

PORTFOLIO COMMITTEE NO. 5 – INDUSTRY AND TRANSPORT

Friday, 17 November 2017

Examination of proposed expenditure for the portfolio area

LANDS AND FORESTRY, RACING

UNCORRECTED PROOF

The Committee met at 10.45 a.m.

MEMBERS

The Hon. Robert Brown (Chair)

The Hon. W. Fang

The Hon. S. Farlow

Mr J. Field

The Hon. D. Mookhey

The Hon. Dr. P. Phelps

The Hon. M. Veitch

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: It being 10.45 a.m., I declare this Portfolio Committee No. 5 examination open. Ladies and gentlemen, welcome to this public hearing for the inquiry into budget estimates 2017-18. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay my respects to the elders, past and present, of the Eora nation and extend that respect to other Aboriginal persons present. I welcome departmental officials to this supplementary hearing. The Committee will examine the proposed expenditure for the portfolios of Lands and Forestry, and Racing. Today's hearing is open to the public and being broadcast live via the parliamentary website. In accordance with the broadcasting guidelines, whilst members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. The guidelines are available from the secretariat.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. We are at the end of the year and running out of time for the secretariat to prepare the budget estimates reports. We have resolved that we will ask you to return answers to questions on notice within seven days of receipt. I apologise for the tight deadline but we have no choice. Messages from members or staff seated in the public gallery should be delivered through the secretariat. Witnesses can accept notes directly across the table from any advisers seated behind them. A transcript of this hearing will be available on the web from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. I remind Mr Smith, Ms Stone, Mr Roberts, Ms Lees and Mr Newson that you do not need to be sworn because you have been sworn at an earlier budget estimates hearings.

PAUL NEWSON, Deputy Secretary, Liquor, Gaming and Racing, Department of Industry, on former affirmation

ALISON STONE, Deputy Director General, Lands and Forestry, Department of Industry, on former affirmation

NICHOLAS JOHN ROBERTS, Chief Executive Officer, Forestry Corporation NSW, on former oath

SARAH LEES, Chief Executive Officer, Cemeteries and Crematoria NSW, Department of Industry, on former affirmation

SIMON SMITH, Secretary, Department of Industry, on former affirmation

TIM HOLDEN, Acting Deputy Secretary, Crown Lands and Water, affirmed and examined

The CHAIR: The Committee has resolved to sit from 10.45 a.m. to 11.45 a.m. because Government members will not be putting forward questions. As there is no opportunity for witnesses to make opening statements we will begin with questions from the Opposition.

The Hon. MICK VEITCH: My first question relates to the Community Engagement Strategy that Crown Lands and Water has circulated. Page 10 talks about non-compliance with the strategy. What is intended when it says that non-compliance with the strategy may result in a decision about a dealing or activity being refused, challenged or overturned?

Mr HOLDEN: That document was produced before I started acting in this role. I might refer to Ms Stone to see if she has anything to add on that.

Ms STONE: That was included in the draft document that has been circulated for public comment. We have also done a number of community engagement sessions across the State. We are in the process of receiving comment on that at the moment, as you may be aware. Statements like that are really to make sure that we have the opportunity to say that if the department is not being compliant with our own requirements for better community engagement, which was one of the themes that came out through the parliamentary inquiry, we have a mechanism by which the department may be advised of that and there would be follow-up action. It may be that the dealing is put on hold until there is a satisfactory answer or there may be other discussion that comes out of some submissions around that.

The Hon. MICK VEITCH: Why "may"? That implies that you may not do it. It seems very soft. It seems like you may transgress but you may not have to do anything about it. Why not say that you will?

Mr SMITH: I think that is not an unusual approach. There are many pieces of legislation where an ultimate decision is not infected by a minor defect in an earlier process. It is just wanting to make sure that we do not set up a framework where years later someone can say a lease is invalid because step No. 23 in the consultation process was not completely fulfilled. It does not signal any diminution of commitment to following through with all the consultation strategies that we have proposed. It is just wanting to make sure that there remains certainty for those people who have entered into transactions.

The Hon. MICK VEITCH: This outlines the consultation process, but there is a page about waivers that says that the Minister may waive the need for consultation.

Ms STONE: That is correct.

The Hon. MICK VEITCH: What sorts of scenarios do you envisage?

Ms STONE: The most obvious one is in an emergency situation where you may need to issue a tenure in any emergency or completely unexpected situation. Again, there will be guidelines around how that may be invoked and certainly that would not be something that would be taken lightly.

The Hon. MICK VEITCH: Would transfers to Property NSW require consultation in accordance with this strategy?

Ms STONE: In land leaving the Crown estate, yes, definitely, that is one area where we are looking at making sure there is a high level of engagement. As I said, the document is out for public consultation at the moment, so we are looking at receiving some of those comments through that process.

The Hon. MICK VEITCH: On page 25 the document talks about activities that are excluded from the requirements of this strategy and lists a number of them. An example is that in granting forestry rights categorisation of land as local land will be exempt from the consultation process. Another is that categorisation of Crown land under the Local Government Act will be exempt from this community consultation process. I understand that this is a draft document but there already appears to be holes in this strategy, which is a

legislative requirement. Some people have said to me that they are concerned about this document in itself and what it will look like after the consultation. On behalf of the community I need some commitment or confirmation that if land is going to be transferred to Property NSW it will not be waived or excluded from the consultation process with local communities.

