

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

Thursday 11 March 2021

Examination of proposed expenditure for the portfolio area

LOCAL GOVERNMENT

CORRECTED

The Committee met at 09:30

MEMBERS

Ms Cate Faehrmann (Chair)

Ms Abigail Boyd

The Hon. Mark Buttigieg

The Hon. Catherine Cusack

The Hon. John Graham

The Hon. Trevor Khan

The Hon. Shayne Mallard

The Hon. Mark Pearson (Deputy Chair)

Mr David Shoebridge

PRESENT

The Hon. Shelly Hancock, *Minister for Local Government*

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**

CORRECTED

The CHAIR: Welcome to the public hearing for the inquiry into budget estimates 2020-2021 initial hearings. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past, present and emerging of the Eora nation and extend that respect to other First Nations peoples present. I welcome Minister Hancock and accompanying officials to this hearing.

Today the Committee will examine the proposed expenditure for the portfolio of Local Government. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat.

All witnesses in budget estimates have a right to procedural fairness, according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days.

Minister Hancock, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Committee secretariat. We expect the transcript of this hearing will be available on the web from tomorrow morning. Finally, everyone should please turn their mobile phones to silent for the duration of the hearing.

CORRECTED

TIM HURST, Deputy Secretary, Local Government Planning and Policy, Department of Planning, Industry and Environment, sworn and examined

SHARON MOLLOY, Acting Deputy Secretary, Biodiversity and Conservation Directorate, Department of Planning, Industry and Environment, on former oath

The CHAIR: Today's hearing will be conducted from 9.30 a.m. until 12.30 p.m. with the Minister. We have agreed to check in at 11.00 a.m. and if a break is required, then we will have a break for 10 minutes. The hearing will continue from 2.00 p.m. until 5.00 p.m. with the departmental witnesses, with a break at 3.30 p.m. if it is required.

The Hon. TREVOR KHAN: Chair, can you point out that if there is a break of 10 minutes at around 11.00 a.m.—

The CHAIR: Then we will go for 10 minutes further. If required, there is also an additional 15 minutes allocated at the end of each session for Government questions—not that they have been champing at the bit for that either. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition..

The Hon. MARK BUTTIGIEG: Thanks, Chair. Thank you to the Minister, Mr Hurst and others for their attendance. We appreciate that.

Mrs SHELLEY HANCOCK: Pleasure.

The Hon. MARK BUTTIGIEG: Minister, I want to pursue a line of questioning that you will probably recall we went over almost a year ago in the last estimates hearings concerning Strathfield Council and in particular Mayor Doueihi. Will you tell me when the code of conduct issue was first raised with the Office of Local Government [OLG]?

Mrs SHELLEY HANCOCK: I cannot answer for the OLG, so probably Mr Hurst is the one to actually answer that. I do not deal with individual code of conduct complaints.

The Hon. MARK BUTTIGIEG: I am sorry, Minister, are you saying you are unaware of this issue whatsoever? You did not get any briefings?

The Hon. TREVOR KHAN: That was not the question that was asked.

Mrs SHELLEY HANCOCK: I am not saying that. I am saying I am not the appropriate person to answer that question, Mr Buttigieg, so Mr Hurst will answer that.

Mr HURST: The Committee may be aware that the department prepared a departmental report into certain allegations about the mayor of Strathfield. That report has been provided to—

The Hon. MARK BUTTIGIEG: I am sorry, Mr Hurst. Could I take you directly to the substance of the question, which is when the issue was first raised with the OLG?

Mr HURST: The reason I was explaining about the departmental report is that it actually has details of the allegations that were made to OLG and the results of the investigations of those allegations. That has been provided to the NSW Civil and Administrative Tribunal and is presently before the tribunal, so I am not able to discuss the contents of the departmental report while it is before the courts.

The Hon. MARK BUTTIGIEG: So you are unable to tell us when it was first raised, but I understand that it was sometime late in 2018. Will you tell us when the investigation by OLG into Councillor Doueihi was first authorised? I think some of those matters are a matter of public record, given what has been published on the parliamentary website and written in various newspaper articles.

Mr HURST: I do not think I actually have the material on that investigation with me for the reason that the matter is before the courts at the moment, so I did not come prepared to provide details of the investigative process. But as I say, the details are in the departmental report that is before the tribunal at this stage.

The Hon. MARK BUTTIGIEG: But Mr Hurst, you authorised the investigation and you cannot tell me when the investigation was even authorised.

Mr HURST: I can endeavour to find that information and get back to you later today.

The Hon. MARK BUTTIGIEG: Does July 2019 ring any bells?

Mr HURST: Sorry, there are a number of investigations underway.

CORRECTED

The Hon. MARK BUTTIGIEG: According to the information I have, from the time that the complaint was made to the OLG regarding Mayor Doueihi, it has taken eight months simply for an investigation to be authorised. You are the Minister for that department, the Office of Local Government. Do you think that is an acceptable amount of time simply for an investigation to be authorised?

Mrs SHELLEY HANCOCK: I really cannot comment on that matter at this stage because it is a matter before the NSW Civil and Administrative Tribunal [NCAT] and it was dealt with by the Office of Local Government. I cannot comment on that because I am not aware of the relative complexity of the investigation that was carried out, so I cannot answer that question.

The Hon. MARK BUTTIGIEG: Minister, I am putting to you that it—

Mrs SHELLEY HANCOCK: You can put it to me all you like. I have answered the question.

The Hon. TREVOR KHAN: Point of order: The Minister is entitled to complete answering the question that is put to her before Mr Buttigieg jumps down her throat with a further question. I ask that he be restrained appropriately.

The Hon. MARK PEARSON: I would not say he was jumping down her throat, but he needs a little bit of restraint to let the Minister finish answering the question.

Mrs SHELLEY HANCOCK: I agree. Thank you, Mr Deputy Chair.

The Hon. JOHN GRAHAM: Your first win in two weeks.

The Hon. TREVOR KHAN: A more fair chair.

The Hon. MARK BUTTIGIEG: Minister, I am putting to you a very straightforward proposition.

Mrs SHELLEY HANCOCK: Yes, I have heard the question and answered it as far as I am prepared to do.

The Hon. MARK BUTTIGIEG: The proposition is that it has taken eight months for an investigation to be authorised. In that situation, are you comfortable as responsible Minister that your department is moving in an expedient fashion? We are talking about a fellow who is under a cloud here and I think the ratepayers of Strathfield deserve to know what is going on.

Mrs SHELLEY HANCOCK: Thank you. Mr Hurst has some further information for you.

Mr HURST: The information I have available is that the complaint was initially investigated by the council, as required under the procedures for the administration of the code of conduct, and that OLG did not commence its investigation until it had been referred the matter by the council.

The Hon. MARK BUTTIGIEG: Minister, during that investigation do you know if Mr Doueihi was ever requested to be interviewed?

Mrs SHELLEY HANCOCK: I am not aware. I would not be aware of those details. I am not involved in those initial investigations.

The Hon. MARK BUTTIGIEG: You have not been briefed on this at all?

Mrs SHELLEY HANCOCK: No. It is a matter before NCAT now. I am certainly not going to comment on those investigations.

The Hon. MARK BUTTIGIEG: The fact that the matter has been referred to NCAT, does that then in and of itself preclude you from getting any briefings or knowledge of this matter as Minister for Local Government?

Mrs SHELLEY HANCOCK: As I have said to you before, Mr Buttigieg, I think, last time and this time, I do not become involved in individual investigations, code-of-conduct investigations. That is not what I do. Otherwise, I would spend all of my time being involved in, possibly, hundreds of code-of-conduct investigations throughout the State. That is not my role. It is the role of the OLG to do that.

The Hon. MARK BUTTIGIEG: Sure, Minister. But I would have thought that, as the responsible Minister, you would take an interest in a case that is quite concerning, given what has been reported and where we are up to. Mr Hurst, are you able to throw any light on this interview, whether or not Councillor Doueihi was interviewed—the process?

CORRECTED

Mr HURST: I understand that during the investigation there were several attempts to schedule an interview with the councillor, but in the end sufficient material was available in the documents that were provided so that the interview did not proceed.

The Hon. MARK BUTTIGIEG: Was there any reason as to why that did not end up going ahead?

Mr HURST: Sufficient documents were available so that it was not necessary to interview the subject of the investigation.

The Hon. MARK BUTTIGIEG: In terms of where we finally got up to after the investigation was finally carried out, can you give us an idea of when the report was handed down to Councillor Doueihi?

Mr HURST: There is a process the report goes through. A draft report is provided to the subject of an investigation for procedural fairness.

The Hon. MARK BUTTIGIEG: On what date was that finalised?

Mr HURST: The draft departmental report was provided to the subjects on 19 May 2020.

The Hon. MARK BUTTIGIEG: That gives us a time line of some 18 months after the initial complaint was made to the OLG simply for the draft report to be finalised. What is your view on that, Minister? Surely, you have a view on something.

Mrs SHELLEY HANCOCK: I have views on many things, Mr Buttigieg, but I will repeat—

The Hon. MARK BUTTIGIEG: You are the Minister for Local Government, so—

Mrs SHELLEY HANCOCK: You don't need to interrupt.

The Hon. TREVOR KHAN: I will take a point of order.

The Hon. MARK PEARSON: Point of order?

Mrs SHELLEY HANCOCK: I am not going to continue to be interrupted.

The Hon. MARK PEARSON: Sorry, Minister. A point of order has been taken.

Mrs SHELLEY HANCOCK: If you ask me a question, I will answer the question.

The Hon. MARK PEARSON: Minister, a point of order has been taken.

Mrs SHELLEY HANCOCK: Yes. Apologies, Mr Khan.

The Hon. TREVOR KHAN: No, no. I think I might rehash the Minister's observation. She just starts to answer a question, and Mr Buttigieg jumps into her. I understand the enthusiasm, but it is inappropriate. The Minister is entitled to answer the question uninterrupted.

The Hon. MARK PEARSON: Mr Buttigieg, I think the point of order is in place. Can we try to not have a repeat?

The Hon. MARK BUTTIGIEG: Thank you, Chair.

The Hon. SHAYNE MALLARD: Two in a row. Trevor, you're on a roll.

The Hon. MARK PEARSON: We're old mates. Thank you, Minister. You can now finish answering the question without interruption.

Mrs SHELLEY HANCOCK: Thank you. I have already answered the question. I do not—

Mr DAVID SHOEBRIDGE: Really a biased application.

The Hon. SHAYNE MALLARD: We all might try our luck in a minute.

The Hon. MARK PEARSON: Order! Minister.

Mrs SHELLEY HANCOCK: I have already answered the question.

The Hon. MARK BUTTIGIEG: Apologies, Minister, but with all due respect you have not. I asked you what your view is, on a delay of 18 months simply to hand down a draft report.

Mrs SHELLEY HANCOCK: I answered the question at the beginning, with your first question in terms of my involvement in these matters. They are restricted.

CORRECTED

The Hon. MARK BUTTIGIEG: It is a very straightforward and simple answer. Yes or no: Are you comfortable with an 18-month time period for a draft report into a mayor presiding over an LEP and planning decisions, who is found to have engaged in misconduct?

Mrs SHELLEY HANCOCK: I am not going to comment any further on that. I have indicated that to you quite clearly.

The Hon. MARK BUTTIGIEG: This is interesting, Minister. In certain circumstances, like Wingecarribee, you were very swift to act. But when we have a Liberal mayor, it seems as though you do not have a view on it. Can you see how this causes a problem with public perception and confidence in your office, and discharging your ministerial responsibilities? What do we have you there for if you are not prepared to make a decision or have a view?

Mrs SHELLEY HANCOCK: The situation with Wingecarribee Shire Council, which I am sure you are aware, certainly falls within my responsibility. Individual code-of-conduct complaints do not. I said that, and I have repeated it, and I am not going to say anything differently, however many times you want to ask me the question.

The Hon. MARK BUTTIGIEG: Can I ask you, Minister— ?

Mrs SHELLEY HANCOCK: Sure.

The Hon. MARK BUTTIGIEG: I am told the original report was completed by mid-2019. Was there any reason as to why that was not finalised?

Mrs SHELLEY HANCOCK: Mr Hurst can answer that question.

Mr HURST: Can I just say that that is not correct. Even as late as 7 August 2019, the office issued an order, a 440H order, for the production of documents. So, clearly, material was still being collected around mid-2019. The report was not concluded by that time, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: The person who was in charge of the investigation from the get-go, I understand, was a person by the name of Ms Noble. Is that correct?

Mr HURST: Various investigators are allocated to matters from time to time. I do not think it is relevant to dwell on the individual investigator who conducted the work.

The Hon. MARK BUTTIGIEG: I am asking you a straight question. Did Ms Noble have carriage of the investigation in its original inception?

Mr HURST: I am aware that the investigators changed during the period of the investigation and it had to be re-allocated to another investigator. But this does happen from time to time.

The Hon. MARK BUTTIGIEG: Was that person Ms Noble?

Mr HURST: I do not have the details of the individual people. Obviously, what is relevant is that investigators were allocated at OLG and that it became necessary to change investigators.

The Hon. MARK BUTTIGIEG: Mr Hurst, you are the Deputy Secretary of the Department of Local Government, and you cannot tell me whether or not a significant investigation of major public interest was headed up by a certain person. I am putting to you that it was Ms Noble, and you are not prepared to tell me or tell the Committee.

Mr HURST: I am not sure, Mr Buttigieg, why it is relevant who the investigator was—

The Hon. MARK BUTTIGIEG: It is relevant because I am asking the question, which I have a right to do, and the public has a right to know. So I am asking you the question directly: Yes or no?

Mr HURST: I will endeavour to get back to you later today on that question.

The Hon. MARK BUTTIGIEG: If you could also endeavour to get back to me on where Ms Noble is now working. According to a report in the *Saturday Daily Telegraph* dated 5 December 2020, the OLG referred the matter to NCAT. Can you tell us what the precise date of that referral was and on what basis the referral was made?

Mr HURST: The matter was referred to NCAT on 16 November 2020. The decision was mine, to refer the departmental report to NCAT.

The Hon. MARK BUTTIGIEG: Mr Hurst, that same article states that, and this is your quote, "I am satisfied that Councillor Doueihi has engaged in misconduct." New South Wales Office of Local Government

CORRECTED

Deputy Secretary Tim Hurst finds in a document obtained by the Saturday Telegraph." You have referred it to NCAT, as is your right under the Act to do so. Was there any reason why you did not use your powers under the Act to suspend Mr Doueihi there and then, which you also have the option to do, given that you found that he has engaged in misconduct?

Mr HURST: There were reasons for my referral. They were provided in my covering letter to the tribunal and also to the subject of the complaint. That material forms part of the matter that is before the tribunal, Mr Buttigieg. Those letters are confidential to the investigation.

The Hon. MARK BUTTIGIEG: But I am asking you in terms of your powers under the Act. I think it is one of the passages I have got here, you can take disciplinary action—these are your powers—including ordering the councillor to do certain things and suspending a councillor from civic office for a period of up to three months. We are talking about an 18-month investigation simply to hand down a draft report, to find out he was engaged in misconduct, to then tell the ratepayers of Strathfield, "I am not going to do anything about it. I will refer it to NCAT."

Mr HURST: That is not correct. It is not correct that I did not do anything about it.

The Hon. MARK BUTTIGIEG: You could have suspended him. Why did you not?

Mr HURST: The Act also says that I have the ability for more serious matters to provide them to the tribunal. That is what I chose to do under the legislation.

The Hon. MARK BUTTIGIEG: Does the Act say that those two things are mutually exclusive, in other words, you cannot do one without the other?

Mr HURST: That is my understanding. I have the choice of applying a sanction myself or referring the matter to the tribunal and I chose to refer to the tribunal.

The Hon. MARK BUTTIGIEG: So it is an either-or thing, is it, in the Act?

Mr HURST: That is my understanding, yes.

The Hon. MARK BUTTIGIEG: I see. Did you seek advice on that?

Mr HURST: Yes, there was legal advice provided to me as part of my consideration of the final departmental report.

The Hon. MARK BUTTIGIEG: And that advice was that it was an either-or proposition, not an "and"?

Mr HURST: I cannot discuss the legal advice.

The Hon. MARK BUTTIGIEG: Minister, can you see the problem here?

Mrs SHELLEY HANCOCK: Not at all.

The Hon. MARK BUTTIGIEG: Well, you have got a councillor who has engaged in misconduct, who is known to be a property developer, who was actually fined \$43,000 back in 2013 for a development in Burwood, who your own head of the department finds guilty of misconduct, and yet he is still presiding as mayor over LEP and planning decisions under your watch. What sort of operation are you running?

Mrs SHELLEY HANCOCK: I have answered the questions that you asked.

The Hon. MARK BUTTIGIEG: It is a serious question, Minister. You cannot just bat these things away. Tell us what you think. You get elected as a Minister of the Crown to represent people.

Mrs SHELLEY HANCOCK: I have answered the questions.

The Hon. MARK BUTTIGIEG: My God.

Mrs SHELLEY HANCOCK: Those matters were considered serious enough to be referred by Mr Hurst to NCAT. I think that should answer your question.

The Hon. MARK BUTTIGIEG: And we have got local government elections coming up in September with the prospect of the people of Strathfield still not knowing where they stand with regard to this fellow.

Mrs SHELLEY HANCOCK: That is a matter for NCAT.

Mr HURST: I understanding that NCAT has listed the matter for a hearing on 7 June.

CORRECTED

The Hon. MARK BUTTIGIEG: According to a *The Daily Telegraph* article dated 3 February 2019, Councillor Doueihi has 12 separate businesses where he is a director or secretary and the majority of those businesses are involved in real estate or property development. Is that the case, Minister or Mr Hurst?

Mr HURST: I cannot discuss the findings of the report, but it was a complex report.

The Hon. MARK BUTTIGIEG: Sure.

Mr HURST: Quite a great deal of material had to be obtained and this is part of the reason why, as you have observed, it took quite some time to finalise the departmental report into the matter.

The Hon. MARK BUTTIGIEG: Minister, it is true, is it not, that Councillor Doueihi is a member of the Liberal Party?

The Hon. SHAYNE MALLARD: I have never met him.

The Hon. MARK BUTTIGIEG: Yes? No?

Mrs SHELLEY HANCOCK: I do not know.

The Hon. SHAYNE MALLARD: I don't know either.

Mrs SHELLEY HANCOCK: I do not know. It is publicly out there, I suppose.

The Hon. MARK BUTTIGIEG: Presumably if he is a Liberal mayor he has to be a member of the Liberal Party.

Mrs SHELLEY HANCOCK: I suppose so, yes, but I am really not aware of this individual. I have not followed this. Mr Hurst has been dealing with it.

The Hon. SHAYNE MALLARD: There are 15,000 members in New South Wales, mate.

The Hon. MARK BUTTIGIEG: Sure.

Mrs SHELLEY HANCOCK: And I certainly do not know every one of them.

Mr DAVID SHOEBRIDGE: How many are mayors?

The Hon. SHAYNE MALLARD: Not enough.

Mr DAVID SHOEBRIDGE: One too many, at least. We can say that.

The Hon. MARK PEARSON: Order!

The Hon. MARK BUTTIGIEG: Minister, according to another *The Daily Telegraph* article from 4 December 2020, Mr Doueihi is a co-director and equal shareholder in DB and DD Sutherland Developments, a company which developed 24 apartment complexes in Sutherland worth an estimated \$15 million. Now, that particular development was the subject of a 2013 Land and Environment Court of NSW matter where Mr Doueihi was fined \$43,000. Would you say that that defined him as a property developer under the Act?

Mrs SHELLEY HANCOCK: Mr Hurst?

Mr HURST: So, the—

The Hon. MARK BUTTIGIEG: I am sorry, the question was directly to the Minister. Is the Minister saying that you do not understand?

The Hon. CATHERINE CUSACK: Point of order—

The Hon. TREVOR KHAN: Point of order—

The Hon. MARK PEARSON: A point of order has been taken.

The Hon. TREVOR KHAN: My point of order is two: Firstly, for the third time, as the Minister is answering, she is interrupted again. The second component of the point of order is that the Minister is entitled to answer the question as the Minister chooses and that includes referring it to one of the other witnesses at the table. The interjections that the member makes in that regard are inappropriate.

The Hon. MARK PEARSON: Ms Cusack?

The Hon. CATHERINE CUSACK: Yes, only to add that it is the Labor Party members who have requested all of these advisers and people to attend the hearing. It just seems particularly ironic that when the Minister seeks to refer the answer to the appropriate person—

CORRECTED

The Hon. MARK BUTTIGIEG: To the point of order—

The Hon. CATHERINE CUSACK: —often people requested by members of the Labor Party—the Labor Party then interjects and tries to prevent her doing so. It is just inappropriate and she is entitled to answer the question as she likes.

The Hon. MARK PEARSON: Sure, I understand the point of order. Mr Buttigieg?

The Hon. MARK BUTTIGIEG: To the point of order: The fact that we invite public servants along surely does not presuppose that I cannot ask the Minister a direct question and expect a direct answer. That is the fundamental basis of these Committees, is it not? I would have thought.

The Hon. MARK PEARSON: My view is that if the Minister says that she is not able to answer the question as an honest answer, then it would be logical for her to refer the question to an adviser who may be able to answer the question. I think it is acceptable for the Minister to refer the question to an adviser, and we will leave it at that. Mr Hurst?

Mr HURST: I was just going to point out that "property developer" is actually a defined term in legislation and that legislation is administered by the New South Wales electoral commissioner, rather than by the Office of Local Government or under the Minister for Local Government's legislation.

The Hon. MARK BUTTIGIEG: Sure. Again, Minister—

The Hon. MARK PEARSON: I am sorry. We will have to now move on to the crossbench. At the moment it is only Mr Shoebridge of the crossbench who has questions, unless someone arrives. You have 20 minutes, Mr Shoebridge.

Mrs SHELLEY HANCOCK: Oh, no.

Mr DAVID SHOEBRIDGE: Thanks, Mr Chair.

The Hon. MARK PEARSON: Enjoy.

Mr DAVID SHOEBRIDGE: Feel free to step in when you wish, Chair.

The Hon. CATHERINE CUSACK: Can I just temporarily join the crossbench, please?

Mr DAVID SHOEBRIDGE: No. Minister and officials, it is nice to see you.

Mrs SHELLEY HANCOCK: It is nice to see you too, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Minister, my colleague was asking questions about one person who, on the face of it, appears to be both a property developer—

The Hon. MARK PEARSON: Mr Shoebridge, could you move your microphone? The other one, actually.

The Hon. TREVOR KHAN: He is rarely accused of being sotto voce.

Mr DAVID SHOEBRIDGE: I am not going to have both of them.

The Hon. MARK PEARSON: We want to hear every consonant.

The Hon. CATHERINE CUSACK: Big, bold voice, David. Give it your best.

The Hon. TREVOR KHAN: Including the heavy breathing through clenched teeth.

Mr DAVID SHOEBRIDGE: I will try and be less shy and retiring.

The Hon. MARK PEARSON: Order!

Mrs SHELLEY HANCOCK: So will I.

Mr DAVID SHOEBRIDGE: Excellent. Minister, my colleague was asking you a series of questions about one councillor who, on the face of it, is a property developer and a mayor at the same time. Do you know at the moment how many councillors are engaged in the business of property development as well as sitting on council at the same time? Have you done an audit or a review?

Mrs SHELLEY HANCOCK: No.

Mr DAVID SHOEBRIDGE: Do you know how many are real estate agents and also councillors at the same time?

CORRECTED

Mrs SHELLEY HANCOCK: No. I have not participated in an audit. Do we have those kinds of figures available to us, Mr Hurst?

Mr HURST: No. The office does not collect that information.

Mrs SHELLEY HANCOCK: No, I did not think so.

Mr DAVID SHOEBRIDGE: Minister, you are on record as calling for a lifting in the rise of standards for councillors. Would that be fair to say?

Mrs SHELLEY HANCOCK: Yes, certainly in recent events with a couple of councils involved. Certainly lifting the standards of behaviour in the chamber—that has been of concern to me, certainly.

Mr DAVID SHOEBRIDGE: But lifting standards more broadly amongst local government and particularly amongst councillors—I seem to recall a quote from you saying that councillors need to take a good look at themselves. Would that be an accurate quote?

Mrs SHELLEY HANCOCK: Absolutely.

Mr DAVID SHOEBRIDGE: Well, Minister, one of the most obvious ways of removing conflicts of interest and providing community support for the local government sector would be to pass laws to remove conflicts of interest, would it not? To actually use the Local Government Act to remove conflicts of interests for councillors would be a good starting point, would it not?

Mrs SHELLEY HANCOCK: Well, that is your view. It is not, at this stage, my view. I think in terms of, as you are saying, removing conflicts of interest—I do not quite know what you mean by that. Do you mean removing the ability of property developers to run for council or real estate agents to run for council? Is that what you are endeavouring to say or ask me?

Mr DAVID SHOEBRIDGE: You have jumped right there, Minister.

Mrs SHELLEY HANCOCK: Well, absolutely.

Mr DAVID SHOEBRIDGE: Why has your Government not yet done the most obvious thing to lift standards in local councils by making it unlawful for people who are property developers to run for council? Why are you not saying to property developers, "You can choose. If you want to be a property developer, fine. Go for your life. But if you want to be a councillor, you cannot be a property developer and a councillor at the same time because of the obvious conflict of interest." Why will you not just say that and put it in the Act?

Mrs SHELLEY HANCOCK: Well, at this stage, the Government has not decided to take that course of action at all. What we have done is tighten up the regulation in respect of a declaration of interest, and that goes to the heart of the problem—that is, failure to declare conflicts of interest. But if you start to ban a certain class of people from running for election—

The Hon. SHAYNE MALLARD: Where do you stop?

Mrs SHELLEY HANCOCK: —then where do you end? I think a real estate agent is entitled to run and if the electors in, say, September this year decide that they do not have an appetite to elect real estate agents—and they will have to declare that when they actually run—then they will not be elected to those positions.

Mr DAVID SHOEBRIDGE: But Minister—

Mrs SHELLEY HANCOCK: It does not mean to say that they are acting unlawfully if they are real estate agents.

Mr DAVID SHOEBRIDGE: Sorry, I did not mean to cut you off. Minister, I could cite case after case after case after case of scandals at local government level because people are being property developers by night—or by day often—property developers by day and councillors by night.

The Hon. CATHERINE CUSACK: Point of order: The purpose of this hearing is to elicit information in relation to budget estimates. What we are hearing now is a debate about a government policy. I would draw the member back to the budget estimates. The Minister has answered the question that he has asked her, and now we are engaged in a policy debate that is unrelated to budget estimates.

Mr DAVID SHOEBRIDGE: To the point of order: This member has made the same point of order on maybe 30 different occasions in budget estimates meetings that I have been in. It has not succeeded once because there have been repeated rulings that budget estimates questions are very broad.

The CHAIR: That is correct.

CORRECTED

Mr DAVID SHOEBRIDGE: It is simply time wasting again for the member to make another failed effort at it.

The Hon. CATHERINE CUSACK: If you want to keep arguing with the Minister like this, I will keep taking my point of order, Mr Shoebridge.

The CHAIR: I will rule on it now. There is no point of order because budget estimates does have a very broad capacity for questions. I do think the questions were relevant to budget estimates at this point.

Mr DAVID SHOEBRIDGE: Minister, there is scandal after scandal after scandal of property developers being on council and having their interests as property developers get in the way of the best interests of local residents. Why will you not just legislate to say they cannot do that, that they have to choose? If you want to be a property developer, fine; if you want to be a property developer, you cannot do both. Why will you not just make that simple choice?

Mrs SHELLEY HANCOCK: As I have said, the Government is not contemplating that course of action at this stage, but I am quite happy to have further discussions with you about this matter at a later time. In terms of real estate agents, I do not think banning classes of particular sectors of the population is the right way to go. It is about strengthening integrity measures within the code of conduct to ensure that declarations of interest are made and that there are penalties if they are not followed.

Mr DAVID SHOEBRIDGE: How many Liberal councillors are also property developers?

Mrs SHELLEY HANCOCK: I do not know.

Mr DAVID SHOEBRIDGE: Mr Hurst?

Mr HURST: The office does not collect that information.

Mr DAVID SHOEBRIDGE: Two councillors on the Georges River Council, Councillor Hindi and Councillor Badalati: Do you know what political affiliations they have?

Mrs SHELLEY HANCOCK: I believe Councillor Hindi is Liberal. I believe the other councillor is Labor, but I am not 100 per cent sure.

Mr DAVID SHOEBRIDGE: I am pretty sure you are right.

Mrs SHELLEY HANCOCK: Yes.

Mr DAVID SHOEBRIDGE: Mr Hurst, have you been provided with any information about any referrals to ICAC regarding either of those councillors in relation to their council duties?

Mr HURST: The very nature of the question is that if the matter has been referred to ICAC I am not able to discuss the details of any involvement that the office has.

Mr DAVID SHOEBRIDGE: You will have to tell me what the legislative prohibition is, Mr Hurst, because I am asking you whether or not you have been advised if Mr Hindi and Mr Badalati have been referred to ICAC. It is a simple question. You are obliged to answer simple questions at least in budget estimates unless you have a statutory prohibition, so I will press it: Have you been advised whether councillors Hindi and Badalati have been referred to ICAC?

Mr HURST: I am also aware of the secrecy provisions, Mr Shoebridge—

Mr DAVID SHOEBRIDGE: Which one?

Mr HURST: —in the ICAC legislation.

Mr DAVID SHOEBRIDGE: And you are saying they prevent you telling a budget estimates committee whether you are aware that Councillor Hindi and Councillor Badalati have been referred to ICAC? Is that your evidence?

Mr HURST: I have seen material from the council that suggests that. I have not spoken with ICAC, and I cannot go into any further detail apart from the material that is in the public realm about that referral.

Mr DAVID SHOEBRIDGE: Sorry, I am not asking you about your communications with ICAC. There may well be good public policy if not legal reasons not to engage in that discussion here, but I am going to ask you again: Have you, in your capacity as a public servant in the Office of Local Government, received any notification about ICAC referrals from the council or from any source other than ICAC regarding councillors Hindi and Badalati?

CORRECTED

Mr HURST: I understand that the council had written to us about ICAC's correspondence to them that there is an investigation underway by ICAC, but that material is in the public realm, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Will you provide that correspondence to the Committee please?

Mr HURST: I will endeavour to get that for you later today.

Mr DAVID SHOEBRIDGE: Thank you. Minister, are you aware of the fact that Georges River Council appears to have repeatedly—at least one of its former constituents appears to have repeatedly under—sorry, I will rephrase it. Minister, are you aware that one of the former constituent parts of Georges River Council, one of the prior councils, had repeatedly failed to require property developers to pay the appropriate levy into council that was charged on their developments, and it was a systemic failing? Are you aware of that?

Mrs SHELLEY HANCOCK: No, I am not aware of that.

Mr DAVID SHOEBRIDGE: Mr Hurst?

Mr HURST: I have seen some media reports on this issue.

Mr DAVID SHOEBRIDGE: Sorry, Mr Hurst, are you saying the only notification you have got about an apparent systemic failure to require developers to pay millions of dollars of public levies is through media reports? You have not had any formal communication from council or any other communication, just through media? Is that what you are telling us, Mr Hurst?

Mr HURST: Not that I am aware of. Mr Shoebridge, I am aware of it through media reports. It is possible that there has been notifications to the office. I would not necessarily know of all of the correspondence we receive.

Mr DAVID SHOEBRIDGE: Alright. Would you make some investigations and perhaps provide us with any information that you have or any details you have about referrals to the office?

Mr HURST: I will endeavour to get back to you later today.

Mr DAVID SHOEBRIDGE: Minister, have you read the media reports that suggest that Georges River Council has referred to ICAC the so-called leaking of information about the systemic failure to charge developers or to make the developers pay the public levies? Are you aware of any motion or resolution by the council to refer the leaking of that information to ICAC?

Mrs SHELLEY HANCOCK: No, I am not.

Mr DAVID SHOEBRIDGE: Mr Hurst?

Mrs SHELLEY HANCOCK: I do not usually take my sources of information from the media, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Well then, have you had a briefing from the Office of Local Government?

Mrs SHELLEY HANCOCK: No, I have not.

Mr DAVID SHOEBRIDGE: So if you do not get it from the media and you do not get it from the Office of Local Government, do you have a policy of blissful ignorance about these kinds of things, Minister?

Mrs SHELLEY HANCOCK: No, I would expect a briefing at the appropriate time on any subject—at the appropriate time.

Mr DAVID SHOEBRIDGE: If you have a council that is the subject of multiple ICAC referrals and the systemic undercharging of developers, cheating their residents of millions of dollars of revenue, is that something you would expect a briefing on?

Mrs SHELLEY HANCOCK: I think you are making assertions here, and I am not aware of the veracity of those assertions at this stage, but I do say and do reiterate what Mr Hurst has said, and that is: Those matters are under investigation and I do not think we can comment further if they are under investigation.

Mr DAVID SHOEBRIDGE: No, but, Minister, if you had read the media reports, you would at least have an understanding that what is under investigation is not the systemic undercharging of developers and the cheating of residents of millions of dollars, but what is under investigation is the brave whistleblowers who have come out and blown the whistle on it. Do you think that is appropriate?

Mrs SHELLEY HANCOCK: Again, I am saying you are basing your question and your assertions on media reports. I do not do that. I would rather—

CORRECTED

Mr DAVID SHOEBRIDGE: Wait for a non-existent briefing from the Office of Local Government.

Mrs SHELLEY HANCOCK: Well, why would you say "non-existent"? I just said that at the conclusion of these matters and their investigations, I will of course receive a briefing when they come to a conclusion.

Mr DAVID SHOEBRIDGE: Minister, so you are going to wait until after the attack on the whistleblowers is completed by the council and then maybe, potentially, a briefing from the Office of Local Government before you do anything to check whether or not one of the councils under your watch has been systemically undercharging developers and cheating the public of millions of dollars. You are going to wait until the whistleblowers are attacked and that attack concludes. Is that right?

