

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

**NSW GOVERNMENT'S USE AND MANAGEMENT OF CONSULTING
SERVICES**

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 9 August 2023

The Committee met at 9:15.

PRESENT

Ms Abigail Boyd (Chair)

The Hon. Mark Buttigieg
The Hon. Scott Farlow (Deputy Chair)
The Hon. Dr Sarah Kaine
The Hon. Mark Latham
The Hon. Rachel Merton
The Hon. Peter Primrose

PRESENT VIA VIDEOCONFERENCE

The Hon. Bronnie Taylor

The CHAIR: Welcome to the sixth hearing of the Public Accountability and Works Committee's inquiry into the New South Wales Government's use of consulting services. I acknowledge the Gadigal people of the Eora nation, who are the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal or Torres Strait Islander people joining us today or watching on the live stream. Today we will hear from Fire and Rescue NSW, the Health Services Union, the Fire Brigade Employees Union of NSW, Dr Julia Anaf and the Accounting Professional and Ethical Standards Board.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. The transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, the House has authorised the filming, broadcasting and photography of Committee proceedings by representatives of media organisations from any position in the room and by any member of the public from any position in the audience. Any person filming or photographing proceedings must take responsibility for the proper use of that material. This is detailed in the broadcasting resolution, a copy of which is available from the secretariat.

While parliamentary privilege applies to witnesses giving evidence in New South Wales today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments you may make to the media or to others after you complete your evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. If witnesses wish to hand up documents, they should do so through the Committee staff. In terms of the audibility of the hearing today, I remind Committee members and witnesses to speak into the microphones. Finally, everyone should turn their mobile phones to silent for the duration of the hearing.

Mr JEREMY FEWTRELL, Acting Commissioner, Fire and Rescue NSW, sworn and examined

The CHAIR: I welcome our first witness. Would you like to begin by making a short opening statement?

JEREMY FEWTRELL: Yes. Thank you for the opportunity to appear before the Committee today. I appear before you in the role of Acting Commissioner of Fire and Rescue NSW, one of the largest urban fire and rescue services in the world. Next year we celebrate our 140th anniversary of delivering critical emergency services to the community of New South Wales, and that's a history we're very proud of. To give you a sense of Fire and Rescue's service delivery, our firefighters are turning out to an emergency in New South Wales every four minutes. This is done by close to 7,000 firefighters—a mixture of both permanent full-time firefighters and on-call firefighters—through a network of 335 fire stations and also close to 5,000 community fire unit volunteers. While all the emergency service agencies have a shared responsibility for making New South Wales safer and we work closely together, Fire and Rescue NSW has clear legislative areas of responsibility and has developed capabilities to service the community that are unique to Fire and Rescue NSW and cannot be delivered through other agencies.

Fire prevention and response are our core focus. Our award-winning FireEd school program ensures that all children are educated about smoke alarms and escape plans. Our home fire safety visit program sees firefighters visiting people in their homes to talk to them about fire safety in the context of their living circumstances. We are also respected contributors to research in the fields of health and safety, fire dynamics and investigation, firefighting technology and capability development. We have successfully lobbied the Federal and State governments for improvements to the National Construction Code, greater awareness about the dangers of lithium-ion battery fires and improved fire safety solutions in road and rail tunnels.

As the lead combat agency for hazardous materials, our people provide advice to New South Wales police, Transport for NSW, the NSW EPA and others on the transport, storage and management of chemical, biological, radiological and nuclear material and the response to these incidents. Along with our partner agencies, our people deliver land and flood rescue and environmental protection and support counterterrorism responses with New South Wales police. Fire and Rescue NSW is the combat agency for structural collapse, and our humanitarian and natural disaster capability is accredited by the United Nations. Firefighters are also trained to provide essential medical response and often assist NSW Ambulance in emergencies where their response may be delayed. We have 13 stations that provide the initial medical response as part of NSW Ambulance's community first response program.

We run a lean operation. Our corporate support and trade staff represent just 7.5 per cent of our overall workforce, and we have been independently benchmarked as one of the leanest and most efficient agencies in terms of the ratio of cost of corporate support to frontline personnel. This is an important point because it is far below other comparable emergency services agencies. From time to time consultants are engaged to provide professional advice to inform decision-making and strategic capability decisions. It means we can access professional expertise without permanently increasing our numbers of administrative staff. For example, consultants in 2021-22 overwhelmingly related to specialist services for single projects, and the total amount paid to consultants equated to approximately 0.15 per cent of our annual expenditure.

Fire and Rescue NSW has an independent audit and risk management committee to provide support on financial risk, internal audits and compliance. It is an important component of our governance structure. Our procurement policy is consistent with the New South Wales government procurement policy framework, meaning appropriate records are kept of procurement planning, management and decision-making, and we comply with contract disclosure and formal requests for access to government information.

We also have a comprehensive business ethics document, which is provided to consultants, that sets out the expectations when conducting business with Fire and Rescue NSW. These include acting with honesty, integrity and transparency; complying with applicable legal obligations, New South Wales government and Fire and Rescue NSW procurement procedures and guidelines and conditions or requirements stated in documents supplied by Fire and Rescue NSW; respecting the obligation of Fire and Rescue employees, contractors and suppliers to comply with government procurement policies and guidelines; and delivering quality and value for money. Where possible, more economical options are to be considered before the use of consultants is approved. Before proceeding to engage any consultant, the outcomes need to be clearly specified and a performance management process established. I look forward to answering your questions. Thank you again for the opportunity to appear before the Committee today.

The Hon. MARK BUTTIGIEG: Thank you for appearing, Mr Fewtrell. I appreciate your time. In your opening statement you stated that Fire and Rescue NSW complies with all the probity provisions and guidelines of the New South Wales Government. Have you read the fire brigade union's submission?