Mr SMITH: If it is convenient, I think we can just accept that as an input into the consultation process and make sure that the Minister is made aware of that view before the consultation guidelines are completed.

The Hon. MICK VEITCH: Thank you. Can you confirm that the public housing stock at Millers Point was first transferred from the Sydney Harbour Foreshore Authority [SHFA] to Crown Lands before it was transferred to Property NSW?

Mr SMITH: I do not have those details to hand.

The Hon. MICK VEITCH: What I am saying is did any of the Millers Point real estate go through Crown Lands before it got to Property NSW?

Mr SMITH: I am not sure.

Ms STONE: Not that I am aware of, but we would need to check on that.

The Hon. MICK VEITCH: Can you take that on notice?

Ms STONE: Yes.

The Hon. MICK VEITCH: When does Lands and Forestry issue development consents? Is there a process for that to happen and how often does it happen?

Ms STONE: Development consents are issued by local government. We issue landowner consent. As the owner of land, as a property owner, you, as a private landowner, and the Crown, as a Crown landowner, issue consent for a range of issues. We often issue landowner consent prior to development consent being considered.

The Hon. MICK VEITCH: So it is prior to the development consent that would be put up by councils—by local government?

Mr SMITH: It would be the same if a tenant in a privately owned property was seeking development consent. It would not be accepted unless the landowner had agreed.

The Hon. MICK VEITCH: I need to clarify this: The Department of Lands—or whatever it is called in its current iteration—does not issue development consent.

Ms STONE: No.

The Hon. MICK VEITCH: On 27 September 2016 advice went out that says:

On 29 August 2016, the NSW Department of Industry Lands (DPI Lands) issued development consent to AusGold Mining ...

You just said that you do not issue development consent, but there is a document here that says you do issue development consent.

Mr SMITH: I am not familiar with the detail of that.

The Hon. MICK VEITCH: AusGold mine is a Good Friday goldmine.

Mr SMITH: Yes, but I am not familiar with the sense in which we would be issuing a development consent.

The Hon. MICK VEITCH: Would you like to take that on notice and get back to us?

Mr SMITH: Yes, sure. Clearly, major things like approving whether a mine can go ahead under the EP and A Act is not a Lands matter. We may have had some role in it—perhaps an agreement. I am not sure. We would have to take that on notice.

The Hon. MICK VEITCH: What would the role look like, Mr Smith? What sort of role would that be?

Mr SMITH: Normally, if an activity was to take place on Crown lands, the proponent, who might be a tenant or have some other tenure which gives them a right to undertake the activity, would have to go to the relevant authority which would grant development consent—whether that is the local council or the State. We would be a contributor to that process as a landowner. We might have to give agreement to it, or, for example,

they may require some kind of easement over Crown land for power lines or roadways or water pipes et cetera, and we may also have to give consent for that.

The Hon. MICK VEITCH: This particular site is in the unincorporated area. Would that affect—

Ms STONE: Thank you for clarifying. In the unincorporated area there is no local government and there is a mechanism in the Act that allows the Western Lands Commissioner to issue development consent. You are right. My mistake.

The Hon. MICK VEITCH: So you do issue development consents in—

Ms STONE: In the unincorporated area.

The Hon. MICK VEITCH: Thank you. Would the Western Lands Commissioner do that under delegated authority?

Ms STONE: Yes.

The Hon. MICK VEITCH: How expansive are those delegated authorities for the Western Lands Commissioner to issue development consent for a goldmine?

Ms STONE: As I said, where there is no local government authority in the unincorporated area it falls to the position of the Western Lands Commissioner. I would need to explore more deeply the range of delegations that he has.

The Hon. MICK VEITCH: If the Western Lands Commissioner has delegations to approve, is there a ceiling or a threshold point whereupon that would be removed from the Western Lands Commissioner and may be elevated further up the pecking order for approval? Something like a goldmine is pretty substantial. At what point does someone above the Western Lands Commissioner—

Ms STONE: There will be a range of other agencies involved in giving consents through those processes, but, as you said, the final sign-off on the development consent would be the Western Lands Commissioner.

Mr SMITH: We would like to take that on notice, just to check, because I expect that the Commissioner stands in the place of what the local council would do.

The Hon. MICK VEITCH: Okay.

Ms LEES: Yes.

Mr SMITH: So I think the normal thresholds of State significant development et cetera would also intervene.

The Hon. MICK VEITCH: I am happy for you to do that. That leads to my next question. At what point is the Minister advised? What role does the Minister have in that process?

Mr SMITH: We will clarify that.

The Hon. MICK VEITCH: Thank you. I would like to dwell, for a moment, on cemeteries. How many cemetery sites have been set aside for future cemeteries in New South Wales since about 2011? Has much work been done on planning ahead and setting aside cemetery sites?

Mr SMITH: Can I just clarify the question: Do you mean how many are available, or how many new ones have been made available?

The Hon. MICK VEITCH: How many new ones?

Ms LEES: Since 2011 there have been no new additional Crown land cemeteries added into the cemetery space. However, there are private cemetery operators who have purchased freehold land and developed new cemeteries.

The Hon. MICK VEITCH: What was the department's role in the refusal of a General Cemeteries Reserve Trust request for it to use funds to purchase the Fernhill Estate in Mulgoa?

