VEITCH: Minister, can you tell me what happened to the little penguin?

The Hon. NIALL BLAIR: There are many penguin colonies across New South Wales. You might have to be a little more specific.

The Hon. MICK VEITCH: In June 2017 your department provided an addendum to the Shark Meshing (Bather Protection) Program 2015-16. In that addendum it would appear that a little penguin was caught in a shark net that we did not count. What happened to that little penguin?

The Hon. NIALL BLAIR: Unfortunately, he was missed in the count like you have said. When it was discovered that he had been missed in the count, the record was—

The Hon. MICK VEITCH: How was he missed in the count?

Mr JEREMY BUCKINGHAM: How do you know it was a he? It is hard to tell.

The Hon. MICK VEITCH: I can only assume that that was human error.

Mr HANSEN: Yes, human error.

The Hon. MARK PEARSON: If it had been a big penguin, you would have found it?

The Hon. GREG PEARCE: It was hiding under a bushel.

The Hon. DANIEL MOOKHEY: As a point of clarification, where was he discovered?

The Hon. NIALL BLAIR: We found him in the freezer.

The Hon. MICK VEITCH: You found him in a freezer? He was missed?

The Hon. NIALL BLAIR: As anyone who has been to some of those fishery sites would know, and as I can clearly remember from when I was on my parliamentary inquiry that visited one of these sites—

The Hon. MICK VEITCH: I think you and I travelled together.

The Hon. NIALL BLAIR: —a lot of animals that are kept for further research purposes are kept in and on location at some of our research facilities in large cool rooms or freezers.

Mr HANSEN: Yes. The initial records are made in a notebook or papers that are the manual records held by the inspectors or observers who go out checking the nets. When a deceased animal is found it is normally brought back for a post-mortem. It is normally in the transcription from handwritten records to the official records—that was missed in the transcription. But upon discovery of the animal in the freezer where it had been for post-mortem it was then included in the addendum.

The Hon. MICK VEITCH: All jokes aside, that is pretty serious. Can we guarantee that will not happen again?

The Hon. NIALL BLAIR: I will pass to the director general to answer that. We need to have confidence in those systems. He may be able to give you a bit more information about the numbers. This may be a small error in relation to the amount of data that is entered or captured.

Mr HANSEN: What I would love to give you is an ironclad guarantee that we will not get a transcription error in a future reporting, but what I can guarantee is that wherever we do discover errors in transcription or in reporting of numbers across, we do not try to hide it. We are very up-front about the fact that we have made an error and what the real number should be and we put that up publicly for people to see.

The Hon. NIALL BLAIR: And this was something, again, where the department made me aware that the error had occurred and that it was publishing the correction.

The Hon. MICK VEITCH: Yes. Thank you. As you can see, I do read those minor addenda.

Mr HANSEN: Some of them catch your eye, do they?

The Hon. MICK VEITCH: Yes, some of them do. Mr Smith, in answer to previous questioning from either the Hon. Daniel Mookhey or Mr Buckingham you said that you are responsible for the recruitment within the department.

Mr SMITH: Not all recruitment. I make decisions on the recruitment of senior executives.

The Hon. MICK VEITCH: Who is responsible for recruitment further down the chain?

Mr SMITH: The senior executives or managers that are authorised to hire people who will be working for them.

The Hon. MICK VEITCH: Is that done in-house, conducted externally or is it a mix?

Mr SMITH: The positions are advertised and then the hiring manager is in charge of the selection process. Very rarely we will get a search firm to help if it is a very specialised role and we think it will be difficult, but normally it is done with the assistance of our human resources people.

The Hon. MICK VEITCH: Those jobs are advertised publicly?

Mr SMITH: Generally on the Jobs for NSW website.

The Hon. MICK VEITCH: There would be a record of when the ads went out, the number of applicants, how many were culled, the interview process?

Mr SMITH: Yes.

The Hon. MICK VEITCH: So that there is transparency around the appointment of individuals within the department?

Mr SMITH: Yes, although when I describe that, that relates to ongoing roles. There could be short term, temporary reassignments or secondments internally that would not be advertised publicly.