JEREMY FEWTRELL: I have.

The Hon. MARK BUTTIGIEG: What is your response to the case study that they've used? It was used in the context of the engagement of consultants, but they raise quite a few issues there. In particular, there was the engagement of Marc Stigter from a period of 2017 to 2018 with, they say, the expenditure of some \$500,000. There's no contractual documentation to back that in. What's your response to that?

JEREMY FEWTRELL: Just give me a second. I will look at some notes. In a general sense, I'm very aware of the circumstances that you would be interested in today. I'm just referring to the contract because there was a contract signed with Mr Stigter at some stage. I just want to check the dates on that. Certainly, since I have started as acting commissioner, I'm able to talk about what we are doing now and what my intention and directions for the organisation are. But, obviously, some decisions and actions have been taken in preceding years that may be questionable. I'm happy to explain the information I can around those but also clearly set out what my direction and requirements at the organisation will be going forward.

The Hon. MARK BUTTIGIEG: Just for your benefit, to refresh you, Acting Commissioner, my understanding is that, when the FBEU—the Fire Brigade Employees Union—put in a GIPAA request for the contracts, they weren't forthcoming. So the question is do they exist or don't they? That's one of the things I want to try and tease out here today because it goes to the integrity around the use of consultants.

JEREMY FEWTRELL: There was a proposal for partnership and then also letters of engagement and a contract. There was a contract signed on 17 October 2018.

The Hon. MARK BUTTIGIEG: Did the contract specify the nature of the work and the proposed expenditure?

JEREMY FEWTRELL: Yes. It identified a number of workshops to be conducted, and that was set out for a period of three years from October 2018 to 2021, and the daily rate applicable to those pieces of work.

The Hon. MARK BUTTIGIEG: What was that daily rate? Do you have it there?

JEREMY FEWTRELL: It was \$6,000.

The Hon. MARK BUTTIGIEG: It was \$6,000 a day. Have you had the chance to put a lens over that, in terms of value for money?

JEREMY FEWTRELL: I have. I can talk to what was delivered through those pieces of work but I am aware that the daily rate was significantly higher than what might have been considered as the otherwise standard for that type of work.

The Hon. MARK BUTTIGIEG: Does it concern you, as the incoming acting commissioner, that that sort of arrangement was in place? It sounds like pretty good coin, 6,000 bucks a day.

JEREMY FEWTRELL: There were a range of activities that Mr Stigter undertook for Fire and Rescue NSW. As I said, that was over, in total, close to a four-year period. Noting the higher than normal rate that was paid, I am far from comfortable with that. But the work that Mr Stigter delivered for us was everything he was asked to provide, in terms of all the workshops and the sessions with various members of the organisation. I guess it's a question of quality in relation to that work. From what I'm aware, he came with a bit of high-level experience and was well-credentialed in that area. Whether or not that justified the daily rate is probably for others to answer.

The Hon. MARK BUTTIGIEG: Extrapolating over that period, the engagement ran into the millions of dollars, didn't it?

JEREMY FEWTRELL: No. It totalled \$707,000 that was paid to Mr Stigter over that four-year period.

The Hon. MARK BUTTIGIEG: The FBEU are saying that they couldn't get contractual documentation to justify \$500,000 of that \$700,000-odd spending.

JEREMY FEWTRELL: Yes, and one of the issues that did occur was there was a bit of scope creep, I guess you'd call it. Again, I'm very conscious of where that sits in relation to following appropriate procurement and engagement processes and practices. There were additional items that fell into the work that Mr Stigter then undertook.

The Hon. MARK BUTTIGIEG: Is it fair to say we have this sort of broad-based, fairly loose contractual arrangement that allowed scope creep, and it was just kind of, "Yes, we'll live with that"?

JEREMY FEWTRELL: Yes, there were two main pieces of—initially his engagement was to run some early-stage-type sessions for the executive leadership team, working on the preliminary pieces around developing a new strategy for the organisation. Subsequently, then, there were two main engagements, one around the

development of that strategy and then also looking at the culture of Fire and Rescue NSW and some work related to that.

The Hon. MARK BUTTIGIEG: This is important because, without wanting to verbal you, you've kind of put it on the record that you did have concerns. In terms of the probity and the governance around the contractual engagement and then the monitoring after that, are you confident that the processes in place now would prevent or perhaps pare back some of the expenditure that seems excessive? Has anything changed, from then to now, in the internal processes that allowed this to happen?

JEREMY FEWTRELL: Yes, there has been, and I do have a higher level of confidence than what one may have had previously because of that. Within the organisation, there's a much greater level of awareness about these types of issues. It's unfortunate that these events or circumstances around this engagement occurred in the way that they have, and it's left this sort of doubt over it. I spoke before about the history—140 years, almost—of Fire and Rescue. It's something we're very proud of, but with that comes the responsibility to look after the organisation and protect the good reputation of that. I know this is the sort of thing for many of us that doesn't enhance the reputation of Fire and Rescue NSW. If anything, it tarnishes it or diminishes it, so there's definitely a strong will from across the workforce to make sure these things are done properly.

In a more formal sense, though, we undertook an investigation of all of this. That was done by an external, independent company. That was provided to the ICAC, as was required under the terms of that engagement and the initial disclosure that had been made. It was also subsequently forwarded to the Audit Office, and they developed an action plan to put into place things to address that. Those actions have been taken—things like updating our procurement policies and framework so that it's all completely up to date with the New South Wales Government policies in that area, and compliant with that, and then also running some sessions for staff.