Mrs SHELLEY HANCOCK: Again, I think I have said in response to a question from Mr Buttigieg, I do not on a daily basis become involved in individual councillor matters. Mr Hurst and the Office of Local Government are highly professional in their treatment of these matters and their response to these matters. I think he has explained, and so have I, where we are at at this stage in terms of possible investigations and why we really should not comment any further.

Mr DAVID SHOEBRIDGE: No, no—

Mrs SHELLEY HANCOCK: I know you can look disappointed in my answer, but that is about it.

Mr DAVID SHOEBRIDGE: Minister, I have been listening to Mr Hurst. He says he is not even aware of the ICAC referral against the whistleblowers. There is no appropriate investigation to come to a conclusion: nothing is happening, it is like a ghost town.

Mrs SHELLEY HANCOCK: I think he did state that there was—Mr Hurst. That is an assertion which is untrue.

Mr HURST: Mr Shoebridge, I have said that I will come back to you if it is possible with the material that the office holds about that. But I am also concerned that the moment that you start talking about matters that have been referred to ICAC that there are secrecy obligations there. I am concerned to have a public debate about matters that ICAC may be investigating.

Mr DAVID SHOEBRIDGE: Mr Hurst, if we could not talk about referrals to ICAC in Parliament, there would be huge swathes of this current Government's conduct that would be under a blanket silencing provision. That is not the state of the law. The status quo is this, Minister, that you are not going to do anything to ensure that the whistleblowers are protected on Georges River Council; you are going to allow the vindictive majority to persecute the whistleblowers on Georges River Council. Is that the status quo?

Mrs SHELLEY HANCOCK: As I said, these are your assertions, not mine. At this stage I do not want to say anything further given the nature of the questions you have been raising in relation to ICAC. I do not think there is anything further I can add. However many times you want to put the question in a different way, you are not going to get the answer perhaps you would like.

Mr DAVID SHOEBRIDGE: Well, it is not a question of the answer that I would like—

Mrs SHELLEY HANCOCK: Oh yes it is.

Mr DAVID SHOEBRIDGE: —I think it is the answer that the people of New South Wales would like: that as Minister you are going to step in and protect whistleblowers who blow the whistle on developers being gifted millions and millions of dollars of public money. That is an answer that the people of New South Wales would like answered, do you not think, Minister?

Mrs SHELLEY HANCOCK: I have answered the question.

Mr DAVID SHOEBRIDGE: Minister, you went on record recently and said that councillors need to take a good look at themselves, you have no tolerance for petty politics and you have no tolerance for poor behaviour at a local council level. Is that right?

Mrs SHELLEY HANCOCK: Yes.

Mr DAVID SHOEBRIDGE: Do you apply the same standards to your colleagues in the State Parliament, many of whom, current and former, are before ICAC for worse things than petty politics—for pork-barrelling and non-disclosed relationships and the shredding of documents? Do you apply the same standards to your parliamentary colleagues?

Mrs SHELLEY HANCOCK: Why would I have a role in applying standards to my parliamentary colleagues? My role as the local government Minister is to pass comment on some pretty unacceptable behaviour

CORRECTED

in council chambers by a number of councils, most recently Wingecarribee Shire Council. That is my role as the local government Minister. I do not know why you would ask me to apply a similar set of circumstances or standards to my parliamentary colleagues. I am not the Speaker; I am not the Presiding Officer. I do not understand your question at all. It is a silly question.

Mr DAVID SHOEBRIDGE: Well, if you want councils to follow your direction and follow the direction of the State Government Minister for Local Government, they only have to open up any paper on any given day to find members of the Coalition the subject of ICAC inquiries, being stood down for scandals, having their office illegally destroy records. Do you not think the level of hypocrisy in having a Liberal Minister lecture councillors about good behaviour at the moment is something that should be taken—

The Hon. SHAYNE MALLARD: Point of order: This is a kite-flying exercise line of questioning of the Minister to draw parallels of activities in the Parliament to her role as Minister and enforcing the code of conduct or oversighting the code of conduct of councils. I think we need to get back to the portfolio and the specifics of the budget estimates.

Mr DAVID SHOEBRIDGE: To the point of order: I do not understand the standing orders have a prohibition on kite flying.

Mrs SHELLEY HANCOCK: Oh, really? Maybe there should be, Mr Chair.

The Hon. MARK PEARSON: I will allow the questioning to continue, but I think we need to take note of Mr Mallard's point. At this point I do not think it is worth stopping your questioning.

Mr DAVID SHOEBRIDGE: Minister?

Mrs SHELLEY HANCOCK: Yes, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: I could ask the question again.

Mrs SHELLEY HANCOCK: Yes, go on.

Mr DAVID SHOEBRIDGE: Do you remember the question?

Mrs SHELLEY HANCOCK: No, you have asked it several times, you can ask again.

Mr DAVID SHOEBRIDGE: I am more than happy to just get the answer.

Mrs SHELLEY HANCOCK: I will give you the answer I am going to give you. It will be what it is going to be.

Mr DAVID SHOEBRIDGE: Alright, here I am. I am waiting.

Mrs SHELLEY HANCOCK: Is it a different question?

Mr DAVID SHOEBRIDGE: It is the same question. The question has been asked but you have not given the answer.

Mrs SHELLEY HANCOCK: What was a question again, Mr Shoebridge? I was distracted.

Mr DAVID SHOEBRIDGE: Yes, well it was quite distracting. The nub of it was this: Do you not recognise the sheer hypocrisy in a Liberal Government Minister suggesting that councillors, most of whom work for next to nothing for their communities, should take a good hard look at themselves and lift their standards, given the fact that your Government has multiple Ministers before ICAC, has ministerial offices that illegally shred documents and is so scandal ridden?

The Hon. CATHERINE CUSACK: Point of order—

Mr DAVID SHOEBRIDGE: Do you not think you should deal with that hypocrisy?

The Hon. MARK PEARSON: Ms Cusack has taken a point of order.

The Hon. CATHERINE CUSACK: The question appears to be, "Do you not recognise hypocrisy?" I would say, first of all, that that is imputation, which is inappropriate. Secondly, it is not a valid question.

The Hon. MARK PEARSON: I uphold the point of order, thank you. Mr Shoebridge, could you move onto a different vein? You have 30 seconds left. Actually, it is one second. We will move to the Opposition.

The Hon. MARK BUTTIGIEG: Minister, you said in your previous answers that you did not know if Councillor Mayor Doueihi was a member of the Liberal Party. Have you ever met Councillor Doueihi?

Mrs SHELLEY HANCOCK: No, I have not.

CORRECTED

The Hon. MARK BUTTIGIEG: You have not?

Mrs SHELLEY HANCOCK: No.

The Hon. MARK BUTTIGIEG: You never had dealings with him?

Mrs SHELLEY HANCOCK: No.

The Hon. MARK BUTTIGIEG: I want to take you back to this business about the 2013 fine in the Land and Environment Court. This is a matter of public record. When I asked you whether or not you understood what a "property developer" means under the Act, you said, "I will get Mr Hurst to understand that." Is it within your comprehension to understand how that Act works? In other words, if someone is fined \$43,000 in the Land and Environment Court because they added four additional boarding houses to their rooms in Burwood Road—illegal developments—they are a property developer as defined under the Act, and is your evidence today that you do not understand how that connection could be made?

Mrs SHELLEY HANCOCK: No, I am not saying I do not understand how that connection could not be made at all. I can see how the connection was made.

The Hon. MARK BUTTIGIEG: Thank you, Minister. So do you think that Councillor Doueihi is a property developer as defined under the Act?

Mrs SHELLEY HANCOCK: It would appear so.

The Hon. CATHERINE CUSACK: That is a legal question of opinion that you are asking.

Mrs SHELLEY HANCOCK: And I said it would appear so.

The Hon. MARK BUTTIGIEG: Did you become aware, as a result of the investigations into Councillor Doueihi, that he was a property developer as defined under the Electoral Act?

Mrs SHELLEY HANCOCK: I have said before I do not become involved in individual investigations of individual councillors or any—

The Hon. MARK BUTTIGIEG: So there were no—

Mrs SHELLEY HANCOCK: Excuse me. So, again, this matter can be referred to Mr Hurst because that is what he deals with: individual investigations. I do not.

The Hon. MARK BUTTIGIEG: Just a follow-up on that: So there were no conversations between Mr Hurst or anyone in the department of OLG about the fact that Councillor Doueihi was known to be a property developer as a by-product of those investigations?

Mrs SHELLEY HANCOCK: Who are you asking?

The Hon. MARK BUTTIGIEG: I am asking you.

Mrs SHELLEY HANCOCK: Well, I have just answered the question in terms of my non-involvement in individual investigations. I am not aware of any conversations because I was not involved in matters.

The Hon. MARK BUTTIGIEG: No briefing notes?

Mrs SHELLEY HANCOCK: No.

The Hon. MARK BUTTIGIEG: No?

Mrs SHELLEY HANCOCK: No.

The Hon. MARK BUTTIGIEG: Mr Hurst?

Mr HURST: No. I can categorically say that the process of investigating and the preparation of the departmental report is conducted wholly within the Office of Local Government. The Act makes quite a clear separation in those functions.

The Hon. MARK PEARSON: I would just like to ask a question there.

The Hon. MARK BUTTIGIEG: Sure.

The Hon. MARK PEARSON: Mr Hurst, what occurs to trigger you actually speaking to the Minister and advising her that there is a matter before you which is of immense interest or she needs to be briefed about? Is there a point at which there is a trigger for you to pick up the phone or walk down the hallway and advise the Minister?

CORRECTED

Mr HURST: We do not prepare reports or briefings, no. Normally we would advise the Minister's office on the day that something was going to be—so, for example, a statement of reasons on a misconduct matter—issued. We would advise the Minister's office that day that a statement of reasons is being published departmentally about a councillor at that time.

The Hon. MARK PEARSON: So you would not advise the Minister at an early point in an investigation or an inquiry, you would wait until certain facts were before you? Is that correct?

Mr HURST: No, until it was concluded, Mr Chair.

The Hon. MARK BUTTIGIEG: Mr Hurst, does the Act preclude you from briefing the Minister on the progress of the investigation?

Mr HURST: The Act provides that the investigative powers rest with the departmental chief executive.

The Hon. MARK BUTTIGIEG: No, that is not what I asked. I did not ask about investigative powers. I asked whether or not the Act precludes you from briefing the Minister on the progress of the investigation?

Mr HURST: I am not an expert on the Act. I think I would have to take that question on notice.

The Hon. MARK BUTTIGIEG: If you are not, who is? You are the Deputy Secretary of the OLG. Minister, are you across this Act?

Mr HURST: I can confirm that the powers rest with me. The Act does not contemplate any role for the Minister in individual misconduct or pecuniary interest matters. Whether there is a positive exclusion of the provision of inflation to the Minister about those matters, as I said, I will need to take that on notice.

The Hon. MARK BUTTIGIEG: Minister, do you ever ask for briefings? It appears to me as though this answer is quite vague in terms of the rights under the Act for the deputy secretary to brief you. It appears as though he or she can. Do you ever ask for briefings on the progress of an investigation?

Mrs SHELLEY HANCOCK: On an investigation, no. That is not my role.

The Hon. MARK BUTTIGIEG: This is another case of "I do not need to know".

Mrs SHELLEY HANCOCK: Not at all.

The Hon. MARK BUTTIGIEG: What are we doing here? Are we running protection rackets for Liberal mayors, are we? Is that the point of it?

The Hon. SHAYNE MALLARD: Point of order—

The Hon. TREVOR KHAN: Point of order: This is getting somewhat out of hand.

Mrs SHELLEY HANCOCK: I really resent those implications, Mr Buttigieg.

The Hon. MARK PEARSON: Points of order have been taken so we might listen to them, but I have a pretty good idea what they will be.

The Hon. SHAYNE MALLARD: I think you should withdraw that imputation on the Minister.

Mrs SHELLEY HANCOCK: That is insulting.

The Hon. MARK PEARSON: I uphold the point of order. I think you just need to pull that particular imputation back.

The Hon. MARK BUTTIGIEG: Sure. I will go back to the question, Mr Hurst, about the understanding of the Electoral Act and the nature of a property developer. Presumably, during the course of the investigation, you are made aware that Councillor Doueihi is a property developer as defined under the Electoral Act. Is that the case?

Mr HURST: I cannot comment on that, Mr Buttigieg. There is an investigation report. It has been finalised. It is before the courts.

The Hon. MARK BUTTIGIEG: You might recall, coming out of last year's estimates, we tabled a document where Councillor Doueihi declared in his return that he was not a property developer. That was tabled. It is a public document. You did not do any follow-up to crosscheck as to whether or not the veracity of that submission stood up, and you have done nothing subsequently, as is your obligation and indeed your power, to refer it to the Electoral Commission or the NSW Police?

Mr HURST: I can confirm that following that previous budget estimate session, OLG received correspondence alleging that the councillor had breached the Oaths Act in his electoral declaration. That

CORRECTED

information had not been provided to OLG previously. It related to the allegations made here at the budget estimates session that he was a property developer and had failed to declare that in his electoral material as required. This is a matter for the Electoral Commission. So on 23 September 2020 OLG referred the allegation to the Electoral Commission for its consideration and necessary action. The complainant was advised of this referral on the same day.

The Hon. JOHN GRAHAM: Have you had any further advice since that referral?

Mr HURST: I do not have that information with me.

The Hon. JOHN GRAHAM: Could you take that on notice?

Mr HURST: Yes, I am happy to take that on notice. I should say, just additionally, the complainant was also advised that any concerned person could raise their concern with the Electoral Commission or with the police force.

The Hon. MARK BUTTIGIEG: Minister, are you also aware that Councillor Doueihi has donated money to the Liberal Party?

Mrs SHELLEY HANCOCK: I am not aware of that. It is really not a matter for my portfolio. I am not aware, no.

The Hon. MARK BUTTIGIEG: For the benefit of the Committee and yourself, Minister, it sounds like you are a bit short on information. In the local government candidate's return on 1 July 2017, there was a \$10,000 donation by A. Doueihi to a pooled fund for a council campaign.

The Hon. SHAYNE MALLARD: Point of order: It is well established by both major parties that matters of donations and disclosures—the document he is referring to is a Liberal Party document. These matters are not matters for the Minister to be involved with. They are matters for the party and the State secretariat, not one for the Minister to be aware of. It is not a Government matter.

The Hon. JOHN GRAHAM: To the point of order: That may well be relevant to how the Minister answers it, but the question has got to be put before the Minister can answer in that form.

The Hon. CATHERINE CUSACK: To the point of order: This legislation is administered by the Premier, not administered by the Minister for Local Government, and so the questions are actually misdirected by being directed to this Minister.

The Hon. MARK BUTTIGIEG: To the point of order: The context is that these are publicly available documents. So the context is that we have a Liberal mayor who is under a cloud, whom the Minister has a responsibility to inform herself about regarding his integrity and who is a sitting mayor. The context and the evidence go to that very line of questioning, which is why I am presenting the evidence.

The Hon. MARK PEARSON: I will rule on that now. All you can do, Mr Buttigieg, is ask the question and seek the answer, and the Minister will give the answer as to whether she is aware of it or not. And maybe you might be able to garner more elucidation by further questioning, but once the question is answered in that particular way I do not think you are going to get any further. So can you just ask the question again or slightly differently and the Minister will answer and I am sure the Minister will give the answer as honestly as she knows.

The Hon. MARK BUTTIGIEG: I understand. Thank you, Chair. Minister, as I understand, you are not aware of a \$10,000 donation to the council campaign, to a pooled fund, you are not aware of a \$9,981 donation to Liberal councillor and mayor Vaccari, and you are not aware in the local government return of 1 July 2015 of a donation of \$5,770, nor are you aware of close associates Phillip Doueihi and Lowdi Doueihi each donating \$3,100 and \$1,500 to the NSW Liberal party, respectively.

The Hon. MARK PEARSON: Minister, you can answer those questions separately if you wish.

The Hon. TREVOR KHAN: Or in globo.

Mrs SHELLEY HANCOCK: No, I will answer them in globo. I will say to you, I am not aware of donations made to Liberal Party councillors or Labor Party councillors or Greens councillors or independent councillors throughout the State. It is not part of my role as the Minister for Local Government to know. And I do not know and I am not aware. And I am sure there are donations made to the Labor Party councillors as well.

The Hon. MARK BUTTIGIEG: I am sure there are.

Mrs SHELLEY HANCOCK: Yes. Maybe you could ask questions about those.

CORRECTED

The Hon. MARK BUTTIGIEG: I am going to ask you another question, Minister Hancock. I am asking you questions. You are the Minister and you are here—

Mrs SHELLEY HANCOCK: I have answered the question.

The Hon. MARK PEARSON: Order! Can we just have a question and an answer. Thank you.

The Hon. MARK BUTTIGIEG: Minister Hancock, it is a matter of public record that the Office of Local Government has found that Liberal mayor of Strathfield Antoine Doueihi failed to declare his interest as a property developer. Do you accept that?

Mrs SHELLEY HANCOCK: That is the subject of a media report. I am not going to discuss it because the matter, as has been canvassed for most of the morning, is before NCAT.

The Hon. MARK BUTTIGIEG: Do you accept that Councillor Doueihi has been found to have engaged in misconduct by your own—

Mrs SHELLEY HANCOCK: The matter is before NCAT, and I am not going to pre-empt the outcome of an NCAT investigation by commenting here this morning, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: I put it to you that that is the case Minister, and it is also a matter of public record that Mr Doueihi donated well in excess of \$10,000 to a group of Liberal candidates seeking election. Do you think that the department has failed in not referring its findings to ICAC?

The Hon. SHAYNE MALLARD: An hour of muckraking. What about rates? Let her talk about rates.

The Hon. MARK PEARSON: Order! Minister?

Mrs SHELLEY HANCOCK: Sorry, repeat the question.

The Hon. MARK BUTTIGIEG: Do you think that the department has failed in its obligation by not referring its findings to ICAC?

Mrs SHELLEY HANCOCK: I do not believe that my department has failed in any way with respect to actions regarding this councillor and, as I have said and repeated again and again, the matter is before NCAT and I will not be commenting any further on the investigation. It will all become publicly available at the appropriate time. I think it is listed for 7 June, Mr Buttigieg, so you will have to wait until then.

The Hon. MARK BUTTIGIEG: So you are not aware that your department has found Mr Doueihi engaged in serious misconduct? Not aware? Do not know?

Mrs SHELLEY HANCOCK: No. I think it has been explained to you what my role is as Minister. And the investigations—

The Hon. MARK BUTTIGIEG: It sounds like your role is "I do not need to know".

The Hon. TREVOR KHAN: Point of order—

Mrs SHELLEY HANCOCK: It might sound like that to you, Mr Buttigieg, but that is not the case.

The Hon. MARK PEARSON: I uphold the point of order. Please do not interject when the Minister is actually giving an answer that we really want to listen to.

Mrs SHELLEY HANCOCK: Thank you, Mr Chair, for your respect.

The Hon. MARK BUTTIGIEG: Again, Minister, you are not aware that the department has found that Mr Doueihi has hid his interest in property development companies? You know nothing about that?

Mrs SHELLEY HANCOCK: No. I think it has been explained to you, Mr Buttigieg.

The Hon. CATHERINE CUSACK: Have you got any different questions, by any chance?

Mrs SHELLEY HANCOCK: The investigative role is for the OLG. That is not my role.

The Hon. MARK BUTTIGIEG: And you have definitely not at any time sought a briefing from the department on this matter?

Mrs SHELLEY HANCOCK: No.

The Hon. MARK PEARSON: I think we will move on, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Minister, there was a return in the 2017 year for the Strathfield Council local government and there were two listings on that return. One was Christmas drinks with the Premier

CORRECTED

of New South Wales and the other was a night with the Premier. They were donations that were made, we understand, by a real estate agent. Are you aware of any function that the Premier would have attended in aid of a local government campaign?

Mrs SHELLEY HANCOCK: No, I am not aware.

The Hon. SHAYNE MALLARD: Ask the Premier.

The Hon. MARK BUTTIGIEG: You are not aware of that?

Mrs SHELLEY HANCOCK: Not at all. It is certainly a question better directed to the Premier.

The Hon. CATHERINE CUSACK: Is there any new material at all for questions today?

The Hon. MARK PEARSON: Order! Another question?

The Hon. CATHERINE CUSACK: It is just turgid, I'm sorry.

The Hon. MARK BUTTIGIEG: Minister, can you understand why a journalist like Anna Caldwell is giving you a "Z" rating in her annual review of ministerial performance? We have got a situation where the OLG has had two years to investigate and flicked it off to NCAT. This fellow is still presiding over a council and dealing with local environment plans [LEPs] and planning matters. He is clearly a property developer and has been found to engage in misconduct, and he still sits there presiding over decisions which affect the ratepayers of Strathfield. You are telling me you know nothing about it and you do not want to know. What is the issue here?

Mrs SHELLEY HANCOCK: The issue here is due process, Mr Buttigieg, and I find your comments quite insulting. I am not going to be bullied by you into giving you an answer that I am not prepared to give you. I have answered your questions to the best of my ability. That is the end of it.

The Hon. MARK BUTTIGIEG: Minister, I put to you that being a Minister of the Crown comes with responsibility—

Mrs SHELLEY HANCOCK: And I take them seriously.

The Hon. MARK BUTTIGIEG: —and the responsibility to be across your brief—

Mrs SHELLEY HANCOCK: So I will interrupt you now.

The Hon. MARK BUTTIGIEG: —and your ministry.

Mrs SHELLEY HANCOCK: I take those responsibilities seriously every single day.

The Hon. MARK BUTTIGIEG: Well, so do we, Minister.

Mrs SHELLEY HANCOCK: Hardly.

The Hon. MARK BUTTIGIEG: So do we. And the people of New South Wales deserve to understand what is going on in their councils.

The Hon. MARK PEARSON: Order! Mr Buttigieg, we need a question.

The Hon. MARK BUTTIGIEG: I just want to take you to another matter, Minister, which goes to transparency—something which has been the context of this morning's discussion—about councils not publishing their disclosures. On Sunday 9 August *ABC News* published an article which revealed that less than one-third of local governments in and around Sydney have made their register of interests easily available online, as is required under the guidelines introduced a year ago. This was your response:

Minister for Local Government Shelley Hancock said the number of councils not publishing their registers of interests was "concerning".

Do you stand by those comments?

Mrs SHELLEY HANCOCK: Do I stand by the comments? Yes, I do find it disappointing but it is not a matter for me. It is a matter for the Information Commissioner under the Government Information (Public Access) [GIPA] Act. But, again, we try to work with councils to encourage them to obviously register those interests and documents online for the public. That is an important part—

The Hon. MARK BUTTIGIEG: So you have a—

Mrs SHELLEY HANCOCK: —of what they do.

The Hon. MARK BUTTIGIEG: Sorry, Minister, I interrupted. So you have an encouragement role and hopefully the Information Commissioner enforces the disclosure. Is that how this works?

CORRECTED

Mrs SHELLEY HANCOCK: Mr Hurst, can you just clarify that please?

Mr HURST: Yes. So the requirement to provide returns of interest for designated persons is a matter under the Local Government Act but the publication of it, particularly the publication on a council's website, is dealt with under the GIPA Act. The GIPA Act is the Act that trades off the public's right to know against the privacy of the individual. Those decisions are made by and the guidance is provided by the Information Commissioner. There is an interplay here. It is about the requirement flowing through the Local Government Act and the code of conduct, but the specific question of publishing it on the websites and particularly whether or not councils or individual councillors are complying with them is a matter for the Information Commissioner.

The Hon. MARK BUTTIGIEG: So, Mr Hurst, if I could ask you to elaborate on that. Do individual councils get to decide what is private and what is not and therefore what goes on the website and what does not?

Mr HURST: The Information Commissioner has actually prepared some quite detailed guidance on the process of publishing that material and the information that can be redacted.

The Hon. MARK BUTTIGIEG: In your view, have those councils that have decided that they are not going to publish it abided by those guidelines? I guess another way of asking the question is: Have you done an audit of these councillors who have refused to publish those things on their website as to whether or not it is justified?

Mr HURST: The office has certainly received complaints about councils where the material has not been published on the website and we refer those to the Information Commissioner. The Information Commissioner is the appropriate person to investigate breaches of the GIPA Act.

The Hon. MARK BUTTIGIEG: What is the status of that conversation between you and the Information Commissioner regarding those complaints?

Mr HURST: I understand that we do have regular discussions with the Information Commissioner about the guidance that has been provided to councils and what we can do to promulgate that and assist councils to comply with their obligations under the GIPA Act as well as under the Model Code of Conduct. But nevertheless this specific question about the allegations that councils are not complying with their requirements is a matter for the Information Commissioner.

The Hon. JOHN GRAHAM: How many complaints have you had in the last two financial years?

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

The Hon. JOHN GRAHAM: Yes, if you could take that on notice, that would be helpful.

The Hon. MARK BUTTIGIEG: Minister, are you comfortable with this? We have got a large volume of councils that are not publishing these things and the public are up in arms about it and want to know and you do not—I mean, is this another case of, "I do not have the power to do anything because I am only the Minister for Local Government"? What is the story?

Mrs SHELLEY HANCOCK: The story is, as I have said, I find that disappointing. But in defence of the local government sector and in defence of councils themselves, sometimes their level of perhaps IT expertise has not enabled them to yet devise a system whereby this information can become available to the public. I have also been aware of complaints made about the difficulty to navigate some of the systems that are in place for the public. There is still some long-term teething problems. We try to work with councils because we think it is important that this information is available for the public.

The Hon. MARK BUTTIGIEG: Thanks, Minister, but if I could just quickly—

Mrs SHELLEY HANCOCK: Interrupt again? Sure.

The Hon. MARK BUTTIGIEG: —follow up on that point. You think that the problem is mainly a function of IT teething problems and issues rather than systemic problems with councils wanting to obfuscate and hide their disclosures?

Mrs SHELLEY HANCOCK: No, I didn't say that. I did not say that. I said that in defence of local councils and the local government sector, in some cases there is an availability or unavailability of IT resources by which councils can actually deliver the information to the public. We work with councils on those issues and we are—you are trying to put words into my mouth, Mr Buttigieg. We are trying to work with councils, as I try to do all of the time, and assist them where they are having problems, and so does the Office of Local Government. We think it is important that public information or information be made public. But, again, that is up to the Information Commissioner to follow through and I do what I can as the Minister because I think it is important. I receive complaints as well and that is of concern to me, as I have said.

CORRECTED

The Hon. MARK PEARSON: I just have a line of questioning following on from a couple of questions Mr Buttigieg asked in relation to property developers being on council or maybe holding key office roles in councils. Are you satisfied that the safety net is strong enough to have property developers who are councillors just make a declaration of a conflict of interest, considering how many have been referred to ICAC? Do you think there is confidence from the community that we do have a strong enough safety net? Or would it not be better that any property developer who has a direct or indirect interest in any property development in that local government area should not be on council?

Mrs SHELLEY HANCOCK: Yes, look, it is a good question because it comes to the issue of public perception about property developers—

The Hon. MARK PEARSON: Yes.

Mrs SHELLEY HANCOCK: —and being on council or in Parliament at State or Federal level. I am satisfied that we have tried to tighten the regulations around declarations of interest, but if there is more that we can do we will. Because you will undermine the perception of local government and local councils if we do not come to terms with the real resolution of this issue. There is no doubt about that. I thank you for the question because I think in all honesty that if we could resolve this once and for all and assure ourselves that property developers be excluded from any debate on planning issues, we would all be a lot more satisfied. But at the moment—

The Hon. MARK PEARSON: But if that has not occurred—

Mrs SHELLEY HANCOCK: Yes.

The Hon. MARK PEARSON: It has been quite a long time now that this issue has been in the public arena and there have been lots of inquiries et cetera, yet we cannot secure that confidence that there is not going to be a corrupt process. Would it not be an option to put into legislation that any councillor and maybe even a manager of the council must not have any property development interest directly or indirectly in that local government area?

Mrs SHELLEY HANCOCK: Certainly these things are matters for consideration. And we certainly are attempting at the moment to ensure that councillors who do the wrong thing face consequences, and that includes, I guess, State and Federal members as well—at any level of government. Increasing penalties and raising community awareness that councillors who are not doing the right thing will face penalties might take some time to achieve. That is disappointing for me and Mr Buttigieg and others, but that is the process we have in place at the moment. We are always considering the matters of property developers and non-declaration of interest in matters which they should be declaring their interest, quite clearly. That has been an issue when I was on council a long time ago. It was an issue then. It is an issue now, and I hope that it will not be an issue into the future. We need to resolve it. We need to fix the public perception that councillors are doing the wrong thing. They have got to go into the next election convincing their electors—whichever council it might be—that they will act with responsibility towards their communities first and foremost.

The Hon. MARK PEARSON: Thank you very much for the answer. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: If Mr Hurst has something to add?

Mr HURST: Perhaps if I could just add, we have talked about the transparency requirement but the part that I think has been skipped over is that councillors who have a pecuniary interest in a matter are prevented by the code from receiving material or participating in the discussion. There are also significant non-pecuniary interests which councillors need to effectively manage. We are talking about the transparency very much here today, but the code also makes it clear that the people with conflicts of interest should not have access to information or be participating in those decisions.

Mr DAVID SHOEBRIDGE: How is that working, Mr Hurst?

Mr HURST: The councillors manage it, and if there are breaches then they come to the Office of Local Government.

Mr DAVID SHOEBRIDGE: How many breaches have you got so far on that in the last three years?

Mr HURST: The office certainly has—is investigating pecuniary interest breaches.

Mr DAVID SHOEBRIDGE: How many?

Mr HURST: I am not sure of the exact number.

Mr DAVID SHOEBRIDGE: Twenty, 50, 100, 200?

CORRECTED

The CHAIR: Can we get a ballpark figure?

Mr HURST: Perhaps a dozen?

Mr DAVID SHOEBRIDGE: And how many of those were related to property development matters?

Mr HURST: I am not sure. I do not know that level of detail.

Mr DAVID SHOEBRIDGE: Minister, if you wanted to raise public confidence, just get rid of the conflict by preventing them from becoming councillors in the first place. This whole rigmarole that is there and that is not working has not allowed the public to have the confidence that you want, has it? It is just not working yet.

Mrs SHELLEY HANCOCK: As I said before, could we do better on this? Mr Shoebridge, I believe we can. I am not sure that going down the path of a ban on a certain group of individuals such as real estate agents, as you suggested before, is the answer.

Mr DAVID SHOEBRIDGE: You wouldn't let vampires run the blood bank, would you?

Mrs SHELLEY HANCOCK: I don't regard—

Mr DAVID SHOEBRIDGE: I mean, there are people you would actually say no to.

Mrs SHELLEY HANCOCK: I'm sorry, I don't think you should refer to these individuals as vampires. There is a place for property developers in society, as there is with real estate agents.

Mr DAVID SHOEBRIDGE: In the Liberal Party.

The Hon. SHAYNE MALLARD: A couple of rotten apples.

Mrs SHELLEY HANCOCK: Goodness me, there is a place for these individuals in our community and we cannot judge everybody by the actions of a few. You talk about Liberal Party members—we can start on the Labor Party if you wish.

Mr DAVID SHOEBRIDGE: I am more than happy for you to do that in the Labor Party's time if you want.

Mrs SHELLEY HANCOCK: I could do it right now if you wish.

Mr DAVID SHOEBRIDGE: We're obviously not going to agree, so we might move on. That might be the most useful way forward.

The Hon. MARK PEARSON: I was just about to intervene but I do not have to do now. Thank you, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: I am suddenly getting a second wind. Minister, do you support the Australian Local Government Association [ALGA] being on National Cabinet—ensuring that local council has a seat at the table on National Cabinet? Do you support that?

Mrs SHELLEY HANCOCK: The local government Ministers right throughout Australia regularly meet. That has been by teleconference, and I think we are going to meet in person very soon. Unanimously, we took the view to the Federal local government Minister that we believe that that should be the case. Now that was taken to National Cabinet and I think the Prime Minister made a decision for that not to occur, unfortunately, but we all were unanimous in our support of a seat on National Cabinet for local government.

Mr DAVID SHOEBRIDGE: Minister, first of all, thank you for that. I think having local government Ministers loudly take that position and saying that local government needs to be at the table is important. But I have had multiple mayors contact me about the frustration they have from getting an answer from your Government on this—a clear government position on this. Does the New South Wales Government support ALGA being on National Cabinet?

Mrs SHELLEY HANCOCK: I cannot answer on behalf of the Government. I can only answer on my own behalf as the Minister for Local Government. Can I also say, Mr Shoebridge, I think that the National Cabinet was set up in response to COVID. I am not sure whether that is going to continue into the future in its current form. If it does, I am sure that the local government Ministers around Australia will continue to lobby to have a presence on the National Cabinet if it continues to exist—in its current form or in a different form.

Mr DAVID SHOEBRIDGE: One of the frustrations mayors have expressed to me is they acknowledge the local government Minister's support but they cannot get a response from the Premier about what the

CORRECTED

Government's position is on supporting ALGA. Multiple letters have gone to the Premier and just not been answered. Have you spoken with the Premier about this? Do you know what the position is?

Mrs SHELLEY HANCOCK: I think those questions are really best directed to the Premier. I know that she has been through estimates but you could write to her and ask her for an explanation. I do not know the reason. All I can do is lobby for myself as the local government Minister with other Ministers, and have done so. I can only give you an answer from my perspective, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Has this issue been taken to Cabinet? Is there a Cabinet position on it? Is there a Cabinet position on whether or not ALGA should be at the table on National Cabinet?

Mrs SHELLEY HANCOCK: You are asking me to comment about Cabinet matters? I cannot do that, Mr Shoebridge, and you know that.

Mr DAVID SHOEBRIDGE: You are not able to clarify whether or not there is an official government position on this?

Mrs SHELLEY HANCOCK: That is correct.

Mr DAVID SHOEBRIDGE: Will you commit to taking it to Cabinet, to getting a position so that local government is there at the table?

Mrs SHELLEY HANCOCK: To be honest, at this stage I am not so sure of the position of National Cabinet into the future and whether it will continue in its current form, so asking me to take a position into a future hypothetical scenario—I am not sure that I can do that. National Cabinet, if it does exist in the future, will take a different form. It will no longer be a COVID response. It will be a different reason for even having a National Cabinet.