The Hon. MICK VEITCH: In that case, what is the appointment process?

Mr SMITH: It would depend how short term it was.

The Hon. MICK VEITCH: Via secondment from somewhere else?

Mr SMITH: It could be. If someone was going on holidays for a few weeks, it might just be an informal arrangement—somebody would step over and act in a role.

The Hon. MICK VEITCH: You are responsible for senior management?

Mr SMITH: Yes.

The Hon. MICK VEITCH: How do you undertake that process for those roles?

Mr SMITH: I set up a process. Normally if the person is going to be directly reporting to me, I would be the convenor of the selection panel. If I were not, if another executive would be hiring, if they are the day-to-day supervisor of the future employee, then they would convene the selection process. But they would then make a recommendation to me on paper to say these are the candidates, this is the recommended candidate, here is why, and then I would approve or decline it.

The Hon. MICK VEITCH: Do you use external agencies as well, like headhunter companies?

Mr SMITH: We sometimes do, but their assistance is to help the hiring manager complete the process. They might pre-interview or screen candidates so then the hiring manager would be interviewing a short list of suitable candidates who met the requirements for the role, and they might also help with writing up the paperwork for the selection committee report.

The Hon. MICK VEITCH: The appointment process for jobs such as the Land and Water Commissioner or the chair of Local Land Services, that is conducted through you but externally? You use an external agency for those positions to then report to you?

The Hon. NIALL BLAIR: Again, I would seek the assistance of the secretary in explaining some of those other roles.

Mr SMITH: There are some statutory roles where the Minister is the employer and in that case he or she makes the final decision as to who would be appointed. Typically, the department would provide assistance in maybe hiring a search firm to make sure the field is properly canvassed and we get the best possible candidate. But again, all of that is by way of assistance. It still would be that whoever is the legally authorised employer has to put pen to paper to make the decision finally.

Mr JEREMY BUCKINGHAM: In regard to the new provisions around approval of works in the Barwon-Darling water sharing plans,¹¹ the evidence so far has been that there have been three applications.

The Hon. NIALL BLAIR: Are you putting the question through me?

Mr JEREMY BUCKINGHAM: Yes. There have been three applications.

The Hon. NIALL BLAIR: For the Barwon-Darling, that is what we have determined this morning, yes.

Mr JEREMY BUCKINGHAM: Are all of those from Peter Harris or associates of Peter Harris?

The Hon. NIALL BLAIR: Again, I am not familiar with who all of the applicants are. I will ask Mr David Harris if he has any of that information here, but I think he has agreed to take some questions on that.

¹¹ See footnote 1.

Mr HARRIS: I have already confirmed that one of those applicants is an associate of Peter Harris. I will take on notice the identity of the other two.

Mr JEREMY BUCKINGHAM: One of them is directly related to the Harris family representative. How did the Government advertise these changes?

The Hon. NIALL BLAIR: I am happy to take on notice so that we can supply the full information on how the changes in relation to all of the sharing plans have been advertised.

Mr JEREMY BUCKINGHAM: In terms of the new capacity, I know it is in the two previous water sharing plans.¹²

The Hon. NIALL BLAIR: Mr Hansen has some information on that.

Mr JEREMY BUCKINGHAM: In terms of when the changes to the water sharing plans¹³ were implemented, when the new sections 38 and 39 were enacted and gazetted, how did the Government tell the community that these changes had occurred?

The Hon. NIALL BLAIR: Mr Hansen will go through some of the consultation process.

Mr HANSEN: Consultation leading up to the creation of the plans, public exhibition of the draft Barwon-Darling Valley floodplain management plan occurred in late 2016. The public exhibition was open from 31 October to 9 December 2016.

Mr JEREMY BUCKINGHAM: These provisions were not part of that then?

Mr HANSEN: They were.

Mr JEREMY BUCKINGHAM: They were?

The Hon. NIALL BLAIR: Yes.

Mr JEREMY BUCKINGHAM: They were always going to be part of the plan?