Even just two weeks ago, the executive leadership team undertook some training with the ICAC training section, and that was on procurement and contract management. Measures like that are raising the elevation, the importance and the understanding of it amongst our staff. My intention is to continue rolling out that particular training to some of the next layers of management and then also be looking at other offerings that ICAC provide through their training program to incorporate those as a regular schedule of professional development and learning for our staff.

The Hon. MARK BUTTIGIEG: Commissioner, this was part of the broader Plus Plan. Were there any other parts of that Plus Plan engagement? What did the Plus Plan cost?

JEREMY FEWTRELL: Yes, and I know this has been a point of some interest in seeking clarity on it in budget estimates hearings and so forth. If I can provide some explanation, and then I'll come to some more of the specifics around the costs. The Plus Plan was—

The Hon. MARK BUTTIGIEG: Just for the benefit of the Committee, my recollection was that when we asked the former commissioner in budget estimates what the budget was, he couldn't tell us. All he said was that it was millions and millions, and it sounded like it was a pretty broad-based, all-compassing program.

JEREMY FEWTRELL: Yes, and I think that sort of goes to some of the confusion and misunderstanding around this and probably the need for some more straightforward and tangible explanations, which I will try and provide for you now. The genesis of all this work predates my commencement on the executive leadership team, but I was close enough to things to have an understanding of—

The Hon. MARK BUTTIGIEG: I was going to ask you about that. Now that you mention it, did that executive leadership team have any direct oversight of that Stigter engagement in terms of this opaque contractual nature? Did it go up to the ELT? Was it talked about?

JEREMY FEWTRELL: Because I wasn't on the executive leadership team at that stage, I wasn't aware of what discussions they may or may not have had. But from coming on to ELT in the second half of or part way through 2018, there was already the engagement with Mr Stigter underway. But, primarily, the details of that engagement had gone between the program management office, which was running the work to drive the development of the strategy, and they were reporting to the then commissioner at that time.

The Hon. MARK BUTTIGIEG: Was the audit and risk committee involved in any of this?

JEREMY FEWTRELL: Again, not being on ELT at that time and engaging with the audit and risk committee in the way that I do now, I'm not sure what level of awareness they had. There was certainly information provided to them about the fact that Fire and Rescue were developing a new strategic plan, which came to be known as the Plus Plan. But as to the extent of any details and visibility of those details they had, I'm not sure.

The Hon. MARK BUTTIGIEG: Did that internal investigation that you have subsequently done into that engagement drag up any minutes of the ELT or the audit and risk committee? Because you would imagine this should have all been minuted if it was raised at that level. What I'm trying to get at, Commissioner, is that it would be somewhat concerning if you had an executive leadership team and an audit and risk committee who knew nothing about this engagement.

JEREMY FEWTRELL: Yes. And so, as I say, I'm not exactly sure of what details they were provided at the time.

The Hon. MARK BUTTIGIEG: Are you able to get that for us? Because I would imagine that is either recorded or it is not.

JEREMY FEWTRELL: I'm happy to take that on notice, Mr Buttigieg, and see what records are available.

The CHAIR: Sorry, can I just clarify that? Obviously you weren't there at the time, and it makes it very difficult, but to the extent that there is any information, any documents, minutes of meetings or anything with the original contract—anything of that nature that you can give us that sheds light on this matter—it would be useful if you could provide that on notice.

JEREMY FEWTRELL: Yes.

The Hon. MARK BUTTIGIEG: I interrupted you with that tangential line of questioning. I think you were going to articulate the overall Plus Plan.

JEREMY FEWTRELL: Yes, the Plus Plan was the name that was given to the organisation's new strategic plan. The previous organisational strategic plan had expired in 2017. Commissioner Baxter commenced around April 2017, and then the timing was there—that the new Commissioner was starting and a new strategic plan needed to be developed, so obviously an area of focus for him. There was work done around the organisation to talk to different layers and different people in different parts of the organisation to try to get a snapshot of it. From all of that, some of the conversations that were held were what do you call a new strategic plan. Because of the focus of the strategy that was being developed and all the different things that Fire and Rescue do, the consensus or the way that came out of the different group sessions and engagement was—it talked about Fire and Rescue doing more than what had been perceived as just structure fires. So trying to communicate that and package it all up, they came up with the name of the Plus Plan. So the Plus Plan was really just the strategic plan for Fire and Rescue NSW from the period of 2018 to 2023. The costs associated—

The Hon. MARK BUTTIGIEG: Strategic plan for what? For communicating with the public on what FRNSW does?

JEREMY FEWTRELL: Yes, that was some of it—also focusing on the development of what our capabilities are. Some of my introductory comments talk to some of that, where we had done some work to sort of test community perceptions of what they knew of us. It was seen that there was limited knowledge of the things that we do beyond firefighting. For us, our real core roles are around responding to fires both in an urban environment and bushfires; rescue and all facets of rescue, whether that's car crashes, industrial and domestic rescue or the structural collapse work that we do both in Australia and internationally; hazardous materials response—responding to chemical spills and leaks and those sort of things; and then also our legislative responsibilities around preventing fires and keeping the community safe. I guess the genesis of it was that the broader community—and the perception was also in parts of government—didn't have the understanding that we did all those other things. It was an attempt to try and focus on those areas of capability while also better explaining ourselves to the community and government about who we were.

The Hon. MARK BUTTIGIEG: So you've got this pretty significant spend on the Plus Plan.

JEREMY FEWTRELL: Yes.

The Hon. MARK BUTTIGIEG: And then a subset of that was the Stigter engagement. Were there any other areas of the Plus Plan that have given you concern about the probity and the process in terms of the procurement vetting? Any other red flags besides the Stigter stuff?

JEREMY FEWTRELL: No, but there are a few other elements that were associated with that, which I'll touch on in a second. To former Commissioner Baxter's comments at a previous estimates hearing, where he said it would cost millions and it was hard to explain—

The Hon. MARK BUTTIGIEG: Millions, yes. That was the quote.