Mr DAVID SHOEBRIDGE: But whatever form it takes, local government should be at the table, shouldn't it?

Mrs SHELLEY HANCOCK: Yes, I have said that. I am saying in response to you—will I lobby—I am not sure what that future scenario might be with respect to National Cabinet. So I cannot really answer you on what the future situation may be. But if there is a case where that continues into the future and I see, as I probably will, a position for local government—as I always do—then I will lobby for that to occur.

Mr DAVID SHOEBRIDGE: All right. Will you encourage the Premier to respond to the multiple pieces of correspondence from mayor after mayor after mayor on this issue?

Mrs SHELLEY HANCOCK: I think that you can address those questions to the Premier. It is not really appropriate for me to do that at this stage.

Mr DAVID SHOEBRIDGE: Does the Office of Local Government still exist as a separate, distinct agency given what is happening with the machinery of government provisions?

Mrs SHELLEY HANCOCK: It is a separate office of employees in Nowra but it is part of the Department of Planning, Environment and Industry [DPIE] cluster. It is still called the Office of Local Government but it is part of the DPIE cluster. It still retains the same employees, the same number of employees, and we certainly put out Office of Local Government newsletters. It is, I guess, to all intents and purposes, still a perception out there in the public that it is quite separate even though it is part of the larger cluster.

Mr DAVID SHOEBRIDGE: But is no longer a distinct agency, it is now just of division of the broader cluster—is that the situation?

Mrs SHELLEY HANCOCK: Well, you could describe it that way, yes.

Mr DAVID SHOEBRIDGE: Is that a fair description, Mr Hurst? Can you assist?

Mr HURST: Yes, I think that is a fair description. It is part of the Department of Planning, Industry and Environment but retains a separate identity, in part to assist us, so that councils understand where those regulatory and assistance responsibilities sit within the cluster.

Mr DAVID SHOEBRIDGE: What is the effect of ceasing to be a separate agency?

Mr HURST: I would say that there are a number of positives to it. We now draw on a broader expertise from the wider department. There is participation in the decision-making across the department in the way that the four Ministers and different elements of the broader department get together to discuss and agree on issues. These are all benefits that come from being part of a larger agency: access to budgets and financial expertise at a more sophisticated level, a broader legal team to draw on. These are all the benefits of being in a larger agency.

CORRECTED

But we retain our focus on local government sector as the organisations that we are there to assist. We maintain that separate brand, that separate identity, so that councils recognise that we are the people within the cluster with that responsibility.

Mr DAVID SHOEBRIDGE: It now means that instead of having that separate and distinct decision-making path line through the Minister down to the Office of Local Government, there are now matters where, say legal counsel from outside the Office of Local Government are involved in decisions and secretaries from outside the Office of Local Government are involved in decisions. It is a less distinct and independent entity as well, is it not, Mr Hurst?

Mr HURST: I do not think that the premise is really correct there. For example, we do not have separate legal advice. We seek advice from the cluster's legal team that services all of the Department of Planning, Industry and Environment. In practice they are often the same people that we dealt with and a number of the departmental legal team remain based in Nowra.

Mr DAVID SHOEBRIDGE: How many staff are there at Nowra at the moment?

The Hon. SHAYNE MALLARD: This morning?

Mr DAVID SHOEBRIDGE: I am comfortable with this morning, but the most current data you have Mr Hurst. If it is from Friday, I am okay with that.

Mr HURST: It is actually to 8 March, I came prepared for the question. Would you like to know full-time equivalent [FTE] or headcount numbers?

Mr DAVID SHOEBRIDGE: Do both.

Mr HURST: The full-time equivalent numbers—there are 56.67 ongoing employees and 8.0 temporary employees for a total FTE of 64.67. In terms of headcount, there are 59 ongoing employees, eight temporary employees and eight contingent labour, for a total of 75 people.

Mr DAVID SHOEBRIDGE: What were the numbers 12 months ago?

Mr HURST: I do not have the numbers from 12 months ago. I could give you the numbers from the end of the last financial year.

Mr DAVID SHOEBRIDGE: At the end of June 2020?

Mr HURST: Yes, I could give you those numbers.

Mr DAVID SHOEBRIDGE: Please do.

Mr HURST: I think these might be averages for the year, rather than at the end of June. I might have to clarify that.

Mr DAVID SHOEBRIDGE: That is probably more useful.

Mr HURST: Ongoing employees, 58.17; FTE temporary, 10 for a total FTE of 68.17, the headcount being 60 ongoing, 10 temporary and three contingent labour for a total of 73.

Mr DAVID SHOEBRIDGE: As I read it, there is a reduction in FTE staff in Nowra of about 3½ positions between last financial year and the current data you have?

Mr HURST: No, there are actually more people.

Mr DAVID SHOEBRIDGE: I had 64.67 full-time equivalents as at 8 March as at against 68.17 full-time equivalents in the last financial year. Are those numbers right—64.67?

Mr HURST: Those are the FTE loads, but on the headcount there are 75 versus 73 people.

Mr DAVID SHOEBRIDGE: I am asking about the full-time equivalents.

Mr HURST: You did not specify that in your question.

Mr DAVID SHOEBRIDGE: I am sorry, Mr Hurst, I will ask it again. There has been a reduction of full-time equivalent staffing in Nowra of 3½ positions. Is that right?

Mr HURST: Once again, I am not prepared to concede that there is a reduction in staff. These figures are at a point in time and there are a number of vacant positions, which we are recruiting for at the moment.

CORRECTED

Mr DAVID SHOEBRIDGE: There would have been vacant positions last financial year as well. The data you give us is 68.17 full-time equivalents last financial year as against 64.67 on Friday. My maths could be wrong, but I see that as a reduction in 3½ full-time equivalents.

The Hon. TREVOR KHAN: One was full-time positions, then he is giving you a real figure in terms of what—

Mr DAVID SHOEBRIDGE: No, they are both full-time equivalent positions.

Mr HURST: I actually have the data on vacancies as well Mr Shoebridge, if that would assist.

Mr DAVID SHOEBRIDGE: But that information is right, is it not? As at 8 March 2021 full-time equivalent positions were 64.67. As at last financial year, there were 68.17 full-time equivalents?

Mr HURST: Those are the correct full-time equivalent figures at those points in time.

Mr DAVID SHOEBRIDGE: My maths suggests that that is a reduction of 3½ positions. You seem to be resisting that conclusion.

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: The difference between 68.17 and 64.67 is 3½. Do you disagree with that?

Mr HURST: I do not disagree with the arithmetic, Mr Shoebridge. What I am suggesting is that there are vacancies in the office from time to time. I did have the vacancy figures, which show that there is a greater level of vacancies as at 8 March than there was at the end of 2019-20. I can confirm that recruitment action is underway on those positions.

Mr DAVID SHOEBRIDGE: What are the vacancy rates?

Mr HURST: The vacancies as at 8 March were for eight ongoing roles and three temporary roles for a total of 11 headcount.

Mr DAVID SHOEBRIDGE: How long have those positions been vacant for?

Mr HURST: I do not have that information.

Mr DAVID SHOEBRIDGE: What were the vacancy rates last year?

Mr HURST: For 2019-20, six were ongoing and two temporary for a total of eight.

Mr DAVID SHOEBRIDGE: Do you focus your recruitment efforts within the Nowra/Shoalhaven region or within regional New South Wales more broadly when you are looking for these positions?

Mr HURST: It is true that the positions that we advertise in those former OLG roles are Nowra-based positions. People who apply for and accept the role accept that the role is Nowra based. However, the flexible working arrangements that the Government has implemented means that people do work from different locations and that as departmental policy, we are now location agnostic on roles. We have had more interest from people from other areas of New South Wales in the roles in Nowra. Every role under the Government Sector Employment [GSE] Act is required to have an office location and the office location for our roles is Nowra. What that means is that on an ongoing basis we expect that people fulfilling those roles will still be able to attend the Nowra office when required as part of their duties.

Mr DAVID SHOEBRIDGE: Is there an efficiency dividend for the Office of Local Government for this current financial year?

Mr HURST: There is no separate efficiency dividend for the Office of Local Government.

Mr DAVID SHOEBRIDGE: Are you subject to the department-wide efficiency dividend, and in which case, what is it?

Mr HURST: There is a department-wide efficiency dividend. I could not tell you how that would devolve down to the former Office of Local Government.

Mr DAVID SHOEBRIDGE: What is the department-wide efficiency dividend, Mr Hurst?

Mr HURST: I will endeavour to get back to you with that number later today.

Mr DAVID SHOEBRIDGE: Could you also get what the current budget is for the Office of Local Government and if it was implemented, what kind of reduction that would mean?

CORRECTED

Mr HURST: The Office of Local Government does not have a separate budget. As I mentioned, the staff work in different divisions now, so it is not possible to separately identify a budget for that former office.

Mr DAVID SHOEBRIDGE: Very convenient.

The Hon. MARK PEARSON: You will be taking those other questions on notice.

(Short adjournment)

Mrs SHELLEY HANCOCK: May I make a preliminary statement in response to a question asked by Mr Shoebridge in relation to correspondence that was apparently not answered by the Premier's office regarding mayors writing to her about the Local Government position on National Cabinet? I now indicate that the Premier has responded in writing to at least 35 mayors who have written to her on Local Government representation on National Cabinet. I notice that Mr Shoebridge is not present, but I am sure he would be interested in that answer, because the premise of the question was clearly false.

Mr HURST: Mr Buttigieg, could I report back on a matter you asked me about?

The Hon. MARK BUTTIGIEG: Sure.

Mr HURST: You asked what date the investigation was authorised into the alleged misconduct from the mayor of Strathfield. That was 25 July 2019.

The Hon. MARK BUTTIGIEG: Thank you.

The Hon. JOHN GRAHAM: Mr Hurst, I might return to where we were before the break on the questions about the efficiency dividend. You have made a number of statements, but obviously you are not saying the Office of Local Government is exempt from the efficiency dividend, are you? You are not putting that position to the Committee?

Mr HURST: The Office of Local Government does not exist as a separate entity, so efficiency dividends are applied across the cluster. I actually have the material on the efficiency dividend. Would you like the detail?

The Hon. JOHN GRAHAM: I think we might return to that in Mr Shoebridge's time, because he sounded very keen to hear it.

Mr HURST: Alright, I will wait.

The Hon. TREVOR KHAN: Drippingly enthusiastic, he was.

The Hon. JOHN GRAHAM: Minister, I might turn to you. I want to ask about the Stronger Communities Fund and I did want to rewind to the tied grants round. There have been questions about that here, and I acknowledge Mr Shoebridge's questions and interest in that fund in the past. That particular round was administered by your predecessor and it has now been the subject of some discussion and some controversy. I will not ask you to express a view about the Premier and the Deputy Premier's involvement. That has been well canvassed elsewhere and I will not ask you to repeat the Government's views on that. Exactly what their role was in approving is contested. One thing is clear, though, the former Local Government Minister was sidelined from any approvals other than for the first couple of grants.

The Hon. TREVOR KHAN: Is this a question?

The Hon. JOHN GRAHAM: I am just putting some context so the Minister knows exactly where I am looking ahead. Can you give us an assurance that for grants you administer, where Treasury is appropriating funds to you as Minister, you will actually sign them off; you will not be sidelined as appeared to happen under that former grants round?

Mrs SHELLEY HANCOCK: Thanks for the question, Mr Graham. Of course you would be aware of a number of grants that operate through the Office of Local Government under the coastal management team. I will call Ms Molloy at this stage because those grants are decided upon completely at arms-length from the Minister. It is not my role. There are certain sets of criteria. Obviously we write to every council to indicate that grants are open and they can be accessed, but in terms of their assessment, such as our bushfire grants, they are very independent processes from me. I announce the grants and I am happy to do that, as I have been doing over the past few weeks up and down the coast of New South Wales. Would you like to hear about the process involved in the grants under my jurisdiction?

The Hon. JOHN GRAHAM: Before you hand off, Minister, I would like to clarify that we are talking about the same grants. I am asking about the Stronger Communities grants.

CORRECTED

The Hon. TREVOR KHAN: Point of order: That is actually not what you asked. You asked with regard to grants that she is responsible for.

The Hon. JOHN GRAHAM: Yes. Minister, I am aware there is a range of grants you might administer. I am more interested in the principle and I am interested in your view on that principle. If Treasury appropriates funds to you as Minister, as they did to your predecessor, will you give us a guarantee there will not be other Ministers involved in the approval?

Mrs SHELLEY HANCOCK: I think I was answering that question and trying to get Ms Molloy to give you some supplementary information on how transparent that grant process is, in particular the coastal grants, which involve quite a lot of money to some local councils, like a couple of weeks ago in Wollongong City Council and Shellharbour—quite substantial money for repair of seawalls and the like. It is quite a complex process, but again I play no part in the assessment of those projects and I think that goes to the heart of what you are asking me.

The Hon. JOHN GRAHAM: I am happy to hear briefly from Ms Molloy. I will return to this in the agency session.

Mrs SHELLEY HANCOCK: You should be interested in the process.

Ms MOLLOY: We have a number of grants that are administered through our agency in the coast and estuary space, and more recently following the bushfires, so the bushfire-affected coastal waterways. We have some very, very strict processes, procedures, policies and guidelines that we use in the administration of those grants. Starting with a technical assessment, there is an independent State assessment panel. There is an approval process that goes right up to the Coordinator-General in Environment, Energy and Science. There are lots of specific criteria around value for money, cost-sharing arrangements and various criteria that need to be ticked off. It is a very, very rigorous process that can take a certain amount of time to do properly. All of our materials are on our website, our guidelines. They are looked at each year to make sure that they are relevant, fit for the future and specific. We have some really rigorous processes that we undertake to assess grants.

The Hon. JOHN GRAHAM: Minister, the question that raises for me is: Are you concerned that none of that assessment, none of the process happened, which is clear from the evidence now in front of the Parliament, happened with the Stronger Communities Fund's tied grants round? That assessment process was not able to be conducted, not by the Office of Local Government and not by any other body. The grants just went out the door. Is that of concern to you as the Minister now responsible?

Mrs SHELLEY HANCOCK: Because I am the Minister now responsible, all I can indicate to you is what we do now with grants, that they are transparent and there is a process in which I am not involved. I cannot comment on previous actions. I know they are the subject of an ongoing inquiry, but in terms of what I do now and since I have become Minister, those grants are administered through people like Ms Molloy and a committee of experts. All I do is see the final results and have the pleasure of going to announce some of those grants.

The Hon. JOHN GRAHAM: Yes, so you are keen to express the view that the way you are administering grants now is very different to a situation where no assessment is able to occur.

Mrs SHELLEY HANCOCK: No, I am not saying that at all. I am not aware of the previous processes. I am just aware of the processes that are now undertaken within my office and that is all I can answer you.

The Hon. JOHN GRAHAM: Let me be more specific about the previous processes.

Mrs SHELLEY HANCOCK: I cannot answer those questions. I was not part of them.

The Hon. JOHN GRAHAM: Minister, it does go to the administration. I am interested in your administration of your grants schemes, but \$136 million for 83 projects went out the door within 72 hours of the guidelines being signed off and then the projects identified. As a result, no assessment was able to happen. Will you give us some guarantee that that process will not happen again and that you will have the far more rigorous process you are starting to outline over here?

Mrs SHELLEY HANCOCK: We have not started to outline it; we have outlined the rigorous process in place. I cannot comment on any past actions by anybody.

The Hon. JOHN GRAHAM: Would it be of concern to you, given the processes you have put in place, if grants were flying out the door with no assessment from any part of government for 83 projects within 72 hours? Would that be of concern to you?

Mrs SHELLEY HANCOCK: Would that be of concern to me now, if that was happening? Yes, but it is not. I have only been the Minister since 2019. The process we have in place, in particular for coastal grants,

CORRECTED

because they can be quite large, is an important and transparent process, in which I do not take any part. I cannot comment on Stronger Communities or what happened. You are making various assertions about that and asking whether I am disappointed. I cannot comment on that. These matters are the subject of a wider committee, which is looking into these matters at the moment.

The Hon. JOHN GRAHAM: I appreciate your answer on that question and your commitment to the processes you have put in place. What steps have you taken to investigate what has happened? You are the Minister. The revelations about these schemes came out not at the time, not as they were being raced out the door; they have come out since. It is only clear since the scale of what I would describe—I do not expect you to comment on this term—the maladministration within this fund. What steps have you taken, as the Minister who is now responsible, to investigate this?

Mrs SHELLEY HANCOCK: This is the subject of multiple investigations by others, some of whom are in this room, including all of you. That is a wider parliamentary inquiry on the grants procedures. Again I will reiterate that. Therefore, I do not feel I have a role in investigating those matters. They are being canvassed quite broadly in other venues. All I can comment on today and what Ms Molloy has outlined to you is how we assess grant applications and how they are assessed by strict criteria and how I am not involved in any of those processes.

The Hon. JOHN GRAHAM: Minister, yes, you are correct, the upper House is inquiring into this, possibly other bodies. We are doing our job. I am asking you whether you are doing your job as a Minister of the Crown. These matters have come to light. What steps have you taken, any steps, to assure the public that this will not happen again?

Mrs SHELLEY HANCOCK: I will reiterate what I just said to you, Mr Graham. I do not see my role as investigating what has happened in the past with former Ministers or Premiers or anybody else or Deputy Premiers or Ministers. It is not my role to investigate. My role is to assure myself that in my current role the assessment process is transparent and that the public can have confidence in the fact that I play no role in the assessment process of various applications that come before me, whether that is bushfire grants—I think we had about \$5 million worth of grants on bushfire-affected communities, then the coastal grants, of course, which are ongoing.

The Hon. JOHN GRAHAM: No investigation but possibly—

Mrs SHELLEY HANCOCK: I do not see it as my role, Mr Graham.

The Hon. JOHN GRAHAM: I do, Minister, but I accept your answer. But you are possibly saying there is a new policy in place. Is this across the board for grants programs you have appropriated to you, that you will not be involved in the formal decision-making process? Is that a policy you have implemented?

Mrs SHELLEY HANCOCK: I think that has been the policy in particular with coastal grants, but I cannot answer on behalf of a former Minister on that. As far as I am concerned, when I came to this role this was the process that was in place. So I have never looked at applications. I have never asked about a particular application. All I have done as the Minister is be aware that grant applications were open and available to councils and to certainly write to every single council to say, "There is \$5 million available for coastal bushfire-affected communities. Please seek further information."

The Hon. JOHN GRAHAM: Minister, you are answering narrowly about coastal grants. I am asking broadly about grant processes under your role as Minister. Is that the policy you are now applying across the board for the grants programs you administer? That would be different to your predecessor.

Mrs SHELLEY HANCOCK: I cannot answer for my predecessor, but let me say I am concentrating on coastal grants because they are the largest grant fund we administer and that comes under my portfolio. So, naturally, I focus on that. I am interested in those processes. I am interested in all matters pertaining to the coast and waterways, issues of water quality, erosion—

The Hon. JOHN GRAHAM: You have told us about those. What about your other grants processes. Are you involved or not?

Mrs SHELLEY HANCOCK: Not at all.

The Hon. JOHN GRAHAM: That is a blanket rule across the board: You will not be involved in approving, signing off those approvals.

Mrs SHELLEY HANCOCK: Yes.

The Hon. JOHN GRAHAM: That will really be a matter for Mr Hurst or for other agency—

CORRECTED

Mrs SHELLEY HANCOCK: No. Mr Hurst is—Ms Molloy's area is coastal. It is quite a clear delineation.

The Hon. JOHN GRAHAM: Yes. You jumped in before I had finished the sentence, which is—

Mr DAVID SHOEBRIDGE: I think Mr Hurst said—it may not have been picked up on transcript—you will still be approving, Minister. That is what I heard. It may not have come through at Hansard. Is that right?

The Hon. MARK PEARSON: Is the question needing to be put again for elucidation?

Mr DAVID SHOEBRIDGE: I just think we should clarify whether or not it was—

The Hon. CATHERINE CUSACK: It would just be great to have a question to the Minister. It would be so much simpler.

The Hon. JOHN GRAHAM: Minister, will you have an approval role or not—having now received advice—in some of these grants, any grants program you administer?

Mrs SHELLEY HANCOCK: I would still be, at the end of the process, approving the grants. That is my understanding. Not halfway through the process, not at the beginning, not throughout whatsoever. But my name will appear on a successful grant.

The Hon. JOHN GRAHAM: That is the opposite of what you just told us before, Minister.

Mrs SHELLEY HANCOCK: I do not believe it is.

The Hon. JOHN GRAHAM: This sort of confusion—

Mrs SHELLEY HANCOCK: I endeavoured to indicate to you, Mr Graham, that I will play no part in any kind of assessment process. But of course, as the Minister, at the end of the process I will sign off on those grants being approved and going out the door to the councils who are deserving of those grant applications and waiting for them.

The Hon. JOHN GRAHAM: Minister, I think you might understand my concern. This sort of confusion about who is approving grants is at the heart of what has been a total debacle of an approval. Everyone thinks they have got a role and no-one takes responsibility when it goes wrong. That is at the heart. So I want to very clear: For those grants, you will be the person signing? Every grant process has a decision-maker. You will be the one making those approvals in the end. Is that correct?

Mrs SHELLEY HANCOCK: Making decisions or approvals—you are getting a bit confused in your questioning. I have told you. I made it patently clear, I think, that I will play absolutely no part in the assessment of grants applications that come to the coastal management team. But at the end of the day there is a role for a Minister, once those grants have been decided upon, to sign them, because that is the legality of it. Then they can be administered to local governments and to councils who have applied for them.

The Hon. MARK PEARSON: If I could just ask a question there. Minister, if you sign off on a grant although you were not actually participating, and obviously it is clear as to the assessment, at the end of the day do you not think the question would be put to you that if you sign off on a grant, you are responsible for everything that happened from the beginning of the assessment until you sign off on it.

Mrs SHELLEY HANCOCK: That is very true, but the fact is that I have faith in my coastal team in particular. I am sorry to concentrate on that, Mr Graham, but that is quite a significant funding source. I have absolute faith and confidence that my team are engaged in a process independent of me. I have no idea of the applications that come before them until the very end. Did you want to say something more, Ms Molloy, on this?

Ms MOLLOY: Yes, Minister. I can speak to the coast and estuary grants, no other grants.

The Hon. JOHN GRAHAM: On the coast and estuary grants, who is the final decision-maker?

Ms MOLLOY: The Coordinator-General and Environment, Energy and Science [EES]. What I said earlier was correct. The Minister is offered the opportunity to announce those grants and send out a letter if she wants to. The delegation lies with the coordinator. I cannot speak for the Stronger Community ones.

The Hon. JOHN GRAHAM: I understand. Minister, I might ask you to take on notice for the grant programs you administer who is the final decision-maker for each of those grants programs, if you could take that on notice.

Mrs SHELLEY HANCOCK: I have answered that.

The Hon. JOHN GRAHAM: Not for each grant.

CORRECTED

Mrs SHELLEY HANCOCK: Ms Molloy, would you like to answer that clearly again?

The Hon. JOHN GRAHAM: Minister, you may not have heard. Ms Molloy has just taken us through that.

Ms MOLLOY: I can only speak for the coast and estuary grants.

The Hon. JOHN GRAHAM: Yes. I am asking about the other grants.

Mr DAVID SHOEBRIDGE: We heard you, Ms Molloy. You were very clear.

Ms MOLLOY: It is the agency, the coordinator-general, that approves the grants and looks at the assessment and checks to see—

The Hon. JOHN GRAHAM: I take it that you are repeating this for the Minister. You have already told us this, Ms Molloy.

Mrs SHELLEY HANCOCK: I am sorry, I was discussing with Mr Hurst.

Ms MOLLOY: We offer the Minister the opportunity to announce those grants and sign a letter out to the grants. But the agency does all the assessment and makes the recommendations.

Mrs SHELLEY HANCOCK: I may have misled you, Mr Graham. I do not approve the grants. I announce the grants. That is the major role and part I play in this. I do not approve grants. They have already been approved and decided upon. I announce the grants.

The Hon. JOHN GRAHAM: This is a very important distinction. It has been the subject of confusion in other grants processes.

Mrs SHELLEY HANCOCK: Yes. It needed to be clarified.

The Hon. JOHN GRAHAM: I appreciate the clarification. Could you take on notice for the other grant programs you administer, you are involved in as Minister, who is the final decision-maker, if you could do that for the other programs.

Mrs SHELLEY HANCOCK: Certainly. Mr Hurst, would you like to comment on any of these grants that you administer?

Mr HURST: I think this question of approval—particularly expenditure approval—has come up in other forums.

The Hon. MARK BUTTIGIEG: I am not asking about expenditure approval.

Mr HURST: That is what "approval" means. "Approval" is a term defined in the legislation.

Mr DAVID SHOEBRIDGE: In what legislation? In what legislation is it defined?

The Hon. MARK PEARSON: My question is: Is an expenditure approval a grant approval?

Mr HURST: The expenditure approval is the process of, under the Government Sector Finance Act, authorising the expenditure or the payment to the person who gets it.

The Hon. MARK PEARSON: So that is "yes", is it?

The Hon. JOHN GRAHAM: Mr Hurst, you know that is not the case, that there is a distinction between the expenditure approval and the approval of the grants themselves. I assure you we will be returning to that, if that is your view, in the agency session. Minister, I am simply asking: Will you take on notice who the final decision-maker is for each of your grant funds?

Mrs SHELLEY HANCOCK: Take on notice in terms of providing more information to you?

The Hon. JOHN GRAHAM: Yes, for each of the funds you—

Mrs SHELLEY HANCOCK: Certainly.

The Hon. JOHN GRAHAM: Thank you. Let me ask you this question: One of the concerns that that has sparked is a community view that the way these funds were dispersed, all headed in one direction when it came to which seats they fell on—that it was, in the common parlance, pork-barrelling. The Premier strongly defended that. Where do you sit on this question of pork-barrelling? Do you agree with the Premier, who defended this quite strongly, or with the community, who is clearly quite concerned about it?

CORRECTED

Mrs SHELLEY HANCOCK: I can only answer in respect to the answers I have already given you for my own grants and those that I administer that come under my jurisdiction in the Department of Local Government and the coastal management team. I cannot really answer for anybody else.

The Hon. JOHN GRAHAM: But when the Premier says, "Look, pork-barrelling—it happens, it is part of political life," do you agree with those comments?

Mrs SHELLEY HANCOCK: I can only answer for myself. I think those questions that you have directed to the Premier were best directed to her and/or the Deputy Premier. I can only really make comment on local government grants and coastal grants.

The Hon. JOHN GRAHAM: But you will not back her up? You are taking two steps backwards here, Minister?

Mrs SHELLEY HANCOCK: I did not say that. I said that you did direct those questions to the Premier and she answered them. You asked questions about my portfolio and I am answering them.

The Hon. JOHN GRAHAM: Thank you.

Ms ABIGAIL BOYD: Good morning, Minister.

Mrs SHELLEY HANCOCK: Good morning.

Ms ABIGAIL BOYD: I wanted to talk about companion animals, and your responsibilities in relation to companion animals and council pounds. Firstly, the code of practice that oversees the day-to-day management and facility standards for council pounds was published in 1996. When will that be reviewed?

Mrs SHELLEY HANCOCK: It is a really good question because I think the reality has actually overtaken the guidelines themselves if you are talking about council pounds, but especially also if you look at places like the RSPCA and the various shelters that they administer. They have been upgraded remarkably, in particular over the past decade. If you have been to Yagoona, they are in the midst of—after some investment by this Government of \$10 million in that shelter, they are now up to the stage that they can demolish all of the really substandard kennels that are there. They will be state of the art. Some of them—I do not know if you have been there, but it is an eye-opener.

Ms ABIGAIL BOYD: I have seen pictures.

Mrs SHELLEY HANCOCK: You should go. Some of the kennels now that are there, and the shelters for cats or dogs, have underfloor heating. They have got air conditioning that is going to make sure that pets are not in substandard conditions. If we are talking about aging standards, they have actually been upgraded in so many of those shelters. I think only a few weeks ago I went to Yagoona again to look at the progress. We also committed another \$10 million to various shelters right throughout the State—that is the RSPCA shelters—noting at the same time that investment in the council shelters comes from the companion animal fund itself. We are continuing to assist councils and RSPCA shelters and like to upgrade their facilities, and that is what they want to do. They have committed to doing that—

Ms ABIGAIL BOYD: So we can agree that the code of practice is very out of date?

Mrs SHELLEY HANCOCK: Very, yes.

Ms ABIGAIL BOYD: It is now 25 years out of date.

Mrs SHELLEY HANCOCK: Yes.

Ms ABIGAIL BOYD: But clearly there is still a need for it. We can look around and say, "That's great that the RSPCA has that shelter there," but ultimately you have a responsibility to make sure that the code of practice is up to date and fit for purpose. When will it be reviewed?

Mrs SHELLEY HANCOCK: Look, that is something that we can review. But, as I have said, as I go to the largest shelter in New South Wales I see on almost a yearly basis the progress they are making towards updating their facilities.

Ms ABIGAIL BOYD: And I am not taking that away from you, but do you have plans to review that code of practice and update it?

Mrs SHELLEY HANCOCK: This will be a matter for a committee. I have a companion animals reference group and I will take advice from them.

Ms ABIGAIL BOYD: Okay, so there are no current plans to update that?

CORRECTED

Mrs SHELLEY HANCOCK: I suppose I have been impressed and been concerned to actually see the progress being made throughout the State. Now that you have mentioned it, I am happy to refer that to that group.

Ms ABIGAIL BOYD: Thank you. How many New South Wales council companion animal pounds are 100 per cent compliant with the New South Wales legislation at the moment, do you know?

Mrs SHELLEY HANCOCK: No, I do not know that.

Ms ABIGAIL BOYD: Is that something that your department audits? Is there any process for determining that?

Mrs SHELLEY HANCOCK: I am not sure that we audit, do we?

Mr HURST: No, but if anyone had complaints about the management of a pound, they could—

Mrs SHELLEY HANCOCK: From time to time, Ms Boyd, we do receive some complaints about some of the shelters. I think council are generally pretty proactive about ensuring that their shelters and their pounds are up to scratch because—

Ms ABIGAIL BOYD: Do you know? You say you are sure that they probably do, but do we know that they do?

Mrs SHELLEY HANCOCK: No, because council are obviously subject to the scrutiny of their ratepayers. The ratepayers are quite capable of going into a shelter and judging whether those standards are being complied with or whether they are good standards. As you say, if we review our standards and try to express a very clear view to councils that this is what they should be doing, I think that is appropriate. However, having said that, I think councils need to make decisions. They should be making decisions on these matters; they are important decisions for councils to make. But, again, they are subject to the scrutiny of their ratepayers and the ratepayers are demanding more and more and more that their shelters are humane and are being upgraded, such as the Yagoona centre is.

Ms ABIGAIL BOYD: But those councils are relying on a code of practice which, as we have just discussed, is 25 years old and very much out of date with community expectations. It sounds to me like we do not actually know whether those council pounds are living up to the standards that the community would expect.

Mrs SHELLEY HANCOCK: No, I suppose we do not really know. We do not. We do not audit.

Ms ABIGAIL BOYD: How many pound facilities are still euthanising animals by shooting?

Mrs SHELLEY HANCOCK: My observations and my understanding is that every council pound and indeed the RSPCA shelters are aiming to reduce euthanasia, if not euthanise at all. This is not their preferred option. We have a council—I think it is Sutherland Shire Council—that has no euthanasia. Their policy is no euthanasia. And so, they are challenges that councils need to face because they need to house these animals whilst they advertise them for adoption—

Ms ABIGAIL BOYD: Of course.

Mrs SHELLEY HANCOCK: —and care for them in the interim, which I have seen councils do remarkably well.

Ms ABIGAIL BOYD: Do we know how many are still shooting animals to euthanise them?

Mrs SHELLEY HANCOCK: No. Shooting?

Ms ABIGAIL BOYD: Is that something you can take on notice?

Mrs SHELLEY HANCOCK: Yes, I can take it on notice, but I cannot imagine—

Ms ABIGAIL BOYD: Is that information the department would hold?

Mrs SHELLEY HANCOCK: No.

The Hon. CATHERINE CUSACK: Do you collect that data?

Mrs SHELLEY HANCOCK: No.

The Hon. SHAYNE MALLARD: I've never heard of them shooting.

Mrs SHELLEY HANCOCK: I do not think it would hold that kind of information.

The Hon. SHAYNE MALLARD: A horse, maybe.

CORRECTED

Mrs SHELLEY HANCOCK: If it was a practice, I would be concerned about it—if it was a cat or a dog.

The Hon. CATHERINE CUSACK: You might need to contact the councils direct.

The Hon. SHAYNE MALLARD: Probably a horse in the bush, is it?

Ms ABIGAIL BOYD: I might need to contact them direct, or perhaps the department could contact them directly.

The Hon. CATHERINE CUSACK: The department is not trying to find out. You are the one trying to find out.

Mr DAVID SHOEBRIDGE: The government department whose job is it—

The Hon. MARK PEARSON: Order!

Mrs SHELLEY HANCOCK: I think it is a fair question.

The Hon. MARK PEARSON: Minister, I will put the question to you in a different way. It has come to the attention of The Greens and us that there are some councils that do shoot animals—cats and dogs—because they do not have a veterinarian to give the green dream or injection. If you could take on notice if there are any councils that are still doing that and which ones they are.

Mrs SHELLEY HANCOCK: Certainly, yes. I would be concerned about that.

The Hon. MARK PEARSON: In more remote areas, you will find.

Mrs SHELLEY HANCOCK: Mr Chair, even if a council does not have a vet on site—some of them do not have a full-time vet—surely they can contract in a vet to undertake appropriate euthanasia practices if and when required. But, as I say, I think all councils are trying to reduce the rate of euthanasia of pets, and our policies actually encourage adopting, not shopping.

The Hon. MARK PEARSON: Hear, hear!

Mrs SHELLEY HANCOCK: Do not buy from breeders. Adopt a pet. I have seen that in evidence at RSPCA performing really well. It is a successful program.

The Hon. MARK PEARSON: Yes, thank you.