Ms LEES: No decision has been made on that proposal. In the media there has been mention of the exclusivity period ending between Rookwood General Cemeteries Reserve Trust and the vendor of Fernhill Estate. There has been no decision made at this point. We are announcing a review that we are undertaking with the Department of Planning and Environment to see what alternative land may be available, the criteria that we need to look at for cemetery space, and the need to look at planning ahead. We are releasing a capacity report today that identifies that we need to take some action to look at future cemetery capacity. It is not a crisis but it

is something that we need start to take action on to make sure that we identify new areas for cemetery space in the Sydney metropolitan area.

The Hon. MICK VEITCH: The request for funds from the General Cemeteries Reserve Trust goes to the Minister. How long can that sit on the Minister's desk?

Ms LEES: It is not a request for funds. I will just clarify that. It is a request to approve the trust to purchase land for potential cemetery use. The trust is not asking for additional money or funding. It cannot purchase new land with the money it has generated through burial licences without the Minister's approval. We do not have a guaranteed time frame within which that decision would need to be made. As you can appreciate, it is quite a complex issue, which requires careful consideration. It requires us to look at a range of options to see what might be available.

The Hon. MICK VEITCH: So that could sit on the Minister's desk for quite some time.

Ms LEES: As I said there is no time frame. It is not something that can be rushed.

Mr SMITH: I think our advice to the Minister would refer to whether or not development consent was likely to be forthcoming for the site. So if the council is not supportive of granting development consent for the activity it would be quite unwise for the trust to purchase that land if it could not use it for that purpose.

The Hon. MICK VEITCH: In that process that you do to conduct the evaluation, would you talk to the Cemeteries and Crematoria NSW board and the Necropolis Trust?

Ms LEES: I work to the CCNSW board. The process for trusts submitting a proposal is that they work with the CCNSW agency and the board. They have to submit quite a considered business case. We look at whether they have the capacity to purchase the land and develop the space to be usable for cemeteries. We look at their stakeholder management and whether or not they have engaged the interests of their key stakeholders, and we look at whether or not they have the capacity to expand their operation.

The Hon. MICK VEITCH: What role does the administrator of the General Cemeteries Trust have in this evaluation process? Are they consulted?

Ms LEES: Part of the administrator's role is to support the trust to move forward. The role of the administrator of Rookwood General Cemetery Reserve Trust is to work with Rookwood General Cemetery's agency to look at all of its business needs, which may include long-term planning for land acquisition.

The CHAIR: As Mr Field has not showed up—nor let us know where he is—we will roll over to another 15 minutes of questions from the Opposition.

The Hon. MICK VEITCH: In this whole process have you spoken to the Office of Strategic Lands about Fernhill?

Ms LEES: Not directly. I have met with the Greater Sydney Commission not to talk about the Fernhill proposal but to say that we are now releasing our capacity report and that we have the information that we need to identify when we are likely to run out of cemetery land within the Sydney metropolitan area. I keep repeating that because I am not talking about the whole of New South Wales; it is the Sydney metropolitan area.

The Hon. MICK VEITCH: When are we going to run out?

Ms LEES: We have looked at a number of scenarios and tested eight to determine whether cremation and burial rates change. If we stay on our current path, which is about 70 per cent cremation and 30 per cent burial, we do not purchase additional land and the landscape does not change, we are looking potentially at running out of land in the Sydney metropolitan area by 2050 or 2051.

The CHAIR: That is good; I thought you were going to say next Wednesday.

Ms LEES: It is important that we take action, but it is not a crisis at this point. It takes a long time to establish a cemetery. There is a lot of work involved and it cannot evolve overnight, so we must think ahead.

The Hon. Dr PETER PHELPS: My marble mausoleum and gift shop are still on track.

The Hon. MICK VEITCH: What role do the Minister for Planning and the Department of Planning and Environment play in this process of identifying and securing land for future cemeteries and crematoria?

Ms LEES: The Minister for Planning and Minister Toole have both commissioned a review into land availability for cemeteries in the Sydney metropolitan area. The Department of Planning and Environment is working closely with Cemeteries and Crematoria NSW to look at what may be available. We need to dig deep and to look at options in the Sydney Basin and the Sydney area to find alternatives.

The Hon. Dr PETER PHELPS: Are there still expansion plans for Marsfield?

Ms LEES: I do not know; it is first time I have heard the word "Marsfield".

The Hon. Dr PETER PHELPS: I meant "Field of Mars". I was referring to the Field of Mars Cemetery.

Ms LEES: Now I understand. I am not sure of the plans. I have not had any conversations with them about that.

The Hon. MICK VEITCH: This is obviously an extensive process. Do you have a plan and a timeline?

Ms LEES: The Department of Planning and Environment is leading the way in the procurement for this planning review and the terms of reference. I understand that it is looking at finalising the review by March next year. That is not the end of the story; it will simply be a statement of what it needs to do and to look at and proposing some options. As I said, it takes a while to negotiate the purchase of land for cemetery use, development applications and consents.

The Hon. MICK VEITCH: I refer to board appointments to cemetery trusts. The Minister appoints members of the Rookwood General Cemeteries Reserve Trust. Does he appoint the members of all the trusts?

Ms LEES: All bar the Catholic Metropolitan Cemeteries Trust. The Minister appoints the trust members for the four major trusts in the Sydney cemetery landscape. The Catholic Metropolitan Cemeteries Trust board members are appointed by Catholic Cemeteries and Crematoria, so the archbishop appoints the board members.