JEREMY FEWTRELL: And I'm not here to try and explain what Paul's comments were, but I guess to try and give you the concept of—I can see clearly some costs that were associated with the engagement of Mr Stigter and some other associated parts of the development of the strategy. The development of that strategy and our yearly objectives under that then become almost separate criteria of all the business-as-usual and other activities that we were prioritising. At the risk of trying to explain former Commissioner Baxter's comments, I think he was talking about that the millions and millions were the fact that we were getting new trucks, we were enhancing capability in firefighting and hazmat and all those other things, which were all the things you would want, in a strategic plan, to identify as the important things that we need to work towards over the next few years, and they were all the achievements in that.

The Hon. MARK BUTTIGIEG: Are you saying he was conflating other—

JEREMY FEWTRELL: Yes.

The Hon. MARK BUTTIGIEG: —expenditure outside the Plus Plan with the millions?

JEREMY FEWTRELL: My interpretation of his comments was that they were referring to all the things that we were delivering over the course of the strategic plan. But you can identify—

The Hon. MARK BUTTIGIEG: That's not the way it came across in the questions. There was a direct question about how much was the Plus Plan—

JEREMY FEWTRELL: Yes, I was listening intently and I understand your comment.

The Hon. MARK BUTTIGIEG: Chair, how long have I got?

The CHAIR: Would it be all right if I were to step in briefly?

The Hon. MARK BUTTIGIEG: Absolutely.

The CHAIR: I just wanted to take us a step back. That's been a very interesting line of questioning, and thank you for your responses. I think we would all agree it's not unusual to bring in somebody to consult on developing a strategic plan—to have that external person come in and shepherd that process. What we are looking at here is an individual being brought on at what looks to be quite exorbitant cost. From what I'm hearing from you, Acting Commissioner, you are not disagreeing that that was quite significant in terms of the cost. Is there any argument to be made that this \$6,000 a day was actually some sort of crystallisation of prior work, or was it purely a contract to work a certain number of days at \$6,000 a day?

JEREMY FEWTRELL: The latter: a contract to work a certain number of days on the things that were specified.

The CHAIR: Right.

JEREMY FEWTRELL: I'm not sure, though, what you would have been referring to in the "crystallisation of earlier work".

The CHAIR: Sorry, I was saying I wanted to sort of crystallise what we were saying here in the inquiry.

JEREMY FEWTRELL: Yes.

The CHAIR: We've got \$6,000 a day, which you would think far exceeds the annual salary of, I don't know, anyone in management within Fire and Rescue NSW. That seems to be quite an exorbitant amount. You are aware, presumably, of the standard contractual framework for appointing consultants, which has been in place since 2018. The figures for the hourly rate agreed by the Government to pay consultants in that case have not been made publicly known or available, unfortunately, but you would probably be aware of those terms. Are you aware as to whether this \$6,000 was obscenely above that standard rate or just a little bit above? Are you able to give us any kind of a—

JEREMY FEWTRELL: I have obviously got across some of the detail on this, but I wouldn't claim to know every exact detail in and out. But my understanding is it's a fairly substantial increase above what the normal rate would be for that type of thing.

The CHAIR: Looking at your consulting spend in the annual record—and perhaps you've got this detail—it looks to me that Fire and Rescue have spent about \$18 million on consultants since 2010. Does that sound about right to you?

JEREMY FEWTRELL: I would suggest that may be close to the mark. I haven't got them configured in that way, but I could confirm that and come back to you on notice if you wanted.

The CHAIR: Thank you.

JEREMY FEWTRELL: That was from 2010?

The CHAIR: Yes. I've had a look through some of those, and obviously there's quite a bunch that are technical, environmental. There's quite a lot of work to do with PFAS, but then there are significant sums to, for example, KPMG in, I think it was 2021-22, for management service. Could you come back and let us know the breakdown?

JEREMY FEWTRELL: I can talk to the details of those now if you would like. I just didn't have that total figure of the 13 years added up.

The CHAIR: That's fine. That would be very useful.

JEREMY FEWTRELL: Did you want to go 2022-23 or 2021-22?

The CHAIR: I think 2022-23 would be great and then going back a couple of years.

JEREMY FEWTRELL: Are you after all of them?

The CHAIR: The spend on the big four would be interesting, if you've got that. Perhaps provide the rest on notice.

JEREMY FEWTRELL: For the big four in 2022-23, I've got \$87,000 for KPMG.

The CHAIR: That's management services?

JEREMY FEWTRELL: Yes, for KPMG. There are a couple of things on that one. They are also our internal audit provider now. That contract has just commenced. But for those management consultancies, there were a couple of particular things. I might take the details of that one on notice, the \$87,000.

The CHAIR: That would be useful.

JEREMY FEWTRELL: And then 2021-22, there was \$3.8 million to Deloitte. That was the only big four consultancy that was engaged.

The CHAIR: Is that IT services? What was that?

JEREMY FEWTRELL: Predominantly—again, I would take that on notice.

The CHAIR: Yes, if you could, because \$3.8 million is quite a large amount.

JEREMY FEWTRELL: For 2020-21, we had 60—correction. I will double-check those figures because they were \$87,000 for KPMG in 2022-23.

The CHAIR: With that KPMG one, I am just looking at the annual report. Is that the finance and structure reform?

JEREMY FEWTRELL: Yes.

The CHAIR: They did that work for two years, doing finance and structure reform, and now they are the auditor as well? Has there been any probity on that engagement of them as auditor after they had done that work?

JEREMY FEWTRELL: I will just confirm that was the work that they did for you. So I will take that on notice. And then our internal audit engagement, obviously they have all got a limited period on them and then it goes out for tender and selection as well. So that process was followed.