Ms ABIGAIL BOYD: You may need to take this on notice, I completely understand. Can you tell us how many complaints have been received direct to your office, to the New South Wales OLG, to the NSW Department of Primary Industries, the State Ombudsman or via RSPCA or Animal Welfare League NSW regarding the noncompliance of council pounds or the treatment of impounded animals in the last three years?

Mrs SHELLEY HANCOCK: I would have to take that on notice, as you would appreciate, Ms Boyd.

Ms ABIGAIL BOYD: Yes, understood.

The Hon. TREVOR KHAN: You are going to have a bit of trouble answering for the Ombudsman.

The Hon. MARK PEARSON: Order!

Ms ABIGAIL BOYD: Well, she can come back and respond on the—

Mrs SHELLEY HANCOCK: And respond appropriately, indeed.

Ms ABIGAIL BOYD: Thank you.

Mrs SHELLEY HANCOCK: Thank you.

Ms ABIGAIL BOYD: Just looking at those shelters, as you say, \$10.5 million was given to RSPCA NSW shelters. Has any money been given to privately run no-kill shelters or to council impounding shelters?

Mrs SHELLEY HANCOCK: Council impounding shelters are funded by the Companion Animals Fund. That is a separate fund. If they are RSPCA or RSPCA funding—that last announcement was not so much for Yagoona—or some of it was for Yagoona, from memory—but for the other RSPCA shelters—Blue Mountains, Lithgow et cetera, right throughout the State—to upgrade their facilities, veterinary facilities and the like, but I am not aware of other funding. We invest in the RSPCA because they are so successful at what they have been doing. If you have not been to Yagoona, I suggest you go. You will be extremely impressed about how those animals are treated and cared for and their policy of adoption. It is remarkable.

CORRECTED

Ms ABIGAIL BOYD: Thank you. When that money was handed to the RSPCA for those shelters, is there an expectation that the animal welfare and rehoming outcomes will be reported back within a certain time to see that that money was well spent?

Mrs SHELLEY HANCOCK: The funding was not necessarily delivered on the basis of rehoming. I am suggesting that is what these shelters are doing very well. The funding was often delivered for a different purpose, as I said before. It could have been for a veterinary facility, the upgrading of a veterinary facility. One of the shelters, I think, was delivered funding for the growing of appropriate trees for koalas—so growing trees, cultivating trees and the like. Others are for other matters such as fencing. There is a real multiplicity of reasons why this funding was there. I can give you all of that information. It is quite interesting.

The Hon. TREVOR KHAN: Steve Coleman would chat to you.

Mrs SHELLEY HANCOCK: It is not delivered necessarily for shelters, okay?

Ms ABIGAIL BOYD: Understood.

Mrs SHELLEY HANCOCK: Very often it is for veterinary facilities, which are quite expensive.

Ms ABIGAIL BOYD: Are you able to give information on notice as to how that funding was spent? That would be very useful.

Mrs SHELLEY HANCOCK: Yes. It has only just been delivered and announced a couple of weeks ago, but if you want to have a look at where that funding should be targeted, then I can give you that as well.

Ms ABIGAIL BOYD: Thank you. The Stockton breakwall cat cull—are you aware of this issue?

The Hon. SHAYNE MALLARD: Yes.

Mr DAVID SHOEBRIDGE: It is not to you, Shayne.

Ms ABIGAIL BOYD: It is not.

The Hon. SHAYNE MALLARD: It was a question in the House, right?

Ms ABIGAIL BOYD: It was a question that was raised in the House. This is an issue in relation to a number of cats that were killed and wounded in a very inhumane way on the Stockton breakwall. We asked some questions about this in the upper House. Basically, we received an answer that the Office of Local Government is doing nothing about this—

The Hon. MARK PEARSON: Using slug guns.

Ms ABIGAIL BOYD: —and, further, that the opinion is that this happened lawfully under the Act for various reasons. From our perspective, that appears to us like the Act is clearly broken if we cannot take action to protect those animals. I wanted to know what you were doing about that issue?

Mrs SHELLEY HANCOCK: I do not agree with that; I do not agree that the Office of Local Government is doing nothing on this. What I am aware of—I am not aware of the details—I am aware that this matter, which has been, I think, publicly reported now, is a matter for RSPCA investigation at the moment. They are investigating those matters, and I think that is the appropriate body, not the Office of Local Government. We provide the overriding legislation, but the RSPCA inspectors are tasked with these kinds of matters. Whether it is animal cruelty or deaths of animals inappropriately, that is a matter for the RSPCA, and they do that extremely well.

Ms ABIGAIL BOYD: Thank you. A final question before I throw back to my colleague: Are you a senior Minister for the purposes of the Parliamentary Remuneration Tribunal's pay scale?

The Hon. SHAYNE MALLARD: Here we go. It is yesterday—

Mrs SHELLEY HANCOCK: I find that offensive. You mean based on age, Ms Boyd?

Ms ABIGAIL BOYD: No. That does sound offensive, doesn't it?

Mrs SHELLEY HANCOCK: A very ageist comment.

Mr DAVID SHOEBRIDGE: Do you get a card?

Mrs SHELLEY HANCOCK: A very ageist question.

Ms ABIGAIL BOYD: For context, the Parliamentary Remuneration Tribunal, as you know, lists a series of salaries for Ministers and different officers for Cabinet.

CORRECTED

Mrs SHELLEY HANCOCK: No, I am not a senior Minister; I am a junior Minister.

Ms ABIGAIL BOYD: You are not designated a senior Minister, thank you.

Mrs SHELLEY HANCOCK: Yes.

Mr DAVID SHOEBRIDGE: Is there a senior Minister card that gives you concessions as a senior Minister?

Mrs SHELLEY HANCOCK: A seniors card for Ministers—that sounds pretty good. I could approve that funding.

Mr DAVID SHOEBRIDGE: It gives you an extra 20 grand when you go to the bank—a senior Minister's card.

The Hon. SHAYNE MALLARD: You can park closer to the lift.

The Hon. MARK PEARSON: Order!

Mrs SHELLEY HANCOCK: And I do not have a Seniors Card.

The Hon. MARK PEARSON: Minister, I have a question before we move to Mr Shoebridge.

Mrs SHELLEY HANCOCK: Yes, Mr Pearson?

The Hon. MARK PEARSON: Are you concerned at all that with Minister Anderson's announcement last week there has been an overhaul of the regulations et cetera in relation to greyhounds? The Greyhounds Welfare Integrity Commission had in place a regulation where a greyhound had to be trackable for whole of life. Under the new regulation change, a greyhound owner can either give or sell that animal to a person and if it is not being raced, it then becomes a companion animal, therefore under your watch, and can be killed unknowingly. Whereas under the system before, if a greyhound was killed, there had to be a reason given et cetera. This is part of the tracking of greyhounds, going back to the investigations showing how many greyhounds had been killed once they become un-useful for racing. Does it concern you at all that there are now going to be greyhounds, which will be then not registered and given to a person who is not racing them or is not involved in the greyhound industry, and that person, who could be a mate, a brother, a friend, can just kill the animal and it is a ghost animal?

Mrs SHELLEY HANCOCK: Of course that practice would concern me. I have seen evidence of greyhounds being transferred to other ownership, but they should, indeed, be registered. If they are not registered as companion animals, then that is—

The Hon. MARK PEARSON: No, they can be registered as a companion animal—

Mrs SHELLEY HANCOCK: But why would they then be killed if they were a companion animal? They could be tracked as a companion animal. They are registered.

The Hon. MARK PEARSON: But they can be lawfully killed by that person in the same way a person can take their dog to a veterinarian and, as long as it is not done with cruelty, they can ask the veterinarian to euthanise or kill the dog, and that is lawful.

Mrs SHELLEY HANCOCK: I see what you mean.

The Hon. MARK PEARSON: That is what was captured by the regulation to try to make sure we knew where the greyhounds were and that they were not being killed unnecessarily. But now that has shifted. Is that of concern to you?

Mrs SHELLEY HANCOCK: Well, look, it is always of concern to me if animals are euthanised for no reason whatsoever. If they are ill, if they are in pain, if there are reasons for euthanasia, for which the veterinarian agrees that they should be euthanised, then I agree.

The Hon. MARK PEARSON: Yes, but, Minister, that is the problem.

Mrs SHELLEY HANCOCK: Why would they be euthanised if they become companion animals?

The Hon. MARK PEARSON: Because they are what you call surplus; they are no longer required.

Mrs SHELLEY HANCOCK: Yes, well, I would be concerned about that practice.

The Hon. MARK PEARSON: The same happens in the horseracing industry.

Mr DAVID SHOEBRIDGE: It may be a loophole, in short.

The Hon. MARK PEARSON: This is a loophole that has been created—

CORRECTED

Mrs SHELLEY HANCOCK: And I would be concerned about—

The Hon. MARK PEARSON: —which then brings the animal under your watch—

Mrs SHELLEY HANCOCK: Yes.

The Hon. MARK PEARSON: —as opposed to the better regulation Minister.

Mrs SHELLEY HANCOCK: I would be concerned about that, Mr Pearson. I would be concerned if there was a loophole that has emerged or would emerge in the future that would allow that practice to continue. Because part of my role as a Minister, and one I am most passionate about, is the Companion Animals Act 1998 and that they are treated well and registered and cared for.

The Hon. MARK PEARSON: I am very grateful to hear that. Minister Anderson is saying that he is trying to find out a way in which this loophole could not occur but has given no indication as to how that would take place because it would probably need an amendment to the Companion Animals Act. Would you be willing to contact the Minister and express these concerns about this issue?

Mrs SHELLEY HANCOCK: Yes, absolutely. I am absolutely happy to talk to my colleague about this. We have discussed matters such as this in the past, as I do with Minister Marshall on the Prevention of Cruelty to Animals [POCTA] legislation, so I am more than happy to talk to him about the issues that you raised with him last week.

The Hon. MARK PEARSON: Thank you very much.

Mr DAVID SHOEBRIDGE: Minister, I listened to your answers to Mr Graham about grants. Is this a fair summary of your evidence? You sign off on grants briefs provided by the department, but you do not approve the grants. Approving grants is different to deciding grants and by signing off on the grants briefs you are neither approving nor deciding any grants. Is that the summary of your evidence?

Mrs SHELLEY HANCOCK: In a very roundabout way. Your summary is very convoluted. To be clear about it: I do not approve the grants, I announce the grants. Let's simplify it that way.

Mr DAVID SHOEBRIDGE: It sounds to me like a kind of Monty Python grants scheme, would you not say?

The Hon. TREVOR KHAN: That is outrageous.

Mrs SHELLEY HANCOCK: No, I would not say that at all.

Mr DAVID SHOEBRIDGE: You sign them. You do not approve them. You do not decide them. You just sign them and you are neither approving nor deciding them.

Mrs SHELLEY HANCOCK: I just said I announce them.

The Hon. TREVOR KHAN: You have been so nice up until this point, David, and now you are descending into—

The Hon. MARK PEARSON: Order! Let us keep the niceness going.

Mrs SHELLEY HANCOCK: I have the happy moment of announcing grants.

Mr DAVID SHOEBRIDGE: So you sign them, but you do not approve them. You do not decide them, but you announce them?

Mrs SHELLEY HANCOCK: I announce them.

Mr DAVID SHOEBRIDGE: So your job is sort of a media job?

Mrs SHELLEY HANCOCK: Yes, I guess so, and visiting those communities who receive the grants. We all love media jobs, do we do not, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: As the Minister, you are denying any kind of ministerial responsibility for the substance of the grants. Is that the situation?

Mrs SHELLEY HANCOCK: The substance of the grants? What do you mean by the substance of the grants? The amount of the grants? What do you mean by substance of the grants?

Mr DAVID SHOEBRIDGE: Well, if say, for example, a grant is criticised or a raft of grants is criticised because they may have a bias, you are willing to put your hand up and say, "That was not me. All I did was bring the scissors and cut the ribbon"?

CORRECTED

Mrs SHELLEY HANCOCK: I am happy to say, if those questions are asked about the grants process, to defend the process, to defend that this process has been independent. That is what I would say. To defend my staff in assessing these grants and saying that I have no part to play in that assessment process, I think, is appropriate considering your previous concerns around these matters, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: My ongoing concerns around these matters.

Mrs SHELLEY HANCOCK: You should not have any in regard to my grants programs.

Mr DAVID SHOEBRIDGE: Your answers have been somewhat contradictory insofar as—

Mrs SHELLEY HANCOCK: I am sorry for that.

Mr DAVID SHOEBRIDGE: —your answers were that you were signing off on briefs and I did not understand what your role was in signing off on briefs. I am not talking about the grants coming from Ms Molloy. Ms Molloy has given coherent and understandable evidence in relation to those.

The Hon. TREVOR KHAN: That is nice.

Mrs SHELLEY HANCOCK: Well done.

Mr DAVID SHOEBRIDGE: I am talking about other grants.

Mrs SHELLEY HANCOCK: Which other grants you referring to?

Mr DAVID SHOEBRIDGE: Any other grants that come from your department.

The Hon. CATHERINE CUSACK: This is really, Mr Chair—

Mr DAVID SHOEBRIDGE: Minister?

The Hon. MARK PEARSON: I think we are locked.

Mrs SHELLEY HANCOCK: I am just saying the same process will apply, Mr Shoebridge. I will not be playing any part in the assessment of any grants. I do not. You can trust me or not on that, but that is the truth.

The Hon. MARK BUTTIGIEG: Minister, I just want to pursue this theme that we were pursuing this morning on code of conduct issues more generally. I want to ask you, do you endorse homophobia in the workplace?

Mrs SHELLEY HANCOCK: What a ridiculous question.

The Hon. MARK BUTTIGIEG: It is a simple question.

The Hon. CATHERINE CUSACK: How many weeks of research have gone into these questions?

Mrs SHELLEY HANCOCK: Do you know me at all, Mr Buttigieg?

The Hon. SHAYNE MALLARD: What an offensive question.

Mrs SHELLEY HANCOCK: Do you know me? No, clearly not, otherwise you would not ask a ridiculous question.

The Hon. MARK BUTTIGIEG: I do not, Minister

Mrs SHELLEY HANCOCK: Of course I do not support homophobia in the workplace.

The Hon. SHAYNE MALLARD: No-one should.

Mrs SHELLEY HANCOCK: Good grief.

The Hon. MARK BUTTIGIEG: Okay, so do you believe that it is okay for councillors to call other councillors an "effing poof"?

The Hon. SHAYNE MALLARD: Of course not.

Mrs SHELLEY HANCOCK: Certainly not.

The Hon. MARK BUTTIGIEG: Good. Do you believe it is okay for a councillor to mimic oral sex at another councillor who is openly gay while he speaks at a public— ?

Mrs SHELLEY HANCOCK: Where is this line of questioning going, Mr Buttigieg?

The Hon. MARK BUTTIGIEG: Are you telling me that as the Minister for Local Government that—

CORRECTED

Mrs SHELLEY HANCOCK: Do you think I am responsible for all of these comments? Or that I endorse them?

The Hon. MARK BUTTIGIEG: Minister, I am asking you a question. Are you telling me, as the Minister for Local Government, you do not know what I am referring to?

Mrs SHELLEY HANCOCK: I do not think the second—

The Hon. MARK BUTTIGIEG: Well, let me give you some context.

Mrs SHELLEY HANCOCK: That is outrageous.

The Hon. SHAYNE MALLARD: Point of order: As a gay man I am being rather disturbed by this line of questioning. Can I just say, I think you should take this up privately with the Minister, not air it in a hearing like this, like some sort of ambush trick because you are triggering me right now and you just have to be more careful what you do.

Mrs SHELLEY HANCOCK: I agree.

The Hon. SHAYNE MALLARD: I suggest you take it to the Minister privately and then, if you feel you are not getting the answer, take it to the appropriate authority, but not in a hearing of an estimates inquiry.

The Hon. MARK BUTTIGIEG: To the point of order: I am giving the Minister background for a code of conduct issue for which she is responsible via her department, the Office of Local Government. The idea that I would be shut down on trying to expose this issue and getting transparency on it is preposterous.

The Hon. SHAYNE MALLARD: I am not shutting you down; I am saying you are offending me.

Mr DAVID SHOEBRIDGE: To the point of order: I think the quicker we get to the substantive issue about what the Minister's role is, the better.

The Hon. MARK PEARSON: Yes.

Mr DAVID SHOEBRIDGE: I think we should get there fairly immediately.

The Hon. CATHERINE CUSACK: I wish to contribute to the point of order.

The Hon. SHAYNE MALLARD: You are playing politics with people's sexuality.

The Hon. MARK PEARSON: Ms Cusack to the point of order and then I will rule.

The Hon. CATHERINE CUSACK: The Minister has given very extensive answers this morning—

The Hon. MARK BUTTIGIEG: Oh, really?

The Hon. CATHERINE CUSACK: —explaining that she is not responsible for investigating code of conduct matters. She has been very clear and said that over and over again. So this question is clearly completely in defiance of all of the answers and information the Minister has given.

The Hon. MARK BUTTIGIEG: To the point of order—

The Hon. CATHERINE CUSACK: This question is just—

The Hon. MARK PEARSON: I think I have heard enough. I will make a ruling on this. If the question is only if the Minister is aware of these instances—

The Hon. MARK BUTTIGIEG: Correct.

The Hon. MARK PEARSON: —and is not trying to ask the Minister as to whether she approves of these things or not, that question is allowed. But I think we need to be very careful that we do not start pushing the Minister into a position where she might attract some sort of unwarranted criticism because this is in the public domain right now, on air. So just be careful how you phrase your questions so they do not intimate that there is another concern that you have about the Minister. Just be very clear about what you are asking the Minister.

The Hon. MARK BUTTIGIEG: Thank you, Chair. Minister, in that context, are you aware these incidents all occurred during a public council meeting in Newcastle city on 21 May 2019?

Mrs SHELLEY HANCOCK: Yes, I am and I have expressed my displeasure to those comments in the past. I will reiterate what Ms Cusack has said: I do not play any role in the investigation of code of conduct matters such as these. I will also draw your attention to Mr Mallard's comments. If somebody has been offended in this Committee, I would absolutely agree that if we are trying to score political points here and therefore trivialise the actions of those involved in those actions that you have talked about, then I find that offensive.

CORRECTED

The Hon. CATHERINE CUSACK: Hear, hear!

The Hon. MARK BUTTIGIEG: Minister, are you suggesting that I have somehow cast aspersions on another member of this Committee by what I have just said?

The Hon. SHAYNE MALLARD: I said you triggered me.

Mrs SHELLEY HANCOCK: If the member has taken offence then you should consider that he has taken offence.

The Hon. MARK BUTTIGIEG: I take offence that he has taken offence.

Mr DAVID SHOEBRIDGE: Point of order—

The Hon. MARK BUTTIGIEG: This is ridiculous.

Mrs SHELLEY HANCOCK: Well, you should be careful about your comments.

Mr DAVID SHOEBRIDGE: I think it would be best, rather than have an iterative bounce back and forth between the member and the Minister that both of them respect their positions—no questions from the Minister and no responses from the members and we get back on track for this Committee.

Mrs SHELLEY HANCOCK: Is that the end of the lecture? Thank you, Mr Shoebridge.

The Hon. SHAYNE MALLARD: I think that was reasonable.

The Hon. MARK PEARSON: I uphold that point of order, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: For your information, Minister, so that you are aware of these events, the offender was former jockey Alan Robertson, former footy show regular, and his victim was Deputy Mayor Declan Clausen. Clearly Councillor Clausen should not have been subject to this tirade. What would you expect the Office of Local Government to do regarding such a code of conduct breach?

Mrs SHELLEY HANCOCK: Firstly—and, again, I do not investigate these matters—there is a role for local councils, too, in their own code of conduct complaint systems and they occur from time to time and are dealt with within the local council. They are dealt with quite rigorously with independent investigators looking at issues such as this. If they feel the need to then be progressed to a more serious level at the Office of Local Government then they are. But all I can do for you today, Mr Buttigieg, is express my absolute abhorrence at comments like this that are made. As the Minister, I cannot prevent those from occurring. I cannot prevent actions of councillors being taken in a council chamber.

The Hon. MARK BUTTIGIEG: Okay, I understand. Can I take you to the subsequent council action emanating? Are you aware of what happened in terms of the recourse?

Mrs SHELLEY HANCOCK: No, I am not aware. Mr Hurst, are you aware of what happened within the council?

The Hon. MARK PEARSON: Mr Hurst, do you think you could elucidate?

Mr HURST: I think Mr Buttigieg has a question.

Mrs SHELLEY HANCOCK: Yes, he is asking, am I aware of what the action that the council took in respect of the—

The Hon. MARK BUTTIGIEG: Because the Minister correctly pointed out that the council could deal with the matter, which they did. Are you aware of how they dealt with it?

Mr HURST: I am not personally aware, no.

The Hon. MARK BUTTIGIEG: So we have an Office of Local Government, again, overseeing code of conduct issues that we know nothing about. He was censured, council was censured and council then voted unanimously to send it back to the OLG. We had a notice of motion from the member for Newcastle, Mr Crakanthorp, articulating the issues about this. He said in his notice of motion that—

The Hon. TREVOR KHAN: Well, this is the time for questions, not repeating—

The Hon. MARK BUTTIGIEG: Well, I am giving context, with all due respect, and I will be very brief. He calls on the Minister for Local Government to review the councillor code of conduct to ensure such alleged offensive behaviour is prevented in local government. Now, a censure does not prevent that sort of behaviour. My question to you is, what do you expect the Office of Local Government to do about this?

CORRECTED

Mrs SHELLEY HANCOCK: Obviously the council has made a decision and that is their right. They are the decision-makers in relation to conduct within their own council chambers or indeed outside the chambers. So they have made a decision. They have taken action. And if they consider that that kind of behaviour is ongoing or more serious then it can be elevated to the Office of Local Government.

The Hon. MARK BUTTIGIEG: So that is where we are Minister. That is what I just articulated. It is back with OLG.

Mrs SHELLEY HANCOCK: Then it is a matter for the OLG.

The Hon. MARK BUTTIGIEG: Under the Local Government Act the OLG has the power, as we discovered this morning in our iteration of Mr Doueihi's litany, to suspend for three months. Given the stance that everyone clearly takes on this Committee, would you expect that that is the sort of recourse that the OLG should avail itself of?

Mrs SHELLEY HANCOCK: I am not going to pre-empt an outcome of an investigation by the OLG.

The Hon. CATHERINE CUSACK: Point of order: Again, I refer to my earlier point of order. The Minister is not responsible for the investigation of code of conduct matters. Even though the member here has asserted that she is, on multiple times she has explained the process to him repeatedly. And this line of questioning is completely futile and self-serving.

Mr DAVID SHOEBRIDGE: To the point of order: Thankfully, futility has never been a basis upon which to oppose a round of questions in budget estimates. It may not—

The Hon. CATHERINE CUSACK: The fact that the question about process has been answered repeatedly and we are going in futile circles is a matter I am asking the Chair to rule upon as I am entitled.

Mr DAVID SHOEBRIDGE: Perhaps if you let me finish.

The Hon. MARK PEARSON: I will now rule on it. I think the member can ask the Minister her view—her position—on this issue, because it has become quite clear that the Minister is not directly involved in any investigation. But you can ask the question as to what is her position or view on such a matter and that is it.

The Hon. MARK BUTTIGIEG: Which is what I was asking.

The Hon. MARK PEARSON: And I think the Minister has answered it several times.

Mrs SHELLEY HANCOCK: Quite stridently.

The Hon. MARK BUTTIGIEG: Again, Minister, do you think the Office of Local Government in this case should use its power and suspend the councillor for three months?

Mrs SHELLEY HANCOCK: That is up to the Office of Local Government. They have appropriate measures in place—

The Hon. MARK BUTTIGIEG: No, I understand it is up to—

The Hon. TREVOR KHAN: Point of order—

Mrs SHELLEY HANCOCK: I am not sure that this is even with the Office of Local Government at this stage. I am not sure.

The Hon. MARK BUTTIGIEG: So it is not?

Mrs SHELLEY HANCOCK: I do not know. I cannot comment.

The Hon. MARK PEARSON: Order, Minister. Mr Khan on a point of order.

The Hon. TREVOR KHAN: We seem to be slipping back into this exercise where the Minister is answering the question and the member then jumps in over the top. The Minister then responds and we end up with a matter that is untranscribable if nothing else, as far as Hansard is concerned. It is a matter of courtesy, if not to the Minister then to Hansard, that we allow the Minister to answer and then move to the next question, not whilst the Minister is answering the question.

The Hon. MARK PEARSON: I uphold the point of order, Mr Buttigieg. Next question?

The Hon. MARK BUTTIGIEG: Minister, if this occurred in another workplace, it would likely be grounds for instant dismissal. Do you accept that?

Mrs SHELLEY HANCOCK: It could be. But I do not accept that it necessarily would be. It depends on the workplace, I imagine and their standards.

CORRECTED

The Hon. MARK BUTTIGIEG: Do you think if I were a staff member at Newcastle City Council or a fellow councillor or a ratepayer looking at this behaviour and seeing that all that has happened is that the councillor has been censured, council then votes unanimously to send it back to OLG and nothing has happened—how do you think that sits with your constituency, the ratepayers New South Wales?

Mrs SHELLEY HANCOCK: I think constituency, or more specifically of that area, would be concerned if there had not been some action taken by the council and/or OLG to ensure that that kind of behaviour was not repeated. That is all I can say to you at this stage because I cannot comment on the original investigation within the council and the subsequent motion nor the motion referring that to the Office of Local Government. And Mr Hurst, I think, is not even aware that it has been referred.

Mr HURST: I do not have any details on this. In the circumstances I do not know that there is any comment I can make about whether these are the facts of the matter or the referral. I am endeavouring to get that information now.

Mrs SHELLEY HANCOCK: I think, Mr Buttigieg, if I can just say, hopefully leading to a finality about this issue, that you can ask me my opinions about what councillors do and say and I will try to be very honest with you because sometimes the behaviour of councillors and mayors throughout the State has shocked, concerned, appalled me from time to time. But I am not there to visit every council and to dictate to the councillors what they can and cannot do and what decisions they should and should not make. We expect higher standards of our elected representatives, absolutely.

We have elections in September. I currently have on foot a very strong campaign—and I would like you to listen to this—to increase the number of women councillors in local government. Currently, there are only 31 per cent. I would hope that we would lift the standards of the behaviour in the chambers by the lifting the number of women. It is important to me that we take these actions, these positive actions, rather than just concentrating on the events to which you are referring. Let's look at the positives that are happening in the local government sector, and they are. Let's look at trying to encourage more women to run for local government. Let's try to remove some of the barriers for women running for local government and concentrate on how rewarding a career it can be as an elected councillor or mayor. The more you concentrate on these negatives, the more there will be women perhaps questioning a decision to run for local government, and that is tragic.

The Hon. MARK BUTTIGIEG: Minister, I appreciate the pivot to gender equality. There is a thing called affirmative action, which your party might want to adopt to address those sorts of things.

The Hon. TREVOR KHAN: Point of order—

Mrs SHELLEY HANCOCK: That is an offensive reaction. That is offensive to women.

The Hon. MARK PEARSON: Point of order, Mr Khan.

The Hon. TREVOR KHAN: It is just gratuitous observations that are being made. We have a long day, but we just do not need to slag each other off. That, frankly, has nothing to do with budget estimates on local government.

The Hon. MARK PEARSON: I actually uphold that point of order, Mr Buttigieg. You are seriously straying from what is the spirit of this Committee inquiry.

The Hon. MARK BUTTIGIEG: Sure. Thanks Chair. I appreciate the Minister addressing my question by saying that she will endeavour to further the cause of gender equality, but with all due respect, Minister—

The Hon. CATHERINE CUSACK: Sorry, can you just ask your question, please?

The Hon. MARK BUTTIGIEG: I am asking the question.

The Hon. CATHERINE CUSACK: You are not asking a question. You are arguing and you are also—

The Hon. MARK BUTTIGIEG: I appreciate you want to run interference all day—

The Hon. CATHERINE CUSACK: —in defiance of the ruling that the Chair has just made.

The Hon. MARK BUTTIGIEG: Is that a point of order?

The Hon. CATHERINE CUSACK: Your behaviour is appalling.

The Hon. MARK PEARSON: Order! Please do not get into this sort of attacking of each other. It is not helpful for the process here. And I might have to make some very strong decisions shortly where people might be going through the door. So, Mr Buttigieg, could you please come to the question without intimating or casting some aspersions?

CORRECTED

The Hon. MARK BUTTIGIEG: Sure. Minister, the question is very clear and simple.

The Hon. MARK PEARSON: Make it.

The Hon. MARK BUTTIGIEG: The code of conducts associated with councils are clearly inadequate if all they can do is censure. The OLG has the power to suspend. Would you consider amending those codes of conduct so the councils have more power to deal with this sort of behaviour?

Mrs SHELLEY HANCOCK: We continue to review the code of conduct on a regular basis to see whether there is any way that we can strengthen the code of conduct, which we have done already, and we will continue to do that, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: The member for Newcastle's notice of motion, would you be willing to take up the propositions in that notice of motion, which was to do just that?

The Hon. CATHERINE CUSACK: This has to have something to do with estimates, surely.

The Hon. MARK BUTTIGIEG: There has already been a point of order.

The CHAIR: The Minister will answer the question.

Mrs SHELLEY HANCOCK: I have given you my answer about my willingness to continually review and model code of conduct—to strengthen it, to improve councillors' behaviours, to lift the standards in council chambers, to improve the number of women who are local government representatives and to do what I can to remove some of the barriers for women. I know you have dismissed those as unimportant actions on my part.

The Hon. MARK BUTTIGIEG: No, I have not dismissed them at all.

Mrs SHELLEY HANCOCK: But I will continue to do what I can to improve the behaviour of councillors, even though I cannot actually go into a council chamber and do anything much about the fact that they have made an offensive comment.

The Hon. MARK BUTTIGIEG: Chair, I just want to correct something that the Minister tried to impugn me with—that I was dismissing the gender equality.

Mrs SHELLEY HANCOCK: You did.

The Hon. MARK BUTTIGIEG: Minister, the source of the problem is not necessarily gender. I mean, presumably, female

The Hon. CATHERINE CUSACK: Point of order—

The Hon. MARK PEARSON: Mr Buttigieg, please ask a question.

The Hon. MARK BUTTIGIEG: I was verballled.

The Hon. MARK PEARSON: You might have been verballled or not, but the point is that your role is to ask a question for clarification.

The Hon. MARK BUTTIGIEG: My question to you is this then Minister: Do you believe that women are incapable of that sort of behaviour and that that would fix the problem?

The Hon. MARK PEARSON: Sorry, what is the question please, Mr Buttigieg?

The Hon. MARK BUTTIGIEG: The question is: Will the Minister address the root cause, which is that councils have not got sufficient power to deal with this sort of behaviour, irrespective of gender?

The Hon. CATHERINE CUSACK: It has been asked and answered.

Mrs SHELLEY HANCOCK: I have given you the answer that I am going to give you.

The Hon. MARK BUTTIGIEG: If a member of the ministerial staff or in your electorate office made those same comments or actions towards a fellow staff member, what action would you take?

Mr DAVID SHOEBRIDGE: Point of order: I think putting that kind of hypothetical to the Minister is probably out of order. There have been rulings on hypotheticals. If it related to the conduct of local government, that may well be in order, but a hypothetical unrelated to the conduct of local government is probably outside.

The Hon. MARK PEARSON: I uphold that point of order. Minister, would you agree that even with certain standards of code of conduct, which would no doubt need to go under regular review according to situations that have occurred, at the end of the day the laws that prevail which are about basically verbal assault—

CORRECTED

Mr DAVID SHOEBRIDGE: Vilification.

The Hon. MARK PEARSON: —would apply to this situation and, if that is the way the person felt, it should be referred to the authorities such as the police?

Mrs SHELLEY HANCOCK: Certainly. If that is the way an individual feels about the seriousness of, say, an assault, vilification, intimidation, bullying or harassment, they can be referred to the appropriate agencies.

Mr DAVID SHOEBRIDGE: Or the Anti-Discrimination Board [ADB].

The Hon. TREVOR KHAN: Yes, the ADB.

Mr DAVID SHOEBRIDGE: The ADB. Sorry, having listened to this for some time, it seems to me that one of the obvious solutions and interventions that would have been useful for the Office of Local Government is to refer this to the Anti-Discrimination Board, which has the jurisdiction to deal with these matters of vilification and like.

Mrs SHELLEY HANCOCK: Indeed.

Mr DAVID SHOEBRIDGE: Did that ever happen?

Mrs SHELLEY HANCOCK: Look, again, I think that at the council level they are entitled to take that action as well. A lot of these matters, Mr Shoebridge, as you know, are dealt with at council level. They take action according to their own code of meeting practices, so they could have availed themselves of that opportunity as well.

Mr DAVID SHOEBRIDGE: Minister, that may well have been appropriate at a council level but I suppose the matter has been referred to the Office of Local Government. It has been sitting there for some time apparently. Has the Office of Local Government thought to obtain the assistance of the Anti-Discrimination Board, which has the skills and specialty for dealing with this kind of behaviour?

Mrs SHELLEY HANCOCK: I cannot see why they would not take into consideration the appropriate body to refer that to.

Mr DAVID SHOEBRIDGE: Well, have they, Mr Hurst?

Mr HURST: Just to clarify, I am trying to find out more information about this but at this stage I am not aware that the matter has been referred to OLG.

The Hon. MARK PEARSON: Sorry, Mr Hurst, could you just move your microphone closer?

Mr HURST: Just to clarify, I am not aware that it has been referred to the Office of Local Government or what action we may have taken if that was the case. I am endeavouring to get that information for the Committee.

The Hon. MARK PEARSON: But, Mr Hurst, who would make the decision to refer it to the Anti-Discrimination Board or other body?

Mr HURST: I am not an expert, Deputy Chair. I would suggest that probably anyone could make the decision to refer to them.

The Hon. MARK PEARSON: I know. If it was referred to your office, who in your office would make a decision that this should be also referred to the Anti-Discrimination Board et cetera?

Mr HURST: I would normally take the advice of my investigations team on any referrals to other agencies.

