

# **GENERAL PURPOSE STANDING COMMITTEE No. 5**

**Tuesday 15 February 2005**

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

## **ENVIRONMENT**

**The Committee met at 2.00 p.m.**

### **MEMBERS**

Mr Ian Cohen (Chair)

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

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

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### **PRESENT**

**Department of Environment and Conservation**

**Ms L. Corbyn**, *Director-General*

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

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

**Mr A. Diakos**, *Executive Director, Corporate Services*

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**CHAIR:** I advise members that there is no provision for written questions on notice for budget estimates this year. Any written questions relating to the portfolio responsibilities of the Committee after the hearing need to be lodged in the House in accordance with the usual procedures for questions on notice. The standard procedure for budget estimates hearing will apply today. If the Committee wishes to change any of these procedures a resolution will be required.

I welcome everyone to this public hearing of General Purpose Standing Committee No. 5. First I wish to thank the Director-General and departmental officers for attending today. At this meeting the Committee will examine the proposed expenditure for the portfolio area of the Environment.

Before questions commence some procedural matters need to be dealt with. I point out that in accordance with the Legislative Council's guidelines in the broadcasting of proceedings only members of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos. In reporting the proceedings of this Committee the media must take responsibility for what they publish or what interpretation they place on anything that is said before the Committee. Copies of the guidelines on broadcasting are available from the attendants and Committee Clerks. There is no provision for members to refer directly to their staff while at the table. Members and their staff are advised that any messages should be delivered through the attendants on duty or the Committee Clerks. I declare the proposed expenditure open for examination. Director-General, do you wish to make a brief opening statement?

**Ms CORBYN:** I am Lisa Corbyn, Director-General of the Department of Environment and Conservation. No, thank you, I do not wish to make an opening statement.

**CHAIR:** We will have 15 minutes each for questions. Welcome, Ms Corbyn, to the ongoing estimates committee saga. Would you inform the Committee of how much money the Department of Environment and Conservation [DEC] has allocated for fauna and flora survey work in local government areas that are likely to see biodiversity certification under the new Threatened Species Conservation Act?

**Ms CORBYN:** I will ask Simon Smith, who is the Deputy-Director General of the Environment Protection and Regulation Division within the department, to address that in more detail. We have done some significant work on threatened species and we have been dealing with the Department of Infrastructure, Planning and Natural Resources [DIPNR] in working out interaction with the land use planning process and also talking to them about funding. I'll ask Simon Smith to address that in more detail.

**Mr SMITH:** The crucial issue of course is that flora and fauna survey work is done to a high standard to inform any decision-making the Minister might make, particularly in exercising his functions to grant biodiversity certification. The plan, as I think the Minister has made clear, is to identify particular areas of the State where certification would be a valuable tool. Those are areas where the Department of Infrastructure, Planning and Natural Resources Department and Minister Knowles have planned regional strategies. They will be most useful particularly in high-growth areas where there are also large levels of economic growth as well as high levels of high biodiversity values.

The Minister announced in Parliament a commitment of \$700,000 when the threatened species amendments went through Parliament. That is going to be directed towards the North Coast area. No dollar amounts have been allocated to other areas. We are doing a great deal of detailed work within the department developing particular plans for the high-growth areas of the State in order to develop funding bids for consideration within Government.

**CHAIR:** So that money has been allocated in the budget?

**Mr SMITH:** No, it has not because it is money that comes from the Plan First levy that is administered by the Department of Infrastructure, Planning and Natural Resources. We are currently negotiating with them on the details of what particular survey project might be necessary. That quantum is still intended to be applied for that purpose.

**CHAIR:** That applies just to the North Coast. We are also looking at the money allocated for flora and fauna survey work in each of the four DIPNR priority areas for regional strategies. You have mentioned the Far North Coast. For example, there is the Lower Hunter, Sydney-Canberra corridor and the South Coast. Has that money been allocated at this stage?

**Mr SMITH:** No, it has not been because we are still developing the Government's arrangement and the timetable for the conduct of those certification processes. I guess from the administration of the department's point of view we do not want to rush into a second-rate process of flora and fauna survey work. We need to get the commitment from the councils and the other agencies that this is a fair-dinkum, full-scale, once-and-for-all proper survey of flora and fauna and biodiversity values in each area and then go into that with all eyes open and everyone committed to the process.

**CHAIR:** I appreciate the quality control. Would you be able to guarantee that this money will be spent only on survey work and not be diverted into other DEC projects?

**Mr SMITH:** Whatever money is provided for flora and fauna surveys to the purpose of biodiversity certification will be used for nothing else.

**CHAIR:** We are not talking about the \$700,000?

**Mr SMITH:** The \$700,000 is the only amount that the Government has announced.

**CHAIR:** Is that amount guaranteed to be spent on survey work?

**Mr SMITH:** It will depend on the specific agreement that has been made. The Government announcement was that the purpose was to ensure that any biodiversity certification that is done is fully informed by a proper flora and fauna survey.

**CHAIR:** Is it guaranteed that the \$700,000 actually goes to the survey work or will there be other areas of activities in that allocation?

**Mr SMITH:** The work that gets done will be a mixture of review of existing data so we identify where we already have good knowledge that comes out of past work, and clear identification of the gaps that remain so that we identify the priority areas. In some areas it will be clear that there is no point in doing a flora and fauna survey because we already know what is there or we know that the biodiversity values are greatly diminished. If it is under concrete, or whatever, there is not much point in doing survey work there. Having identified the gaps, then we do survey work to fill in the picture. The process involves more because we then have to facilitate the process of councils coming on board and making negotiations and agreements about the right areas that are priorities for conservation.

**CHAIR:** Ms Corbyn, how much money will be spent on coastal acquisition in 2004-05?

**Ms CORBYN:** I will get Tony Fleming, the Deputy Director General of the Parks and Wildlife Division, to address that in total. We do have an allocation on coastal acquisition particularly relating to coastal wetlands that has been identified from the Environmental Trust. There is a more detailed acquisition strategy that our Parks and Wildlife Division has been working through.

**CHAIR:** On that point, you are saying that those coastal acquisition funds do not come out of the budget per se, they come out of the Environmental Trust?

**Ms CORBYN:** Some do. We have many pots of money that we use for acquisitions for Parks across the State. The Environmental Trust, which is a separate body, has the capacity and each year identifies funding for land acquisition for Parks. Specifically they have a particular program focusing on funding to the agency specifically related to coastal areas and coastal wetlands. That is not the total amount of money that might be spent on coastal acquisitions but it is in addition to that.

**CHAIR:** Is there any money earmarked to buy high conservation areas like Goolawah estate near Crescent Head, land adjacent to Oyster Creek in the Nambucca area or Queens Lake near Port Macquarie?

**Ms CORBYN:** I cannot address the individual properties but I will ask Tony Fleming to make some comments about that.

**Dr FLEMING:** I cannot answer about the individual properties but I can get that information for you separately.

**CHAIR:** You can take that on notice.

**Dr FLEMING:** There is an Environmental Trust fund allocation of approximately \$1 million in relation to coastal wetlands. They may be amongst the priority properties. I just need to check that.

**CHAIR:** Perhaps you could get back to the Committee on that one at a later stage if you take it on notice.

**Dr FLEMING:** Yes.

**CHAIR:** Is Environmental Trust funding such as this part of budget allocations or is it a separate source? Here we are examining budget estimates. I understand certain things should come directly from the budget. Is it budgetary material when we talk about these Environmental Trust funds?

**Dr FLEMING:** I will let Lisa talk about the Environmental Trust and its relationship to the budget. There is a general allocation for land acquisition that comes through the normal budgetary process to my division. This year that amounts to about \$1.2 million. Then there are a series of other sources of funding, mostly out of the Environmental Trust that supplements that for land acquisition.

**CHAIR:** Enough to buy a house in my area.

**Ms CORBYN:** The Environmental Trust does get an appropriation each year.

**CHAIR:** Directly from the budget?

**Ms CORBYN:** Yes. It is indexed. As based on the legislation it is indexed by CPI each year. It is around \$16 million and it has a range of programs. One of the heads of consideration in the legislation and objectives is property acquisitions. It is a legitimate source of funding that comes from the Environmental Trust to a range of different bodies, including our department. Specifically in relation to national parks' acquisitions it is money that they decide as a trust that comes to the department. I'll ask Arthur Diakos, our Executive Director of Corporate Services, to give an explanation of the budget area.