The Hon. MARK BUTTIGIEG: Any other red flags with consultants besides the Stigter stuff that has come up?

JEREMY FEWTRELL: Yes, the ones I just referred to earlier when you were asking some questions before, Mr Buttigieg, were around some of the costs associated with the Plus Plan. There were not necessarily concerns, but they are ones that stand out to you. Where we were—

The Hon. MARK BUTTIGIEG: Apparently there is a mob called Brand Council—\$500,000 over 2017 to 2019.

JEREMY FEWTRELL: Yes. To your question around what the Plus Plan cost, that was to do with a branding piece of work that was undertaken or a rebranding, I guess. The intention of it was to parallel that understanding that people outside of Fire and Rescue did not have a full appreciation of all the things that we do as an organisation. Some of it was tied to trying to reposition the organisation—or better represent the organisation. So there was work with Brand Council around those elements.

The Hon. MARK BUTTIGIEG: Here is the thing. You have these massive calamities: fires and weather events. You have the fire brigade union on one side and I think the public were sympathetic with you not having enough equipment, enough stations and under-resourcing. Then in parallel you have what sounds like—I do not want to denigrate them but rebranding exercises, strategic directions, educating the public. Millions and millions of dollars of public money when a member of the public would be looking at this and going, "What are we spending all this money on consultants for when we could be buying fire trucks? We could be putting on more firefighters." It then becomes a political campaign about getting more resources, which fed into the election campaign obviously. Wouldn't the easier thing to do be to go, "Do we really need a \$500,000 rebranding exercise? Let's just buy new fire trucks or open fire stations." That is the kind of lens that the public would be putting this through. I want to know whether or not the culture within Fire and Rescue NSW which allowed this to happen has, in your view, changed to the point where we do get more probity and value for money.

JEREMY FEWTRELL: And not only the obligations of us as the custodians of public money to provide good value to the community but also our firefighters have expectations of wanting to have good equipment, good training and have that confidence to go with it. That is something I am very conscious of as well in addition to those other things.

The Hon. Dr SARAH KAINE: Acting Commissioner, on a point of clarification, the Brand Council and that \$500,000, was that part of the Plus Plan program as well? It wasn't just Mr Stigter; there was Brand Council. And were there others involved in that? There were multiple consultants in that program?

JEREMY FEWTRELL: Yes. I will just go through the detail for you if you like, over a couple of financial years, to try and explain it and then you will have a more clearly defined answer to what the Plus Plan cost. If we talk about what the Plus Plan cost in the context of the work done to develop the documentation and the stuff around Fire and Rescue's brand and all that, that sort of work, separate to the things that we were delivering over the course of the following years of trying to make the organisation better and improve things. Going through the accounts and the use of consultants that have been reported, my calculations are it was \$1.67 million spent in 2017-18 around the development of the Plus Plan.

That included those elements of Mr Stigter's engagement, plus things like the Brand Council and some other associated contractors with the branding and identity-type work. Now, that's just for that one financial year. Some of those headline figures that you've got for the total cost of an engagement with Brand Council for \$500,000 or thereabouts reflect an ongoing engagement over a two- or three-year period continuing with that work. So 2017-18 was probably the highest cost there for specific Plus Plan activities in the development of that. Rolling into 2018-19, going through those reported consultancies comes to \$757,000. Again, some of those are ongoing communications, the ongoing Brand Council one—that sort of stuff. Then, from there, it pretty much comes down to then just Mr Stigter's ongoing engagement for the subsequent years.

The Hon. Dr SARAH KAINE: Acting Commissioner, I don't want to be flippant about it. But considering Fire and Rescue, the clue is kind of in the name about what Fire and Rescue does. Do you think it's reasonable that there might be some public scepticism that, for an organisation called Fire and Rescue, there might be ambiguity about its functions that would require hundreds of thousands of dollars of think-tanking to figure out what it actually does and how it presents?

JEREMY FEWTRELL: Yes, I think there's some validity in your position there. I don't disagree with much of what you're outlining. I guess it is always a balance for all government agencies to focus on your work and do our job really well. Look, I've touched on it before. My focus about what our firefighters want and need and wanting to give them the confidence that our leadership team are looking after their interests as much as we are—

The Hon. MARK BUTTIGIEG: No, I think this is the issue. If I could be a little bit more pointed—it's not directed at you. You're an acting commissioner. You've come in and inherited all these cultural issues. But the allegation or the inference from the FBEU's submission is that you have this culture that allowed the former Commissioner to pretty much employ what looks like a friend on pretty good money—6,000 bucks a day—to do a Mickey Mouse exercise. But the issue is why weren't the ELT across this? Why weren't the risk and audit committee across it? Are we confident that this wouldn't happen again? That's leaving aside all those broader issues, which my colleagues have raised, about branding exercises and whatnot. That's the crux of this. Can we be confident that this can't happen again?

JEREMY FEWTRELL: Well, I've touched on some of those before. I also admitted some of the changes we put in the way our procurement team's reporting lines work now. They're reporting to the executive director of finance. She's got good oversight over them. They've also gone through a registration process with NSW Procurement and accreditation with that. To maintain that accreditation, there's a whole series of quality control type checks and audits and reporting that they need to do to satisfy the external oversight from

NSW Procurement to make sure that we're doing all we can and we're following the processes properly. A lot of it then comes down to the culture. To your question there, that's the leadership intervention from myself and some of my other colleagues to set those very clear expectations and make sure that people fully understand their responsibility as public officials to make sure that due process is followed, and the ability for people to raise concerns and have the confidence and comfort that, if they are sensing or seeing something that they think might be a little bit untoward, they're empowered to raise that with myself or any of the others.