The Hon. MARK BUTTIGIEG: Deputy Chair, if I could just—

The Hon. MARK PEARSON: I think we are now to crossbench.

Mr DAVID SHOEBRIDGE: Deputy Chair, I took a couple of minutes of Mr Buttigieg's time at the end there, which I apologise for, so I am more than happy to give him two minutes of my time.

The Hon. MARK BUTTIGIEG: I appreciate it.

The Hon. MARK PEARSON: Okay.

The Hon. MARK BUTTIGIEG: Thank you, Mr Shoebridge. Just for Mr Hurst's information, my understanding is that at an ordinary council meeting on 8 December the matter was referred back to the OLG. So I am not quite sure why the OLG would not know about that, but there we are.

CORRECTED

The Hon. TREVOR KHAN: Well, they might. That is why he is seeking information.

The Hon. MARK PEARSON: Mr Khan, do you have a point of order?

The Hon. TREVOR KHAN: No.

The Hon. CATHERINE CUSACK: This is just shambolic.

Mrs SHELLEY HANCOCK: It is a little.

The Hon. MARK BUTTIGIEG: So we have a situation here where the United Services Union first raised this issue almost two years ago, council has been censured, it is back with the OLG and there is still no progress on the matter. Minister, do you think that is an acceptable outcome for your department?

Mrs SHELLEY HANCOCK: Just trying to listen to you carefully, I think there was a motion to refer it to the Office of Local Government. I am not sure that we have the information as to whether it was referred to the Office of Local Government at this stage. Mr Hurst is endeavouring to find that information for you.

The Hon. MARK BUTTIGIEG: Well, I think I said that it was carried unanimously, but make the inquiries.

Mrs SHELLEY HANCOCK: Well, it may well have been, but whether it has been referred at this stage on the basis of a unanimous motion or not on a unanimous motion, we are endeavouring to find that information out for you, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Sure. If you could take that on notice that would be great.

The Hon. MARK PEARSON: You can take that on notice to provide that information. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: Minister, your office moved to allow online meetings of councils to happen during the pandemic.

Mrs SHELLEY HANCOCK: Yes.

Mr DAVID SHOEBRIDGE: I note it was a positive decision. However, have you tracked what has been happening at a local council level since—those that have gone back to in-real-life meetings and those that have gone back to Zoom meetings?

Mrs SHELLEY HANCOCK: Yes. We are not tracking but we are watching and monitoring. I have just released a discussion paper on this very issue. I am encouraging obviously all councils to come back to the council chambers, but part of the issue with women attending and young women being encouraged to attend—the discussion paper actually says, "Are there any circumstances where young women maybe find it difficult to attend in person at a meeting and therefore would have a reason to actually Zoom into a council meeting?" In other words, I do not want to mandate everybody coming back if there are reasonable reasons why a woman cannot attend a council meeting. Perhaps she cannot seek child care, so therefore she should have the right, in my view—and the discussion paper is out for public comment at the moment. So there may be a reason why she should be able to attend remotely, as there would be for people who are ill or people who have disabilities.

There may be a whole raft of reasons why people should not have to be expected to perhaps drive two hours to a council meeting, because in the rural areas that is sometimes the case. Again, it is about removing at the forefront barriers for young women in particular who have carer or childcare responsibilities. So to answer your question, we are watching and we are seeing councils come back down to the council chambers, some with more restrictions than others. It is those social distancing screens and the like, but in fact all of those councillors should be required back to the chambers. But at the same time we have a discussion paper, which you might like to comment on too in a submission, as to whether there would be circumstances where councillors would not be required.

Mr DAVID SHOEBRIDGE: So the current system is effectively binary? It is either all on Zoom or all in the council chamber?

Mrs SHELLEY HANCOCK: Well, I think the Zoom meetings—

Mr HURST: They can have a combination.

Mrs SHELLEY HANCOCK: Yes, but until when? That finishes.

Mr HURST: Well, the legislation says—

Mr DAVID SHOEBRIDGE: Well, Mr Hurst, rather than have a chat, why don't—

Mrs SHELLEY HANCOCK: We are talking about the legislation, which was really COVID related.

CORRECTED

Mr HURST: It was.

Mrs SHELLEY HANCOCK: That comes to an end.

Mr DAVID SHOEBRIDGE: It is limited to—it expires in September, I think, doesn't it?

Mrs SHELLEY HANCOCK: No, I think it is before that.

Mr HURST: To March this year.

Mrs SHELLEY HANCOCK: Yes, I think it is pretty soon.

Mr HURST: But as part of the Minister's announcement, those provisions will be extended.

Mr DAVID SHOEBRIDGE: Alright. So the provisions that allow for a mixed meeting of online and—

Mrs SHELLEY HANCOCK: Yes, until we sort of finalise our discussion paper and finalise the comments that we get back, we will extend the provisions. So there will be a combination, like it or not.

Mr DAVID SHOEBRIDGE: No, I think there are compelling reasons to allow for mixed meetings. The question is whether it is as of right or whether there is a threshold to be met for attendance other than in real life. I am sure the discussion paper will flesh that out. So the position is that the current situation is going to be extended by a regulation, is it?

Mrs SHELLEY HANCOCK: By regulation or just because I can.

Mr HURST: We are in the process of extending it.

Mr DAVID SHOEBRIDGE: Well, how are you "can"-ing it?

Mr HURST: We are still talking to the Parliamentary Counsel about the process.

Mr DAVID SHOEBRIDGE: But the expectation is it will be extended?

Mrs SHELLEY HANCOCK: Yes.

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: That is the policy position that has been adopted?

Mrs SHELLEY HANCOCK: Yes.

Mr HURST: Mixed meetings will be extended.

Mrs SHELLEY HANCOCK: Given that the discussion paper is around those issues anyway.

Mr DAVID SHOEBRIDGE: No, I think that is good.

Mrs SHELLEY HANCOCK: Yes, you have got it?

Mr DAVID SHOEBRIDGE: That gives some certainty to the councils that have been asking about it. There have, however, been a significant number of concerns reported to me about some councils choosing to switch from in real life, even though they have returned to in-real-life meetings, back to online meetings because they have been anxious about—with the intent of limiting public engagement in the gallery. Have you had any concerns raised with you to that effect?

Mrs SHELLEY HANCOCK: No, I have not but I would be concerned about that. If you are trying to limit public engagement with a council, I do not think that is appropriate.

Mr DAVID SHOEBRIDGE: One of the most recent instances was at Wingecarribee council. Their meeting at the end of February was originally advertised as an in-real-life meeting, but then with very short notice it was converted to an online meeting. There was very short notice given of that. Have you been aware of that happening in other councils?

Mrs SHELLEY HANCOCK: Not in other councils. I was aware of that. Again, I think that decision—I do not know but I can imagine—would have been taken with respect to COVID regulations, social distancing, the inability to actually have everybody back in the chamber. Some council chambers are quite small, Mr Shoebridge, so they may not have thought that they could comply with COVID regulations..

Mr DAVID SHOEBRIDGE: There is no suggestion of that. I think it was a Wingecarribee council meeting on 23 February, where a number of members of the public attended the meeting consistent with the notice that had been given were turned away and were told that it was only a Zoom meeting. Mr Hurst, could I ask you

CORRECTED

to review the circumstances under which Wingecarribee converted an in-real-life meeting to a Zoom meeting around about 24 February?

Mrs SHELLEY HANCOCK: Yes, I will take that on notice to investigate that. Yes, sure.

Mr DAVID SHOEBRIDGE: I have also had a number of members of the public raise concerns with me about the conduct of that meeting and about the mayor's conduct during that meeting, where the mayor was refusing to allow councillors to contribute and clearly in breach of meeting practice. Mr Hurst, would you review the conduct of the mayor in that meeting because the concerns are very real that have come from the community. There were some quite heated matters and the sense was that there was not a fair opportunity, or even a lawful opportunity, for councillors to contribute.

Mr HURST: Mr Shoebridge, obviously the procedures provide a mechanism for people to make a complaint if they—

Mr DAVID SHOEBRIDGE: Consider this a complaint.

Mr HURST: It should be made in accordance with the procedures, which is to the council in the first instance.

Mr DAVID SHOEBRIDGE: Well, there is not much point making it because is the mayor who shut it all down. This is surely why we have the Office of Local Government. We have got a mayor with the support of the majority shutting down other councillors, and your answer me is I have to go back to that same councillor where the majority is the problem.

Mr HURST: Mr Shoebridge, I am suggesting that the procedures do cover this situation and that you should direct your complaint to the general manager of the council.

Mr DAVID SHOEBRIDGE: Who was an acting general manager who survives only with the support of the majority, and it is their conduct that I am complaining of. And that is your position? Minister, do you get a sense of the frustration here?

Mrs SHELLEY HANCOCK: Certainly. I think matters with respect to Wingecarribee Shire Council have moved on. I do not think we have the acting general manager. He has been stood aside last night following behaviour last night at Moss Vale Hotel. You haven't heard about that?

Mr DAVID SHOEBRIDGE: I was coming to that point, but I only had a very short message on my phone about it. Minister, who stood down the acting general manager? Was it a decision of the Office of Local Government or was it a decision of—

Mrs SHELLEY HANCOCK: No, not the Office of Local Government. That is a matter for council to determine and they did determine that apparently last night.

Mr DAVID SHOEBRIDGE: When the community has asked Wingecarribee council to hold off appointing a permanent general manager until after the community gets their say on the council at the September local council elections, the mayor and other councillors have come back and said they must appoint a permanent general manager within 12 months of the position coming becoming vacant. Mr Hurst, that is not the law, is it?

Mr HURST: That is not my understanding, Mr Shoebridge.

Mrs SHELLEY HANCOCK: Anything else on Wingecarribee?

Mr DAVID SHOEBRIDGE: There is plenty more on Wingecarribee. We could spend a while on the Bowral bypass, if you like, as well. Have you had any role in reviewing council's conduct in pushing forward on the Bowral bypass?

Mrs SHELLEY HANCOCK: No, I have not played a role in that. That would be more a matter for perhaps the Minister for planning.

Mr DAVID SHOEBRIDGE: Or the Minister for roads

Mrs SHELLEY HANCOCK: Or the Minister for roads.

Mr DAVID SHOEBRIDGE: But you are aware the bypass keeps getting shorter and shorter and shorter and currently goes nowhere near bypassing Bowral, aren't you?

The Hon. CATHERINE CUSACK: Point of order—

Mrs SHELLEY HANCOCK: I cannot answer that. That is way outside my portfolio.

The Hon. MARK PEARSON: A point of order has been taken.

CORRECTED

The Hon. CATHERINE CUSACK: My point of order is that the questions need to relate to the Minister's portfolio and not intersect with any role she might have as a local member down there in that area or in that region. The questions should be constrained to the Local Government portfolio.

The Hon. MARK PEARSON: I will uphold that point of order. Thank you, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: I think we had that discussion anyhow with the Minister while that was happening.

The Hon. MARK PEARSON: The question, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Minister, are you aware of the litigation involving Armidale Regional Council taken by the former general manager of Armidale Regional Council?

Mrs SHELLEY HANCOCK: Mr Hurst, you might comment on that.

Mr HURST: Obviously, yes. It has been well reported, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Minister, there was a decision in that case in the Land and Environment Court in *Armidale Regional Council v O'Connor* [2020] NSWLEC 77 in which the Chief Justice found that councillors were able to sit on the general manager's review committee and were not biased simply for the reason of having an opinion about the general manager's performance. What, if any, steps have been taken to advise all councillors of that conclusion and that policy setting having now come from the Chief Justice of the Land and Environment Court?

Mr HURST: I am not aware that we have provided specific guidance to council on that question but I will endeavour to get back to you later today on that.

Mrs SHELLEY HANCOCK: Fair question.

Mr DAVID SHOEBRIDGE: Will you consider a circular to councillors and general managers just to make it clear what the law is now in that regard so we do not have another Armidale debacle where the general manager sues the council and the councillors because the councillors are doing their job of trying to review the general manager's conduct?

The Hon. TREVOR KHAN: That was not the only basis upon which he sued.

Mr DAVID SHOEBRIDGE: Again, we could spend ages on this, Mr Khan, but I am not asking at that.

Mrs SHELLEY HANCOCK: We will have those discussions, Mr Shoebridge, Mr Hurst and I. It is a fair point that you raise.

Mr DAVID SHOEBRIDGE: Minister, are you aware of the analysis that shows that 19 out of the 20 forcibly amalgamated councils have actually gone backwards financially and underperformed the non-amalgamated councils on a financial basis? Are you aware of that analysis?

Mrs SHELLEY HANCOCK: That was reported in the media as a result of a report by LSI, which has since been discredited and now the subject of legal action.

Mr DAVID SHOEBRIDGE: Have you commenced that legal action yourself?

Mrs SHELLEY HANCOCK: No, but I am aware that councils—and I am not going to name the councils—have initiated legal action in respect of that report.

Mr DAVID SHOEBRIDGE: What is the legal action that councils have—

Mrs SHELLEY HANCOCK: There was incorrect information in the local media or city media reflecting on councils. It was incorrect.

Mr DAVID SHOEBRIDGE: Are you saying councils have commenced defamation action? Is that something you support, councils taking defamation action?

Mrs SHELLEY HANCOCK: I am not sure it is defamation. I am not a legal expert—you are, Mr Shoebridge.

The Hon. TREVOR KHAN: No, don't give him that.

Mr DAVID SHOEBRIDGE: No, I am a defendant in defamation proceedings; I was never the counsel.

Mrs SHELLEY HANCOCK: They are undertaking legal proceedings.

Mr DAVID SHOEBRIDGE: What is the nature of the legal proceedings?

CORRECTED

Mrs SHELLEY HANCOCK: I am not sure that it is defamation. I don't know. I am aware that those councils, because they have indicated to me that they are, are taking legal action against the newspaper which published the report in respect of the report because it was absolutely inaccurate.

Mr DAVID SHOEBRIDGE: Minister, are you sure of your evidence that the councils are commencing—have taken legal action? I am assuming it is against *The Sydney Morning Herald*?

Mrs SHELLEY HANCOCK: Well, they told me that.

Mr DAVID SHOEBRIDGE: Are you distinguishing between a Press Council complaint—

Mrs SHELLEY HANCOCK: Yes, I am.

Mr DAVID SHOEBRIDGE: So you are talking about legal action, not a Press Council complaint?

Mrs SHELLEY HANCOCK: That is what was indicated to me by the councils involved.

Mr DAVID SHOEBRIDGE: By who?

Mrs SHELLEY HANCOCK: I do not want to say that to you because this is the subject of legal investigations.

Mr DAVID SHOEBRIDGE: Has Bayside Council? Has Bayside Council said they are going to sue *The Sydney Morning Herald*? Is that the situation?

Mrs SHELLEY HANCOCK: I am not going to comment. I just said to you if any of those councils are undertaking legal action, I am not going to tell you or indicate to you who they are. They have told me that in confidence.

Mr DAVID SHOEBRIDGE: You are the Minister for Local Government. You are accountable to this Parliament, so I am going to ask you again: Which councils have said that they have taken legal action, or are taking legal action, against a newspaper using ratepayers' money to, it would appear, purport to protect their reputation? Which councils are doing that, Minister?

Mrs SHELLEY HANCOCK: Well, you can ask me many times—

The Hon. TREVOR KHAN: Point of order: It has been asked and answered. She is not going to tell you.

The Hon. MARK PEARSON: We need to respect the fact that the Minister has been given this information confidentially. Unless we close down and go into camera, I am not sure that the answer is absolutely necessary.

The Hon. TREVOR KHAN: We can't

Mr DAVID SHOEBRIDGE: We might come back to this in a different place. Minister, do you support councils using ratepayers' money to bring defamation actions against—

Mrs SHELLEY HANCOCK: You are saying defamation actions. Are you saying generally speaking?

Mr DAVID SHOEBRIDGE: Legal complaints, legal actions to protect their reputation. Do you support councils using ratepayers' money for that purpose?

The Hon. SHAYNE MALLARD: You supported Woollahra Council taking on the Government over amalgamation.

Mr DAVID SHOEBRIDGE: And it won.

Mrs SHELLEY HANCOCK: So that is the difference.

Mr DAVID SHOEBRIDGE: I know you are bitter about that Mr Mallard. They actually won because your actions were unlawful.

The Hon. MARK PEARSON: Order! Minister, would you please answer the question?

Mrs SHELLEY HANCOCK: You just answered your own question, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: It is quite one thing for a council to prevent actions—

The Hon. MARK PEARSON: Just a moment Mr Shoebridge. I do not think we have heard the answer from the Minister to that question.

Mrs SHELLEY HANCOCK: It is a matter for councils to determine what actions they take.

CORRECTED

Mr DAVID SHOEBRIDGE: Are you aware of any councils, other than Bayside Council, making complaints against *The Sydney Morning Herald*?

Mrs SHELLEY HANCOCK: You are asserting something about Bayside Council that I have not acceded to, I have not admitted to, I have not commented on.

Mr DAVID SHOEBRIDGE: I can but try.

Mrs SHELLEY HANCOCK: So, stop it.

Mr DAVID SHOEBRIDGE: Minister, where are we up to in terms of superannuation for councillors?

Mrs SHELLEY HANCOCK: You and I agree on this. I will have much more to say on this very soon and I am sure you will be pleased.

Mr DAVID SHOEBRIDGE: When can we expect an announcement on superannuation for councillors?

Mrs SHELLEY HANCOCK: Very soon. This is about Cabinet processes at the moment.

The Hon. SHAYNE MALLARD: Nigh, that is the answer we do not want to get.

Mr DAVID SHOEBRIDGE: No, we do not like nigh. There is a process in train?

Mrs SHELLEY HANCOCK: Cabinet processes, yes.

Mr DAVID SHOEBRIDGE: Can you give an indication, is it days or weeks? There are two nice weeks of parliamentary sitting coming and we are happy to use those. Is that the intent?

Mrs SHELLEY HANCOCK: I am presuming days. I said very soon.

Mr DAVID SHOEBRIDGE: The answer is nigh. Minister, I think we are on the same page.

Mrs SHELLEY HANCOCK: Yes, we are.

Mr DAVID SHOEBRIDGE: It is my understanding that having superannuation for councillors is one plank in getting more women onto council.

Mrs SHELLEY HANCOCK: No doubt.

Mr DAVID SHOEBRIDGE: And that position from you has not changed?

Mrs SHELLEY HANCOCK: From my perspective, no.

Mr DAVID SHOEBRIDGE: Minister, are you aware of the peer reviewed research by Joseph Drew, Associate Professor of Local Government at the UTS Institute of Public Policy & Governance that shows that forced amalgamations resulted in an average of 11.2 per cent increases in the costs to those amalgamated councils? Are you aware of that research?

Mrs SHELLEY HANCOCK: I have heard of that research.

Mr DAVID SHOEBRIDGE: Mr Hurst, have you briefed the Minister on that research that shows an average of 11.2 per cent increase in the costs to the amalgamated councils?

Mr HURST: No.

Mr DAVID SHOEBRIDGE: Are you aware of the research?

Mr HURST: Yes. I am also aware that it is in the context of a statutory process that is underway at the moment, that the Minister has a decision-making role in.

Mr DAVID SHOEBRIDGE: Are you sure that it is a decision-making role Mr Hurst; it is not an approval role or assigning role?

The Hon. TREVOR KHAN: Do not be snippy.

Mr DAVID SHOEBRIDGE: Sorry, I apologise. Minister, will you release the Boundaries Commission report into the demerger of Tumut and Tumbarumba?

Mrs SHELLEY HANCOCK: They will be released, of course.

Mr DAVID SHOEBRIDGE: When?

CORRECTED

Mrs SHELLEY HANCOCK: I have not made a decision on those matters at this stage. When I make a decision, then they will be released in due course.

Mr DAVID SHOEBRIDGE: When you do that, will you also release the Deloitte Touche Tohmatsu report that was relied upon by the Boundaries Commission?

Mrs SHELLEY HANCOCK: If it was relied on by the Boundaries Commission, I am not sure it is within my purview to release that report on their behalf. I have indicated to you that those reports will be released by the Boundaries Commissioner and that is all I can give you an indication of today or commitment to, today.

The Hon. JOHN GRAHAM: Minister, I might ask about a couple of specific funds. These are funds for which you have, as you say, done the media. I just want to know who signed this off, who was the final decision-maker for these specific funds. On 2 December 2020 you, the Treasurer, and the Minister for Planning and Public Spaces announced the \$1.3 million Festival of Place Summer Fund program. Who was the final decision-maker for approval for that fund?

Mrs SHELLEY HANCOCK: I will take that on notice, if you do not mind, Mr Graham.

The Hon. JOHN GRAHAM: I am very comfortable with you doing that.

The Hon. CATHERINE CUSACK: Point or order: Can I ask a genuine question to assist? One of the things that is confusing me is the terms "approval" and "decision" are being used interchangeably.

The Hon. JOHN GRAHAM: We are definitely going to come back to that in the afternoon.

The Hon. CATHERINE CUSACK: It is not clear what you are asking when you use those terms interchangeably.

Mr DAVID SHOEBRIDGE: That is not the Government's best point.

Mrs SHELLEY HANCOCK: They are just confused, Ms Cusack. They are confusing themselves now.

The Hon. MARK PEARSON: There is the rub, Ms Cusack. Continue the questions, Mr Graham.

The Hon. JOHN GRAHAM: On 5 August 2020, you along with the Treasurer, announced \$250 million to go to councils to deliver new or improved public spaces. Who is the final decision-maker for that fund?

Mrs SHELLEY HANCOCK: Again, I will take that question on notice, if I can.

The Hon. JOHN GRAHAM: I am very happy for that. On 4 May 2020 you announced \$500,000 worth of grants for council-run pounds. Who was the final decision-maker for that?

Mrs SHELLEY HANCOCK: I will take that question on notice.

The Hon. JOHN GRAHAM: Would you be happy to also take on notice what proportion of councils in government electorates received funds from each of those funds?

Mrs SHELLEY HANCOCK: We only hold information on local government areas, not electorates. For instance, one of the RSPCA funds that I announced was in majority Labor electorates.

The Hon. JOHN GRAHAM: I think that is a no, Minister, just to summarise.

Mrs SHELLEY HANCOCK: Labor electorates, just so that you can be clear on that.

Mr DAVID SHOEBRIDGE: How many was it? It was one, was it not? One. You found it.

The Hon. JOHN GRAHAM: A number of councils that did not receive funding—

Mrs SHELLEY HANCOCK: From which fund?

The Hon. JOHN GRAHAM: From the Stronger Communities grants fund, want the money that they think was taken from their communities. Two of those councils say they should have received \$45 million. They were merged councils that represent half a million residents. At least one of those says now it will not harmonise its rates until it gets the money back.

The Hon. MARK PEARSON: You need to get to the question.

The Hon. JOHN GRAHAM: They are asking for that rate harmonisation to be phased in over four years. That sounds reasonable, what is your view, Minister?

CORRECTED

Mrs SHELLEY HANCOCK: I think it is fairly well known that there is an exposure draft bill on that very item, which is part of a Cabinet process but because it has been in the public arena, I can comment that that is exactly what we intend to do.

The Hon. JOHN GRAHAM: Will they get their money back, the \$45 million?

Mrs SHELLEY HANCOCK: That is your assertion that they should get any money back. They have made a claim that they should get money back. I am not sure they are entitled to that. But I can have a look at that and take it on notice.

Mr DAVID SHOEBRIDGE: Minister, you would be aware that Federal and State electoral legislation prevents parties using the words "independent party" or "independent" in their names. Will you consider implementing a similar prohibition at a local government level to prevent parties being registered as independent or independent parties, given the very nature of a party is inconsistent with the concept of being an independent?

Mrs SHELLEY HANCOCK: Mr Shoebridge, I think it is something that I can take on board to examine in the future, but I doubt it will happen before this current round of local government elections because we have, I think July as nomination dates and I cannot imagine, knowing the progress is often slow on these matters, it will occur before the election. But I am quite happy to take that on board after the local government elections and consider the matters that you have raised.

Mr DAVID SHOEBRIDGE: It is a bit after the horse has bolted though, is it not, after the election?

Mrs SHELLEY HANCOCK: That is your view.

Mr DAVID SHOEBRIDGE: On any view of it, it is.

Mrs SHELLEY HANCOCK: I am being quite genuine here on that.

Mr DAVID SHOEBRIDGE: No, I get it.

Mrs SHELLEY HANCOCK: You and I have had this discussion and I concur with what you are saying. I am saying from a practical perspective, a time perspective, it is probably not going to be practical to pursue that before September.

Mr DAVID SHOEBRIDGE: Minister, do you know how many councils in New South Wales are expecting to outsource their elections to private providers, if any?

Mrs SHELLEY HANCOCK: At the moment, two.

Mr DAVID SHOEBRIDGE: Which are they?

Mrs SHELLEY HANCOCK: Penrith and Fairfield.

Mr DAVID SHOEBRIDGE: Do you know which provider they are proposing to use?

Mrs SHELLEY HANCOCK: I do not know.

Mr HURST: I will have to come back to you with that information.

Mrs SHELLEY HANCOCK: I think there is only one.

Mr DAVID SHOEBRIDGE: What, if any, integrity checks have been done of that provider, given the importance of integrity in a council election?

Mr HURST: I think that is a question for the Premier as the Minister responsible for the legislation.

Mr DAVID SHOEBRIDGE: So there is no role for the Office of Local Government to satisfy themselves that the private election providers have any kind of integrity. That is just not part of your remit. Is that right, Minister?

Mrs SHELLEY HANCOCK: No.

Mr HURST: My understanding is that private providers are bound by the same regulatory framework provided for in both the Local Government (General) Regulation 2005 and also in the electoral legislation about how they go about running local government elections. I would expect the private providers would hold themselves to similar standards to the NSW Electoral Commission.

Mr DAVID SHOEBRIDGE: Minister, to return to the attacks upon the analysis about amalgamated councils, has the Office of Local Government done its own review of the conclusions in that report?

Mrs SHELLEY HANCOCK: As I understand it, no.

CORRECTED

Mr DAVID SHOEBRIDGE: So at the moment you are simply relying upon rumour about legal actions to discredit the report from councils.

Mrs SHELLEY HANCOCK: I do not think I said it was rumour. According to the councils that I have spoken to, they are taking action based on their own examination of those reports. It is not the role of the Office of Local Government to become involved at that stage.

The Hon. TREVOR KHAN: Point of order: That is it.

The Hon. MARK PEARSON: The point of order is that we are now finished.

Mrs SHELLEY HANCOCK: Thank you very much, ladies and gentlemen.

The Hon. MARK PEARSON: On behalf of the Committee, I thank the Minister and all of the staff for an at times very exciting inquiry.

Mrs SHELLEY HANCOCK: It has been my pleasure.

(The Minister withdrew.)

(Luncheon adjournment)

CORRECTED

DEREK RUTHERFORD, Acting Executive Director, Biodiversity and Conservation Division, Environment, Energy and Science, Department of Planning, Industry and Environment, affirmed and examined

GABRIELLE PIETRINI, Director, Marine Coastal Estuary and Flood Branch, Environment, Energy and Science, Department of Planning, Industry and Environment, affirmed and examined

JAMES HEBRON, Group Deputy Secretary, Governance and Legal, Department of Planning, Industry and Environment, affirmed and examined

LUKE WALTON, Executive Director, Local Government and Economic Policy, Department of Planning, Industry and Environment, affirmed and examined

The Hon. MARK PEARSON: Welcome to the new witnesses who have arrived. We will now open it to questions from the Opposition.

The Hon. JOHN GRAHAM: Thank you to the Deputy Chair, officials and Mr Hurst. Before my colleague asks some questions, I might start off by returning to the question about the list of grants programs that the Minister has funds appropriated for. The Minister did not have that information to hand and has taken it on notice, all of which is totally appropriate and we will receive that in due course. I was just going to ask you, Mr Hurst, now that we have slightly more time in this afternoon session: Is that something you have to hand and we can talk through this afternoon, or would you also need to take that on notice?

Mr HURST: I did come prepared with historical information on grants that have been paid in the past but not on the existing or future programs. I am sorry, I did not bring that material.

The Hon. TREVOR KHAN: He is anticipating a certain line of questioning.

The Hon. JOHN GRAHAM: I think it is reasonable to take that on notice if that is the situation you are in. I am happy to leave it there and hand to my colleague.

The Hon. MARK BUTTIGIEG: Mr Hurst, just following up from this morning in terms of the Newcastle code of conduct issue I raised, do you have any further information on that?

Mr HURST: No, I do have some matters to update on but that is not one that I have.

The Hon. MARK BUTTIGIEG: That is not one of them, okay.

The Hon. JOHN GRAHAM: Mr Hurst, do you want to update us on what you can update us on out of this morning's session?

Mr HURST: Mr Buttigieg, you asked a question about whether the Act precludes me from discussing the process or status of investigations with the Minister. The Minister for Local Government, being responsible to Parliament for the administration of OLG, is entitled to request and receive access to documents acquired by OLG. Recognition of that entitlement is necessary to give effect to the principles of responsible government, which operate as part of the Constitution of New South Wales. That said, the decision to undertake and perform the investigatory powers are conferred exclusively on the departmental chief executive in the legislation. To avoid any suggestion of influence, it is entirely appropriate for the departmental chief executive or the delegate to not consult with the Minister regarding particular decisions that person might be called upon to make, just as it would be appropriate for the Minister to ask for a briefing.

The Hon. JOHN GRAHAM: Any other updates?

Mr HURST: I think I had already answered this one, which was about when the investigation was authorised for the Strathfield mayor.

The Hon. JOHN GRAHAM: You did. You put that on the record.

Mr HURST: I think the other ones here are for Mr Shoebridge.

The Hon. JOHN GRAHAM: So we might wait. Just before we jump into those other questions, on the Newcastle matter will you be able to provide an update during the course of this session just about what is its status in front of OLG, what you have received? Or will you not be able to?

Mr HURST: The team is still looking for that information. I do not have anything yet. If it comes to hand, I am happy to update the Committee. It is my intention to do so if possible.

The Hon. MARK BUTTIGIEG: I might just take you to another code of conduct matter to do with Wagga Wagga council. Are you aware of Councillor Funnell's incident down there?

CORRECTED

Mr HURST: Yes, I am.

The Hon. MARK BUTTIGIEG: Could you inform us as to what stage that particular issue is up to?

Mr HURST: The matter is concluded from the perspective of the Office of Local Government. A finding of misconduct has been made and a sanction applied, although I believe that it is still within the appeal period should Councillor Funnell choose to appeal the decision, but I understand he has not done so at this stage.

The Hon. MARK BUTTIGIEG: Was that recourse or punitive action taken by Wagga Wagga council or the OLG?

Mr HURST: The finding of misconduct and the application of the penalty was performed by me.

The Hon. MARK BUTTIGIEG: That was a one-month suspension? Is that right?

Mr HURST: Yes, that is correct. There were other elements to the sanction as well.

The Hon. MARK BUTTIGIEG: Are you at liberty to avail us of those sanctions?

Mr HURST: Yes. Councillor Funnell was directed to apologise; to cease engaging in conduct that causes, comprises or involves intimidation or verbal abuse; and to cease engaging in conduct that is overbearing or threatening to council staff. He was also suspended from civic office for a period of one month.

The Hon. MARK BUTTIGIEG: Can you tell us, Mr Hurst, from the time that that incident occurred to the time when the findings were handed down and the suspension—how long was that?

Mr HURST: I do not know that I have that information. If you could just bear with me. It might be in the statement of reasons. Where there is a misconduct decision, a statement of reasons is prepared and generally published. This document is available on the Office of Local Government's website. I am just selecting elements here from the statement of reasons. The conduct occurred on 19 November 2018 and was at a councillor workshop. I do not have any other dates here relevant to the investigation apart from the fact that the order was made on 5 February 2021.

The Hon. MARK PEARSON: Do we know whether Mr Declan was satisfied with the outcome?

The Hon. CATHERINE CUSACK: This is Wagga, I think.

The Hon. MARK BUTTIGIEG: You are talking about Newcastle. This is Wagga.

The Hon. MARK PEARSON: My apologies.

The Hon. MARK BUTTIGIEG: Again we are talking about over two years from the time the incident happened to the resolution. Do you have a view on the efficacy of those—these investigations seem to take an inordinate amount of time. In the meantime, we have people who have been the victim of this sort of verbal abuse and other bits and pieces which we heard of this morning going on. Is there anything we can do to speed up the process within the OLG? It seems to be an inordinate amount of time to wait for what is—I am not downplaying the complexity of these investigations, but we are not talking about a coronial inquiry here.

Mr HURST: I agree. I think there is the opportunity for these investigations to be conducted more quickly. We do review our processes and continue to do so to try and improve the timeliness. There are complexities around every misconduct matter that comes to us. Generally, the first step, as is required by the code and the procedures, is for them to be dealt with by the council first. Then it is normally after the council has dealt with it that it comes to the Office of Local Government. The OLG can sometimes rely on the conduct reviewer's report from the council prepared at that time. But more often than not some reinvestigation is required by OLG. That is because of the higher standard of evidence that is required for OLG to sustain a finding of misconduct to ensure that the finding will be suitable for us to use if required, if there is an appeal, whether it to the tribunal or the Supreme Court. Sometimes there is reinvestigation of matters required. Sometimes there are delays, particularly around procedural fairness, with the documents. But I would like to concede that there is always opportunity to be quicker and that we look for those opportunities.

The Hon. MARK BUTTIGIEG: I think a person looking at this on face value would say—we heard from the earlier example this morning. It seems as though the best a council can do is censure a councillor under the code. Then, as you pointed out, there is a much higher threshold of evidence for OLG. Then at the end of it all—two years—there is a one-month suspension. I think people would look at the sort of behaviour that went on here—threatening and disrespectful behaviour, shouting at people, intimidating them—and people would say, "Well, is this really good enough in terms of both the time it takes and the outcome?" You did have the option to suspend for three months. Is there any reason why the higher end penalty was not issued, given the behaviour?