**Mr DIAKOS:** All those funding sources form part of the budget estimates where it comes into the department.

**CHAIR:** How many breaches of either integrated forestry operations approvals or threatened species licences issued to Forestry New South Wales has DEC identified in the past 12 months?

**Ms CORBYN:** I will ask Simon Smith, the Deputy Director-General of the Environment Protection and Regulation Division, to address that question in detail. However, I could make some opening comments. With the formation of the Department of Environment and Conservation we have brought together the regulatory activities that were associated with the Environment Protection Authority and also under the National Parks and Wildlife Service Act. We particularly in the forestry area have combined the teams of people working on that. Was your question specifically in relation to threatened species or prosecutions in general?

**CHAIR:** Breaches of either Forestry operations approvals or threatened species licences.

**Ms CORBYN:** This year we have concluded a prosecution against State Forests for a breach of the licence. In particular, that related to water pollution. I cannot remember off the top of my head but there was a substantial fine on State Forests. I note that we have quite strong regulatory and enforcement programs, including a prosecution that was concluded this year.

**CHAIR:** How many breaches have been prosecuted?

**Ms CORBYN:** I will have to get Simon to answer that in more detail.

**Mr SMITH:** We will have to get you the statistics following the hearing, if that is what you would like. As Lisa said, this year we had our biggest ever success in prosecuting State Forests, which was a matter in the Chichester area, basically about the collapse of a road that had not been properly constructed which led to tonnes of sediment entering a creek. We also have regular infringement notices issued to State Forests where our audit program detected non-compliance with the licence conditions. You would find if you look at the record that our strongest record is in relation to water pollution offences because they are constructed in a way that it is easier to prove. Also some of the new threatened species provisions and having the benefit of bringing together the Parks service and the Environment Protection Authority [EPA] mean that we are going to be able to go into the remaking of the licence when it is renewed to construct a licence that is more easily enforceable in relation to threatened species matters.

The amendments, for example, to the Threatened Species Conservation Act that transferred or made available to us the investigative powers that already exist under the Protection of the Environment Operations Act will be used by our staff investigating offences under the National Parks and Services Wildlife Act or the Threatened Species Conservation Act. We are quite excited about the chance to upgrade our compliance program based on the lessons that the two former agencies learnt. I think you are going to see an even stronger program in the future.

**Ms CORBYN:** We will take that on notice in terms of statistics. I do not have them available to me. We report regularly on the enforcement activity that we take. Those figures would be readily available and we will provide them.

**Mr SMITH:** The process is that we have a structured program of audits where we visit all of the regions where State Forests undertakes its activities. The audit program assesses compliance in detail. We then write to the regional manager of State Forests and indicate the number of breaches. Often there can be tens of breaches detected because they are down to a fine level of detail measuring all the details, how the roads are made, how the operation has taken place. We make a decision as to which of those breaches require corrective action, infringement notice or in extreme cases prosecution.

**CHAIR:** As to the Pesticides Act, why after five years is there no regulation in place under the Pesticides Act to notify schools and children in the event of pesticide spraying?

**Ms CORBYN:** We have had a very considered program of bringing forward regulations under the pesticides legislation. A pesticide implementation committee was established that was providing us advice on the priorities that we should unfold under the pesticides legislation. A range of regulations needed to be developed and we have concentrated our attention in particular on initially the regulations dealing with record keeping and training and changes to the training program so that we could actually unfold an education and training program as well as regulations to deal with that. We have been working hard to get a program in place to deal with mandatory notification. It is quite controversial, and we wanted to ensure that we had significant stakeholder liaison. It has taken us at least a year and a half to work through some of that, and there was quite a bit of disagreement so we were working to try to get a common view across the stakeholders through the pesticides implementation committee. We have been trying to divide up the program so that we focused on the highest priority areas for mandatory notification, and those at highest risk particularly are schools, hospitals and child care centres.

**CHAIR:** Was it not the Minister's intention to have the regulation in place by now, particularly when we are dealing with schools and child care centres?

**Ms CORBYN:** We certainly have an intent to ensure that the regulation is put in, but we wanted to make sure that we had a regulation that was actually workable. So we spent, and continue to spend, quite a bit of time to ensure that it is implementable. It is quite challenging to design something that will work, and we have met with all the stakeholders to be clear on how a notification process

might work. It is different when you are dealing with a rural environment than an urban environment in particular to ensure that we can get the implementation program such that those who might be using pesticides understand who they are informing and how they will get that information to them in a consistent way and in a way that provides the information.

**CHAIR:** In terms of—

**Ms CORBYN:** We have an intent to bring forward that regulation.

**CHAIR:** So you are saying that there is a lack of clarity for pesticide users so you cannot bring in the regulation, which means that children remain at risk from these dangerous poisons.

**Ms CORBYN:** I was not saying "lack of clarity" as much as we worked hard to ensure that we have worked through the implementation details.

**CHAIR:** How long has this taken? Obviously a lot of concern comes to my office about the exposure of children in kindergartens and schools to this type of pesticide.

**Ms CORBYN:** I will have to check on the timing. I do not know the actual timing of the regulation but I know that we have put in a significant amount of time and attention. We did have a priority area for the regulations.

**CHAIR:** Yes, but you would agree that the Minister intended to have those regulations in place by now.

**Ms CORBYN:** I am aware that the Minister intended to have regulations in place. The question was to make sure that they were workable. I do not believe that the Minister, that I am aware of, actually set a timing on those, hence the reason that we have been working through with the various stakeholders. But I will have to come back to you on the actual timing of the regulation.

**CHAIR:** Perhaps you could take that on notice.

**Ms CORBYN:** It is certainly our intent to have good strong regulations in place that deal with the highest risk areas and to make sure that when the regulations are brought in the program for implementation is worked out beforehand so that it actually works well. We have quite a philosophy within the department that it does not do anyone any good not to understand how the implementation will work. We try to work that up ahead of time to ensure that when the regulations are brought in on any topic we can unfold the implementation process quite clearly.

**Mr SMITH:** It is probably worth giving an example of some of the implementation complexities. For example, if a neighbour of the school was going to have some termites sprayed under their house and they are required to notify the school, that requires a whole program to advise school principals on what they should do with that information. They would then have to turn around and think: What do we do with that? Do we put it in the school newsletter so that it goes home to every parent to ensure that they all know that next door is having termite or cockroach spraying done in the house next door? That is not a simple matter because you then have to say: What will the principal do when the parents ring up and ask whether their children will be safe during the spraying. The principal will not be well equipped to reassure parents about the risks. So it is not a simple matter of just bringing in—

**CHAIR:** Therefore the spraying happens without proper notification currently.

**Mr SMITH:** There is a separate set of controls that relate to the safe use of the pesticide—

**Ms CORBYN:** That are in place.

**Mr SMITH:** —that are in place, that is correct.

**Ms CORBYN:** As an example, it took us a bit longer than we probably had anticipated to bring in the record-keeping regulations for pesticides but because of the time that we actually spent in

developing that and working through all the issues with stakeholders, whether they be in an urban environment dealing with market gardens or with farmers, we worked that program through quite assiduously. I think those record-keeping regulations are working well. What we try to do is put the time in up front. It is not a delaying tactic; it is a capacity to ensure that the implementation unfolds well so that it works well when it is brought in. Sometimes that takes a bit longer than we might anticipate but the time in, in our experience in getting the implementation program right at the front, makes a significant difference.

**CHAIR:** I will come back to that later.

**The Hon. DUNCAN GAY:** Where is the Minister?

**Ms CORBYN:** I can only answer for ourselves. We were invited to attend and we have attended.

**The Hon. DUNCAN GAY:** So was the Minister.

**Ms CORBYN:** I cannot respond on behalf of the Minister.

**The Hon. DUNCAN GAY:** Are any of the Minister's staff here?

**Mr SMITH:** It was our understanding that the Minister would not be attending.

**The Hon. DUNCAN GAY:** My understanding was that the Minister was invited. We have advice that he is not available to come today, but I would have thought that somewhere between when the original invitation went out last year and today there would have been a day suitable for the Minister, because I know that the Hon. Tony Catanzariti and Country Labor have a lot of concern in the electorate and would have liked to ask the Minister some questions today. We have all turned up and the Minister is not here.