The Hon. MICK VEITCH: What role does the Government or the department play in the appointment of the board members of the Catholic trust? Do they play any role, or are they appointed only on the recommendation of the archbishop?

Ms LEES: They are appointed on the recommendation of the archbishop. The difference is that the Catholic trust was the corporation appointed as the administrator of the land. For the others, the trust is directly appointed. That is why the Minister approves the appointment of board members.

The Hon. MICK VEITCH: Has the department been involved in any meetings with Fabrico regarding the proposed sale or long-term lease of Crown land for cemeteries in Sydney?

Ms LEES: No, there have been no meetings.

The Hon. MICK VEITCH: The department has not been involved?

Ms LEES: No.

The Hon. MICK VEITCH: Have there been any meetings with InvoCare?

Ms LEES: No.

The Hon. MICK VEITCH: Is the department aware of the story that broke this week?

Ms LEES: Yes.

The Hon. MICK VEITCH: Were you aware that that was going on?

Ms LEES: We were aware of the story. I read the story, but that is all the information I have on the proposal.

The Hon. MICK VEITCH: I will not use the word "blind-sided"—that is a terrible term—but you were unaware?

Mr SMITH: After we saw the report, I contacted NSW Treasury to seek advice on what had been going on. I was advised that there had been a meeting with Treasury and that the proponents had been advised that a proposal of that type would be best submitted to the unsolicited proposals framework.

The Hon. MICK VEITCH: So it is an unsolicited proposal?

Mr SMITH: They were advised that with a proposal of the type reported in the newspaper the Government could consider it using the unsolicited proposals framework.

The CHAIR: Given that Mr Field has joined us, we will stop the clock and allow him to ask his questions. We will return to Opposition questions later.

Mr JUSTIN FIELD: Mr Newson will not be surprised that I will direct my questions primarily to him. Mr Newson, you would no doubt be familiar with the allegations made in Federal Parliament by Andrew Wilkie concerning activity at Crown Casino in Melbourne relating to the manipulation of poker machines. What work have you done in New South Wales to assure yourself and the community that similar behaviour is not occurring in New South Wales casinos or in any venues such as clubs or pubs that operate poker machines in this State?

Mr NEWSON: We are definitely aware of the allegations made by Mr Wilkie, I understand under parliamentary privilege. I understand that Crown has strongly refuted those allegations. The lead agency investigating the allegation is the Victorian Commission for Gaming and Liquor Regulation, given that the allegations focus very much on Victoria. In part answer to the question, we have a very close relationship and constant dialogue with the Victorian regulator, which is investigating the substance of those allegations. We do not have any information that suggests those allegations are relevant to New South Wales. However, I will pause and say that we have a robust engagement framework with a range of players.

You would appreciate that responsibility for oversight of the casino operator in particular, but gaming at large is shared by a number of State and Federal agencies. We have robust engagement with the Australian Transaction Reports and Analysis Centre—Australia's financial intelligence unit—and the regulator responsible for anti-money laundering and counterterrorism financing oversight. We meet with them regularly. We also have robust engagement with the NSW Police Force. Clearly, we have ongoing and significant engagement with the casino operator. I make this point to stress that a key part of our oversight is that cooperation and collaboration across Federal and State agencies. We have a key role; I would suggest we are the custodian in partnership with the Independent Liquor and Gaming Authority to ensure that the Casino Control Act and the framework for casinos are resistant to criminal infiltration. That is, the casino operator is resistant to infiltration by serious organised crime.

Mr JUSTIN FIELD: That is sufficient. To be clear, you have no information or evidence to suggest that similar practices might be going on in the New South Wales casino or in any venue that has poker machines in this State?

Mr NEWSON: I will answer that in two parts. I stress again that the allegations have not yet been properly tested; the investigation is ongoing. We are liaising with the appropriate regulator to understand those inquiries. We have no information to suggest that the issues that have been raised and the allegations that have been made are a problem in New South Wales, whether that is in the casino or within the club industry. That has not prevented us from actively engaging with and looking at our level of oversight and activity.

Mr JUSTIN FIELD: I refer specifically to the allegation about changing payout rates to coincide with paydays. Is it possible for a poker machine operator in New South Wales, whether it be the casino or a hotel or club, to change the payout rate of a machine without the regulator knowing?

Mr NEWSON: I would not want to talk in any sort of absolutes. I do not think I have that level of technical depth and knowledge to assert a complete answer to the question. However, I can say that in New South Wales we have a central monitoring system, and every gaming machine in New South Wales is linked to it. The purpose, at least in part of that system, is to ensure the integrity of the network of gaming machines. So without talking with absolute certainty—and I certainly would not say there is no risk in the environment—the purpose of that system is to safeguard the integrity of the machines; the purpose of that system is to alert the regulator should there be any interference with any of those machines. It also has other ancillary functions around revenue assurance and the like.

Mr JUSTIN FIELD: I assume also reducing harm to the users of the machines if we are changing the payout rates and they do not know about it. Is it illegal to change the payout rates of machines in New South Wales?

Mr NEWSON: You cannot interfere with a gaming machine in New South Wales.

Mr JUSTIN FIELD: Sure, but these can be set by an operator. There is a regulation that sets an upper limit—or a lower limit, I guess, as far as payouts are concerned—but is an operator, an individual owner of a machine—a club, a pub, a hotel or the casino—able to change the payout rate, as long as it does not go over the regulated level set in New South Wales, without notifying the regulator and without notifying patrons?