CORRECTED

Mr HURST: I think there are a number of elements to that question. I might start at the end. The statement of reasons provides sufficient detail of the incident, the investigative process and the finding, but it also details the penalty. The penalty is generally based on precedents, whether those are established within the tribunal or by my previous decisions or decisions of my predecessors in the role. It is with an eye to the precedents established for the different type of conduct that the penalties are set. It is important to note that, if someone is concerned that the incorrect penalty might have been applied, they do have recourse to NCAT or the Supreme Court to apply for a different penalty or indeed that no penalty at all be applied. The penalty must take into account the precedents and previous cases that are of a similar nature.

You asked a question about censure being the most significant penalty a council can apply. There is case law on this. There was a recent case in the Supreme Court. Even though earlier iterations of the code had allowed councils a broader latitude in the penalties they could apply under the code of conduct, the Supreme Court actually held that censure was the penalty that was available to them. And so, in response to that Supreme Court case, the office amended the code and the procedures to make it clear that where other penalties are contemplated the matter needs to be referred to OLG, and that OLG would need to apply that penalty but following our own process.

The Hon. MARK BUTTIGIEG: Okay. So, the short summary of all that is that the council itself cannot do any more than censure. If it wants to, it has to refer to OLG to get a higher penalty.

Mr HURST: Yes, that is correct.

The Hon. MARK BUTTIGIEG: Are there any discussions about that code being strengthened to allow greater punitive action at the council level?

Mr HURST: The code used to say that there were greater penalties available to council. It was the Supreme Court—and I am not an expert in this, but I will perhaps paraphrase it. My understanding is that the Supreme Court found that it was not the correct interpretation of the Local Government Act and that the Local Government Act only empowered councils to provide a penalty of censure. This comes back to the way that the legislation provides for councils to apply penalties; that is my understanding. We had to amend the code to be consistent with the court's finding about the way that the Act empowers councils to apply a sanction.

The Hon. MARK BUTTIGIEG: So, the implication of my question is that you would have to change the Local Government Act to be able to increase those penalties at the council level?

Mr HURST: That is certainly my understanding.

The Hon. MARK BUTTIGIEG: Are there any discussions along those lines?

Mr HURST: We have moved on by amending the code and providing updated guidance to councils about how the current system works given the decision of the courts. I think any future changes to the system are really a matter for the Government—a matter of government policy.

The Hon. MARK BUTTIGIEG: So you have not engaged, and the Minister has not engaged you, in any discussions about advice on whether or not the Act should be changed to cater for what appears to be a light touch?

Mr HURST: We certainly have had discussions with the Minister about the future direction of the misconduct provisions in the Act, but I do not believe we have specifically looked at reactivating further powers for council to deal with misconduct at the local level beyond the Act as it is presently interpreted.

The Hon. MARK BUTTIGIEG: Okay. It seems to me that the Government has got one of two choices: You can either amend the Act and give more power to local councils to increase the degree of punishment or you can ensure that OLG conducts these investigations more expediently and perhaps looks at increasing some of the penalties which have been issued. What are you doing to speed up the process of code of conduct complaints in OLG? I do not want to put words in your mouth, but you sort of agreed that it needs to be improved. Would that be fair enough?

Mr HURST: Yes. Look, I am happy to talk about some of the improvements to processes that we have identified and implemented, including that we have a much clearer process about the extent to which we can rely on evidence that has already been provided at the council investigation level or whether we need to indeed conduct our own investigation. In the past perhaps there were circumstances where we may have sought to reinvestigate when the evidence was there to sustain a misconduct finding, and so we do look for an easier and a quicker path to that stage in the process. We are also looking at what we can do to save time in the process of assessing, allocating and progressing the matters. It is a little hard for me to talk about the changes that we have made because they are for matters that are currently in the system, but we are trying to move the existing matters in the system

CORRECTED

through more quickly as well. The other thing that we have is more resources. We have applied some more resources to the team to try to improve our ability to deal with the volume that comes through.

The Hon. MARK BUTTIGIEG: There is a balance to be struck, is there not, in terms of weighing up the rights of the person being investigated and accused of a misdemeanour, and due process and appeal, and all of that sort of thing? But there are also the victims of these misdemeanours and the mental anguish and psychological fallout of what happens in the intervening one, two, whatever—I used to see this kind of thing all the time in the workplace: investigations which just dragged on for an inordinate amount of time. It just seems to me as though the balance is way out of whack.

Mr HURST: Yes, I am agreeing with you. We are taking measures to improve the timeliness of the investigations because I also agree that we need to and can do a better job at turning around these matters more quickly.

The Hon. MARK BUTTIGIEG: Mr Hurst, again it seems to me that if we compare the situation which I raised with you this morning concerning Newcastle council and the behaviour that we saw there, where a censure occurred—and in this case of Wagga Wagga we have a one-month suspension. What was the reason for suspending Councillor Funnell for one month—which I would argue is a fairly light touch, but leaving that aside—in comparison to the Newcastle issue where it has come back to OLG? Would you think that should be looked at in the context of the punishment that was handed out to Councillor Funnell—a censure versus a one-month suspension for incidents which seemingly are either the same or even of a worse nature in terms of Newcastle?

Mr HURST: I cannot comment on Newcastle. I am genuinely trying to obtain the information about how that has been dealt with. But I will come back to something I said before about Councillor Funnell: The penalty must be informed by precedent and is subject to appeal both to NCAT and the Supreme Court. There is always a concern to make sure that the right penalty is applied having regard to previous matters of a similar nature, because otherwise it is futile. The matter will be appealed; it will prolong the issue for those involved. Through the courts, potentially the same penalty that would have originally been applied then ends up being applied by the courts. It is very much about having regard to that precedent in setting the sanctions when making those decisions.

The Hon. MARK BUTTIGIEG: Mr Hurst, can I take you to another incident out of Broken Hill council to do with Councillor Tom Kennedy? Can you enlighten us on that?

Mr HURST: With a little time I could probably find some papers on it.

The Hon. MARK BUTTIGIEG: Chair, I am happy to revisit this in the next block, if you like, if it makes it neater.

The Hon. MARK PEARSON: Okay. So, are you taking that question on notice?

Mr HURST: Perhaps if I could come back to it?

The Hon. MARK PEARSON: Sure.

Mr HURST: Councillor Funnell was a recent matter.

The Hon. MARK BUTTIGIEG: Yes.

Mr DAVID SHOEBRIDGE: Mr Hurst, how many code of conduct referrals to the Office of Local Government are now more than two years old and have not been completed?

Mr HURST: I do not have that information, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: How many outstanding code of conduct referrals does the Office of Local Government have?

Mr HURST: Once again, I do not have that information to hand.

Mr DAVID SHOEBRIDGE: Have you been given additional resources to try and deal with some of the backlog before the September council elections?

Mr HURST: Yes, that is correct.

Mr DAVID SHOEBRIDGE: How many additional resources?

Mr HURST: We have applied additional resources in both the investigative team and also in the assessment and allocation of complaints when they come through the system.

Mr DAVID SHOEBRIDGE: How many additional resources?

CORRECTED

Mr HURST: It is two people.

Mr DAVID SHOEBRIDGE: And is it expected, therefore, that all outstanding code of conduct complaints to the Office of Local Government will be dealt with before the September council election?

Mr HURST: I would like to suggest that that is what we are aiming to do—

Mr DAVID SHOEBRIDGE: You would like to suggest?

Mr HURST: —but it is also dependent on the fact that code of conduct complaints do continue to be provided to the office. We are definitely working through the ones that we have to hand as quickly as possible with that aim, but new complaints, as you would appreciate, do continue to be made to the office.

Mr DAVID SHOEBRIDGE: I assume you pulled together a business case for the additional resources needed to deal with the code of conduct issue?

Mr HURST: No, we did it through an internal reallocation within the funds available to the department.

Mr DAVID SHOEBRIDGE: You must have had some briefing or some kind of analysis to justify your internal reallocation.

Mr HURST: No, I made a decision from within the budget that is available to me.

Mr DAVID SHOEBRIDGE: I am not asking about whether you made a decision based upon the budget. You must have had something in front of you that identified the scale of the problem when you made that decision to reallocate the budget.

Mr HURST: No, there is not a document, Mr Shoebridge, that does that.

Mr DAVID SHOEBRIDGE: Why did you reallocate the budget then?

Mr HURST: Because I was aware that we needed to put more investigative resources to bear if we were to make better progress at dealing with the matters that were to hand.

Mr DAVID SHOEBRIDGE: How were you aware? Do you not get reports on where the code of conduct complaints are up to? You must get some reports that give you some insight into it?

Mr HURST: Yes, there are regular updates that I have with the investigations team about the matters that are to hand and the progress.

Mr DAVID SHOEBRIDGE: What did the most recent update say?

Mr HURST: Normally those are a verbal update. We also have case management meetings where we deal with matters where there needs to be a direction on particular matters that have been referred to us. Others are more straightforward.

Mr DAVID SHOEBRIDGE: Yes, and now if you would address my question, Mr Hurst?

Mr HURST: There is not a document that provides that that I use to understand what is presently on the plate for the investigations team.

Mr DAVID SHOEBRIDGE: If you would tell me about what the content of the most recent update was, that would be helpful, Mr Hurst.

Mr HURST: The content of the most recent update was a verbal update about the matters that are to hand and the progress.

Mr DAVID SHOEBRIDGE: Yes, Mr Hurst?

Mr HURST: It was a discussion about the individuals—

Mr DAVID SHOEBRIDGE: I do not want to know which room it was, what clothes you were wearing or any of that. I want to know what the content was.

The Hon. CATHERINE CUSACK: Point of order: These witnesses are here at the Committee's request and need to be treated with some respect and courtesy, I submit. "I don't care what clothes you were wearing" is not respectful.

Mr DAVID SHOEBRIDGE: To the point of order: The answers were not respectful of the substance of the question.

CORRECTED

The Hon. MARK PEARSON: I uphold the point of order. Even if you are not satisfied with the answer, I do not think you need to go to that sort of personal comment.

Mr DAVID SHOEBRIDGE: I accept the ruling. Mr Hurst, what was the content of the update? What did it disclose about the backlog, about the resources that were needed, about complaints that had been outstanding? What was the substance of the update you got?

Mr HURST: My recollection—it was just a quick run-through of the matters that were closest to resolution, the ones that were in the system on their way to me to make a decision at some of the decision points in the process, and, of course, some of the matters that had come in and the direction to take on some of those matters.

Mr DAVID SHOEBRIDGE: So it did not deal with the backlog or how long it was taking to resolve matters. None of that was discussed, Mr Hurst?

Mr HURST: Not directly. It was about the matters to hand that were being progressed and how they were being progressed to ensure that we move them through the system.

Mr DAVID SHOEBRIDGE: What is the average time for resolving a code of conduct complaint to the Office of Local Government?

Mr HURST: I do not have that detail, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: What is the median time for resolving a complaint by the Office of Local Government?

Mr HURST: I am sorry. I do not have a basis to answer that.

Mr DAVID SHOEBRIDGE: Can you provide them on notice?

Mr HURST: If the numbers are available, I will see if we can provide it, but I am not aware that we actually make the calculation of those numbers.

Mr DAVID SHOEBRIDGE: What is the longest outstanding code of conduct complaint sitting with your office unresolved?

Mr HURST: I would have to take that on notice as well.

Mr DAVID SHOEBRIDGE: Is it two years, three years, five years, eight years? What is the longest?

The Hon. CATHERINE CUSACK: It has been taken on notice.

Mr DAVID SHOEBRIDGE: Can you give an indication of the time? You must have some sense of it.

Mr HURST: I do not know, but there will be a reason for it.

Mr DAVID SHOEBRIDGE: Is this an issue that is important to you—the timely determination of complaints under the code of conduct?

Mr HURST: Yes, Mr Shoebridge, I have indicated that it is important.

Mr DAVID SHOEBRIDGE: Well, how can you be exercising your obligations in relation to this if you do not actually know any of this key data? How many are outstanding, what the average time for determining them is, what is the longest outstanding one? None of my key questions about actual facts and figures you are able to answer, Mr Hurst, so how can you exercise your responsibility if you do not know those basic figures?

The Hon. TREVOR KHAN: Point of order: He does not have a recollection of the material now, David. The questioning, with respect, is getting in the area of personal and unproductive.

Mr DAVID SHOEBRIDGE: Well, do you get those basic facts delivered to you so as you can exercise your role?

Mr HURST: What I do is provide guidance to the team about the matters that they have on hand and timely decision-making when the matters come out of the team.

Mr DAVID SHOEBRIDGE: Now, Mr Hurst, it would be quicker if you could just try to address the question that I put to you. Do you get those basic figures: the longest outstanding claim, the number of outstanding claims, the average time it is taking to resolve claims? Do you get those figures provided to you so as you can fulfil your function as the head of the Office of Local Government?

Mr HURST: Do I regularly get updated on those figures? No, I do not.

CORRECTED

Mr DAVID SHOEBRIDGE: When were you last updated on those figures?

Mr HURST: Different elements come up from time to time in the conversations, but there is not a comprehensive way that those questions are addressed.

Mr DAVID SHOEBRIDGE: Have you ever been updated, been given those figures? If so, when?

Mr HURST: I do not have a specific recollection of when each element of that might have been updated to me but over time this will have come up in the updates that I have with the team.

Mr DAVID SHOEBRIDGE: An extraordinary woman, Lilliane Brady, who was, I think, one of the most longstanding mayors in the State's history, died recently at the age of 90. You would be aware of Mayor Brady?

Mr HURST: Yes, of course.

Mr DAVID SHOEBRIDGE: She had an outstanding code of conduct complaint that she had made. Is that right?

Mr HURST: I cannot comment on matters that we might be investigating, you would appreciate, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: No, I do not appreciate that, Mr Hurst. Did Ms Brady have an outstanding complaint under the code of conduct?

Mr HURST: But the problem is that the complaint is not finalised, Mr Shoebridge, and that is why we cannot discuss the matters that are still—

Mr DAVID SHOEBRIDGE: Well, you see—sorry, I will let you finish, Mr Hurst.

Mr HURST: —under investigation.

Mr DAVID SHOEBRIDGE: The complaint is not finalised because she was waiting the better part of two years to have her complaint resolved, and now Mayor Brady has died waiting for the Office of Local Government to resolve her complaint. That is the truth, is it not, Mr Hurst?

Mr HURST: I think that is quite an—

Mr DAVID SHOEBRIDGE: Accurate.

Mr HURST: —inappropriate way to characterise—

Mr DAVID SHOEBRIDGE: Tell me how it is inappropriate.

Mr HURST: I think Mayor Brady was an inspirational mayor, a leader of councils in the west. I do not think that discussing her passing in that way is appropriate. It is not how I would phrase it.

Mr DAVID SHOEBRIDGE: Mr Hurst, in no way would I contradict your statements about Ms Brady being inspirational, but she deserved your office responding to her complaint in a timely fashion, and you have not done it, Mr Hurst. It is still not resolved, and Mayor Brady has now died. That is the truth of the matter, is it not? She died waiting for you to get her code of conduct complaint resolved.

Mr HURST: The facts are that the complaints take the time that is necessary to deliver a robust outcome, affording procedural fairness to the people involved.

Mr DAVID SHOEBRIDGE: When was Mayor Brady's complaint lodged with your office?

Mr HURST: I do not have that detail to hand.

Mr DAVID SHOEBRIDGE: What year?

Mr HURST: I am sorry, I do not know.

Mr DAVID SHOEBRIDGE: You cannot find out?

Mr HURST: I could find out. Would you like me to find out—

Mr DAVID SHOEBRIDGE: I would.

Mr HURST: —and get back to you?

Mr DAVID SHOEBRIDGE: Yes, please.

Mr HURST: Happy to do so.

CORRECTED

The Hon. TREVOR KHAN: Let us be clear. Is the question—

The Hon. MARK PEARSON: Is this a point of order, Mr Khan?

The Hon. TREVOR KHAN: Point of order: Are you inviting him to find out today—

Mr DAVID SHOEBRIDGE: Yes.

The Hon. TREVOR KHAN: —or to take it on notice?

Mr DAVID SHOEBRIDGE: It is good to be clear on this. If you can, today, Mr Hurst—the date. You may have it there?

Mr HURST: I might have it here. I am just looking. These are finalised matters. I cannot immediately find it in the material. As I said, I will endeavour to get back to you.

The Hon. MARK PEARSON: That is fine, Mr Hurst. If you can get the information to us today, that would be great; otherwise, on notice.

Mr DAVID SHOEBRIDGE: Yes. So will you endeavour to get it to us today, Mr Hurst?

Mr HURST: I will try to do so, yes.

Mr DAVID SHOEBRIDGE: What happens to a code of conduct, because of the passage of time in your office dealing with it, the councillor who has made the code of conduct complaint passes away? Does it affect the validity of the complaint? Have you had any advice about what the impact of it is?

Mr HURST: No, I have not sought that advice, but it is a question I am sure has been looked at within the team.

Mr DAVID SHOEBRIDGE: How many complainants have died waiting to have a code of conduct complaint determined by the Office of Local Government?

Mr HURST: I am not aware of any other instance.

Mr DAVID SHOEBRIDGE: But you are not aware one way or the other, Mr Hurst?

Mr HURST: I can tell you that from my personal knowledge I am not aware of this happening in another example.

Mr DAVID SHOEBRIDGE: How many staff do you have working on code of conduct matters in the Office of Local Government?

Mr HURST: This is working on investigations or providing assistance and advice to councils in the administration of the code?

Mr DAVID SHOEBRIDGE: Why don't we deal with investigations first of all?

Mr HURST: I will endeavour to get back to you with the exact number of people.

Mr DAVID SHOEBRIDGE: Mr Hurst, there are only 65 people working for you. There are only 65 full-time equivalent positions. You must have some understanding of the number of people within that group of 65 who work on investigations. You must have some understanding, Mr Hurst. I am not asking you about—you are not in charge of the Ministry of Transport; you are in charge of a department with 65 full-time positions. How many of them do investigations?

Mr HURST: I am not prepared, under oath, to swear the number from my memory because I do not have the number in front of me. It is about half a dozen people.

Mr DAVID SHOEBRIDGE: What is their case load? How many complaints—do you have a cap on the case load for your investigators?

Mr HURST: Mr Shoebridge, I have said that I will get back to you with some details about the number of complaints that are on hand.

Mr DAVID SHOEBRIDGE: Now, if you would answer my question, Mr Hurst. Do you have a cap on the number of matters, the number of code of conduct complaints, that can be dealt with by an investigator or do they just keep piling up and up and up and up?

Mr HURST: I do not believe that there is a cap.

CORRECTED

Mr DAVID SHOEBRIDGE: Do you have a handle on how many each investigator is dealing with? Do you have an understanding of the scope of the task in front of them?

Mr HURST: Broadly speaking, from the updates that I get from the team, yes.

Mr DAVID SHOEBRIDGE: What is it?

Mr HURST: Each investigator might be, depending on the complexity of the matter, running with perhaps half a dozen matters at a time.

Mr DAVID SHOEBRIDGE: So there are about 36 outstanding complaints. Is that right?

Mr HURST: Mr Shoebridge, my evidence is that I will come back to you on notice with the number of complaints that are outstanding.

Mr DAVID SHOEBRIDGE: Is there a sort of ballpark figure—less than 50?

Mr HURST: I will have to get you the correct numbers. You are asking me to guess.

Mr DAVID SHOEBRIDGE: Do think you could get that this afternoon?

Mr HURST: I said I would try to get back to you this afternoon with those figures. I am trying to be helpful, Mr Shoebridge, but it is difficult when I do not know the exact numbers.

Mr DAVID SHOEBRIDGE: Mr Hurst, following the suspension of Central Coast Council, it became apparent that the councillors had been given insufficient information about financial management matters by the staff and by the general manager and that they had not clearly been fully briefed on the scope of the financial issues facing the council until October 2020. Are you taking any steps to strengthen the Act to ensure that the councillors are informed in a timely and comprehensive fashion about the financial issues facing councils?

Mr HURST: Sorry, I do not know where to start with that. I mean, councillors are the governing body of the council and they employ the general manager and the general manager employs the other staff. The legislation provides obligations in terms of the finances of the council but it also says that they should be given access to the information necessary to do their job.

Mr DAVID SHOEBRIDGE: Well, in the case of Central Coast Council, they were not given anything like adequate insight into the looming financial crisis faced by the council until at least October 2020, just before the intervention was required. Have you undertaken any review of what happened in Central Coast about the provision of key information to the governing body?

Mr HURST: Those matters are being looked into at the moment. I understand that a forensic audit has been conducted about some of this. The administrator has provided a 30-day report to the community and some other material about what he suggests was behind that decision-making. But, Mr Shoebridge, I do not know if the councillors obtained or indeed sought or asked for the information that they needed to do their jobs or when they did that. It is, after all, their job to govern the council under the legislation.

Mr DAVID SHOEBRIDGE: Do you not know because you have not inquired, Mr Hurst, or you have inquired and have not been able to find out the information? Why is it that you do not know?

The Hon. CATHERINE CUSACK: I think you should respect his answer.

Mr HURST: Those reports are underway and some have been published.

Mr DAVID SHOEBRIDGE: So what is the reason for you not knowing—because you have looked into it and it has not been answered or because you have not looked into it?

Mr HURST: If we go back to your specific question, "Did they have the information necessary to do their job?", it is clear from the reports that they did not. I think it is also clear that there were questions that they could have asked that they did not do.

Mr DAVID SHOEBRIDGE: Given that we agree at least in part that the councillors were not given the information necessary to do their job to review the finances of the council, do you think it might be prudent to send out a circular to councillors and staff to highlight the concerns that happened in Central Coast and to confirm the obligation on staff to provide advice to councillors and the obligation on councillors to request information from staff, or are you just going to wait for another council to fall over?

Mr HURST: I am prepared to take on board that this is advice that could be provided to councillors to clarify a reasonably fundamental obligation that flows to them from being on the governing body of the council. You are clearly suggesting it because you believe it is necessary. I think that we should talk to some other people

CORRECTED

in the local government sector and, if they share the same view, then, yes, I think it is something we should look at doing.

Mr DAVID SHOEBRIDGE: But not just to councillors about the questions they should be asking but to council staff—general managers, chief financial officers—confirming their obligation, their continuous disclosure obligation effectively, to tell the governing body about any material impacts upon the council's financial sustainability. Do you accept that the information also has to go to the general managers and the senior financial officers and staff to effectively alert them to that continuous disclosure obligation they have to the governing body of the council?

Mr HURST: I accept that there is a role for staff as well, that the general manager and the staff are employed by the governing body and responsible to them. They are not employees of the State Government and I cannot direct them in how they go about their roles. My suggestion is that it might be more appropriate to assist councillors to understand what they should be expecting from the staff and councils in terms of informing them with what they need to do their jobs.

Mr DAVID SHOEBRIDGE: Mr Hurst, the Office of Local Government at least used to regularly send out circulars directed to staff about the expectations under certain Acts or instruments; it used to be a regular part of the work of the Office of Local Government. Are you now saying that that is not your responsibility, that you just leave that all up to councillors?

Mr HURST: No, Mr Shoebridge, that is not what I said. I said that there may be room for this, that normally our preference would be to assist the councillors to understand how they could better exercise their role under the Act. I am certainly open to that if, as a result of a consultation, it transpires that that advice might also be useful.

The Hon. JOHN GRAHAM: Mr Hurst, I might turn to that question where you were giving some evidence about the approvals for grants and just return to the evidence you were starting to give the Committee. There was not time to examine it then. You have given very specific and I believe quite accurate information that was provided in writing on the Stronger Communities Fund tied grant round to another committee. I might just table that document, which is well known to you—pages 3, 4 and 5 of your answers to questions on notice.

Mr HURST: I brought a copy with me.

The Hon. JOHN GRAHAM: Yes, exactly, it is well known to you and to some of those committee members but just for the purposes of Hansard, so it is clear what document we are talking about. I thought that was very clear evidence but, again, this morning you were starting to blur the lines, I believe, in the evidence you were giving between financial approval and the actual selection of grants, which grants are selected and who finally approves and finally decides those grants. In principle, do you accept that those are two different actions?

Mr HURST: This document—and I am just aware that we are now crossing into a matter which is the unreported proceedings of another committee—summarises a process which was also outlined in another letter that I provided to the Clerk of the Parliaments. I do not believe that I can do better than to hand up for the Committee the document that outlines that process and carefully talks about some of these words, which I acknowledge a lot of people are having trouble understanding the particular meaning and application of.

The Hon. JOHN GRAHAM: I am simply tabling that other document because I accept—I think you have given some of the most accurate evidence I have heard in relation to that in that particular document but my question for you today is simply: Do you accept in principle that the financial approvals that might attach to the sorts of grants programs we were asking about this morning are different to the final approval for those grants themselves?

Mr HURST: The letter which I just tabled, which has previously been supplied to the Parliament—do I need to read from it where it expressly deals with this question?

The Hon. JOHN GRAHAM: You are welcome to.

Mr HURST: It is about authorising the particular expenditure that I authorise that under delegated authority from the Minister for Local Government under section 12 of the then Public Finance and Audit Act. That is the column of in the table with "expenditure authorised by" and "authorisation date", where obviously I am listed.

The Hon. JOHN GRAHAM: Yes, and that is different in this letter from the point you then go on to make—confirmation of projects having been identified by someone else, not by you.

Mr HURST: The processes is in the letter. I cannot explain more than that. I can read from the letter, if you like.

CORRECTED

The Hon. JOHN GRAHAM: Yes, why don't you just read that paragraph?

Mr HURST: Sure:

Confirmation of projects having been identified by the NSW Government, as set out in the Guidelines, was attached to the respective briefing note in the form of emails from Minister's staff.

The Hon. JOHN GRAHAM: Having given the answers you have, I might move to this point: Can you confirm the view I put this morning that \$136 million in that tied grant round was disbursed for 83 projects within 72 hours of them being identified?

Mr HURST: There is actually more to this document, which answers the question of the amounts but not the time frame. Would you like me to hand that up as well?

The Hon. JOHN GRAHAM: I do not think you need to do that and I am happy for you to take this question on notice, which I strongly suggest you do.

Mr HURST: Yes, taken on notice.

The Hon. JOHN GRAHAM: Can you confirm—this has been the subject of some discussion before—that you received in relation to that grant round the approval paperwork, or the identification paperwork as you might put it, before you received the final guidelines in relation to some of these projects?

Mr HURST: Each grant was made according to the guidelines that were in place at the time. I can confirm that.

The Hon. JOHN GRAHAM: Yes, I could agree with that. But can you confirm that you received the note that you attached to these approvals identifying the projects—some of those, the identifications occurred before you received the final approved guidelines.

Mr HURST: The table lists the date of project identification on there.

The Hon. JOHN GRAHAM: Yes, you are right. It confirms that fact. Could you tell us though—and I encourage you to take this on notice—how many projects that means that identification occurred before you received the final approval of the guidelines?

Mr HURST: I am not sure where you get the question about the final approval of the guidelines. Guidelines were in place from before the program.

The Hon. JOHN GRAHAM: The approval of the round three guidelines.

Mr HURST: The tied grants round guidelines were in place and then updated.

The Hon. JOHN GRAHAM: So it is the updated guidelines, the final update that occurred—

Mr HURST: I do not believe that any of these were identified before guidelines were in place.

The Hon. JOHN GRAHAM: So you do not believe you identified—

Mr HURST: I did not identify.

The Hon. JOHN GRAHAM: You do not believe you received an identification, for example, for projects that the Premier had approved—except put that word aside—on 25 June, but then the guidelines on 27 June 2018.

Mr HURST: The project identification date is listed on the schedule. Guidelines were in place during the period of the program.

The Hon. JOHN GRAHAM: But you are referring to two separate sets of guidelines here, Mr Hurst.

Mr HURST: There were always guidelines in place.

The Hon. JOHN GRAHAM: Yes, but the guidelines that were in place when you received the identification would not have allowed those projects to proceed. That is why am asking how many projects were identified to you before they could have been paid out under those guidelines.

Mr HURST: I do not believe that to be the case. I am happy to take that on notice.

The Hon. JOHN GRAHAM: I may come back with just some specifics on that. You agree, though, that we have really looked for some sort of assessment of these projects. You have agreed you did not have time to assess—you were not the one conducting a detailed assessment of each of these projects that was raced out the door. We found no other assessment of them in detail, of the merits of these, the business cases—none of this

CORRECTED

existed. Since you gave evidence about your role, are you aware of any assessment that occurred of those projects in that tied grants round?

Mr HURST: The guidelines have been published. You have a letter from me to the Parliament that talks about the process of administering the program in accordance with the guidelines and then a table that details how that was put into practice in each individual case. That is my complete answer to how OLG administered the program.

The Hon. JOHN GRAHAM: You are the program administrator. You are administering this program. I am putting to you that there was absolutely no assessment at any point for these projects. What would you like to say response?

Mr HURST: I am saying that the material that has been tabled, both before the other committee and now with this Committee, is the full information about the role of OLG in administering the program.

The Hon. JOHN GRAHAM: Do you agree that that scandalously contains no assessment at any point of the merits of these projects or the business cases, because there is nothing like that in that document that you are pointing to?

Mr HURST: What I agree is that you have the complete material here about OLG's role.

Mr DAVID SHOEBRIDGE: Mr Hurst, can you point anywhere in that material to the merit assessment of a single grant? If so, where?

Mr HURST: I can only direct you to the material that I have provided to the Committee to answer the question about OLG's role in administering the program.

Mr DAVID SHOEBRIDGE: No, Mr Hurst, if you could answer my question. Can you point anywhere in the material that you have provided that you have referred to again—can you point anywhere in that material to the merit assessment of a single grant?

Mr HURST: I cannot see the word "assessment" but what this does do is this material talks about the role of the Office of Local Government in administering the grant.

The Hon. JOHN GRAHAM: There is no reference to assessment because there was no assessment. That is the case, isn't it, Mr Hurst?

Mr HURST: I have already answered to the best of my knowledge that this is the role of the Office of Local Government in administering the program. I cannot—

The Hon. JOHN GRAHAM: I am asking a very specific question, Mr Hurst, and it does not do you any credit to refuse to answer it.

Mr HURST: I am not refusing. I do not have knowledge of what you are asking. The process that the office was involved in, for which I do have knowledge, is in the material that you have in front of you.

The Hon. JOHN GRAHAM: When \$150,000 was dished out for azaleas in the Lane Cove Council, what assessment was conducted?

Mr HURST: I cannot enlighten you on the answer to that question.

The Hon. JOHN GRAHAM: And the reason you cannot enlighten me is that there was no assessment. That is correct, is it not, Mr Hurst?

Mr HURST: I do not have an answer to that question, Mr Graham. It is hard for me to be definitive about things that I do not know. What I can be definitive about is the role of the—

The Hon. JOHN GRAHAM: You are administering this grant program.

Mr HURST: And it was administered according to the guidelines by the Office of Local Government.

The Hon. JOHN GRAHAM: When \$9,000 was allocated for a grant for a Queanbeyan tartan, what assessment was conducted?

Mr HURST: Do I need to say again that the role of the office is in the papers that you have?

The Hon. JOHN GRAHAM: And it does not include any reference to an assessment. You are the administrator for this program, Mr Hurst.

Mr HURST: And the program was administered according to the guidelines.

The Hon. JOHN GRAHAM: When \$57,000 was allocated to Oktoberfest—

CORRECTED

The Hon. SHAYNE MALLARD: Point of order: I think we are spinning our wheels on the same ground here. We have heard the same questions asked by both Mr Shoebridge and Mr Graham a number of times and the same answer given by Mr Hurst. I think that we are going nowhere with this now. He has answered the question.

The CHAIR: Well, I will not uphold the point of order because—and I will only give some leeway to continue the line of questioning—I think the consistent types of answers that are being extracted are important evidence, so therefore I will allow the questions to continue, but I think it is important to note that you are pretty much making your point.

The Hon. JOHN GRAHAM: I might just see if my colleague wants to—you looked like you were about to jump in at that point, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: I did, with your indulgence.

The Hon. SHAYNE MALLARD: The Greens-Labor coalition.

Mr DAVID SHOEBRIDGE: I am just trying to get some straight answers actually, Shayne. Mr Hurst, before you authorised the distribution of well over \$160 million of public money for these grants round, did you have to satisfy yourself that there had been a merit assessment of each of the grants?

Mr HURST: I satisfied myself that the grants were being administered in accordance with the guidelines.

Mr DAVID SHOEBRIDGE: I am going to ask you to answer my question. Did you have to be satisfied that there had been a merit assessment of any one of those grants? A simply robotic referral to the guidelines will not answer that question, Mr Hurst.

Mr HURST: Would you like me to table the guidelines, Mr Shoebridge?

Mr DAVID SHOEBRIDGE: I would like you to answer my question.

Mr HURST: I am not aware that that was a feature of the guidelines.

The Hon. JOHN GRAHAM: Mr Hurst, you were acting under delegation. I understand that when you send these checks out, it does not excuse you from the law. It does not excuse you from the principles of public accountability. How do you not ask that question, "When did the assessment happen? Where is the assessment?"

Mr HURST: I can confirm that I acquitted my responsibilities against the Public Finance and Audit Act, as it was then, consistent with the guidelines that were consistent with the Cabinet decision. You have all of the papers on this that document the decision-making.

The Hon. JOHN GRAHAM: Yes, we have looked high and low for any conflict-of-interest declarations in relation to this fund. Are you aware of a single conflict-of-interest declaration in relation to the hundreds of millions of dollars that were allocated in this single grants round?

Mr HURST: The ministerial register of interest is kept by the Department of Premier and Cabinet and matters relating to ministerial declarations of interest should be referred to the Department of Premier and Cabinet.

The Hon. JOHN GRAHAM: I am not asking about a ministerial declaration. I am asking about any conflict-of-interest declarations that were specifically made in relation to these grants. Are you aware of a single one?

Mr HURST: Specific to the program, no. I, of course, have a conflict-of-interest declaration that is lodged with the department as well. But it was not specific to this program.

The Hon. JOHN GRAHAM: One of the issues that came up was that, despite the fact that Hornsby Shire Council received the largest grant in this round, they still feel, as a result of their engagement with the Government, and possibly as a result of promises made to them by members of the Government, that they are owed a significant amount more as a result of the disadvantage that they received in the amalgamation process. Since you last gave evidence, have you had any discussions with Hornsby council about their desire for further funding?