**CHAIR:** For your information, the Minister has been given a two-week window of opportunity to attend.

**The Hon. DUNCAN GAY:** And he still did not manage it. I wanted to ask the Minister a number of questions, and I am sure that the Hon. Tony Catanzariti will be disappointed on behalf of his colleague Peter Black, who asked him to ask a lot of questions but he will not be, obviously. The situation with achieving the Government's objective in the waste strategy and regarding green material going into landfill, the New South Wales Organics Recycling and Processing Industry made a joint statement of industry priorities on 17 March 2004. It said: "Concurrent market development programs for recycled organics products have not been successful. Contraction in urban market demand in the post-2000 Olympics period and barriers to agricultural market access have culminated in an increasingly evident oversupply of urban markets and worrying growth in stockpiled product. This oversupply of urban markets has resulted in unsustainable price competition that has forced prices down to levels that place at serious risk the viability of the organics processing industry and the achievement of documented New South Wales Government targets." How do you expect to achieve your strategy of halving without the ability to get rid of the green organic waste?

**Ms CORBYN:** We are certainly putting a lot of time, effort and attention into the broadest range of strategies to try to deal with organic waste. We have a waste avoidance and resource recovery strategy that was released by the Government in 2003. In particular, it covers four areas that we are focused on, which include works on recovery of organics. The four key areas that we have particularly start with avoiding waste and increasing reuse and recycling, which is a core fundamental strategy with the organics strategies. It also includes reducing litter and illegal dumping and trying to reduce toxics, but that is not the issue on recovery of organics. Recently, in August of last year, we did a progress report on that strategy in its first year, and it was starting to show some significant progress in increasing the recovery of materials for recycling and reducing waste that we dispose of.

What we have found so far is that there has been a 10 per cent increase in the recovery of organics since 1998 and also increased recovery of recyclables from households. We have the statistics and we have published them in a report. I think we are also doing a lot better and have one of

the highest records of recovery for newsprint; in particular, New South Wales leads the way. Most recently we have been working towards a range of targets by 2014, and we are starting to see some significant progress as a result of those strategies. It is true that it is a big challenge when you get oversupply in markets, and that has been a core challenge for all the waste strategies, whether they be at a national level or a State level. We are working very hard to identify, both with industry and with local governments, strategies for dealing with that. A number of pilot projects are under way in looking at users and uses for this material because building those markets is a critical element in the strategy. So we have a number of strategies; they are really pilots and trials. We are working with catchment management authorities and other agencies that might have the capacity to reuse and recycle that material so that it allows us to move forward to meet those targets.

**The Hon. DUNCAN GAY:** Cutting through your long answer, you indicated that you have a 10 per cent increase. The strategy is a doubling, so you are 90 per cent behind.

**Ms CORBYN:** We have until 2014 to achieve the targets. We are working in a progressive way through those, but we are trying to bring forward a range of different strategies. You mentioned pricing. I will ask Simon to give a bit of perspective about that because there is no one simple answer to this issue. We are trying to bring a focused, targeted but broad approach to bringing a number of strategies in place that allow us to try to progress and learn as we go through that process. The markets do change—clearly we find that in the waste arena—over time and you have to be able to assess the effectiveness of the different strategies as they are unfolding.

**Mr SMITH:** It is no good just spending Government money on propping up businesses that will not be sustainable. If you want to have a sustainable set of industries that reuse or recycle materials, the first pre-requisite is that they must produce things that people want because the only industries that will endure are those meeting what people want to buy. Secondly, the way to support the industry is what the New South Wales Government is doing more strongly than any other, which is supporting the price of recycling by making the alternative, which is landfilling, much more expensive. So, because we have a very strong and high charge on the waste levy in New South Wales, we have actually done more in New South Wales than any other State to create conditions in which businesses can use waste materials and produce products that customers want to buy. In my view it is not the role of government to stand in the place of those businesses and figure out what they should buy or set up the businesses for them. There will be adjustments as big companies try to find suitable markets. Some things will work; some things will not. Our role is to create a conducive framework where sending waste to landfill becomes increasingly unappealing from a commercial basis so that there is more support and options for businesses.

**The Hon. DUNCAN GAY:** But it is not working, is it?

**Mr SMITH:** I think all the evidence—

**The Hon. DUNCAN GAY:** You have given us all the rhetoric about how you do not prop them up. The fact is that you have a doubling and you have only done 10 per cent.

**Ms CORBYN:** We are also monitoring quite carefully because you have to break up the waste market into different segments. We are monitoring carefully as part of the waste strategy and we did put out the first year's annual progress report that shows that while we have not achieved all of the targets by 2014 you would not expect us to be there in 2005. But we are making some substantial progress. A lot more needs to be done. In that report we found that municipal recycling had increased from 26 per cent recovery to 39 per cent recovery, and the target is 66 per cent. So we need to focus on getting further improvements but it does not mean that we are not progressing in those areas. Commercial recycling increased from 28 per cent recovery to 33 per cent recovery.

We still have to get to a 63 per cent recovery rate, but that does not mean some of the strategies are not starting to take hold. On construction recycling, we have increased from 65 per cent recovery to 75 per cent. The target is 76 per cent. So we are close to achieving our target in that construction recycling arena. We focus our strategies on dealing with a particular market segment.

**The Hon. ROBYN PARKER:** At the last estimates committee hearing I asked the Minister a question that he was not able to answer. I might have more success with you. According to the

budget papers, the area of land managed by the National Parks and Wildlife Service is scheduled to increase by 300,000 hectares to 6.3 million hectares in 2004-05. Where are those extra 300,000 hectares located?

**Ms CORBYN:** I will get Tony Fleming to provide some more detail on that. We put a substantial amount of work into an acquisition strategy that lets us understand how we are achieving targets by bioregion. We do not just focus on acquisitions in one area or another; we look at them systematically by targets that have been established bioregion by bioregion.

**The Hon. ROBYN PARKER:** That area of 300,000 hectares is a significant amount. You must know where that is.

**Ms CORBYN:** We can report in detail on properties that we have bought. Generally we would not foreshadow specifically properties that we were targeting to buy per se; areas, yes, but not individual properties because obviously it is a commercial negotiation. I will get Tony Fleming to provide some additional information on that.

**Dr FLEMING:** That figure of 6.3 million will be a best estimate. The process of land acquisition involves negotiations between parties on private lands, which may or may not come to fruition. We know from experience what we expect to be the likely outcome. There are various sources of funding that contribute to land acquisitions. So some of those lands will relate to potential additions to World Heritage areas—small properties that are primarily adding to the boundaries, cleaning up boundaries, or some in-holdings. There are some acquisitions to occur in the north-east of the State as a follow up to the northern forestry agreements.

We are also in the process of the development of an agreement over the Brigalow forests. That is still subject to negotiation within government. A potential outcome there would be to add lands to the park estate. So there are a number of places. There has also been an assessment of Crown lands around the Blue Mountains area and on the North Coast of New South Wales, which may result in transfers. We make an estimate based on previous experience and best informed estimates about what is the likely contribution from all those sources. That figure is available in the budget papers.

**The Hon. ROBYN PARKER:** Some time has passed since the budget papers were produced and you are still pretty much up in the air about the production of those 300,000 hectares.

**Dr FLEMING:** I do not have here a list of individual properties that have been acquired during the period since the budget papers were produced. I could provide information about those properties that have been acquired during the course of this financial year.

**The Hon. ROBYN PARKER:** It would be great if you could take that question on notice.

**The Hon. DUNCAN GAY:** When will the Brigalow decision be made?

**Dr FLEMING:** That is a matter for the Government. I cannot answer that question. It is a matter for Ministers to determine.

**The Hon. DUNCAN GAY:** My question concerns the waste levy. Last year, in response to a question from the Hon. Charlie Lynn, the Minister said:

The suspension of the payment of the levy of the Waste Fund is of a year's duration.