The CHAIR: I'm sorry, Mr Latham has been waiting for the call. I wanted to come back to that when we were going through the consulting spend. On one of those you mentioned that Deloitte had \$3.8 million awarded to them—

JEREMY FEWTRELL: Correction, sorry. That was an error on my part there.

The CHAIR: —because that does not appear in any of the annual reports.

JEREMY FEWTRELL: Yes, \$387,000, I think. I misread the numbers.

The CHAIR: How much?

JEREMY FEWTRELL: It is \$387,000.

The CHAIR: There is no Deloitte expense.

JEREMY FEWTRELL: Sorry. Very embarrassing. It is \$3,877.

The CHAIR: That would be why it hasn't—

JEREMY FEWTRELL: Yes. I was just misreading the table.

The Hon. MARK LATHAM: Acting Commissioner, on the point that was raised by Dr Kaine, in terms of your statement that the Plus Plan was to help explain to the community and government who we are, government obviously knows who you are and I don't think there is any confusion in the community that a fire and rescue organisation undertakes fire and rescue. Do you have a media and communications unit working for you?

JEREMY FEWTRELL: We do.

The Hon. MARK LATHAM: How many people are employed there?

JEREMY FEWTRELL: I would have to confirm the figures and take that on notice. It is in the order of 10 or so.

The Hon. MARK LATHAM: Haven't you got a responsibility to the taxpayer in communicating to the community who you are—I think your public reputation is well known and well established—to use your resources in-house? You have got 10 people working in a media and communications unit. Isn't it their job day by day to communicate who you are and what you do?

JEREMY FEWTRELL: It is and that's very much what's happening now. Those decisions that we have been talking about the last little while were ones from four or five years ago. In that time we have also built more capability in those areas internally so that we do have the staff that are better placed to do some of that. Certainly, the way that our media and communications team has been engaging and getting Fire and Rescue showcased in the regular media cycle and so forth is reflective of the good work they are doing and the benefit that's providing for our organisation.

The Hon. MARK LATHAM: But do you think this is the thing that really annoys the taxpayer, that instead of going to in-house resources to achieve a task, communicating to the public what you do, and you have got 10 people working day by day on that, it is always the soft option to go out to consultants? In this case it is Plus Plan, which just seems so rudimentary to communicate to the public and spend an extraordinary amount of money that could otherwise be allocated to employing more staff, buying more equipment and doing an even better job. I think your public reputation is very strong, but the public and the taxpayer in particular would want you to spend resources on your core functions and utilise your in-house resources of media and communications to do all the things that Plus Plan was supposed to do at this huge extra cost.

JEREMY FEWTRELL: Yes. At the time we didn't have those resources that we do have now in that media and comms team. They are much better set up to be able to do it.

The Hon. MARK LATHAM: How many did you have back then?

JEREMY FEWTRELL: I would have to take that on notice.

The Hon. MARK LATHAM: I had contact with them at different times about four or five years ago. There seemed to be a lot of them. How hard is it day by day to communicate what you do?

JEREMY FEWTRELL: Again, I am not disagreeing with what you say, Mr Latham. I guess probably the different roles or backgrounds that those people at that point in time might have had, as opposed to what their functions and responsibilities are now, so there's been some change in focus in there. But I agree that our focus is on delivering the best possible fire and rescue and emergency hazardous materials response that we possibly can. As I mentioned before, there is a balance to be struck there where we have to focus on that, but we also have to make sure that the organisation is presented as best as it possibly can, and despite the obvious things with the name or things that seem quite self-evident, at different times we did have trouble communicating and explaining our message effectively to other parts of government and even to the community at some times.

There was some research done that showed that there was a lack of understanding of what Fire and Rescue NSW did, with the community's understanding of who we are and what we do as an organisation being predominantly only knowing about structure fire response. To showcase our value, there will be times when we want to talk to government or other parts of the sector about the role that Fire and Rescue is playing beyond just that. I agree we do have—and it is something I'm very protective of—that very good reputation that we have amongst the community and that's based on the fact that our firefighters do an absolutely fantastic job and the care and compassion that they show in the way that they do their work as well.

They are not just turning up and putting someone's fire out or cutting them out of a car and shooting off; it's the other things that they do around that. With that, our firefighters have a good detector for things that might seem a bit unnecessary as well. In terms of the culture and the self-policing or that oversight, staying in touch with what our firefighters are seeing and saying and sensing from the stations is really important for the senior leaders as well so that we know that we've got a good measure of how it looks to them, but then also that what we're doing is hitting the mark.

The Hon. MARK LATHAM: Is it true that, in the rebranding of your logo, you're changing from FRNSW to F+RNSW?

JEREMY FEWTRELL: There was a new badge developed as part of that. It incorporated the traditional or previous crest of Fire and Rescue NSW and then put some words around that in a red shaped box to try and highlight that. The way that was expressed was with a plus or the word "and" instead of an ampersand.

The Hon. MARK LATHAM: How much does it cost to change all your logos and branding to add a plus?

JEREMY FEWTRELL: There are costs associated. They've been previously reported in the statements and in estimates, but all of those things were done progressively as new equipment was brought into service or trucks were due for respraying.

The Hon. MARK LATHAM: Has the public got the right to think what's gone wrong with the leadership of this organisation, that instead of being focused intently on fire and rescue and public safety, you're in the business of adding a plus into a logo that no-one particularly cares about? They just want you to perform the public safety functions as efficiently as possible.

JEREMY FEWTRELL: Well, yes, and we do that. I just refer to my previous comments. One thing, and it's just a small anecdote, but people did stop me and say, "You're doing rescue now." If nothing else, there was a sense that what we do wasn't fully understood, and that was somewhat confirmed by that. But, as I say, there's a balance to be struck and that balance is being able to demonstrate our value to community and government the best way that we can. Whether or not that was the best way for that to be done time will tell; other people will judge that.