Mr HURST: No, they have not discussed with me their desire for further funding.

The Hon. JOHN GRAHAM: In future, Mr Hurst, given the significant problems that the administration of this grant program has exposed, do you have a view about, or could you make a commitment about, the involvement or hopefully otherwise of the office of the Deputy Premier or the Premier in grants which are funds appropriated to your Minister? Having lived through what you have lived through, can you give us some guarantee

CORRECTED

that, where funds are appropriated to your Minister and administered by you, they will not be run by the Premier's office, the Deputy Premier's office or the Premier's marginal seats team?

Mr HURST: I think there are lessons to be learnt from every program that we administer. I feel that the Public Accountability Committee is going to provide a report to the Parliament. That will probably have some suggestions about programs of this nature and I await that report with interest to look at what can be implemented.

The Hon. MARK BUTTIGIEG: Mr Hurst, do you think it is good enough for the New South Wales public to have to rely on a public accountability committee and inquiry simply to recommend to the Parliament that those processes be tightened up? I mean, looking at this from the perspective of a New South Wales taxpayer, it is pretty ordinary, is it not?

Mr HURST: I think there are lessons to be learnt from every program that we administer. I can confirm that we do not administer any current programs in this way, but once again I do not think there is anything wrong with me indicating that I am interested in the outcome of the Public Accountability Committee's inquiries.

The Hon. MARK BUTTIGIEG: Let me put the question another way: Should it have actually got to the point where the Public Accountability Committee has to tell Government how to run the affairs of State in a transparent way which is accountable to the New South Wales taxpayer? It should not have to get that, should it?

Mr HURST: Once again, we look at each program and think about what we can do better each time and there are already changes made to the way we administer grants.

The Hon. JOHN GRAHAM: Can I just ask one question on one separate issue?

The Hon. MARK BUTTIGIEG: Yes, sure.

The Hon. JOHN GRAHAM: On that discussion that occurred earlier about the property developers' declarations, I just could not recall when I thought back to it whether or not we had asked this. But if not, could I now ask? Could you tell us how often you have referred, say, in the last couple of years this issue about people saying they are not developers and then that being contested? I accept your view that that is really up to the Electoral Commission, but you are referring some of these. How many have you referred?

Mr HURST: Right, yes. I will endeavour to get back to you today with a number on how many complaints we have had on that and referred to the Electoral Commissioner. Clearly I have identified at least one.

The Hon. JOHN GRAHAM: Yes, understood.

The Hon. MARK BUTTIGIEG: Mr Hurst, just on that point, is the OLG agnostic on whether or not it should report or not in that situation? Or is it like a horses-for-courses approach or is there an understanding—because by virtue of processes that you are engaged in, you will have access to this information, perhaps more so than the average person would or might. So is there a process in place where there is automatic notification?

Mr HURST: This is about complaints of a category that we refer to someone else?

The Hon. MARK BUTTIGIEG: Well, this is about—as a by-product of investigations into code of conduct complaints of the nature we discussed this morning, if it becomes apparent that someone is in breach of the Electoral Act, is there a requirement or a process in place whereby you automatically report that to relevant authorities?

Mr HURST: That is the assessment process that we undertake. So when complaints are made we assess the nature of the complaint and who it might be better directed to. If it is not something that is central to OLG's regulatory responsibilities, then we undertake that referral action. We also publish council complaint data. Where complaints are made to us about councils, we publish data on the nature of those complaints against broad categories and the councils they refer to. That data is published each year on the OLG website. Mr Shoebridge, if I may, I have some responses to some of the material you asked this morning.

Mr DAVID SHOEBRIDGE: Oh good.

Mr HURST: You asked a question if OLG was aware of litigation between Armidale Regional Council and the former general manager and what steps had been taken to inform councillors of the Land and Environment Court decision about sitting on the review committee. I just wanted to clarify that OLG has provided guidance to councillors on their obligations in exercising effective and appropriate oversight of the general manager's performance. Detailed guidance on this is provided in the councillor handbook. The specific items on performance reviews of general managers is provided in OLG's guidelines for the appointment and oversight of general managers. And finally—and I think this comes to the question you were asking—we do periodically review and update the guidance. The next updated version of the councillor handbook, not surprisingly, will be issued before

CORRECTED

the September 2021 elections. We are going to address the range of issues that have arisen since the last edition in that update for incoming councillors.

Mr DAVID SHOEBRIDGE: I know you have got a number of answers to give, but it might be easier if we address the issues that arise from them one at a time if that is okay with you, Mr Hurst. As I understand it, there has been nothing provided to councils following on from the decision but it may feed into the review of the handbook that will be undertaken before September. Was that the summary?

Mr HURST: And the handbook being the document that we provide to assist councillors in how to undertake their functions.

Mr DAVID SHOEBRIDGE: But is my summary correct?

Mr HURST: Yes, I think that is an accurate summary. You asked us some questions about efficiency dividends applied. The advice that I have—and this is across the whole of the Department of Planning, Industry and Environment—is that additional savings measures were announced by the Government as part of the 2020-21 budget. These were to help mitigate the impact of the COVID-19 pandemic and the 2019-20 summer bushfires. The total amounts of those in the 2020-21 budget were \$36.2 million in 2020-21, and they rise to \$40.4 million in 2023-24, providing a four-year total of \$173.5 million. I have some components. There were amounts about wages determination, procurement savings and digital stimulus fund contributions.

Mr DAVID SHOEBRIDGE: I am assuming that that is not all from the Office of Local Government budget, or the Office of Local Government would cease to exist.

Mr HURST: I just clarified at the start that these were the amounts across the whole Department of Planning, Industry and Environment.

Mr DAVID SHOEBRIDGE: All of DPI. And what will that mean if it is applied pro rata to the budget for the Office of Local Government?

Mr HURST: It is not being applied pro rata across the department. There are savings in terms of procurement savings in contingent labour, travel, facilities and fleet management, information and communications technology [ICT] and telecommunications, and events and training. It also takes into account that there was a reduced public sector wages increase for the 2020-21 financial year.

Mr DAVID SHOEBRIDGE: If you can on notice provide what that will mean financially in terms of reductions for the Office of Local Government, I would appreciate it.

Mr HURST: The Office of Local Government is no longer a separate entity and it does not have a separate budget.

Mr DAVID SHOEBRIDGE: For the functions associated with the Office of Local Government.

Mr HURST: I do not know that we would be able to do it in that way because it does not have a separate budget any more, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: So how can we have visibility on the financial allocation that is going to the Office of Local Government? It is just not visible.

Mr HURST: There are different paths in different divisions of the department now that work together, as I mentioned, to provide a service to the local government sector, badged as the Office of Local Government, but there is no single budget any more.

Mr DAVID SHOEBRIDGE: I am going to ask you to take it on notice to the extent you can, and if the answer is simply a more detailed answer about why you cannot provide the details on notice I will review that.

Mr HURST: I am happy to do so.

The Hon. TREVOR KHAN: Is that it?

Mr DAVID SHOEBRIDGE: There is some correspondence.

Mr HURST: A couple more. You asked a question about who stood down the acting general manager at Wingecarribee Council—

Mr DAVID SHOEBRIDGE: Correct.

Mr HURST: —and the community asking for a general manager to be put in place within 12 months and is this permitted under the Act.

CORRECTED

Mr DAVID SHOEBRIDGE: I think you gave me an answer on the latter that it is not required. You have provided that answer already. But if you want add anything to it, feel free.

Mr HURST: I need to start by saying that obviously it is not appropriate for OLG to comment on the circumstances that may have led to council's decision to stand down its general manager, particularly where the matter is before the police. However, OLG understands that the decision to stand the acting general manager down was made at a council meeting yesterday. Independent electoral providers?

Mr DAVID SHOEBRIDGE: Yes. There were two or one?

Mr HURST: Two councils. Fairfield and Penrith city councils have engaged the Australian Election Company to conduct their elections in September 2021. The Australian Election Company is the only alternative electoral provider to the Electoral Commission. I understand it has a long history of administering council elections since councils were given the option of engaging alternative electoral services providers in 2012. The OLG is not aware of any issues with the Australian Election Company's administration of council elections in the past. And, finally, the decision to retain an electoral services provider other than the commission is one for councils to make.

Mr DAVID SHOEBRIDGE: Thank you, Mr Hurst. You were going to find some correspondence in relation to Bayside Council.

Mr HURST: Can I suggest it is still underway. I am just getting back to you on the things that I can.

Mr DAVID SHOEBRIDGE: Okay. I appreciate all those answers, I do. I might try and assist on the Bayside point. If I could give you two documents, one being correspondence of 20 June 2019 from the Office of Local Government and the other one being an article in *The Sydney Morning Herald* from 2 April 2019. Before I take you to those in detail, Mr Hurst, you said that when a complaint comes in about a council the Office of Local Government assesses first of all the nature of the complaint and then who it might be better to refer it to. Do you remember that evidence?

Mr HURST: I am concerned that once again we are crossing into matters that—it has been announced the Independent Commission Against Corruption is inquiring into these matters.

Mr DAVID SHOEBRIDGE: Yes. This letter has already been tabled in a council meeting. It is already public. It goes without saying that *The Sydney Morning Herald* article is already a public document, Mr Hurst. So before the Office of Local Government decides to take on board a complaint and investigate a council, what is the threshold? What is the threshold for a complaint that would trigger the Office of Local Government actually using its powers to investigate?

Mr HURST: It is not quite as simple as there being a threshold, but certainly one of the things that we look for is whether there is or will be available evidence to support the allegation and matters including whether the Office of the Local Government is the appropriate body to investigate the matter. There are obviously other bodies that are also active in spaces that sometimes overlap with our regulatory functions, in which case we would generally discuss it with those other agencies and agree who might be better to progress the matter. It is probably not a surprise that often complaints are made to a number of different agencies simultaneously or over a period of time. So we may in fact be dealing with a complaint that has also been made to another regulatory agency.

Mr DAVID SHOEBRIDGE: On 24 May 2019 the Office of Local Government received an email from the manager of the then Georges River Council which referenced the conduct of two councillors, Councillor Badalati and Councillor Hindi. It attached links to a series of articles, one of which is the article I have given you dated 2 April 2019, Mr Hurst. So that is the starting point. Mr Hurst, did you review this correspondence from Chris Allen, Director of Sector Performance and Intervention, before it was sent in response to that complaint of 24 May?

Mr HURST: I do not immediately know the answer to that question.

Mr DAVID SHOEBRIDGE: You would have actually been briefed about the complaints, given the nature of the complaints. It would have been part of those regular reviews you talked about, would it not?

Mr HURST: Once again you have asked me a specific question about whether I was briefed. I do not have an answer to that.

Mr DAVID SHOEBRIDGE: Could you provide an answer on notice?

Mr HURST: Yes, I could provide an answer on notice.

Mr DAVID SHOEBRIDGE: Can you provide on notice whether or not you actually reviewed this correspondence before it went out?

CORRECTED

Mr HURST: Yes, I am happy to take that question on notice.

Mr DAVID SHOEBRIDGE: Mr Hurst, the response from the Office of Local Government said, amongst other things:

OLG has reviewed media articles that appear on the dates cited in the resolution—

I stop there to confirm that one of those articles was the 2 April 2019 article that I have given to you—

The information does not on its face indicate a breach of the standards set out in Council's Code of Conduct pertaining to dealing with pecuniary interests, political donations or maintaining the integrity of the Code. These being matters that would be appropriately referred to OLG.

Do you accept that is an accurate reflection of the correspondence?

Mr HEBRON: Mr Shoebridge, perhaps I can take that. I certainly accept that is an accurate reading of that paragraph but I do not have a copy of the email that is referred to or the link in that email to the article that you are referring to.

Mr DAVID SHOEBRIDGE: I assure you that it included reference to the 2 April 2019 article, which was just a matter of seven weeks before the email was sent, Mr Hebron.

The Hon. MARK PEARSON: Mr Hebron, could you move the microphone closer to yourself.

Mr DAVID SHOEBRIDGE: Mr Hurst, the allegations contained in the article were that Councillor Badalati and Councillor Hindi flew overseas on a trip paid for by a developer, then a week after returning from that trip voted on a development application, contrary to the advice of council, to upsize the development for the developer that paid for their trip overseas. Mr Hebron, do you accept that that is a fair reading of the concerns in the article?

Mr HEBRON: The article appears to be an apology and it is about six pages long. Mr Shoebridge, if you are talking about matters that may or may not be before ICAC, the agencies are under fairly strict obligations of confidence in relation to them and cannot comment.

Mr DAVID SHOEBRIDGE: That is not true.

Mr HEBRON: It is true, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Are you a witness before ICAC?

Mr HEBRON: It is not a witness, it is an obligation on a staff member of an agency.

Mr DAVID SHOEBRIDGE: This is simply not true.

Mr HEBRON: It is true. It is in section 111 of the Act.

Mr DAVID SHOEBRIDGE: It is simply not true. I will go to you, Mr Hurst. Mr Hurst, the article makes the allegation that Councillor Badalati and Councillor Hindi went on an overseas trip paid for by a developer and then within a week of returning from that trip voted on a development application to upsize that developer's development and your office has said that, on the face of it, it does not indicate a breach of the standards set out in council's code of conduct. How could that be true?

Mr HEBRON: I would suggest you not answer that.

Mr DAVID SHOEBRIDGE: I suggest you do not make those suggestions, Mr Hebron.

Mr HEBRON: Thank you, noted.

The Hon. SHAYNE MALLARD: Point of order: I am quite awkward with this conversation in line with regard to Mr Hebron clearly indicating that he has a legal view or legal advice about his role and what they can say and he has given that advice to Mr Hurst just then. I think that Mr Shoebridge should respect that.

Mr DAVID SHOEBRIDGE: To the point of order: Mr Hebron is not here as a legal adviser to Mr Hurst, as I understand it. He is here as a witness to seek to assist, and for him to be directing a witness not to answer is deeply inappropriate conduct from Mr Hebron.

The Hon. TREVOR KHAN: To the point of order: The first thing is we should be addressing the point of order, not, in a sense, making gratuitous observations. I do not have time to go through the procedural fairness resolution but clearly there are matters being raised here which cause a degree of discomfort to these officials. If there is a view that that discomfort is of a legal nature, then it is appropriate for the witnesses to take the matter on notice and consider their position. Without finding the section in the procedural fairness resolution, I think that is precisely what it invites witnesses to do when confronted by matters such as this.

CORRECTED

The Hon. MARK PEARSON: I will uphold that point of order, Mr Shoebridge, because we have had this issue before at the last hearing in relation to a council which then instructed Mr Hurst to not answer the question if he did not think he could but to go and seek legal advice. You might both need to do that now, but if the legal advice is that you can answer the question, then having taken it on notice you then will.

Mr DAVID SHOEBRIDGE: Mr Hurst, I have asked before, what is the threshold for the Office of Local Government to undertake an investigation? If you are given credible evidence that a councillor went on a paid overseas trip by a developer and then within a week of returning from that trip voted on that developer's development application to upsize the development, contrary to the council's planning staff advice, how could that not trigger an investigation by the Office of Local Government, putting to one side whether it is these councillors or any other councillor? How could those circumstances not trigger an investigation from the Office of Local Government?

Mr HURST: I will take that question on notice, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: What does it take? If prima facie evidence of a gross breach of conflict of interest—

Mr HURST: Of a newspaper article.

Mr DAVID SHOEBRIDGE: If prima facie evidence of a gross breach of conflict of interest—because that is what this correspondence talks about; it says "on its face" it does not amount to a complaint—what does it take?

Mr HURST: I have undertaken to answer your question on notice, Mr Shoebridge.

The Hon. MARK PEARSON: Mr Hurst, further to that question, is a decision made not to act and investigate such a matter and if a decision is made not to, are the reasons recorded anywhere?

Mr HURST: Generally the reasons will be provided in the letter back to the complainant if the office does not proceed with a complaint.

The Hon. MARK PEARSON: Will you provide a copy of any correspondence or other recording as to what is the reason why a decision was made not to proceed with the investigation?

Mr HURST: I am happy to take that on notice, Mr Chair.

Mr DAVID SHOEBRIDGE: Mr Hurst, are you aware of the fact that these two councillors have still been sitting on that council for a year and nine months since your office refused to act, have been sitting there making decisions about planning matters, about zoning matters, and your failure to act has left the residents with those two councillors? Are you aware that that is what your failure to act has done?

Mr HURST: I am not sure what the question in that is, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Are you aware that by failing to act you have left those two councillors sitting making critical decisions for Bayside Council? Are you aware that is the effect of your decision not to act?

Mr HURST: Councillors are entitled to take their seat at council unless they are suspended.

Mr DAVID SHOEBRIDGE: Are you comfortable with the fact that Councillor Hindi in a meeting at the end of last year moved a resolution to increase the development yield on his parents' property? You are okay with that having happened because you failed to act?

Mr HURST: Mr Shoebridge, it is not up to me to be comfortable of any decision of how any individual councillor votes.

Mr DAVID SHOEBRIDGE: Will you take responsibility for failing to act when there are yet more concerns raised about these councillors' conduct? Will you accept responsibility of failing to take protective action?

The Hon. TREVOR KHAN: Point of order: That is quite an unreasonable proposition to put to this witness.

The Hon. MARK PEARSON: I will uphold the point of order. I agree with the point of order. It is just going outside the perimeter.

(Short adjournment)

The Hon. MARK PEARSON: Back to questions from the Opposition.

CORRECTED

The Hon. JOHN GRAHAM: Mr Hurst, given the significant issues we have discussed about a range of things that have not necessarily been dealt with very harshly—they are some of the questions that have been put to you—part of the context for me is the very significant powers that you have in your role heading OLG. One of those powers is section 435 of the Local Government Act 1993. It really quite remarkably allows you to disallow an expenditure and potentially to surcharge, as it is described, an amount of expenditure onto a councillor, a general manager or a member of staff of the council. You can also do that in relation to any deficiency or loss incurred by the council as a consequence of negligence or misconduct by the councillor, the general manager or the member of staff. When is the last time that latter provision has actually been used, those significant powers under section 435 (2) (a) of the Local Government Act?

Mr HURST: It is my understanding that the surcharging powers have never been used since they were inserted into the Act.

The Hon. JOHN GRAHAM: When were they inserted?

Mr HURST: I am not sure of that but when I have asked that question of the team, my understanding is that they have never been used.

The Hon. JOHN GRAHAM: Have you ever been tempted?

The Hon. TREVOR KHAN: Haven't we all?

The Hon. JOHN GRAHAM: That was not directed to you, Mr Khan.

Mr HURST: I do not know that "tempted" is the right word. It is certainly a measure that is available in the Act. It has been considered from time to time but never applied.

The Hon. JOHN GRAHAM: Would you mind taking on notice—it would just be helpful if you could clarify when that did come into the Act.

Mr HURST: Yes, I am happy to take that on notice.

The Hon. JOHN GRAHAM: Okay, thank you. In relation to the \$45 million I referred to with the Minister, that is the amount that two of the largest merged councils in the State consider they are owed. This would be their share of the tied grants round funding from the Stronger Communities Fund. They got nothing and they say they should have got \$45 million. Have you given any advice or been party to any discussions with the Minister—or perhaps I might ask you, given the circumstances, with the Premier's office or the Deputy Premier's office or the Premier's marginal seats team—about giving that money back or about getting that \$45 million to those councils?

Mr HURST: In the last session of this Committee we heard evidence that those councils had sought legal advice about this question and I believe have retained a barrister. Because of the fact the councils are contemplating legal action on this matter, I do not think it would be appropriate for me to talk about the matter.

The Hon. JOHN GRAHAM: I might leave that as it is for now and hand to my colleague.

The Hon. MARK BUTTIGIEG: Could we loop back to the Broken Hill code of conduct matter? I think I left off at the end of the last set on whether or not you could give us an update on what the situation is there and where we are at.

Mr HURST: I am sorry, Mr Buttigieg, but I do not have the Broken Hill information yet.

The Hon. MARK BUTTIGIEG: Apparently sources within Broken Hill City Council have raised issues with Councillor Tom Kennedy, who has been the subject of many code of conduct complaints. A code of conduct issue was directly reported to the OLG in relation to a DA that came up last year for an Aldi supermarket. You are not aware of any of this?

Mr HURST: I am not personally aware. I did have a look through the folder of current matters and I could not immediately find anything. I have undertaken to get back to you today if I can with material about that. I know that a team in Nowra are monitoring the session and attempting to provide that information for me.

The Hon. TREVOR KHAN: But if you cannot get it, you will provide an answer on notice.

Mr HURST: I will provide an answer on notice if I cannot. I am attempting to get the information, Mr Buttigieg, to answer your questions.

The Hon. MARK BUTTIGIEG: Okay, so I guess there is no point in me pursuing this line of questioning, given you have no idea about this matter that has been reported to the OLG.

Mr HURST: I can confirm that I have no personal knowledge of this matter.

CORRECTED

The Hon. MARK BUTTIGIEG: Okay. We might come back to that later if we do finally get the information. I want to take you to a couple of other issues now, off the topic of code of conduct. I understand the COVID funding to councils expires on 8 April, does it?

Mr HURST: This is the Job Retention Allowance payment?

The Hon. MARK BUTTIGIEG: Yes.

Mr HURST: No, there is not an expiry date for that program. Councils are continuing to draw down funds as they have qualifying staff and submit claims.

The Hon. MARK BUTTIGIEG: Okay. Was there any expiration date for a funding arrangement that was originally coinciding with 8 April? I might have the wrong title of the funding arrangement.

Mr HURST: There were three elements to the Government's COVID response for the Local Government sector. There was an element about access to borrowings. There was payment of the emergency services levy increase for councils for that year and those payments to 127 councils were actually processed last financial year. The final component was the Job Retention Allowance, which is a payment similar to the Commonwealth JobKeeper payment, which is available to councils because councils are not able to access that payment. It does not operate exactly the same. It is structured around a splinter award that was entered into by the parties to the Local Government (State) Award. Essentially it underwrites the salaries of employees who have gone through certain stages under the award to ensure that councils do not have to lay off staff during the pandemic.

The Hon. MARK BUTTIGIEG: I see, so the funding for the—let us call it council JobKeeper for want of a better term—

Mr HURST: It is the Job Retention Allowance. That is the name of it under the award.

The Hon. MARK BUTTIGIEG: The Job Retention Allowance is contingent on this splinter award, is it? What is the status of negotiations on that?

Mr HURST: The splinter award is from the parties to the award. The New South Wales Government is not a party to the award but we have designed our program around it so that, as councils move staff into the Job Retention Allowance under the award, they can submit a claim to the State Government. They can recover a significant proportion of the payment that they make to that employee from the Government for three months.

The Hon. MARK BUTTIGIEG: Okay. Your understanding is that the availability of that program will be extended, will it?

Mr HURST: We have money for the current financial year.

The Hon. MARK BUTTIGIEG: Up to 30 June 2021.

Mr HURST: At least. I am not sure about continuing after that point. Obviously, we would need to evaluate how many councils are still claiming it.

The Hon. MARK BUTTIGIEG: Are there discussions afoot about extending beyond that point?

Mr HURST: Certainly it is something we have considered internally. If councils still needed to draw on those funds, I think we would look to make it available. But no decision has been made to do that.

The Hon. MARK BUTTIGIEG: I just want to take you to the issue of localised day labour, which councils employ on a varied basis, depending on the council, and the conversion to contract labour. There is a whole narrative around, obviously, stimulation of local jobs, local procurement, that sort of thing. Does the OLG, in the context of the Minister's policy, have a view on whether or not local councils should be using local labour? In other words: If we are going to spend money in our LGA, we shouldn't be bringing people in from interstate and stimulating jobs and activity interstate. We should be at least doing it in New South Wales and, preferably, in the LGA, the applicable LGA. Is there any view or policy on that?

The Hon. TREVOR KHAN: Can I just raise a matter.

The Hon. MARK PEARSON: Point of order, is it?

The Hon. TREVOR KHAN: Yes, it is a point of order. I know it is difficult in budget estimates in the way we have structured it, but it is procedural fairness resolution point 10, which provides that public officials will not be asked to give opinions on matters of policy and will be given reasonable opportunities to refer questions to more senior officials or to a Minister. It seems to me it is possible for one or more of these witnesses to comment

CORRECTED

on discussions they might have had, but in a more generalised way. If they are asked to express a view as to policy, then it is appropriately a matter they should take on notice and perhaps get—

The Hon. MARK BUTTIGIEG: To the point of order, Chair. I think I did use the words, "Does the OLG have a position on this?" I think I did use those words.

The Hon. TREVOR KHAN: You might be right, but it just struck me as getting close.

The Hon. MARK PEARSON: If they are the words that you used, then the question is in order. If you are asking for an opinion of a policy or something like that, then that is not in order. But if it is about the department's position, it is fine.

The Hon. MARK BUTTIGIEG: Just to clarify, presumably, the department's position is informed by the Minister's policy. So I do not see how the two are necessarily separated. But, yes, I want to know the OLG's position on it.

Mr HURST: It is not so much the OLG's position. But the legislation does contain—I thought it was around section 348, but I am not a hundred per cent sure. My understanding is that the legislation provides an obligation on councils to fill positions with permanent staff. While contractors are part of the mix that councils can and should use as part of the workforce that they need to perform their duties, this is an element, as I understand it, to the way that councils are required to resource their business. The office participates in regular discussions with the parties to the Local Government award, even though, as I mentioned, the Office of Local Government is not a party to the award. We are aware that there are concerns within the sector, that perhaps too many roles are being staffed by contractors and temporary staff on a long-term basis. So the parties to the award have requested from the Government some increased reporting to provide some transparency about the structure of councils' workforce. We are in the process at the moment of looking at how that could be regulated on the sector so that people had more transparency about the structure of councils' workforce. That work is underway.

The Hon. MARK BUTTIGIEG: Mr Hurst, further to that answer you have given—thank you for that—is the proposition that the OLG would oversee that statistical reporting on things like, for example, proportion of insourced to outsourced labour, that sort of thing?

Mr HURST: My understanding is that the parties to the award have agreed that that will be an additional requirement imposed on councils as part of their annual report and that it will provide a range of detail that the parties to the award have agreed among themselves would be useful for each council to report each year. We are looking at progressing it on that basis.

The Hon. MARK BUTTIGIEG: Would the OLG play a collation role and publish those sorts of things? How would that work?

Mr HURST: No. Once again a decision has not been made to proceed with this, and I do need to be careful.

The Hon. MARK BUTTIGIEG: I understand.

Mr HURST: The Minister has not approved any change to the regulation and there is nothing before the Minister. We are progressing on the basis of a request from the sector about making it mandatory to publish this agreed information in annual reports. It will be up to people who are interested in the structure of councils' workforces to use that publicly available source of information so that they can gain a greater insight into the staffing practices at any particular council.

The Hon. MARK BUTTIGIEG: Under that hypothetical situation, it would be mandatory to report for the council. Then a person interested would go to the council's website, presumably, and have a look or ask for the information.

Mr HURST: The proposal from the parties to the award that we are pursuing, is that it would be mandatory to publish it in the annual report. You are right. Someone could go to the council's website or get a paper copy of their annual report. They would be able to find that data in there.

The Hon. MARK BUTTIGIEG: Does the Government's policy inform the OLG's view of whether or not this should happen? Or because you are not party to any of these awards, you do not care.

Mr HURST: It is not a formal policy position of the Government. But in speaking to the Minister she has indicated that if there are changes that are agreed within the local government sector the Government will consider them. So we are preparing those changes so that the Minister can consider whether she would like to give effect to this request that has come from the sector.

CORRECTED

The Hon. MARK BUTTIGIEG: As we stand now here today, do we have any statistics on contract vis-à-vis insourced labour, like, for example, contract labour to insourced labour for local government, New South Wales, contract labour outside LGA to councils' employed insourced labour, things like that? The OLG is not availed of any of those stats at the moment?

Mr HURST: No. We do not collect that data. We have some partial data that was collected by some of the industrial parties to the award. They made a request for some information about staffing structure to councils. I understand that part of the reason why the parties to the award have chosen to go down this path is because they were not getting accurate or timely information, necessarily, from every council. That is why, once again, when all of the parties to the award come to us and say, "This is an agreed position. We feel that better reporting is necessary for the whole sector", that is the basis on which we are progressing it for the consideration of the Minister.

The Hon. MARK BUTTIGIEG: Just to tie that up, Mr Hurst, are there similar situations where councils will provide a range of reports on any number of matters where the OLG plays a sort of centralised database role? In other words, if I wanted to go to an authoritative source, I could log on the OLG's website and go, for the LGAs in all these areas, this is what is happening in a particular area, a go-to one-stop shop, rather than having to go to 50 different councils' websites?

Mr HURST: We do. There are two things, I think, that are relevant. We have a website called the Your Council website. You can get a link to it from our website. The Your Council website provides comparative data on every council in New South Wales. It is extracted from a number of sources, including their annual reports, but also other data reporting that we receive, about everything as diverse as their performance against financial benchmarks through to the number of pools they own and the area of parkland they administer, so really quite a large range of useful information. It is presented for each individual council and also allows comparisons to be made with other councils of a similar size and nature.

We provide that data so that communities can look at the performance of their council objectively against others in a similar situation but also so councillors can look at how their council compares to other councils. We draw all of that material from reporting that comes to us. We also have a more detailed dataset. We call it the "time series data" because it goes back in time for many years—decades, I think. It contains details of a large range of measures, including most key financial measures from the financial statements of councils, all presented in—I was going to say a large spreadsheet; it is a very large spreadsheet. It is a very significant resource. It is used a lot by researchers and also those in the industry because it provides a way for them to extract that data and compare it between councils very easily.

The Hon. MARK BUTTIGIEG: And if this award negotiation were to come to fruition and those contractor versus insourced labour stats were published, would that be the sort of thing that the OLG would consider corraling into that sort of database?

Mr HURST: I think we would consider it. The regulatory requirement has not been made yet. We are progressing it just on the basis of a request from the sector, and the Minister will need to make a decision about whether she wants to indeed regulate this for councils to report. I do not know that we have even thought as far about whether to then subsequently collate that data into the time series data. We certainly will not have it moving backwards in time because we cannot collect it for prior years, but the information would be available on a forward-looking basis.

The Hon. MARK BUTTIGIEG: It would seem to make sense, would it not?

Mr HURST: Look, we are trying to provide particularly the time series data to be as useful as possible to the users of council financial and operating performance information.

The Hon. MARK BUTTIGIEG: Yes, okay.

The Hon. MARK PEARSON: As there do not seem to be any crossbench members apart from me and I do not have any further questions—

The Hon. TREVOR KHAN: Shame.

The Hon. MARK PEARSON: —we can continue with the Government for another three minutes and then we will depart.

The Hon. MARK BUTTIGIEG: It is nice that we have been elected. Thank you.

The Hon. SHAYNE MALLARD: I think you meant the Opposition.

CORRECTED

The Hon. MARK PEARSON: I did mean the Opposition, sorry. Actually, does the Government have any questions?

The Hon. TREVOR KHAN: Gosh, no.

The Hon. SHAYNE MALLARD: Well, we are entitled to 15 minutes of questions.

The Hon. TREVOR KHAN: And we are not going to take it.

The Hon. SHAYNE MALLARD: No, we're going to ask them questions. What's your policy?

The Hon. MARK BUTTIGIEG: Well, now that we're elected, let me tell you.

The Hon. SHAYNE MALLARD: Yes, now that you're the Government.

The Hon. JOHN GRAHAM: Mr Hurst, can I just come back on one question that we were talking about before? I have just had the chance to go back so I can put it to you more specifically. It was just this question about where in the Stronger Communities Fund tied grants round the projects might have been identified before the guidelines were approved. There are a number of projects that I will not ask about. They are the ones such as Hornsby, where the guidelines were signed off on 27 June 2018 and immediately Hornsby is getting a phone call to say, "Put your application in. You are going to be successful. The money is on the way." Put that aside.

So Hornsby or Hilltops, all the action happens. The guidelines are signed off. The good news all happens on the one day—27 June 2018. I am interested in the small number of cases where the guidelines were signed off on 27 June but the action happens earlier, that is, the project identification. In that table that is well known to you—pages 3 to 5 of your evidence—can I ask about the case of the Waverley \$500,000 grant where the guidelines, as you have identified, are amended on 27 June 2018 but the project identification date you have given in this table is 25 June 2018? That is two days earlier. Do you agree that the project has been identified before the guidelines are amended?

Mr HURST: Every grant that was made under this program was made in accordance with the guidelines that were in place at the time.

The Hon. JOHN GRAHAM: Right. What does that mean for that Waverley grant of \$500,000? This table says the date of the guidelines is 27 June. That is two days after the project is identified. Take me through that specific example. What guidelines was this Waverley grant approved under?

Mr HURST: It will have been approved under the guidelines that were in force at the time that it was approved. Each of the details of each grant that was made are in this table as a summary of all of the documents that have been provided to the Parliament and are, in fact, summarised in this way at the request of the Public Accountability Committee. This is the detail about the process for each of those grants and how they were made. I cannot add anything further, other than to say that this is the basis for each individual grant and how it proceeded.

The Hon. JOHN GRAHAM: Yes. Well, I am going to have to ask that you do because—how do you want me to refer to the guidelines that were amended on 27 June? How would you prefer I refer to those?

Mr HURST: Perhaps "the amended guidelines"?

The Hon. JOHN GRAHAM: Was this Waverley grant approved under the amended guidelines?

Mr HURST: I will have to take that on notice. I do not have that material here.

The Hon. JOHN GRAHAM: Do you agree though that it would not have been eligible under the guidelines that applied before the amended guidelines? Do you agree with that?

Mr HURST: I think there are a number of questions here about the timing that I cannot answer on the basis of the material that I have before me. That is why I have agreed to take it on notice and I will come back to you on that question.

The Hon. JOHN GRAHAM: Yes, but you agree that the date that is identified, the project identification date, is two days before the guidelines?

Mr HURST: I agree with the dates and the schedule but there are other questions here about what guidelines were in force at what time. That is why I am not prepared to give you an answer on oath today based solely on this information. I will come back to you. I understand the nature of your question: Which guidelines was it made under? I think it will need me to go back and have a look at the primary records to provide you with my advice on that question.