Mr NEWSON: I would like to take that question on notice because I do not want to introduce information here which is not precise. Because you are asking is there any universe of opportunity for somebody to lawfully change, I want to get that technical advice.

Mr JUSTIN FIELD: I appreciate that. The Minister's office released recently a report that the Minister, the Government, has been sitting on for a couple of years with regard to gambling harm in New South Wales. There was a specific recommendation in that report to remove the features of machines generally known as disguising a loss as a win. Given that report has been with the Government for so long and given there was a clear recommendation, have there been any recommendations by the department to make those changes to machines?

Mr NEWSON: Without cavilling with your assertion, I would like to make a correction. That report, in its final form, was received by Liquor and Gaming NSW in April last year—an extensive report; it was commissioned in 2013, so a significant amount of effort and research went into that report, and clearly it is a serious issue. The matter of losses disguised as wins, as it is couched, is one to which the industry is alive. Certainly the industry argues that there is already very substantial differentiation between the different types, the different amounts of wins that a player might receive. That is the industry perspective.

In regard to your specific question, the Prohibited Features Register, and I am sure you are familiar with that instrument, is the current mechanism where a feature or a function like that could be proscribed. The Prohibited Features Register is to be reviewed in 2018 as part of a broader review of gaming-related approvals. We have certainly noted the recommendation in the report; it is one that requires further investigation. The current mechanism to proscribe it is the Prohibited Features Register. The Prohibited Features Register is being comprehensively reviewed in 2018, so we need to consider it within the context of that review.

Mr JUSTIN FIELD: In relation to that review—I know it has been mentioned in light of the report released recently—what will the review look like? What opportunities will the public have to make submissions to that review, when do you expect it to report and when would you expect any outcomes from that review to be implemented?

Mr NEWSON: I do not have that level of detail about when we expect it to report. I can say that it will commence in early 2018 and that there will be extensive stakeholder consultation. We consistently adopt an inclusive approach to stakeholder consultation and we want to hear views from that continuum of stakeholders. Whether that is an industry voice, whether that is an advocacy or community stakeholder group, there will certainly be extensive consultation and an opportunity to make a submission and contribute a view.

Mr JUSTIN FIELD: There is one other element that I notice has recently started to be discussed in some material issued by the clubs industry. It seems that it is concerned that revenues might start to fall from poker machines because of changes in demographics. I point out that budget estimates do not make that suggestion; the Government seems to think that revenues are going to escalate significantly, but it has started talking about introducing new types of gaming machines into our clubs and pubs. What would the process be for the Government or the regulator to approve new types of gaming machines in hotels and pubs in New South Wales? What process would need to be gone through to do that?

Mr NEWSON: I would prefer to give you a more detailed fact sheet of the precise process but, essentially, the Independent Liquor and Gaming Authority [ILGA] has the final determination whether or not to approve a gaming machine.

Mr JUSTIN FIELD: This is an application by an industry group or by a particular operator introducing a new machine. Would that be how it starts?

Mr NEWSON: It would generally be by a manufacturer or a dealer and they would apply to the Independent Liquor and Gaming Authority. There is a group of four independent authorised testing facilities that I understand generally operate internationally. Those testing facilities provide an independent insight, independent objective advice, about the suitability of the machines that the application is relevant to. Ultimately, the Independent Liquor and Gaming Authority makes a decision that is informed by an independent advice from an authorised testing facility. But I would prefer to give you a more detailed fact sheet around the precise process, if that assists.

Mr JUSTIN FIELD: What sort of criteria does the regulator or the Government consider when assessing these applications? It is not just whether or not it functions correctly and how it operates; it obviously interfaces with the gambling public—and we are talking about in our corner pubs and clubs here. What criteria do you base your assessment on when considering whether or not these machines are suitable to be introduced to the general public?

Mr NEWSON: There is a comprehensive national technical standard which—

Mr JUSTIN FIELD: I am not so much talking about the technical standard; I am talking about the impact it has on the community. If we are going to be introducing a new machine that is going to cause loss and

harm to the community, how do you weigh that up? Is there a set of criteria? Is that something you can provide on notice?

Mr NEWSON: First, the Independent Liquor and Gaming Authority makes these decisions, but if I can just challenge that premise behind your statement. You cannot separate the national standard from this discussion. That is the standard, the comprehensive standard that any gaming machine introduced in New South Wales or Australian jurisdictions must meet. That prescribes all the different requirements that a gaming machine must meet. In New South Wales we also have the Prohibited Features Register. Each jurisdiction then has appendices to the national standard. You cannot separate those two discussions. The machine must meet the national standard, it must meet the independent testing process from the authorised testing facility, and then ILGA makes a determination.

Mr JUSTIN FIELD: Are you saying to me it is literally a technical decision, that there is not some sort of political interface that decides whether or not we want that sort of proliferation of gaming machines in our community?

Mr NEWSON: The Independent Liquor and Gaming Authority is independent from government when it comes to determining liquor and gaming applications. It is arms-length from government. The Minister has discretion to issue broad administrative directions around reporting requirements should dealing with applications be overdue or the like; so there is a possibility for a Minister to issue administrative directions, but otherwise the Independent Liquor and Gaming Authority is an independent statutory body with an eight-person board.