The CHAIR: We seem to all be in furious agreement that spending this amount of money, firstly, on the strategic plan, when we had \$707,000 over four years—the whole branding exercise; it all seems to be a waste of money, or a significant amount of it was a waste of money perhaps. You have told this Committee that things have been done now to make sure that doesn't happen again, and I understand that you're the acting commissioner. There's a contract, as I understand it, that's just been agreed between Fire and Rescue NSW and Deloitte. This contract was entered into on 8 May this year. This is with Deloitte to develop, plan, consult and prepare the Fire and Rescue NSW 2050 vision proposal document. That is for \$294,000. What is that? Is that not just repeating the same mistake?

JEREMY FEWTRELL: Some of that has been curtailed. We had a recalibration on that work that was going to be provided by that provider.

The CHAIR: What does that mean?

JEREMY FEWTRELL: We have reduced the scope of it. We were about to start thinking about our next strategic plan because the Plus Plan ran to 2023, but we were wanting to get a sense of what we need to do to make sure that the things we do in the next five years align with what's been forecast as the likely big impacts on the scope of our operating environment. Obviously we've had significant changes in terms of urban density, in terms of major planning around futures of cities and all those sorts of things, new technologies—

The CHAIR: Can I just stop you there? That contract duration went from 8 May to 19 July. We're looking at two months of work for \$294,000 to prepare this vision proposal. Are you saying that that amount didn't get paid or now, after they've done that initial work, the scope of the future work has been renegotiated?

JEREMY FEWTRELL: I'll take that on notice as to the exact details of where that contract arrangement got resolved.

The CHAIR: Because I think this goes to that cultural issue of—

JEREMY FEWTRELL: It does. It is directly relevant.

The CHAIR: We can say, "Okay, fine, we don't have the exact same people in charge. We don't have the same commissioner", but when we talk about all of the committees and the other people involved in those mistakes previously, it doesn't look like we are changing tack now and correcting what we did in the past. This is quite significant. It seems like Fire and Rescue NSW has doubled down on those previous mistakes and we're now getting Deloitte in—a quarter of a million dollars for two months of work—to do the same thing.

JEREMY FEWTRELL: As I say, the challenge for us was to look at what we thought were the biggest things for the future but we also then reassessed what was going to be happening there, so I'll come back to you with the details of that engagement.

The CHAIR: Thank you. Mr Primrose?

The Hon. PETER PRIMROSE: Why couldn't you do that in-house? Why did you need an external agency to come in and tell you, the professionals, with all the resources and the historical knowledge that you have? Given the choice between asking a bunch of consultants and asking experienced professionals such as those in Fire and Rescue NSW, I know which group I'd like to be asking about what you should be doing in the future. This is a fundamental question we keep asking: Why did you need to go outside of your organisation to say, "What is our vision for the future? What are we trying to achieve?"

JEREMY FEWTRELL: It was going to be for us to decide the vision for the future, but we wanted to be as well informed as possible, and so part of the thinking around whether we could do that in-house or not came down to the fact of have we got the people with the capacity to be able to do that. I touched before on we're a relatively lean agency with that sort of back-of-house work. But also, we know our business really well and we know, in terms of the fire and emergency sectors, what the likely things are to happen in the future. But we also wanted to be well informed and connected to all the other pieces of work that were being undertaken. Some of the explanation for that is to make sure that other elements around transport, urban planning, all those sorts of big-picture pieces, were factored in.

The Hon. PETER PRIMROSE: May I ask, then, in terms of finding out all of those other bits of work, why couldn't you, as an agency of the New South Wales government, ask those other agencies of the New South Wales government, rather than paying external consultants to find out what other people in the New South Wales government were doing? This is a fundamental question we're looking at. People continually pay money to outside consultants who then will tell them what other parts of the New South Wales government are proposing to do. I don't understand that.

JEREMY FEWTRELL: Yes. I don't have a straight-up direct answer for you, other than it's a judgement call, partly based on our staff capacity to do that work, to do that in a short time frame—that was the other thing—but, also, to work that the consultants or others might be doing in that space, they have awareness of other things that we might not have thought of.

The Hon. PETER PRIMROSE: Would it be fair to say that the first response when seeking that information outside of your particular silo is to go to consultants to find it, rather than to consult and talk with other parts of the bureaucracy?

JEREMY FEWTRELL: Not necessarily. We do think, "Can we do this in-house? Do we have the capacity to do it and what's the time frame that we need it in?"

The Hon. PETER PRIMROSE: Ring up the head of the Department of Transport or ring up Treasury and say, "This is what we're thinking of. Can you give us one of your planners?"

JEREMY FEWTRELL: And part of my role as acting commissioner is to be building those bridges across the sector.

The Hon. MARK BUTTIGIEG: Can I put something to you, Acting Commissioner, in terms of your evidence earlier about part of the piece was convincing government? If I could shortcut what I think has happened here, there was probably a view that the Minister, or other parts of government, couldn't fully justify the expenditure on Fire and Rescue NSW. In other words, there's a perception that 90 per cent of the day they're sitting around in fire stations polishing the trucks because unless there's a structural fire, they're not responding. In terms of trying to convince the government that you do provide a service across the board—"There are all sorts of things we do. Let's do this big exercise about promoting and rebranding so that government gets the message." I know that's a crude way of putting it, but was part of the problem that you couldn't convince the previous Government that you needed the resources and that the expenditure was necessary?