CORRECTED

The Hon. JOHN GRAHAM: Right. So you have identified one of my questions, which is: Which guidelines was it approved under? I am also asking in addition, in relation to this Waverley project, would it have been eligible under the former guidelines? I do not believe it would have been but I am asking your view.

Mr HURST: I am happy to get back to you on notice on that question as well.

The Hon. MARK PEARSON: You will be taking that particular question on notice, along with the other?

Mr HURST: Yes. I will deal with that in a—

The Hon. TREVOR KHAN: Can I just make this observation, Mr Hurst? I am fearful of going through another public accountability hearing. Life is too short for some of this.

The Hon. JOHN GRAHAM: I agree with that.

The Hon. TREVOR KHAN: The Opposition and Mr Shoebridge are going to continue to pursue this up hill and down dale, every rathole they can possibly think of. A fulsome response might truncate the process. I am just a Government backbencher but it just seems to me—

The Hon. SHAYNE MALLARD: Aren't we all?

The Hon. TREVOR KHAN: It has got his attention and a fulsome reply might shut him down.

The Hon. JOHN GRAHAM: That is very good advice, Mr Hurst.

The Hon. MARK PEARSON: I uphold the point of order.

The Hon. TREVOR KHAN: I am not accusing you of anything; I understand the difficulties.

Mr HURST: I will provide a fulsome answer on notice because I think it is an important question about which specific guideline it was made under and the specific timing of when the grant was made, because it was around the time that the amended guidelines were approved. I do completely understand the question; I just do not know that I can answer it today, here, on the spot.

The Hon. TREVOR KHAN: Nobody is being critical, but you know as well as I do that sometimes a question is taken on notice and the response that comes back is—

The Hon. JOHN GRAHAM: Minimal.

The Hon. TREVOR KHAN: Yes.

Mr HURST: Look, I think it is a straightforward question.

The Hon. TREVOR KHAN: Yes, it is.

Mr HURST: Which guidelines were they and how do the dates fit together? Yes.

The Hon. MARK PEARSON: And whether that same approval would have been given under the former guideline as to the amended one. That is the other answer they require. Thank you. Continue your questions.

The Hon. JOHN GRAHAM: Thank you, Chair. I would also like to ask: In relation to the city of Randwick, this is a grant for \$2.58 million. You also agree that the guidelines that are identified here, the amended guidelines, refer to 27 June 2018. Again the project identification date occurs two days earlier, so a more significant sum and similar dates. I assume you want to take on notice when I put similar questions to you—

Mr HURST: It looks like it is going to be similar circumstances.

The Hon. JOHN GRAHAM: Yes.

Mr HURST: Perhaps these were all identified in the same email.

The Hon. JOHN GRAHAM: I think that is exactly what has happened, Mr Hurst, yes. And, again, I do not believe this is eligible under the former guidelines; it is only eligible under the amended guidelines—

The Hon. SHAYNE MALLARD: These are Labor councils.

The Hon. JOHN GRAHAM: —but I am interested in your view.

The Hon. SHAYNE MALLARD: Are these not Labor councils? Should they refund the money?

CORRECTED

The Hon. JOHN GRAHAM: I strongly discourage you from getting into the politics of whether these were marginal seats or not. That may not go well for you.

The Hon. SHAYNE MALLARD: They are Labor councils.

The Hon. MARK PEARSON: Order! Mr Graham has the call.

The Hon. SHAYNE MALLARD: Waverley and Randwick.

The Hon. JOHN GRAHAM: In relation to the City of Ryde grant—and this is a grant of \$2.35 million—

The Hon. SHAYNE MALLARD: Another Labor council.

The Hon. JOHN GRAHAM: —the guidelines that are identified are 27 June 2018, but, again, your project identification date indicates that it was identified two days earlier on 25 June. Similarly, could you take on notice which guidelines it was approved under? Again, I do not believe this would have been eligible under the former guidelines, only the amended guidelines, but if you could clarify that?

Mr HURST: I am happy to take both of those questions on notice.

The Hon. JOHN GRAHAM: Finally, in relation to Burwood, the facts are slightly different here. This is a \$2.6 million grant. The guidelines that are identified are the amended guidelines on 27 June 2018. The project is identified just a single day earlier, that is on 26 June 2018. Again, if you could take those two questions on notice?

Mr HURST: Yes, I agree to take those on notice.

The Hon. JOHN GRAHAM: Do you agree, Mr Hurst, that on each of those occasions your table—your evidence—indicates that those projects have been identified for the New South Wales Government by the Premier?

Mr HURST: I stand by the table, which has been the subject of many inquiries in the other committees, as a summary of the application of the process that we previously dealt with in the letter. So I do not want to go through the material that has taken hours in the other committee.

The Hon. JOHN GRAHAM: Let me put it to you this way: You do not disagree that your table—your evidence—indicates that those projects were identified for the New South Wales Government by the Premier?

Mr HURST: I stand by the evidence that has been tabled in this Committee and in the other committees.

The Hon. JOHN GRAHAM: Yes, but you will not state for the record—you will not name the Premier. Is that the issue, Mr Hurst?

Mr HURST: No, it is just—this document was prepared to allow people to bring certainty to my evidence about how the scheme was administered.

The Hon. JOHN GRAHAM: Yes, and I am putting to you that in each of those four grants it is the Premier who identified the projects. That is what your table says. That is correct, is it not, Mr Hurst?

Mr HURST: And I am saying that the table is my evidence, both to the Public Accountability Committee and now to this Committee today as well.

The Hon. JOHN GRAHAM: You are not telling me I am wrong, are you, Mr Hurst?

Mr HURST: I am telling you this is my evidence. The purpose of providing it in writing like this is so that it is clear and not subject to any questions about what it is that I have or have not said.

The Hon. TREVOR KHAN: We have been here before, John.

The Hon. JOHN GRAHAM: I simply do not understand, Mr Hurst, why you will not just name the Premier.

The Hon. MARK PEARSON: Do you want to put the question another way?

The Hon. TREVOR KHAN: No, he can put it every way he likes; Mr Hurst is going to answer precisely the same way.

The Hon. JOHN GRAHAM: I have seen Mr Hurst's routine before on this.

The Hon. SHAYNE MALLARD: He is a veteran.

CORRECTED

The Hon. JOHN GRAHAM: But, Deputy Chair, for the record I do want to indicate that the evidence is quite clear in that table.

The Hon. MARK PEARSON: Sure.

The Hon. TREVOR KHAN: You can make any assertion you like—well, within reason.

The Hon. JOHN GRAHAM: Very good. I turn to some other questions if that is—

The Hon. TREVOR KHAN: John, you said we were going to be finished by 3.30 p.m.

The Hon. SHAYNE MALLARD: Yes, come on, mate.

The Hon. SHAOQUETT MOSELMANE: It is not 3.30 p.m. yet.

The Hon. JOHN GRAHAM: I have committed to knocking this part over, though.

The Hon. TREVOR KHAN: You are working on New Zealand time here at the moment.

The Hon. MARK PEARSON: Mr Hurst, did you ever have any conversations with the Premier about these grants?

Mr HURST: No.

The Hon. MARK PEARSON: The Deputy Premier?

Mr HURST: No.

The Hon. SHAOQUETT MOSELMANE: Anybody else?

The Hon. TREVOR KHAN: You said you were not going to ask any questions.

The Hon. SHAOQUETT MOSELMANE: I said I was not going to ask any questions.

The Hon. JOHN GRAHAM: Mr Hurst, I want to turn to some questions about the state of councils in administration, just to run through some of the basic facts about those. Firstly, the Central Darling Shire Council, can you give the Committee any information about the current financial state of the Central Darling Shire Council?

Mr HURST: Yes, as you have identified, the council is under administration. It was put into administration quite some time ago as a result of a public inquiry conducted at that time. On the recommendation of the administrator and the Office of Local Government, the Minister extended that period of administration. The council's finances, as I understand it, continue to be in a difficult state. There are problems with the revenue base of the council, exacerbated by, particularly, the drought, that have restricted the council's ability to build up a buffer of reserves that will allow it to maintain—I would like to acknowledge the work that the administrator and general manager are doing in difficult circumstances to restore the finances of the council, but it is a difficult job. It is the council that covers the largest area in the State—

The Hon. JOHN GRAHAM: Yes, certainly.

Mr HURST: —with the smallest population.

The Hon. JOHN GRAHAM: When you say the administration period was extended, to what date was that extended?

Mr HURST: I think it was 2024.

The Hon. JOHN GRAHAM: I think I agree with you. Can you give us an idea of whether, at this stage, based on the best information you have today, you expect that the administration period might end before that formal date, which I also believe is 2024?

Mr HURST: The office is undertaking some work to look at whether the present system of local government—model of local government—is appropriate for a council with the unique challenges that Central Darling has. We have actually had some engagement with other agencies about this question and been doing some research, particularly, about how other States with councils in similar positions have dealt with some of these questions of large area, low population and the infrastructure demands or the difficulty in meeting those infrastructure demands for those communities. We are looking at how other States and Territories do it and what the options might be. Your specific question was: Could it return from administration sooner? I would suggest yes, that is a possibility, but it is going to depend on the model. So if, indeed, there is a better model that could suit Central Darling and if it could be put in place, then, yes, that might be the case. I think if nothing else changes, then I think there are even questions about what would happen in 2024 just because—

The Hon. JOHN GRAHAM: Because the model is flawed, is really where you are heading.

CORRECTED

Mr HURST: Well, that is something that we are looking at through other States and Territories and recognising the significant period of time that Central Darling has been in administration. It is quite unusual, and that is why we are asking questions about the model, rather than just trying to continue to give the administrator the job under the present system of trying to trade the council into a better financial position.

The Hon. JOHN GRAHAM: Is that new work, that new question just being asked in relation to Central Darling Shire Council or is it also being asked about, for example, Balranald Shire Council?

Mr HURST: We are asking the question specific to Central Darling, but you are right: Are there questions about other councils that share some of the same features? This is a problem that other States and Territories have looked at as well.

The Hon. JOHN GRAHAM: Sure.

Mr HURST: How do they deal with these councils with large area, very low populations, often a high proportion of Indigenous people who are not well engaged in the traditional model of local government and how they can have a better say in the way that their community operates—the council or whatever that body might be. So, yes, I am going to suggest that there could be potential application to other councils, but we have not completed the work.

The Hon. JOHN GRAHAM: Yes, but you have not prejudged that. When would the current administration period for Balranald be likely to conclude? What is your best expectation?

Mr HURST: It is in my papers. I can rifle through it and find out or I can come back to you on notice of the question.

The Hon. JOHN GRAHAM: I would be comfortable with that on notice, but that would be helpful. If you are prepared on notice to answer it in this spirit, looking at it today, what is your best estimate of when that might occur?

Mr HURST: I would make the observation—

The Hon. JOHN GRAHAM: I am happy with whatever context you would want to put around that.

Mr HURST: Yes. Look, I make the observation that the circumstances at Balranald were quite different from Central Darling.

The Hon. JOHN GRAHAM: Yes, understood.

Mr HURST: My recollection of the public inquiry is that there were issues in the relationships between the councillors, between the councillors and the general manager and senior staff at the council, and also with the community; whereas, my knowledge—and it was before my time—of the Central Darling public inquiry is that it was almost exclusively financial issues that led to them being put into administration and the public inquiry being called.

The Hon. JOHN GRAHAM: But I think you would agree though that if that means that half of this joint organisation [JO] is in administration, then that starts to be an issue for what is a very significant part of the State.

Mr HURST: The administrator has the responsibility of the mayor of councils, as I am sure you know. I am confident that the administrators are representing their community in the JO just like the mayor would. You are asking me about what the expectation with Balranald is. Balranald is a different set of problems—

The Hon. JOHN GRAHAM: I accept that.

Mr HURST: —and I think it is much more likely that the period of administration will lead to an effective resolution to those questions. They have recruited a new general manager; there have been changes in the operations of the council. My understanding is that some of the underlying issues have been addressed. These all bode well for an end to administration at the appropriate time, rather than necessarily having to change the model, which is where our thinking is potentially with the Central Darling.

The Hon. MARK BUTTIGIEG: I just want to pursue this COVID funding arrangement. My understanding is that there was a stimulus package in April 2019, which ended up getting delivered and it was made up of \$250 million—correct me if I am wrong on any of this stuff, it is just by way of context. They were low-cost loans—\$112.5 million for \$1,500 fortnightly payments to council employees, which is I think is what you were referring to in the previous answer when we discussed the splinter award.

Mr HURST: Yes, the job retention allowance.

CORRECTED

The Hon. MARK BUTTIGIEG: The job retention allowance. And then \$32.8 million to meet the cost of the 2020-21 Emergency Services Levy. My question is: In terms of the make-up of the package, what input did OLG and the Minister have—well, OLG specifically—into the make-up of that package?

Mr HURST: We developed the package. It was a policy question, which is that we recognised that COVID-19 was already having and would have an impact on councils. So it is a policy development task for us to try to understand what is the best way to identify and address some of the disparate issues that COVID was creating for councils. You will see that there are different elements to the package that reflect different councils' needs for what they would require in support to effectively deal with COVID-19. We did clearly piggyback the job retention allowance [JRA] off the splinter award. It was very, very timely that the parties to the award also recognised the need for changes to industrial arrangements so that councils would be empowered to have alternatives other than sacking staff if they could not find work for them during a pandemic, which at the time was expected to be far worse than it turned out to be in practice. So, yes, the JRA component was about bridging the gap between the Commonwealth Government's policies on JobSeeker and the splinter award, which had already been negotiated and put in place by the parties to the award.

The Hon. MARK BUTTIGIEG: There is a fundamental difference, is there not, in terms of the economic understanding of a stimulus? The Federal Government payment was not a loan, was it, whereas this is a loan?

Mr HURST: No, the councils do not have to repay the job retention allowance.

The Hon. MARK BUTTIGIEG: Right. So what portion do they have to repay?

Mr HURST: If they take a loan from the State borrowing facility—this is the NSW Treasury Corporation [TCorp]—that is a loan and councils can borrow for infrastructure there, normally over quite long periods and then they construct the infrastructure as a stimulus measure. Many councils took advantage of that and they will repay it from their ongoing revenues. Obviously the aim here was once councils' finances recovered after the pandemic that that would allow them to make the repayments. It is a very advantageous rate for councils to borrow through that facility and bring forward expenditure from future long-term plans or operational planning into the current year as a stimulus measure. But certainly the JRA money and the Emergency Services Levy money, there was no requirement to repay those funds.

The Hon. MARK BUTTIGIEG: So in terms of the TCorp availability—the access to funds there—what was the criteria around that? For funding infrastructure that councils already had on their books to bring forward, was that the idea?

Mr HURST: Perhaps if I could just answer in broad terms, I think that the requirements were based around TCorp credit policies. So each council would need to talk to TCorp about whether they had the capacity to take on the level of debt that they might be considering and repay it, and TCorp would make that assessment. Other than that, I do not think there was anything that precluded any council or county council from accessing the borrowing facility.

The Hon. MARK BUTTIGIEG: Would that access to those funds—as you pointed out, it was probably at a fairly competitive rate although, notwithstanding that, the Government is getting interest payments and alleging that it is stimulus, which is not traditionally what a stimulus is. But notwithstanding that, would access to those funds normally be available during normal times? Could a council go to TCorp and say, "I want to borrow \$10 million at 0.5 per cent", or whatever it is?

Mr HURST: Just addressing the first part of the question, I do not know that the interest revenue does come back to the State. My understanding is that TCorp, as the State's financing arm, is actually in commercial markets and that what they are doing is they are wrapping councils debt with the State's credit rating to allow them to borrow at a lower rate. But ultimately those repayments go to the sources of financing that TCorp undertake.

The Hon. MARK BUTTIGIEG: So TCorp just serves as an intermediary using the Government's backing—

Mr HURST: To get a better rate for councils, yes.

The Hon. MARK BUTTIGIEG: I see.

Mr HURST: In principle.

The Hon. MARK BUTTIGIEG: So none of those interest payments are on the State budget books?

Mr HURST: That is my understanding. I am not an expert on how TCorp is financed. That is certainly my understanding of the model that TCorp operates under.

CORRECTED

The Hon. MARK BUTTIGIEG: To answer the second part of that question, would access to that fund—those TCorp interest rates—would that normally be available during normal time?

Mr HURST: To most councils. It was extended as a stimulus measure to all councils and county councils. But you are right, not all councils had access to that prior to it being opened up as a stimulus measure.

The Hon. MARK BUTTIGIEG: Do we know on what basis that the councils under normal circumstances—the ones that had access—were included and the others excluded?

Mr HURST: I think there are probably three—it is easier to talk about who did not have access to the program rather than those who did because, as a rule, most councils had access. I think there are, it is fair to say, three categories—

The Hon. MARK BUTTIGIEG: So on that point—I am sorry to interrupt but it is pertinent while you are on that point. It is hardly a stimulus, is it, if most councils normally had access to those funds during normal times, then to wrap it up in the banner of stimulus and say, "You now have access to cheap funds because we are in a pandemic", when they could get it anyway?

Mr HURST: The size of the borrowing facility—

The Hon. TREVOR KHAN: Point of order: These officials can give evidence as to what they have done. You are going into issues of policy. It would have been perhaps appropriate to put these propositions to either the Treasurer or maybe the local government Minister but, otherwise, it is a cynical musing and no more. They cannot assist in regards to this. The Government has said this was stimulus because it brought forward projects that otherwise would not have been built. But Mr Hurst cannot really comment beyond what he has done.

The Hon. MARK PEARSON: I think that is a point of order you need to take into consideration.

The Hon. MARK BUTTIGIEG: Okay, thanks, Chair. If you could perhaps just keep elaborating on the parameters of exclusion.

Mr HURST: There was one other element to the Minister's media release on this which was that the size of the facility was increased by \$250 million as well. So there was more money made available to the sector.

The Hon. MARK BUTTIGIEG: The \$32.8 million regarding meeting the cost of the Emergency Services Levy, was that a loan or was that—

Mr HURST: That was a grant paid to the councils.

The Hon. MARK BUTTIGIEG: But that Emergency Services Levy was levied by the Government. So you are really just giving money back that you took in the first place, aren't you?

The Hon. TREVOR KHAN: Point of order: I will make the point again: This witness cannot help in that.

The Hon. MARK BUTTIGIEG: He is a senior public servant. He knows about these things.

The Hon. TREVOR KHAN: You are asking him to comment on a Government decision with regards to an emergency services levy. It is just both unfair and really not particularly helpful anything he says on the matter. And that is not to—

The Hon. MARK PEARSON: I uphold the point of order. The questions need to go to what Mr Hurst or other advisers or staff decided or made decisions about. I think we need to keep the questions in that focus rather than their view or awareness of.

The Hon. MARK BUTTIGIEG: Mr Hurst, you said that the fund was expanded to \$250 million. Is that right?

Mr HURST: This is the borrowing facility.

The Hon. MARK BUTTIGIEG: The borrowing facility. Can I ask you how much of that \$250 million was accessed by councils? Surely we have figures on this.

Mr HURST: We do. I do not have it with me.

Mr WALTON: I might be able to help you there. I have the page. Close to a billion dollars in loans have been approved under the scheme. And 52 councils have taken advantage of the TCorp facility.

Mr HURST: That would be since the inception of the scheme, not just from the COVID stimulus package.

CORRECTED

The Hon. MARK BUTTIGIEG: The COVID stimulus proportion, was that fully subscribed? Another way to ask the question might be how much of the COVID subscription was subscribed?

Mr WALTON: I am sorry, even though I have got the page I cannot answer that question. The facility was expanded to \$1.35 billion. I do not have the number in front of me in terms of the amount of uptake of that extra stimulus amount.

The Hon. MARK BUTTIGIEG: That presupposes that it must originally have been \$1.1 billion and was expanded to \$1.35 billion, but we do not know how much of the extra was—

Mr WALTON: Correct.

The Hon. MARK BUTTIGIEG: Can you take that on notice for me?

Mr WALTON: Yes.

The Hon. MARK BUTTIGIEG: Do we know how many councils borrowed from the extra \$250 million pool?

Mr HURST: I think that was the question that Mr Walton agreed to take on notice.

The Hon. MARK BUTTIGIEG: No, I asked what proportion of the \$250 million. This is now asking how many councils. We do not have that either?

Mr WALTON: No, but I can say that 10 councils that had previously not borrowed from the scheme borrowed under the new arrangements. But I can come back to you with the details—

The Hon. MARK BUTTIGIEG: How many councils do we have altogether?

Mr HURST: There are 128 councils.

The Hon. MARK BUTTIGIEG: So 10 of the 128.

Mr HURST: That could include county councils, that figure of 10, because previously county councils did not have access.

The Hon. MARK BUTTIGIEG: We still have county councils, do we? That is where I did my apprenticeship. From the day that councils applied to the day that the money hit their bank account, do we have a time frame for those sorts of lags, if you like?

Mr HURST: This is for the borrowing facility?

The Hon. MARK BUTTIGIEG: Yes. Presumably the councils apply for the borrowings and then there is a period that it takes because with these things it is very important for them to get into the veins very quickly. I am just interested to know how efficiently this was administered.

Mr HURST: I do not know that OLG has that information. The scheme was administered by TCorp. Councils applied to TCorp. TCorp assessed their application, went through the process of approving it and then drawing down the funds. I do not think OLG holds any information on that.

The Hon. MARK BUTTIGIEG: There was no interest from OLG on that sort of take-up?

Mr HURST: We have got these figures—

The Hon. MARK BUTTIGIEG: Let me rephrase that: on the speed with which the money was injected into these councils, I guess is the way to phrase it.

Mr HURST: I do not think we have that information, but TCorp would.

The Hon. MARK BUTTIGIEG: Are you able to get it for us?

Mr HURST: I am happy to endeavour to get some information about the time frames for turning around—

The Hon. MARK BUTTIGIEG: You see where we are going here?

Mr HURST: Yes.

The Hon. MARK BUTTIGIEG: I just want to get a feel for the effectiveness of the \$250 million in terms of how quickly and how much of it was injected into councils.

Mr HURST: Clearly a large number of councils have drawn it down and have already spent it or are in the process of spending it, as we speak.

CORRECTED

The Hon. MARK BUTTIGIEG: In terms of interest rates, are you able to inform us what they were for those funds? Do we know what interest rates they were accessed at from TCorp?

Mr HURST: My understanding is that there was a small margin applied on the State's borrowing rate, but I do not know the exact figures.

The Hon. MARK BUTTIGIEG: So a margin on top of what the Government would normally have access to.

Mr HURST: Yes, to cover TCorp's administration of the scheme.

The Hon. MARK BUTTIGIEG: Will you take that on notice for me?

Mr HURST: I will try and obtain that information, yes.

The Hon. MARK PEARSON: You are going to have a very busy office for the next couple of days, Mr Hurst.

Mr HURST: It is information that the office does not hold.

The Hon. MARK BUTTIGIEG: But would have ready access to, I would imagine.

Mr HURST: No, we would end up having to ask TCorp. I mean, you could write to TCorp. That is what we will be doing.

The Hon. MARK BUTTIGIEG: I think you might have more success than I would. I am presuming we do not know how much interest the Government is expecting to collect as part of the low interest loans—or TCorp, sorry.

Mr HURST: My expectation is that that money does not go to the Government at all. It goes to TCorp and is used to fund the wholesale debt.

The Hon. MARK BUTTIGIEG: Do we know how many councils applied for loans but were rejected?

Mr HURST: No, we do not know that.

The Hon. MARK BUTTIGIEG: Again—

The Hon. MARK PEARSON: Can you take it on notice, again?

Mr HURST: I will try to get that information from TCorp.

The Hon. MARK BUTTIGIEG: Thank you. In terms of the information that was provided to councils on availing themselves of this, can you talk us through how they were informed of the funding?

Mr HURST: This is a question I am sure the Minister would have loved to have answered this morning.

The Hon. MARK BUTTIGIEG: Get her back, if you want.

The Hon. TREVOR KHAN: Actually you can't.

The Hon. MARK PEARSON: Mr Hurst, would you finish answering the question.

Mr HURST: I am aware that the Minister put out a media release. I think there may have been an OLG circular that also issued with further details to councils about each component of the stimulus package and how to access it. And obviously we also have a role in engaging with councils, if they phoned us or through our Council Engagement team, to ensure that councils were aware of the different elements of the funding package that were available.

The Hon. MARK BUTTIGIEG: So there was a media release from the Minister and you think there might have been an OLG circular?

The Hon. TREVOR KHAN: He could take it on notice and if there was an OLG circular he might even be able to provide it.

Mr HURST: I am happy to take that on notice and if there is a circular I will provide a copy.

The Hon. MARK PEARSON: Just a question, if there were not a circular, how would the councils have known if they had not seen the press release?

Mr HURST: We also provide an electronic direct mail [EDM] to all councils. This is a weekly email that goes out with details of programs that are available. I think the answer here is that every council who wanted

CORRECTED

to claimed their Emergency Services Levy money. So I do not think there was any suggestion that there was not a council out there who knew about this. It was very well publicised.

The Hon. TREVOR KHAN: Councils are pretty good at sniffing out money when it is being offered.

Mr HURST: And the Government was obviously very pleased to go out there and communicate that to councils in many different ways.

The Hon. MARK PEARSON: Mr Buttigieg, do you have any more questions?

The Hon. MARK BUTTIGIEG: I do. Do we know how much of the money was loaned out that went to councils located in areas and electorates held by New South Wales Liberal and Nationals MPs?

Mr HURST: No, we do not have information on any of the loans that TCorp provided, apart from the figures at the top level.

The Hon. MARK BUTTIGIEG: Those figures would be available on request?

Mr HURST: What I endeavour to report back on notice is a list of loans by local government area. I suspect that TCorp will similarly not hold information about electorates. It is not an administrative boundary that they would use, I am quite certain.

The Hon. MARK BUTTIGIEG: Did the OLG support the increase in the Emergency Services Levy? Presumably you did if the Minister—

Mr HURST: Coming back to something we have discussed previously, OLG is not responsible for the collection of the Emergency Services Levy and anything to do with the policy of it. It is a matter for the Minister for Police and Emergency Services. What we did do was we provided grant funding equivalent to the one-year increase to councils and that was the stimulus measure that we put to the sector. So OLG has nothing to do with the setting or administration of the Emergency Services Levy.

The Hon. MARK BUTTIGIEG: No, so the levy was put on by the Minister for Police and Emergency Services and the "stimulus" was to say, "Well, you do not have to pay that now. You would have had to pay it, but you do not have to pay it now as a result of this funding."

Mr HURST: I do not think it is correct to characterise it as "put on" by the Minister. Obviously the legislation provides a mechanism for calculating and applying the levy to fund the activities that the levy goes towards, but it is not really something that I can assist with how that calculation works or the history of it.

The Hon. MARK BUTTIGIEG: The third part of that funding that you articulated before—that is the \$112.5 million to help councils retain employees—how is that funding amount determined?

Mr HURST: So how do we come up with the estimate?

The Hon. MARK BUTTIGIEG: Yes.

Mr HURST: I think we did some estimates about some worst-case scenarios for councils having to shut down parts of their operations and move employees through the process under the Splinter Award and onto the Job Retention Allowance. Obviously we needed to make sure that we had enough money available to meet claims in a worst-case scenario.

The Hon. MARK BUTTIGIEG: The figures I have suggest that could have funded 12,500 council workers for that period, in the event was that sufficient funding to cover that?

Mr HURST: There are certainly funds left. We have not exhausted it.

The Hon. MARK BUTTIGIEG: So the answer is that it is sufficient?

Mr HURST: It has been to date. I do not expect that we will reach that figure.

The Hon. MARK PEARSON: You do not have any more questions, do you, Mr Buttigieg?

The Hon. MARK BUTTIGIEG: I can continue.

The Hon. MARK PEARSON: You can? Do you want to continue? Did the Government have any questions?

The Hon. SHAYNE MALLARD: Just to ask Mr Buttigieg, we might.

The Hon. MARK PEARSON: I do not have any questions. It is kind of into crossbench time. If you have pressing questions, you can ask a couple.

CORRECTED

The Hon. MARK BUTTIGIEG: I might just tie this up, if you don't mind.

The Hon. MARK PEARSON: Sure.

The Hon. MARK BUTTIGIEG: Just that business about the \$112.5 million.

The Hon. MARK PEARSON: Yes.

The Hon. MARK BUTTIGIEG: How much of it was handed out? Can you tell us that?

Mr HURST: I would have to take that on notice. The amounts are still being drawn down by councils for qualifying employees.

The Hon. MARK BUTTIGIEG: So we do not have any idea of the proportion whatsoever?

The Hon. TREVOR KHAN: No, he has taken it on notice.

The Hon. MARK BUTTIGIEG: Alright, I just find it a little bit strange, that is all. But I appreciate that you are going to come back to us with that. Could you also presumably on notice provide a breakdown of what councils received funds from the \$112.5 million funding pool and how much they individually received? In other words, the constituent councils and how much they drew down?

Mr HURST: I am a little bit concerned to reveal details of individual councils and how they have chosen to staff their operations and access the Job Retention Allowance. I am concerned that people might see some councils claiming and others not claiming as reflecting on their different approaches that they took to dealing with the pandemic. The important thing was that the funding was there and available for any council as an alternative to them sacking employees. That was the outcome that neither the local government sector nor the New South Wales Government wanted to see eventuate.

The Hon. MARK BUTTIGIEG: Are they the sorts of things that you are not prepared to provide to the Committee then, the breakdown of how much each council got of taxpayers' money?

Mr HURST: I am just concerned at what it could imply about different councils' methods of dealing with the pandemic within their own workforce.

The Hon. MARK BUTTIGIEG: But presumably you would provide a justification to go along with why these different proportions were allocated to different councils because there would have been a criteria associated with that.

Mr HURST: No, it was up to councils to claim the money from us.

The Hon. MARK BUTTIGIEG: Yes.

Mr HURST: And some councils claimed and other councils did not, but for their own reasons. That is why I am reticent to provide the details about individual councils and numbers of employees who claimed it.

The Hon. MARK BUTTIGIEG: Okay.

Mr HURST: I would be happy to provide the in globo figures. It is just that different councils did take a different approach to this. I do not think it is right or wrong that some of them accessed the Job Retention Allowance and the Splinter Award and others did not. They redeployed staff. It is up to each council to manage their workforce and what is important is that we did not see large numbers of people, thousands of people, being sacked from the local government workforce during the COVID pandemic.

The Hon. MARK BUTTIGIEG: Sure. I appreciate that, but, surely, if you put that caveat on it that it was incumbent on the councillors to make the applications based on their individual workforce circumstances, people would understand. I do not see what the problem is. But if your answer is that you are refusing to give us that, that is fine. We will use other means.

Mr HURST: I agree to take that on notice.

The Hon. TREVOR KHAN: What he means is that there will be a plethora SO 52s again to add to the forensic benefit of the vast majority of them being questionable, unless Mr Graham asks—

The Hon. MARK PEARSON: Order!

The Hon. MARK BUTTIGIEG: Well, we could do it the easy way or the hard way is what I am saying is. This is the easy way.

The Hon. TREVOR KHAN: That is obviously right.

CORRECTED

Mr HURST: I do not want councils to not claim the money because they are going to end up in these documents when each council makes different choices about how they structure their workforce.

The Hon. MARK BUTTIGIEG: Of course.

Mr HURST: They should not necessarily be judged on their different approaches of whether or not they claim the money or not. The fact is it was made available for the purpose of preventing people in the sector from losing their jobs and it has been successful in that outcome.

The Hon. MARK BUTTIGIEG: But, Mr Hurst, you would accept that this Committee has a function to provide probity on behalf of the New South Wales taxpayers and a fundamental thing like how much of an \$112.5 million fund went to which councils is a fairly basic threshold of probity, I would have thought.

Mr HURST: All I am saying is that clearly we have the information. It was an application-based process. I can absolutely assure you every council was aware of the money being there but, look, I have already undertaken to take it on notice.

The Hon. MARK PEARSON: But, Mr Hurst, I do not think your position is to protect any councils from anything. It is simply a matter of providing information which has been requested by the member.

Mr HURST: And I have agreed to do so, Deputy Chair.

The Hon. MARK PEARSON: And that is it. There are no other imputations or whatever. It is just evidence. We will look at it and then we will take it from there.

The Hon. MARK BUTTIGIEG: Can I ask you, Mr Hurst, were there any discussions with your Queensland counterparts over their model of funding, which I understand was \$200 million worth of funding and none of which constituted loans? Were there any sorts of comparisons or dialogues with what was going on interstate and the degree of their packages, given that the New South Wales economy is somewhat larger than the Queensland economy?

Mr HURST: I am aware that there were discussions between States after different States and Territories had announced different packages. Some States and Territories did not have any package at all to assist their councils. But I think it is actually in the Minister's media release, you pointed out, that we were the first State to provide a comprehensive package of COVID-19 assistance to local government and I think other States and Territories certainly looked closely at how we had structured our program. But we could not see what they had done because, of course, we were the first to implement a package, and a comprehensive package at that.

The Hon. MARK BUTTIGIEG: So the OLG in New South Wales did not have a subsequent dialogue with their counterpart in Queensland as to what they did, even though they did it after the fact? See, this was a moving feast. There could have been an ongoing dialogue, supplementary funds provided—none of those discussions were had?

Mr HURST: There were meetings of States and Territories where the subject of COVID stimulus package came up, and certainly different jurisdictions discussed the different packages that they had in place. But, no, the New South Wales package was a good package, well targeted to councils in New South Wales, and did not need changing.

The Hon. MARK PEARSON: You're good, are you?

The Hon. MARK BUTTIGIEG: I'm done, yes.

The Hon. MARK PEARSON: Okay. Government, do you have any questions at all?

The Hon. TREVOR KHAN: You can rest assured we have none. Can we just check, did Mr Rutherford get a question?

The Hon. MARK PEARSON: We appreciate the time you have taken to answer all these questions, and there have been a great deal of questions that have been taken on notice. You have 21 days to respond to those once you receive the correspondence from the secretariat. That is the close of the estimates inquiry. If you can make your way from the room, we will have a private deliberative afterwards. Thank you.

(The witnesses withdrew.)

The Committee proceeded to deliberate.