Why did the Minister tell the estimates committee in 2003 that the suspension of payments from the waste levy into the Waste Fund was a one-off and would be resumed this year when it has not? The only money that has been paid into the Waste Fund is interest on the accumulated capital.

**Ms CORBYN:** The Waste Fund had accumulated funds in it as a result of the changes that were made through a number of legislative processes as well as the abolition of the waste boards. As a result, the Government decided that it would be prudent to draw down the funds that had accumulated in the Waste Fund over a two-year period. It set the financial amount of the expenditure at \$30 million a year, which is a substantial amount of money to be expended on waste. The commitment has been

made to provide funding back into the Waste Fund after that two-year period. It is not appropriate for me to comment—and nor can I comment—on the Minister's intent. There is certainly information available about the dollars that we are spending on the Waste Fund. The Government has made a decision to ensure that \$30 million is available every year to spend on waste initiatives.

**The Hon. DUNCAN GAY:** That reinforces how helpful it would be to you and to us if the Minister were here to comment on these matters. At the last estimates committee hearing you said that \$29 million would be allocated from the Waste Fund to achieve the objects of the waste strategy, yet in 2003-04, when you promised to spend a record \$30 million from that fund, you spent only \$13.922 million. Why was that?

**Ms CORBYN:** That does not correlate with the figures that I have. I do not know where you got that figure of \$13 million. We have budgeted this year to allocate almost \$28 million from the Waste Fund for programs in 2004-05.

**The Hon. DUNCAN GAY:** That is \$13 million in 2004-05?

**Ms CORBYN:** No, I do not think that is correct. I will need to get some further information. It is not my understanding that those figures are correct, not for 2004-05.

**The Hon. ROBYN PARKER:** I want to ask some questions about the Royal Botanic Gardens and Domain Trust and those 11 trees, including five Morton Bay figs, that were recently destroyed. Why did trust arborist David Bidwell only complete his tree hazard evaluation on 5 February 2004 when the decision to remove the trees was made in December 2002?

**Ms CORBYN:** I cannot comment on the specific dates that evaluations were or were not completed. I know that there is quite a substantial program, not only scientifically but also in the community consultation arena. The trust did a comprehensive job in ensuring that everybody was informed about issues associated with the master plan for the avenue, based on historical plans. It ensured that it did a progressive job for the future and for the community in planning for the Hospital Road avenue. There was also quite a substantial public consultation program. Good science underpinned the decisions that were to be made. It was obviously controversial; everybody knows that. I am sorry; I do not know the dates so I cannot comment on that. I will have to come back to you on that.

**The Hon. ROBYN PARKER:** It is my understanding that the decision was made in 2002 but that the good science evaluation was conducted in February 2004.

**Ms CORBYN:** My involvement with the Royal Botanic Gardens Trust, which began in September 2003, was that there had not been a decision made on the overall schema, hence the reason that quite a bit of work was done. Work was certainly being done on the overall master planning, but that is what we should expect. It would be remiss of a Botanic Gardens Trust not to plan for the future. This garden has a proud history. To think that we would just leave the Domain, the trees and the garden unplanned for the future is not acceptable. I will have to come back to you with the details.

**The Hon. ROBYN PARKER:** I would have thought part of that proud history was the Morton Bay fig trees.

**Ms CORBYN:** The trust has a very proud history on the science. It has established research scientists. It has been shown that the science that was done was appropriate. I think we should really get in context the fact that you need to plan for the future. Historically we have gardens because people planned for the future. To have an expectation that somehow assets would be there and would never change is really inappropriate. The Botanic Gardens Trust has under way another good program that is looking to the future for 2016. It has had substantial consultations with people. The steps that it has been taking are absolutely appropriate.

**The Hon. ROBYN PARKER:** Why then did the Minister and the Premier tell us that it was because those trees were unsafe?

**Ms CORBYN:** The Botanic Gardens Trust went through a very practical process to assess trees and to look to the future for what sort of planning should be coming forward. Some of those trees were diseased and unsafe. I think it is an appropriate process for the Botanic Gardens Trust to look to the future and to plan strongly for programs that need to ensure that we have fabulous gardens and landscaping for the community.

**The Hon. ROBYN PARKER:** The documents presented to the Land and Environment Court state:

We have been advised that we may get another 20 years out of these trees ...

Gradual replacement, which the Opposition has argued for, is possible.

That does not stack up with what you are saying.

**Ms CORBYN:** In my view the Botanic Gardens Trust needs to make decisions appropriate to the management of the gardens, the trust and the Domain. That is exactly what it was doing with the master planning process. We all know that following those events a range of different bodies, including councils, must look at the way in which they manage their trees. It is not an easy thing when you have to manage replacement programs.

**The Hon. ROBYN PARKER:** So it was not right for the Minister and the Premier to say that the trees were unsafe?

**Ms CORBYN:** I am not saying that at all. Those trees were unsafe. We provided that information through the process. A number of those trees were diseased. We need a systematic program that conducts a scientific assessment of trees and looks at the area as a whole rather than dealing with it as a piecemeal program, for example, tree by tree.

**The Hon. ROBYN PARKER:** How many limbs did those trees lose over a period of, say, five years?

**Ms CORBYN:** I do not have the statistics with me about the number of limbs lost. However, I know that we had some circumstances that caused us great concern. Some of the fig trees lost limbs in particular places, for example, near the open-air cinema. So a constant program must be done to assess trees and to ensure that we try to manage as best we can the liabilities associated with them.

**The Hon. ROBYN PARKER:** So you have assessed the safety of all the trees in the Domain?

**Ms CORBYN:** The Botanic Gardens Trust has a rolling program, and rightly so. It should have a rolling program that looks at trees and at the capacity of the Domain and the gardens to provide the scientific information that is necessary. In addition, people want to enjoy a broad range of different tree types.

**The Hon. ROBYN PARKER:** Is it true that you only began that hazard assessment after the Opposition raised these issues and put in a freedom of information request?

**Ms CORBYN:** I do not have the dates relating to when a hazard assessment was done. I know that the Botanic Gardens Trust has a systematic program.

**The Hon. ROBYN PARKER:** Could you come back with that information?

**Ms CORBYN:** I am happy to provide a date relating to when the hazard assessment was done.

**The Hon. DUNCAN GAY:** I return to a question I asked earlier, which I will ask you again in order to refresh your memory. I have checked on the facts as I stated them, and they are correct. If you go to the budget estimates of 17 September 2004, you are quoted as saying:

What we can say is that at this budget the Government has been quite clear that we would have \$29 million to expend to be able to progress the programs.

**Ms CORBYN:** For 2004-05?

**The Hon. DUNCAN GAY:** Yes, that is 2004-05, to achieve the objects of the waste strategy. Yet, in 2003-04 your department promised, through the Minister, I assume, to spend a record \$30 million from the fund and you actually only spend \$13.922 million. Why was that? How can we rely on you to actually spend the \$29 million this year when the year before you only spent \$13.9 million of the promised \$30 million?

**Ms CORBYN:** We actually do—we have made a budget to actually bring forward \$29 million from the waste fund in 2004-05 to the department. I do not have the figures in front of me for 2003-04, I have to say, but I can say that with the amalgamation of the department—as I said, with the review of the program that came forward from the changes to legislation, the changes to the waste boards—we did have less expenditure than we had budgeted for, but I do not have the figures in front of me. But could I ask Arthur Diakos to actually provide further information?

**The Hon. DUNCAN GAY:** Let us do the maths: you did not spend it last time; you are probably bringing it through from last time to this time to accumulate, to make it \$30 million, so the waste fund is behind.

**Ms CORBYN:** We certainly had an accumulation of funds in the waste fund from those historical perspectives that I actually outlined. Arthur, can you comment any further on expenditure?

**Mr DIAKOS:** Yes, look, I can comment a little bit further. My understanding is said that we actually, from an expenditure point of view, came close to spending that amount of money on waste-related programs. What you have to appreciate is that in 2003-04 there was the establishment of the department and prior to that the waste fund contribution went to the former Resource New South Wales, which was dissolved on the establishment of the department. Upon the dissolution of Resource New South Wales, which was an off-budget agency, it had accumulated unspent funds in its books, so rather than drawing further on the waste fund and allowing the waste fund to keep that money and generate more interest and more earnings, the decision was to actually apply the expenditure towards those programs against that accumulated unspent money that sat in the Resource New South Wales balance sheet.