Mr JUSTIN FIELD: I might move on. There are clearly gaming machine entitlements. But the discussion that I have heard going on within the clubs industry, we are not just talking about poker machines. There will be other types of machines; there will be electronic gaming machines. We do not know what they are, to be honest. They are having a discussion. It was part of the memorandum of understanding between the industry and government. Now a discussion is going on within industry. There are entitlements that each venue has. Will these new machines have to fit within those entitlements or are we talking about a different classification of machine? My question is: The Government has made a big deal about saying it is reducing the number of machines. Are we just going to see a proliferation of a different type of machine into our local hotels and clubs?

Mr NEWSON: The framework is clear. There is a clear gaming machine entitlement framework and a clear transfer system for gaming machine entitlements around the different clubs in New South Wales.

Mr JUSTIN FIELD: Will any new machine fit within those existing entitlement frameworks? They are not going to be additional to any existing electronic—

Mr NEWSON: We have to be careful not to conflate the two things. A club must have a lawful gaming machine threshold and sufficient gaming machine entitlements before it can access a physical gaming machine. They are very different concepts. Industry, as you would expect, has conversations around the type of products it is thinking about introducing or would like to introduce in the future. It is a lawfully regulated industry. It does not surprise me. But the machines have to be approved by the Independent Liquor and Gaming Authority [ILGA]. That is a discrete process. The movements of gaming machine entitlements and thresholds and of the machines around New South Wales are a completely separate process. As Secretary Smith alluded to, that is where ILGA has regard to the social impact. There is a very clear regard to the comprehensive national standards.

The CHAIR: Mr Field, you can come back to those questions. I now move to Labor, who has nine minutes.

The Hon. MICK VEITCH: I return to the cemeteries. Earlier this week, Brad Norington broke the story about the proposal to essentially lease the cemeteries long term. You have not been involved with meetings with Fabrico and InvoCare. Is that a fair summary of what we explored?

Mr SMITH: That is correct.

The Hon. MICK VEITCH: Since the article, have you been in touch with Treasury to explore how it is proceeding? Did Treasury tell you that on 4 July Treasury met with the Catholic Archdiocese, Catholic Cemeteries and Crematoria, Fabrico and InvoCare?

Mr SMITH: Yes. I am not sure whether it was Treasury that met with them on 4 July. The information I have is that they met with Treasury in October.

The Hon. MICK VEITCH: Sorry, they met with the Treasurer on 4 July. This has been in play for a little while.

Mr SMITH: My understanding is that Treasury heard that there was an earlier meeting in July and that Treasury was subsequently asked to meet with the proponents, and that that meeting occurred much later in October.

The Hon. MICK VEITCH: Was this is an unsolicited proposal?

Mr SMITH: It would appear so, yes. Treasury advised me that when it had that meeting, it advised the proponents that there was a particular framework that Government had for considering unsolicited proposals and that it was administered by the Department of Premier and Cabinet [DPC].

The Hon. MICK VEITCH: Does that change the way you are going about planning the long-term cemetery requirements, land purchases and acquisitions for cemeteries?

Mr SMITH: No.

The Hon. MICK VEITCH: Is it business as usual?

Mr SMITH: There has been a meeting but we have our work to be going on with. There is no proposal or plan. We have our duties and we are getting on with them.

The Hon. MICK VEITCH: This unsolicited proposal suggested the sale of \$1 billion worth of our cemeteries could happening over here but you seem to be operating in a void. It must be frustrating for the public service.

Mr SMITH: There have been two meetings that I am aware of, so it does not have any status. Someone has talked to the Government with an idea—that is all it is, as far as I am aware.

The Hon. DANIEL MOOKHEY: When you say that you were in contact with Treasury, was that with the Commissioning and Contestability unit?

Mr SMITH: No.

The Hon. DANIEL MOOKHEY: Who in Treasury was it?

Mr SMITH: It was the Secretary.

The Hon. DANIEL MOOKHEY: Are you are aware of whether or not the Commissioning and Contestability unit of Treasury has ever prepared an assessment or evaluation, or has obtained consultants for the effect of obtaining an assessment or evaluation, of the value of the cemeteries portfolio?

Mr SMITH: No, I am not aware of that. But we did receive a letter from Treasury inviting us to work with it on a number of unrelated issues that are important to the cemeteries department. We are not fully in the dark. We have been invited to work with Treasury on some other things.

The Hon. MICK VEITCH: But not this one?

Mr SMITH: No.

The Hon. MICK VEITCH: What are the tax implications if Crown Lands' cemeteries are privatised or go into private operator hands under a 99-year lease? Would there be a change in the process?

Mr SMITH: There are some issues around the taxation treatment of the existing trusts. There is a question around whether or not they will be able to retain the charitable status they enjoy under the Commonwealth taxation laws as a result of accounting rules. That is one of the issues that Treasury wants to work with us on because it would be an unintended consequence. The change in accounting rules could have that flow-on consequence. It is important to the trust to not lose the ability to attract charitable donations and to benefit from the other related provisions. We have not looked at the proposal that was reported in the media—that is jumping way ahead. The Government has no plan to do anything in this space that I am aware of.

The Hon. MICK VEITCH: I move now to forests. Does the department receive much correspondence from members of Parliament around forestry matters?

Mr SMITH: I do not know. We would have to take that question on notice.

The Hon. MICK VEITCH: How many times has the Minister discussed the river red gum parks with the department?

Mr SMITH: I have discussed it with the Minister a couple of times over the course of my normal meetings with him.