Mr HANSEN: That floodplain management plan that went on exhibition also had targeted stakeholder engagement across local Indigenous communities, local councils, floodplain landholders, the Bourke Cotton Growers Association, NSW Farmers and so forth. Eight submissions were received from the public exhibition and reviewed by the inter-agency regional panel. As a point on that, it is actually the Office of Environment and Heritage whose responsibility it is for creation of the plan and we then take a role in the exhibition and implementation.

Mr JEREMY BUCKINGHAM: Were any of those submissions from the Harris family or their associates?

Mr HANSEN: I am not sure who the eight submissions were from.

Mr JEREMY BUCKINGHAM: Can you take that on notice?

Mr HANSEN: Yes.

Mr JEREMY BUCKINGHAM: There was targeted stakeholder engagement?

Mr HANSEN: That is right, but I have not finished yet, because out of that came the final draft plan, which went on exhibition from 20 February 2017 to 15 March. They are the periods of consultation that you were asking about.

Mr JEREMY BUCKINGHAM: I find it remarkable that the changes are gazetted in June, that a representative of Mr Harris is not only aware of those changes and the process—

The Hon. GREG PEARCE: He must have paid attention, unlike you.

Mr JEREMY BUCKINGHAM: Yes, he clearly was paying attention.

The Hon. NIALL BLAIR: This is something that has happened in other valleys.

Mr JEREMY BUCKINGHAM: I understand but in particular with the major National Party donor who sits down with you occasionally at Chinese restaurants. The question I have, Minister, is did the department

¹² See footnote 1.

¹³ See footnote 1.

liaise with the representative of Mr Harris about how to actually make an application and the process for making an application after June 30?

The Hon. NIALL BLAIR: I am happy if anyone has any information, but my understanding is we have been through the consultation period where these are being made public, about what is happening with them. This is not the first floodplain management plan that we have implemented and it is available to everyone within that valley.

Mr JEREMY BUCKINGHAM: My question was quite specific.

Mr HANSEN: Yes, and I am not aware of any individual consultation. But I am aware of general consultation, as in making available to the whole valley information around rules and assessment criteria, technical manuals, background documents all being made available for the commencement of the plan so that people had all the information they needed to be able to make applications. I am not aware of any individual assistance or individual conversations that have assisted anyone in putting applications in.

Mr JEREMY BUCKINGHAM: But it may have happened?

Mr HANSEN: If I am not aware of it, I cannot say whether it has or has not happened.

The Hon. NIALL BLAIR: If you look on the website, those documents, the rules and assessment criteria summary sheets, the technical manual and the background document, they are actually available on website. If people are in that valley and they want to make an application, they would go onto that website and see some of that material which would guide them through the application process. This was not a secret that this was happening. It had been through extensive consultation, through not only consultation and work with the Office of Environment and Heritage but also the Federal Government. Barwon-Darling was not the first floodplain management plan.

Mr JEREMY BUCKINGHAM: I know, and one of the first cabs off the rank is Peter Harris. Has the application from Peter Harris' associate been approved by the department?

Mr HARRIS: Again, it is not the department.

Mr JEREMY BUCKINGHAM: Or by WaterNSW?

Mr HARRIS: No, it has not. There were several objections received and we are currently waiting on Crown Lands consent before the application assessment can be finalised.

Mr JEREMY BUCKINGHAM: When do you think it will be finalised?

Mr HARRIS: I will have to take that on notice as well. I may be able to get back to you shortly on that.

Mr JEREMY BUCKINGHAM: There were other changes to the Barwon-Darling water sharing plans that were blocked by Gabrielle Upton, the other relevant Minister. Why did Minister Upton block those changes?

Mr SCOT MacDONALD: Point of order: The member is asking a question of a Minister who is not here.

Mr JEREMY BUCKINGHAM: Why did she tell the Minister that she was blocking those changes?

The CHAIR: I will uphold the point of order. The member can ask the question in a different fashion, which I believe he has just done. The second question is in order.

Mr JEREMY BUCKINGHAM: Why did Minister Upton block those changes? What did she tell you?