**Ms CORBYN:** I would expect that we would have spent less money than was originally budgeted in 2003-04.

**The Hon. DUNCAN GAY:** Yes, \$16 million less. So where did that money end up?

**Ms CORBYN:** It stays in the waste fund.

**The Hon. DUNCAN GAY:** Is it going to be put on top of the \$30 million that was promised, or are they \$16 million behind forever?

**Ms CORBYN:** The money that is actually allocated to the waste fund stays in the waste fund until it is drawn out. There is a legal requirement that it can only be spent on waste programs, so there was an accumulation of funds in the waste fund.

**The Hon. DUNCAN GAY:** So does that mean that that \$16 million—

**Ms CORBYN:** Is available to be spent for waste programs.

**The Hon. DUNCAN GAY:** Is it part of the \$29 million you promised, or is that on top of the \$29 million?

**Ms CORBYN:** It would have been included in the \$29 million. I think the discussion was a capping of \$30 million a year for two years.

**The Hon. DUNCAN GAY:** So you are only putting in \$13 million this year?

**Ms CORBYN:** No, my understanding is what we are intending to do is budget \$29 million.

**The Hon. DUNCAN GAY:** But you are only putting in \$13 million. By your own admission, you are carrying \$16 million that you did not spend the year before and you are spending \$29 million, so you are putting in a miserable \$13 million.

**Mr SMITH:** No, that is not it.

**The Hon. DUNCAN GAY:** Well, that is what you said to me.

**Ms CORBYN:** No, no.

**Mr SMITH:** No.

**Ms CORBYN:** We never said that.

**The Hon. DUNCAN GAY:** I can only take your word on this.

**Ms CORBYN:** That actually is what you said.

**Mr SMITH:** I think what the director-general said is that the budget allocation for this year is \$29 million.

**The Hon. DUNCAN GAY:** Yes.

**Mr SMITH:** It is not really relevant where it comes from: it is what cheques will be written, and what programs will be completed.

**CHAIR:** Mr Gay, I think your point is made. I have to go to the Government now. Ms Griffin, do you have any questions?

**The Hon. KAYEE GRIFFIN:** Not at this point in time, Mr Chairman.

**CHAIR:** I will continue with my allocation then. I will just finish off some of those issues, Ms Corbyn. Regarding the Pesticides Act, budget cuts imposed on the Minister for the Environment by the former Treasurer meant that there were no compliance officers to ensure implementation of the Pesticides Act.

**Ms CORBYN:** No, I do not believe that is actually true. What we have done is actually relocated the compliance officers associated with the Pesticides Act. They were originally in a policy area associated with the policy people and we have actually moved those pesticides people to the environment protection and regulation division where they are co-located with other regulatory staff.

**CHAIR:** So there are pesticides compliance officers?

**Ms CORBYN:** There are.

**CHAIR:** Can you tell the Committee how many?

**Ms CORBYN:** I will have to actually ask Simon Smith—because those people are located in his division—to actually give you those numbers.

**CHAIR:** Thank you.

**Mr SMITH:** Yes, I think there is about a dozen staff involved. What we have done is maintain the quantum of effort. What we find is that in inland areas, the pesticides and regulatory work is highly seasonal; so when the spraying season is on, that is when we need to have more people on the ground whereas in the urban areas it is more a year-round activity that we need to regulate. So in inland areas what we have done is designated some of our—we have broadened the position

descriptions of some of our other operational staff so that at the peak times more people will be available to work on pesticides enforcement and in the off season, the pesticides officers can help out with the other regulatory work that we need to do. But the overall quantum of effort is unchanged.

**CHAIR:** Thank you. On another matter—the Fox Studios Australia industrial site—I understand that at this present time there is monitoring of the Fox Studios industrial site and it is not a practice of the Environment Protection Authority [EPA] to comment on whether the emissions from either the volatile and toxic emissions, which include fine dust particles from the industrial site and carbon monoxide from the 24-hour traffic congestion, will impact on the health and safety of the surrounding community but is only required to comment on the industrial site and its emissions. Perhaps you could inform the Committee as to why the EPA is not required to assess both sets of emissions as to the toxicity of the combined noxious and toxic conditions and the long-term impact on the neighbouring residents, especially those living within metres of both the Eastern Distributor arterial road and the Fox Studios Australia industrial site?

**Ms CORBYN:** I cannot actually give you details specifically on emissions from the Fox Studios site in detail; that it is the schema set up under the protection of the environment operations legislation which actually does make councils in general responsible for particular areas, if they are not scheduled under our legislation. It is my understanding, although I would also need to check that, that the EPA does not actually license the Fox Studios site, and as a result of that we would not be what is known as the appropriate regulatory authority for that site, which would mean that we would then not necessarily be the authority to deal with the regulatory matters: councils would. I do not have the details on the Fox Studios site at hand. I will ask Simon to comment.

**Mr SMITH:** Yes, I think we could give you more detail, but I am aware that previously questions have been raised about the Fox Studios and they have been thoroughly investigated by our staff and our staff have advised me that they are satisfied that the facility is complying with all requirements that apply to it. I do not think it is an exceptionally polluted site or an unusual situation. I think there are some individuals who have particular concerns about it but they have been thoroughly investigated by the department.

**CHAIR:** Would this include the paint spraying booths that are ducted to the exhaust fans in the roof of the workshops? Are you aware of that?

**Mr SMITH:** I think they are some of the matters that were being investigated, that is right.

**CHAIR:** And pollution problems?

**Mr SMITH:** No. Our staff have been on a number of occasions to assist the council with the regulating of the facility and the advice we have received is that it is not an unusual operation, neither in type nor in the quantum of pollution, and that it appears to be in compliance with all requirements.

**Ms CORBYN:** It is my recollection that we have actually had people go out on site to inspect and make sure that we understood all the facts associated with the particular paint spraying area.

**CHAIR:** But you would acknowledge that there are a number of different factors and that there should be an investigation of the combined impact of source pollution, both from the studios site and the surrounding traffic for example?

**Ms CORBYN:** It is often quite difficult to actually understand the interrelationship or the sources but I know that our staff did actually conduct inspections to make sure that they understood whether there were inappropriate emissions that might be coming from the site. Again, I do not have the detail of that, but I think it is the fact.

**CHAIR:** Thank you. Perhaps you could furnish some further details and take that on notice. Mr Smith, I think this should be directed to you: there were negotiations with the Hunter Economic Zone [HEZ] people. You appeared at that particular inquiry?

**Mr SMITH:** I recall.

**CHAIR:** The negotiations were to give up an additional 60 hectares of the site for conservation purposes. Has an agreement being reached where the HEZ has provided the land? How much? On a permanent or temporary basis? What has HEZ got in return? Does that link up with the future development application [DA] approvals for the site?

**Mr SMITH:** I would like to take that question on notice, if I can.

**CHAIR:** Okay, thank you. Just going, if I may, to the issues concerning Botany Bay. I am wondering if you would acknowledge that EDC, which is ethylene dichloride, and vinyl chloride [VC] are already present at trigger levels in Penrhyn estuary in Botany Bay? We hear much about the plume and the toxicity building up over a period and arriving at the bay, given that there are already those levels in the bay. I understand that Orica's report to the EPA in November stated that EDC, tetrachloroethylene [PCE] and VC exceeded the trigger value at the old boat ramp at low tide. How realistic is the time line for the treatment plant to be operational by 31 October 2005, given the complexity of the plant and the recordings at this stage of the very high levels of toxic materials in this plume?

**Ms CORBYN:** I think we put a substantial amount of work into scrutiny of the proposals that have been coming forward from Orica to ensure that we actually do have a sound solution to the contaminated ground water plume. It will be a challenge but one that we believe is feasible to actually ensure that the treatment plant is open in October 2005, and we believe that that is a feasible date. We have put substantial effort into understanding the technology that was proposed, that we approved.