The Hon. MICK VEITCH: It became a bit of an issue in the recent by-election. My good friend on the right, the Hon. Robert Brown, would be interested in the position—

The Hon. Daniel Mookhey: Well on the right.

The Hon. MICK VEITCH: Yes, way right. It was a by-election issue and, as Mr Wes Fang would know, the person who won the seat is proposing to introducing a private member's bill to convert the river red gum parks back into forest. Has the department done any work on that suggestion?

Mr SMITH: Not to my knowledge.

The Hon. MICK VEITCH: Has the Minister asked you to do any work to convert river red gum parks back into forest?

Mr SMITH: Not to my knowledge, no. Those are mainly political matters that members of the Government would discuss between themselves to develop new policy.

The Hon. MICK VEITCH: Yes, but at some point the public service is asked to act on that information.

Mr SMITH: If the Government changes its policy we will be asked to produce some advice and so forth.

The Hon. DANIEL MOOKHEY: Has any request for that advice been made?

Mr SMITH: Not to my knowledge. But we will take the question on notice because I do not know everything that goes on in the department.

The Hon. MICK VEITCH: We appreciate that it is a big department. How does Mr Holden envision splitting up his time after the restructure of the Department of Primary Industries, specifically with Water and Lands?

Mr SMITH: It is probably more appropriate for me to answer that question. Previously, Crown Lands and Water was within the Department of Primary Industries. Some time back, I made the decision to take Lands out of the Department of Primary Industries because I felt that it deserved more focus within the department. More recently, I have made the decision to also move Water out of the Department of Primary Industries for the reasons that have been published. In my view, the role of Crown Land and Water is somewhat different to the role of the Department of Industries because those functions exist to perform a stewardship function on behalf of the people and Government of New South Wales, who are the owners of the assets of Crown Land and Water. It has the job of securing and optimising economic, social and environment benefits through the stewardship of those assets. On the other hand, the Department of Primary Industries is more focused on advancing the success of primary industries, particularly agriculture. The role of the deputy secretary will be to be responsible for both of those. Tim Nelson is currently responsible for both of those functions and how they will be looked after will be worked out as we go. Both of them need to be looked after. It is a senior role and I put it together so that would be the sole focus of the deputy secretary.

The Hon. MICK VEITCH: What sort of skill sets did you have in mind when you created the position for the restructure?

Mr SMITH: We created a role description which was advertised and we have been going through a selection process to find someone who meets all of those skills. It is a stewardship role. It is important to be able to comply with all the legislation to be able to produce all of the systems that are necessary to fulfil the legislative mission and operate them.

The Hon. MICK VEITCH: It is a senior strategic position. Are you looking for someone to do macro planning?

Mr SMITH: The role is also a people leader and to ensure that we work with all the staff to create a new normal that addresses issues that have arisen in Crown Lands in the past through, for example, the upper House inquiry or the Audit Office and so forth and also so we have the capability to address the issues that came out of the Ken Matthews review. It is both a policy lead and a people lead and the leadership of the use of all the resources that are available. It is also a lead in being connected with the various stakeholders who care about these issues.

Mr JUSTIN FIELD: Are any current applications or processes underway for new types of gaming machines to be assessed for use in New South Wales casinos, clubs or pubs? I think we were getting a bit confused before. I am not talking about just new types of poker machines. The discussion in the memorandum of understanding, which I am sure you are aware of, and in the club bible *Club Life Magazine*—I am a regular reader of it—is that they are looking for new revenue streams, new types of machines. I am not talking about poker machines necessarily; I am talking about new types of machines. That is where the discussion has been going. Are you aware of any current applications?

Mr NEWSON: The short answer is I am not personally aware of any current applications, but what I can and probably should say is that there is discussion of that nature—if I understand correctly—around potential new forms of gaming machines or other forms of entertainment or gambling opportunities happening all the time across all industry players domestically and internationally. I do not find it surprising that they would want to look at what product they were able to introduce into the Australian market. But if it is a gambling activity and it is covered by our laws a gaming machine cannot be introduced unless it goes through that rigorous process that we step through.

Mr JUSTIN FIELD: I am trying to get to the question of how this relates to the current sets of entitlements and whether a different type of machine that is considered to be an electronic gaming machine but not a poker machine would be an additional entitlement that might be considered. Have there been any discussions between government or the department and industry for new types of entitlements to enable new machines?

Mr NEWSON: The short answer is no, Mr Field. Under the current policy settings it would have to fit within the very rigid environment of each venue having a gaming machine threshold and each venue needing to have a gaming machine entitlement before it can import a machine, and that is monitored very closely.

Mr JUSTIN FIELD: There has been a lot of discussion about transparency in reporting regular throughput of expenditure and losses on machines. In my discussions with the Minister I had the sense that there would be changes to transparency arrangements. Thankfully, for whatever reason, I have not been charged for my recent request for information. Most people are surprised to know you have to buy that sort of data. Is there a plan to make this information available freely on an ongoing basis? Maybe the secretary was not aware I was not being charged and is now wondering why.

Mr NEWSON: A general observation is that there is a want and a commitment to transparency and access to information. As I am sure you understand, the New South Wales legal framework provides some limitations to what can be disclosed but there is a commitment to transparency and disclosing information where we can. We are certainly considering how our current arrangements benchmark against other arrangements across different Australian jurisdictions and providing advice to government accordingly.