The Hon. NIALL BLAIR: I have not been told that the Minister has blocked the changes. The amendments to the water sharing plan that you are talking about are amendments trying to remove drafting errors, and that requires concurrence from the Minister for the Environment. I originally wrote to the previous Minister for the Environment for the concurrence, and obviously we have had changes to the Ministers. To date, we do not have concurrence from the Minister, but I have not received—

Mr JEREMY BUCKINGHAM: Has she said that officially by way of correspondence?

The Hon. RICK COLLESS: Let him answer.

The CHAIR: Order! Everyone will settle down and allow the Minister to answer the question.

The Hon. NIALL BLAIR: The Minister has not told me that she was blocking concurrence in relation to that matter.

Mr JEREMY BUCKINGHAM: But she does not concur at this point.

The Hon. NIALL BLAIR: We do not have the changes in place at this point because it requires—

Mr JEREMY BUCKINGHAM: Her concurrence.

The Hon. NIALL BLAIR: —concurrence.

Mr JEREMY BUCKINGHAM: And you do not have that from her. Why not? What are the reasons for that?

The Hon. NIALL BLAIR: You would have to ask—

Mr JEREMY BUCKINGHAM: No, what are the reasons that she has given you?

The Hon. NIALL BLAIR: She has not given me reasons because she has not told me that she has a problem with that. We just do not have concurrence at this stage. If you have specific questions in relation to her view on the matter, then you probably have 10 minutes to duck across and ask her in the other estimates hearing at the moment.

Mr JEREMY BUCKINGHAM: We are doing that right now, at the same time. It is a good strategy.

The Hon. GREG PEARCE: Greens tactics, wow.

Mr JEREMY BUCKINGHAM: Minister, you said that you would walk away from the Murray-Darling Basin Plan if it was not in the State's interest.

The Hon. NIALL BLAIR: That is right.

Mr JEREMY BUCKINGHAM: That is a live option for you.

The Hon. NIALL BLAIR: My job is to advocate on behalf of New South Wales when it comes to the Murray-Darling Basin Plan and I believe that I have done that since I have fulfilled this role. We are five years into a 12-year plan. I have reiterated here today and on other occasions that New South Wales is committed to the implementation of that plan. However, at any stage if the options that were on the table were not in the best interests of New South Wales, then New South Wales should have a Minister that is willing to walk away.

Mr JEREMY BUCKINGHAM: Should have a plan B, potentially.

The Hon. NIALL BLAIR: But at the moment the completion of the Murray Darling Basin Plan is the best—and I want to reiterate this—option for all the stakeholders in New South Wales to make sure that we get through and complete this plan so that we can give certainty to those communities that have been through some pretty bloody tough times as a result of this plan. This plan has hurt New South Wales communities.

Mr JEREMY BUCKINGHAM: Wilcannia, Broken Hill.

The Hon. NIALL BLAIR: This plan is something that some parts of this State—

Mr JEREMY BUCKINGHAM: Has it benefited any communities?

The Hon. NIALL BLAIR: Absolutely, and there have been some recent reports—

Mr JEREMY BUCKINGHAM: Can you name the communities it has benefited?

The Hon. NIALL BLAIR: There have been many reports that have shown that the environmental benefits are occurring as a result of the plan. But if you ask some of the communities whether they are benefiting, no, some of them have not seen those benefits. But now is not the time to walk away. We need to get certainty. That is what my job was: to make sure that New South Wales was able to get its sustainable diversion limit project submitted and to get the Murray-Darling Basin Authority and the participating States to confirm that we were not defaulting to a 2,750 giga litre plan, that we were able to meet those water saving targets through the implementation of infrastructure and on-farm savings rather than just buying productive water out of communities that need that water to continue. That is why we have water sharing plans. That is why we are committed to our water resource plans. That is why we submitted our projects through the SDL adjustment mechanism.

We believe the 450 giga litre up-water clearly has to be met through what is committed in the legislation, and that is a true triple bottom line approach. This is not a water-at-all-costs scenario. We want to see environmental outcomes, and that is what I have committed to to keep us working towards. That is not

popular in some parts of this State. Those communities that are facing issues like constraints and have had productive water taken out of them do not think that this whole thing is in their best interests. But when I lay it out on the table, every aspect of this plan, to make a decision for the greater good and the greater number, we should continue to be in the plan and that is where we are today.