**CHAIR:** But, will the mass volume of the plume not have arrived at the bay by that date?

**Ms CORBYN:** From the information that we have, the reason that we have brought this forward in two stages is so that we actually have an interim pump-out solution in place now. It is our expectation that the plume will not reach the bay. There is contamination in Penrhyn estuary—there is no question about that—but it is a two-stage process. We have actually brought forward an interim first step to prevent the plume from reaching the bay and that is in place now, and the larger ground water treatment plant has now been approved and is being brought forward so that it will operate by October 2005. It is important that it actually is in place and that the treatment process actually is functioning from that time. But one of the reasons that we actually put so much time and effort in a very concentrated time frame over the last six weeks in making sure that we understood the technology and that we got advice from the United States Environmental Protection Agency and also from other technical specialists—John Court in particular—is to make sure that we understood that this technology that was being proposed is proven—it actually has worked in the US and Japan—so that we know that it is both feasible and doable and will actually work.

**CHAIR:** You are referring there to the direct absorption method—

**Ms CORBYN:** Thermal oxidation.

**CHAIR:**—of basic incineration?

**Ms CORBYN:** It is thermal oxidation. But it is in place in both—

**CHAIR:** Incineration, I think?

**Ms CORBYN:** Well, as you have highlighted in your question, it is important that we actually have treatment systems that are in place in a timely way to make sure that they deal with potential movement of the plume in the ground water, and it is proven technology with very stringent standards to the highest level to deal with the contaminants that will be faced. It also allows us to ensure that we do not further any problems by storing further contaminants on site. It actually will provide a very sound technology to actually treat the issue over time with very stringent conditions and I think we do feel that it is feasible and will be established by over 2005. This is the second phase.

**CHAIR:** Given that, is the direct thermal absorption method driven by the critical nature of the deadline rather than employing an indirect method?

**Ms CORBYN:** In respect of groundwater treatment technology, in particular, this is the most proven technology. As I said, it is used in both the United States and Japan. We did look at alternatives.

**CHAIR:** So you are saying that this is superior to indirect thermal absorption.

**Ms CORBYN:** We think it is the most proven technology to deal with the gaseous issues we are addressing.

**Mr SMITH:** All of the technology options have been examined and the fundamental criterion is that it has to work.

**CHAIR:** There has been a lot of debate, in particular about Orica and other sites at Rhodes Peninsula. Concern has been expressed that the indirect thermal absorption method is a superior but perhaps more costly and slower method. Is this method chosen because it meets the deadline?

**Mr SMITH:** That is a necessary but not sufficient condition for approval. It must meet the deadline and it must work. However, the conditions at Orica are somewhat different compared to Rhodes. At Rhodes we are dealing with existing presence of dioxin chemicals in the soil; it is contaminated so we already have dioxins present and solid material that needs to be dealt with that is inherently harder to clean up. Here we have suspended or dissolved liquids in the water and Orica can remove those materials from the water through the air-stripping process. However, we are dealing with a gas stream that does not contain dioxin, which is an inherently simpler process and problem to deal with.

**CHAIR:** I appreciate that answer. Given your knowledge of this matter, and it has been a vexed issue with the community and authorities, how do you relate to the concern that this process involves incineration, which poses the threat of turning a groundwater pollution problem into an air pollution problem?

**Mr SMITH:** It is not worth getting into a word game about "incineration" or "combustion". They could refer simply to setting fire to something out in the open, for example, a bushfire or something like that, versus combustion in a highly controlled situation in a motor vehicle. We are talking about a very controlled process that has been proven to be a safe method of disposal of hazardous materials that will leave no further legacy in the area.

**CHAIR:** I accept the difference in interpretation. I refer to the recent Gwydir River bird kill. Was the department involved in discussions with the Department of Planning, Infrastructure and Natural Resources [DIPNR] about the need for environmental water allocations to assist the ibis breeding event in the Gwydir wetlands?

**Ms CORBYN:** We advised DIPNR that water should be provided to ensure the bird breeding event occurred.

**CHAIR:** How much water did the department recommend?

**Ms CORBYN:** I do not have the direct advice. However, I know that the discussions we were having were based on past practices and the figure was 200 megalitres a day.

**CHAIR:** How much environmental water was released by DIPNR?

**Ms CORBYN:** We are doing an investigation to get the facts on the table, and I have not seen the results of that investigation yet. It is my understanding that the initial release—but I would like to confirm this by investigation—was 75 megalitres a day rising to 130 megalitres a day.

**CHAIR:** What was your request?

**Ms CORBYN:** I will have to confirm it. The advice I received was that, based on past events, the landholders had advised DIPNR, in particular, that 200 megalitres a day was necessary.

**CHAIR:** What effect did the resultant release have on the breeding ibis?

**Ms CORBYN:** It is my understanding that the breeding ibis deserted their nests, but the egrets continued breeding. That is the reason we have instituted an investigation of what actually occurred. I do not yet have that report, but I am focused on ensuring we get a report that lays out the facts about what transpired.

**CHAIR:** How long has it been since there was a successful ibis breeding event in the Gwydir wetlands?

**Ms CORBYN:** Again, I am waiting for the facts to come forward. I understand that it has been about five years since the last successful ibis breeding event in the area. It was actually on the Gingham watercourse.

**CHAIR:** Do ibis eat locusts?

**Ms CORBYN:** I would have to take advice on that matter.

**Dr FLEMING:** They will, but I do not think they will have a significant impact on the current situation.

**The Hon. DUNCAN GAY:** They have not in Dubbo.

**Dr FLEMING:** We can get more information about their eating habits.

**CHAIR:** Does the department have concerns about the possible impacts of mass spraying of locusts close to breeding areas and waterways on bird populations such as the ibis?

**Ms CORBYN:** We have certainly been participating very actively in a whole-of-government sense with our colleagues in the Department of Primary Industries, which has the lead on locusts. We have ensured that we can participate strongly in the locust control programs. We are also providing advice about environmental impacts that might be associated with the different chemicals that might be used. We are collaborating strongly with the Department of Primary Industries to ensure we have an active program to deal the plague of locusts that is occurring, but in an environmentally sound manner.

**The Hon. DUNCAN GAY:** What is an active plan in an environmentally sensitive manner?

**Ms CORBYN:** We have worked through guidelines with the Department of Primary Industries. It has signed off—as have we—on the steps that might be taken because we have parks that we manage out west that might be involved. We are working through detailed guidelines about how we should approach the timing of the spraying, the types of chemicals that would be sprayed and where they would be sprayed to ensure we have an active program in place in parks that we and other landholders manage. Different kinds of chemicals can be used and different approaches can be taken. We both signed off on established guidelines.

**The Hon. DUNCAN GAY:** Was spraying conducted in national parks and State forests?

**Ms CORBYN:** Yes.

**The Hon. DUNCAN GAY:** Can you provide details about how much?

**Ms CORBYN:** Yes. I do not have the figures with me, but we have participated very strongly in the program to ensure they were controlled and that it was done—

**The Hon. DUNCAN GAY:** Who paid for it?

**Dr FLEMING:** We are paying for some of it and some of it is being paid out of the allocation for the control of the plague. We have choices.

**The Hon. DUNCAN GAY:** Was that the insect levy?

**Dr FLEMING:** I cannot provide the details because I have not been directly involved. I can get them for the Committee.

**The Hon. DUNCAN GAY:** If it was, it was the farmers' money.

**Ms CORBYN:** We approached this as a landholder and we carry out our activities equally. No doubt the Committee will be talking to representatives of the Department of Primary Industries, and I am sure they will confirm that we have played a very active role.

**CHAIR:** I refer to marine parks. Why when scientists are recommending that 20 per cent to 50 per cent of all marine waters, not only those in marine parks, be protected in sanctuary zones, was only 27 per cent of the world heritage Lord Howe Marine Park given the sanctuary level protection under the recently announced zoning plans?

**Ms CORBYN:** An assessment was done of where the sanctuary zones need to be to achieve the conservation objectives for that park. It was based upon a scientific assessment and the decision was that a zone plan was considered adequate to protect the conservation values of the park and to provide suitable access for other purposes.