Mr JUSTIN FIELD: You only have to read my second reading speech on my bill to see how they compare. We are not super transparent. We do not provide venue-by-venue data and the public by and large still has to pay to access the data that is aggregated. Are you considering making those quarterly and annual reports available for free? I am not asking for additional information at this stage, just the existing reports. It can cost a couple of thousand dollars to get all of those reports on an annual basis.

Mr NEWSON: We certainly understand that those sorts of costs, if that is what is getting levied—

Mr JUSTIN FIELD: That is what is getting levied. You have a form that you tick and it is \$450 a time.

Mr NEWSON: But, through your own statement, it was not charged to you on this occasion. Your advocacy around that has certainly caused us to rethink. If I can make one observation, I do not agree with how you have framed the issue around our transparency. There is only one jurisdiction in Australia that provides the level of detail that I think you are inclined towards. That is not a norm and it is not something that we are advocating for at this stage, but we are still considering it. We have certainly taken on notice your commentary around affordability of access to the information and we are giving advice to government accordingly.

Mr JUSTIN FIELD: That level of transparency is relative to the numbers of machines and the level of loss within the community. The comparable State is Victoria and it does provide venue-by-venue information in the public interest. I know these are ultimately decisions of government but from the point of view of the department is there a consideration that the venue-by-venue information is in the public interest? The Minister has the capacity to release it under current laws for that reason.

Mr NEWSON: Without diving into a discussion on the lawfulness or otherwise, that is not consistent with my understanding of the advice we have received around the interaction of the New South Wales legislation. There are some impediments to that information being released in New South Wales.

Mr JUSTIN FIELD: Are they commercial-in-confidence impediments?

Mr NEWSON: No, legal impediments. Also you have to have regard to the fact that it is extraordinary level of disclosure of confidential information that other industries are not subject to. It is certainly a live issue under consideration. We have taken note of your point around the access and the cost. As you say, you were not charged on this occasion. It is under active discussion and we are giving advice to government.

Mr JUSTIN FIELD: The guidelines with regard to ClubGRANTS have recently been changed. In particular, I am interested in the category 3 ClubGRANTS and the changes to how the Minister or the department receives advice around what grants should be given. The committee that was in place has been abolished. Can you talk me through how operationally the decisions around category 3 ClubGRANTS will be made? Who will ultimately sign off on those now?

Mr NEWSON: The changes that have been made are intended to provide a level of independent authoritative advice to assist the Minister to make a decision. There was previously a ClubGRANTS Fund Committee and at one stage I was a member of it. There was also at one stage a two-part application process, which, on thinking at the time, was to improve access and approve considerations so that persons interested in applying could at least make an expression of interest at first and did not have to go through a full application process. The changes now go from a two-part process to a one-part process. The view is that it is more accessible, it is less cumbersome. There are now independent expert advisory committees, which just seems to make sense. If you are having an arts and culture round we go to Create NSW and ask them to give us their appropriate experts, and they should be a part of the recommendation and advice that goes to the Minister.

There was previously a ClubGRANTS Fund Committee and there was previously a two-part process. There is now a one-part process. Depending on the round, if it is arts and culture it will go there and if it has a sports focus it will go to the Office of Sport. They will give advice as to who are the suitable independent experts. They will review the merits of the different applications and they will ultimately inform the advice that goes to the Minister.

Mr JUSTIN FIELD: For each round will an independent expert panel be formed or will there be permanent appointees for a time? How is it formed, for how long is it formed and who decides who is on it?

Mr NEWSON: It is chosen for each round, depending on the focus and the circumstances of the round. Of those that come to hand, if it is arts and culture it would be Create NSW; if it is sport and recreation it would be the Office of Sport.

Mr JUSTIN FIELD: I would like to go back to transparency and link that to ClubGRANTS. These are often substantial buckets of money that are being played with. The clubs often use it for public relations. It is a public service but it is foregone government taxes which enable those grants to be made. I have asked before for information about the grant applications that are not successful. I wonder why they are not published. Often it is the choices that were not made that tell the story about how the decisions were finally arrived at. Why are they not published? Do you think there are reasons that you might consider publishing unsuccessful applications in the future?

Mr NEWSON: We could certainly take that contribution into consideration. I am not immediately sure that everyone who has made an application would want their application published. There are commercial-in-confidence, sensitive pieces of information that are contained in those applications.

Mr JUSTIN FIELD: These are community grants of what would otherwise be public funds. We enable the funds to put this into a single bucket for the benefit of the community. Why would anyone not want their application published?

Mr SMITH: I think we could take your suggestion and discuss it with the Minister. Mr Newson has a point, which is that we would have to ask people who are applying if they would agree to the subsequent release of who they are and what they have sought funding for. If we have their agreement at the start I do not think it would be a big problem.

Mr JUSTIN FIELD: I appreciate that, thank you. On category 1 and category 2 grants, where there are local decisions made, often there are council-based committees that make these decisions. Some councils choose to publish that information and some do not. Is there a regulation around that or is that just up to individual councils to decide?

Mr SMITH: I would like to take that on notice.

Mr JUSTIN FIELD: Thank you.

The CHAIR: Thank you all for taking the time to come here today. Some of you have not had any questions, but thank you for showing up. Hopefully, we will get answers to those questions within seven days of you being notified in writing of them by the secretariat. The secretariat will do its work quickly because it is in our interest to get the answers back as soon as we can within those seven days. Thank you very much for your time.

(The witnesses withdrew)

The Committee proceeded to deliberate.