Mr JEREMY BUCKINGHAM: Minister, in 2014 the senior investigation officer for the NSW Ombudsman concluded in relation to water in New South Wales that a review be conducted of policies relating to investigations of alleged breaches of the Water Management Act 2000 or the Water Act 1912 and a comprehensive review of the water regulatory system be conducted to assess what they believed was systemic breaches of the Act. Why has that never happened?

The Hon. NIALL BLAIR: I think the 2009 Ombudsman's report was even worse, is that right?

Mr HANSEN: This goes to the fact that since 2000, which I think was when we first had water compliance officers in this State, there has been a series of deep dives into water compliance by the Ombudsman continuing to provide advice on how to adjust, amend and rearrange the structure and the legislation under which the compliance was carried out. All the recommendations of the 2014 Ombudsman's report have been progressed and they were needed to be reported to the Ombudsman in six-monthly regular progress reports, and so they were. That was also then picked up as part of the discussions on the work between the two agencies sitting at the table here as part of the transformation in ensuring the best alignment of resources for compliance as well, and we are continuing to work with the Ombudsman today in terms of how we continue to refine and improve compliance activities.

Mr JEREMY BUCKINGHAM: With regard to a previous question on the failure of the Minister for the Environment to provide concurrence with the changes to the Water Management Act, are you aware that the Barwon-Darling Water Sharing Plan changes benefit Mr Peter Harris?

The Hon. NIALL BLAIR: Any changes to a water sharing plan would be available to everyone within that valley.

Mr JEREMY BUCKINGHAM: Are you aware that they benefit Mr Peter Harris?

The Hon. NIALL BLAIR: Changes to a water sharing plan would be available to everyone within that valley.

Mr JEREMY BUCKINGHAM: Are you aware that those specific changes benefit Mr Peter Harris directly?

The Hon. NIALL BLAIR: Water sharing plans do not identify properties or individuals. The whole reason we have water sharing plans is so that to be consistent with the National Water Initiative we took away to a degree the linkage between the actual property and the water and we allow water to be shared within a water sharing plan—

Mr JEREMY BUCKINGHAM: Have you, your department, your office or the National Party had any correspondence with Mr Peter Harris about those proposed changes?

The Hon. NIALL BLAIR: I am not aware of having any correspondence as such, and the Director General might—

Mr JEREMY BUCKINGHAM: Or discussions, emails, phone calls—anything?

The Hon. NIALL BLAIR: Not with me.

Mr JEREMY BUCKINGHAM: Chinese dinners?

The Hon. NIALL BLAIR: Not with me.

Mr HANSEN: I have to say I am not aware of any either. The amendment that is being made, the changes that have been made, is to fix up a mistake that was made by the department in 2012 in the draft. There was a clause A and a clause B. One had to be struck out because they could not both exist. Every other document that was put up in 2012 at the time pointed to the intent being to allow trades, but one of those options did not get struck out.

Mr JEREMY BUCKINGHAM: I will move on as I probably have about 30 seconds to go. Minister, recently the Government bought back a part of Shenhua's exploration licences in the Liverpool Plains for \$262 million. Are you satisfied now that if the mine goes ahead it can be built and operate without negatively impacting on agriculture in that area?

The Hon. NIALL BLAIR: If a mine was to go ahead it would have to meet all of the conditions that have been placed on it, including the water management plans, et cetera. That is the status that we are in at the moment.

Mr JEREMY BUCKINGHAM: If it does comply with all of those conditions and operational plans, et cetera, are you satisfied that will mean it does not negatively impact on agriculture in that district?

The Hon. NIALL BLAIR: As I said, there are conditions that have been put in at a State and a Commonwealth level. Those conditions have been placed there on the advice of the departments that are there to assess risks and impacts and they are the conditions that have been set on that project to address and manage any risks that have been identified.

The CHAIR: The hearing is concluded. Minister and staff, thank you very much for agreeing to attend today and for your answers. There are quite a few questions on notice today. The secretariat will write to you. We would like answers to those questions on notice within 21 days of you receiving them.

(The witnesses withdrew)

The Committee proceeded to deliberate.