**CHAIR:** Why has the department still not released the bioregional assessment for Batemans Bay when it is acknowledged that the plan was essentially completed by the end of 2003?

**Dr FLEMING:** The regional assessment for the Batemans bioregion has not yet been considered by the Marine Parks Authority, so it is not yet a finalised document.

**CHAIR:** But it was essentially completed by the end of 2003.

**Dr FLEMING:** It has not yet been considered by the Marine Parks Authority. Work has been continuing in relation to it, so it is simply not finalised at this stage.

**CHAIR:** What budget has the department allocated to working with the Marine Parks Authority to promote the benefits of marine parks in New South Wales, and what programs will this fund?

**Dr FLEMING:** I will take that question on notice.

**CHAIR:** When can we expect a declaration about the Manning Shelf marine park?

**Dr FLEMING:** That is a matter for Ministers; I cannot speculate on the date.

**CHAIR:** I refer to the Perisher snowfields issue. A development application submitted by Perisher Blue Pty Ltd setting out plans for construction of a further 239 apartments four to five storeys high in Perisher Valley is being considered by DIPNR. Does the department have a position on this development?

**Dr FLEMING:** We have been talking with DIPNR. There is a government approval for the release of those beds subject to the proposal. We have made comments to the department about what the proposal should cover. That is primarily a matter for DIPNR.

**CHAIR:** Why has the department not pursued Perisher Blue about its failure to prepare a species impact study of the estimated 31 threatened species impacted upon by its development proposal?

**Dr FLEMING:** The development approval process is a matter for DIPNR. I will seek advice in relation to—

**CHAIR:** Does the department not have a role?

**Dr FLEMING:** It has a very significant interest and I will seek advice.

**CHAIR:** Please take that question on notice. I refer to Lake Cowal. Has the New South Wales Department of Environment and Conservation reissued to Country Energy a section 87 permit and a section 90 consent to destroy Aboriginal artefacts discovered along the 200-metre proposed Temora to Lake Cowal electricity transmission line?

**Ms CORBYN:** No. As you know, the original consent granted was found invalid by the court after an appeal. The outcome was that it was necessary to go back to provide the opportunity for the person who appealed to be involved in further survey work on the site and the proposed route of the electricity transmission line. That opportunity has been provided and additional information has been submitted to the department, and that is being evaluated to see whether a new consent would be appropriate given the new information.

**CHAIR:** Can you provide an assurance that the Minister will support the re-opening of the department's office in the Upper Hunter given that there are approximately 30 open-cut underground coalmines in the area?

**Ms CORBYN:** This is one of the issues associated with the restructure. We put in place a program to ensure we have strong coverage of mining activities in the Upper Hunter. We have broadened the capacity of different people in the department to deal with mines.

**CHAIR:** Is that an assurance?

**Ms CORBYN:** No, it is not. It is not our intention to re-open a one-person office in Muswellbrook. We have restructured our approach to dealing with the mining industry so we bring in more and varied people working on the mines because of their significance.

**Mr SMITH:** Our experience is that one-person offices undertaking regulatory work do not work. The officer is either not in the office to answer telephone calls because he is on site undertaking an investigation or vice versa. One officer cannot provide the level of service that the community expects. If there is a departmental office, the community expects someone to be there and that cannot be the case with a one-person office. We believe that we are much better off with a substantial office in the Newcastle area. That gives us the capacity to respond at all hours to any issues that come up and to properly resource our audit and inspection programs.

**The Hon. DUNCAN GAY:** You could have two people.

**CHAIR:** Or judicious use of a mobile phone.

**The Hon. ROBYN PARKER:** I refer to Cockle Creek on Lake Macquarie. What steps is the department taking to ensure that the former Pasminco lead smelter is decommissioned without further harming the environment? I stress the word "further".

**Mr SMITH:** There is a range of contaminated areas near the old smelter. There are the sediments in Lake Macquarie, the land owned by Pasminco and the adjoining land. We are working very aggressively but constructively with the administrator of Pasminco. In relation to the sediments, a detailed assessment has been completed and the decision is that the best thing to do is not to disturb those sediments. That is on the basis that with all sediments in lakes there is always continued deposition of new material washed in from stormwater that covers over old sediments. The monitoring we have done shows already that older contaminated sediments are being covered and therefore secured by new sediment that is covering over the top of that. So our action is that the area that is contaminated has been formally declared as being a contaminated area. That will ensure, by working with the council, that those sediments are not disturbed.

In relation to the site itself, we have been working with the administrator to develop a clean-up program. That is already under way. Old buildings are being removed and contaminated soil is being cleaned up, working towards a big plan to gather and secure all of the contaminants and residues that were left over from the factory. In relation to other areas, we are also working with the

administrator to develop a program whereby the company will fund a further clean-up offer for other landholders who surround the site of the old factory, which is very good. So we think it is going probably better than anyone could have expected when the factory closed down.

**Ms CORBYN:** Can I comment as well? We have also worked very diligently to make sure that there is a strong regulatory framework in place under the Contaminated Land Management Act so that we have clear expectations drawn for the company. We have also negotiated for the company to provide funding so that we can continue the education program that is being run independently up there through Health and a community-based group so that there is ongoing education for the next two years of community members about the activities that they should take to make sure that they deal with any questions that they have. So it has been a strong negotiation with the administrator, with whom we have regular meetings to ensure that the environmental regulatory requirements are very clear and that they are committed to delivering them within a regulatory framework.

**Mr SMITH:** I should probably add that the other thing we have done, which is very positive, is that we have reached an agreement with the administrator to control the rate at which land is disposed of by the administrator. So we are confident that the value of assets held by the administrator exceeds the clean-up costs. We will monitor that closely so that there is no significant probability that the company will be wound up before the clean-up is complete.

**The Hon. ROBYN PARKER:** How concerned is the EPA about the level of pollution there? This plant existed for about 100 years, spewing out all sorts of toxic materials.

**Ms CORBYN:** There are two parts to that question. Undoubtedly, because the plant has closed down, their emissions have cleaned up substantially—although we had gotten very significant reductions in emissions while the plant was operating. So that has turned our focus as well to the contaminated sites issues. I think the program that has been brought forward provides a strong remediation program that will ensure that we do not end up with a legacy of the history that we have been trying to deal with over the past 15 years.

**The Hon. ROBYN PARKER:** That has been a local concern. It has been decommissioned now but, historically, there have been instances, have there not, of pollutants leaking into the lake? What sort of success rate have you had dealing with the company on that issue and fining them?

**Ms CORBYN:** We did bring some prosecutions against Pasmenco—as I recall, there were two, but I am doing that from memory. We also brought forward some notices on the company to ensure that they did both contribute to and participate in the education program, which is a very important part of the overall program, and that they also bring forward better information about what the contaminants are and where they are.

**Mr SMITH:** By far the bulk of the emissions that found their way into the bay were from times before there were any environmental laws in the State whatsoever. In the past 15 years there has been a program of mandatory pollution reduction programs. In fact, before the plant announced that it would be closed we had already included mandatory requirements to cause the company to seek to greatly cut back and then stop any water discharge going into the lake. In fact, the monitoring that has been done most recently confirms that stormwater running off the site is already much cleaner as a result of the cessation of operations and clean-ups that have happened.

**The Hon. ROBYN PARKER:** Can you define "much cleaner"? Does that mean it still has some pollutants?

**Ms CORBYN:** The stormwater will.

**Mr SMITH:** The stormwater will for a time. Basically, what happens is that the surface soils that are contaminated with heavy metals, such as lead and zinc, are progressively being collected and encapsulated to make them safe. So that will progressively diminish back to background levels in time. It is a 100-year problem that we are dealing with and it is one of the ones where it is very pleasing to see the clean-up occurring.

**Ms CORBYN:** We had a scientific study done as well on the sediments in Lake Macquarie that was showing, as Simon said, that while the lower-level sediments had contaminants the new sediments that were coming in were covering those. It is always a challenge to work out how to deal with sediments in lakes and river systems.

**The Hon. DUNCAN GAY:** I am not sure where this question goes—on the other hand, I probably do know where it goes. Are there any current boundary disputes between the National Parks and Wildlife Service and State Forests given the large number of State forests that have been converted to national parks under the Government's plans?

**Ms CORBYN:** I will ask Tony Fleming to answer that question.

**Mr FLEMING:** I am not aware of any active boundary disputes. We work quite closely with State Forests to try to manage across boundaries in a co-ordinated way and we have been going through a process with State Forests following on from the regional forest agreements to make sure that the boundaries are right. There is some finetuning that goes on from time to time to do with road boundaries and the alignment between State forests and national park of a fairly micro nature, but that goes on and it goes on in a fairly co-operative way. We are not having blues.

**The Hon. DUNCAN GAY:** Given the breadth of the changes that were made and the large area of the new parks that have been added to the national park estate, it is possible that sections of these parks that were gazetted have been logged in error?

**Mr FLEMING:** I do not know. I cannot speak from experience of knowing that that has happened. That would be a matter that others in the department on the regulatory side might be aware of. So, no, I am not directly aware of that. I do not know whether Simon can add anything.

**Mr SMITH:** No, we are not investigating any matters of that nature that I am aware of.

**The Hon. DUNCAN GAY:** Thank you.

**The Hon. ROBYN PARKER:** How many tonnes of paint, pesticides, solvents or any other chemicals have been collected to date through household chemical clean-ups that Resource NSW is organising?

**Ms CORBYN:** I can say that we have a very active household chemical clean-up program and campaign under way. I do not have at my fingertips the actual number so I will have to come back to you on that. It is an active program and one that we have had quite strong both education programs on because we need to communicate with people so that they know what the process is—and I believe that it has been quite successful over the past two years. But I will have to come back to you with that number.

**The Hon. ROBYN PARKER:** When you collect those wastes where do they go? Do they go to the Waste Services plant at Lidcombe?

**Ms CORBYN:** It depends on what is actually being collected. We have to assess what type of waste it is. There was a trial that had been running, and also one in Victoria, for example, with the collection of paints—while you might not think of those as being household chemicals, that is a lot of what people turn in—to see whether there is a process of collecting that paint and turning it into a product that could be reusable. I think it was being looked at for something like fence painting. So we have to focus on the particular chemicals that are collected and, depending on what they are, they go to different places.

**The Hon. ROBYN PARKER:** Can you supply us with a list of where they go?

**Ms CORBYN:** I can certainly get you the information on the quantities and if we have a breakdown of what they are we can provide that simultaneously.

**The Hon. ROBYN PARKER:** What about the residual waste? What happens to that? Where does that go?

**Ms CORBYN:** I am sorry—in terms of chemical collection?

**The Hon. ROBYN PARKER:** Yes.

**Ms CORBYN:** It is all waste; there is no residual.

**Mr SMITH:** The point is that the waste goes to the most appropriate disposal pathway.

**Ms CORBYN:** All of that household chemical collection is waste. We would not actually classify it as being "residual waste"; it is waste.

**The Hon. ROBYN PARKER:** Would it contain organochlorins?

**Ms CORBYN:** We generally try to make sure that there is a separate process for dealing with those kinds of chemicals but people have turned in common garden pesticides. We design the programs so that we can ensure that it does not get mixed, stays separate and is dealt with appropriately by the appropriate waste facilities, depending on what they are.

**The Hon. ROBYN PARKER:** Does any of that sort of waste end up at Lucas Heights, for example?

**Mr SMITH:** The types of wastes that are collected from households are not different from the types of wastes that are produced by industry—they have come from industry initially. So after they are collected they go to the appropriate facilities, depending on the type. So whether they go to Lucas Heights depends—if they are the types of wastes that could go to any type of facility, they might go there. But we can provide the details: the breakdown of the types and where they go.

**The Hon. ROBYN PARKER:** At the same time can you give a guarantee that those organochlorins do not end up in the Georges River, for example, if they go to Lucas Heights?

**Ms CORBYN:** That is the reason that we conduct the household chemical collection campaign. Most people do not know what to do with particularly pesticides and things that they might use and have stored in their garden sheds. The reason we do that is to prevent it from either ending up in a river or contaminating some other kind of waste and going to the wrong kind of waste facility because we can actually control it much better when we have collected it and know what is there.

**The Hon. DUNCAN GAY:** But you have collected it and some of it goes to Lucas Heights. There was a spill out of Lucas Heights. Surely you must have responsibility for that. You are collecting it to stop people creating this problem.

**Ms CORBYN:** The reason that we actually collect it and make sure that it goes to the appropriate facility is because each facility, depending on what they are, is designed to have different kinds of leachate collection facilities, for example, to prevent that sort of activity from reaching waterways. If there is a spill—and we have had pesticide spills not only at waste facilities but in other places, such as in the transport of chemicals—we investigate it. In some cases we have taken prosecutions and in other cases we have worked out with industry, for example, a collection program for farm chemicals called ChemCollect. We are working with industry on a program called ChemClear so that the industry takes responsibility for also bringing back those chemicals.

**The Hon. DUNCAN GAY:** I am surprised that you are not aware that some of your chemicals that you collect would have ended up at Lucas Heights.

**Ms CORBYN:** I just do not have off the top of my head information about where different types of waste actually go, but we can provide that information.

**The Hon. DUNCAN GAY:** Given that there was a spill out of there, would you not have concerns—

**Ms CORBYN:** We are investigating it.

**The Hon. DUNCAN GAY:** that chemicals you are collecting are finding their way back into the sensitive environment? You do not appear to know.

**Mr SMITH:** No, I do not think so. The amount of waste collected is miniscule compared with the total amount of waste that is placed in landfills. It is a very small quantity. I would think the bulk of it is dealt with at a liquid waste treatment plant, if it is a liquid waste, because that is the safest place we have for that waste to be disposed of. The spill that you mentioned at Lucas Heights involved the leakage of leachate, which is the liquid that comes out of the bottom of the landfill as a result of decomposition of material inside it, which is mainly organic material. Rainfall percolates through the waste material. While we are investigating that spill—it is a very bad thing that happened; we are investigating it and it could well lead to a prosecution by the department—the important point is that action was taken to control the spill and the prosecution and follow-up will have to run its course.

**The Hon. ROBYN PARKER:** What are you doing to make sure that it does not happen again and no further toxic waste goes into the Georges River?

**Mr SMITH:** I do not believe any of that waste reached the Georges River.

**Ms CORBYN:** It did not.

**Mr SMITH:** It was controlled.

**The Hon. ROBYN PARKER:** It got into a creek, though, at least.

**Mr SMITH:** In dealing with that spill we deal with spills in many industries that we regulate. Their systems break down from time to time—somebody does the wrong thing. This is a fact of life, regrettably. What we do is investigate the circumstances. We find out whether somebody has been culpable, whether they have broken the law and whether it will advance our strategic regulation program if we prosecute them—we often do. Then we also work with the company to make sure that if in any respect our licence was unclear or did not specify the systems that needed to be in place that has changed. By using the fact of prosecution, we also create incentives for the company to get their house in order.

**Ms CORBYN:** If there were concern about the actual assets and facilities and the way they are managed, we would negotiate a pollution reduction program as well. So there are a range of different steps we can take to make sure that they prevent those sorts of occurrences in the future but are also aware of the penalty for what happened in the past.

**The Hon. ROBYN PARKER:** Did you fine Waste Services NSW?

**Ms CORBYN:** We are actively investigating it now. We do not have powers, like the police do, to charge someone and then investigate; we must investigate first and then charge. We are in that process right now.

**The Hon. DUNCAN GAY:** Is it true that the Government has been talking to various brokerage houses and financial institutions about the potential privatisation or sale of Waste Services NSW?

**Ms CORBYN:** I do not have responsibility for Waste Services. I am sorry, I cannot answer that; I have no knowledge of that.

**Mr SMITH:** I have no knowledge of it at all.

**CHAIR:** I do not think I asked this question earlier. I would like to know how many breaches of either integrated forestry operations approvals or threatened species licences issued to Forests NSW the Department of Environment and Conservation has identified in the last 12 months, and how many of them have been prosecuted.

**Ms CORBYN:** You did ask that question earlier. We have brought one prosecution, but we did not have the figures on the number of breaches overall.

**The Committee proceeded to deliberate.**

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