JEREMY FEWTRELL: And being able to demonstrate all the different things that we do. One of the things that Fire and Rescue has probably struggled with in the past—we're predominantly pretty technical people, so we'll go into the detail of the ins and outs of a fire pump or hoses or all the different bits of equipment. When we go to explain that to key stakeholders in government, whether it's Treasury or whoever else, the technical, jargon-filled explanation that you might get from a firefighter loses significance with the competing demands that they're looking at.

The Hon. MARK BUTTIGIEG: Sure, but part of your skill as a commissioner is to go to the Minister or Treasury and say, "Look, I know it looks on the surface as though you're spending a lot of money on this, but this is the value you're getting," and put it to them in plain language. The idea you'd have to spend hundreds of thousands of dollars, if not millions, on consultants in a PR exercise, as my colleague characterised it, is a waste of money. It sounds to me like that's probably a big part of the piece.

Given the Chair's comments today about this "\$200,000 over two months" spend, we'd like to be confident that the culture has changed. If it's in May, it's probably an overhang of the previous culture that was there because we only started sitting in May, so the new Government has only just hit the deck. But, again, are you confident that you've set the organisation on a different trajectory? Or are the overhang legacy issues that were pointed out by the Chair still going to happen down the track?

JEREMY FEWTRELL: It's very clear to me—and it's my responsibility to make it to our workforce—that we look carefully at all these things and then make a decision about it. Some of those things I touched on before are the different pieces we're putting in place, but also that fundamental question: Can we do this ourselves?

The Hon. MARK BUTTIGIEG: The Plus Plan—can I ask you a hypothetical? If you had been in the chair, would you have thought that was good value for money, with the benefit of hindsight?

JEREMY FEWTRELL: With the benefit of hindsight, there are elements there that I question the value for money of. Some of the outcomes that we got from it and some of the work that we've done—we've been able to drive improvements in our agency. A good example is the way that we manage the risk of contamination and carcinogens exposure to our firefighters. That was one of the priorities that we put in the Plus Plan, and we've delivered on that. We now have the world's best cleaning system so that our firefighters have fresh, clean gear available all the time.

The Hon. MARK BUTTIGIEG: That's very important, yes.

JEREMY FEWTRELL: That realised a really fundamental thing. If you talk any firefighter, they'll say, "That was one of the best things you've done." That's the focus, and then it is a question around—how quickly do we need something? Do we have the skills in house, and how do we prioritise the need?

The Hon. MARK BUTTIGIEG: Just one more question on notice, which goes back to that contractual arrangement about this missing \$500,000. Are you able to come back to the Committee with any documentation that justifies that spend? The evidence we've had here from the FBEU is that the \$500,000 is unaccounted for in terms of a contractual arrangement which justified the payment of Mr Stigter.

JEREMY FEWTRELL: Is this the missing \$500,000 you're talking about, just to clarify for my understanding?

The Hon. MARK BUTTIGIEG: They're saying there's a lump of money that was paid to him—\$500,000—which is not represented in any contractual arrangements. When they GIPAAed it, there was nothing forthcoming.

JEREMY FEWTRELL: Yes. I will take that on notice and provide you certain clarity. I did identify a similar thing, which I spoke with my chief financial officer about. There was a very technical and detailed

explanation of how it can look like that but not necessarily be that discrepancy that may be being interpreted. But I think it's best that we take that on notice and provide the detailed, technical answer.

The Hon. SCOTT FARLOW: Acting Commissioner Fewtrell, you were talking about the 2050 plan and that it was a decision that was made both in terms of going to outsource that work based on your internal capacity but also in terms of time requirements. Thinking about a 2050 plan, that is quite a while away. What were the time requirements that were in place that required that work to be done quickly?

JEREMY FEWTRELL: It wasn't a plan for 2050 so much as identifying the things that we needed to be very conscious of in the development of the next strategic plan. We didn't want to be in the situation where, because we hadn't looked further ahead, what we were doing for the next five-year period somehow worked to disadvantage us in the future or worked counter to something that was going to be important on a longer time horizon. The relatively short time frame required for that was to have that work done prior to us then starting the commencement of developing the next five-year strategic plan for Fire and Rescue NSW.

The Hon. SCOTT FARLOW: So it wasn't something that was required, for instance, for budget bids or anything like that?

JEREMY FEWTRELL: No.

The CHAIR: I would love to get a better understanding of what that contract is, but also the transparency over not just Fire and Rescue NSW but everybody's use of consultants and contractors. If you were able to provide us on notice with a detailed list of all of the consultants and contractors you've used in the past five years and what the details of those contracts were, that would be incredibly useful. In the context of the scandal that has gone on with the previous commissioner, this Plus Plan and all of this that's been going on, at the same time, Fire and Rescue NSW has gone and spent almost \$300,000 on Deloitte for two months of work to do effectively the same thing—another vision planning. I did not know about this until halfway through this inquiry because you mentioned Deloitte. I looked it up to see if I could find details of the work that you had done previously, which ended up being an error, but the fact that it was not transparent and I had to go searching for it is yet another example. Personally, I find it quite shocking that much money is being spent by Fire and Rescue NSW on consultants in this context. If you could please come back on notice with as much detail as you can, that would be very useful for us.

JEREMY FEWTRELL: Yes. My apologies. It certainly wasn't our intention to try to hide or make something obscure.

The CHAIR: It's the system; it's not you in particular. We are finding that people just don't know about these contracts being made with consulting firms. We are over time. Thank you so much for your attendance; it has been incredibly informative. To the extent that questions were taken on notice, and there will probably be some supplementary questions, there will be 21 days to respond. The Committee secretariat will be in touch. Thank you very much for your time.

(The witness withdrew.)

Mr GERARD HAYES, NSW/ACT/Qld Secretary, Health Services Union, sworn and examined

Ms LAUREN HUTCHINS, NSW/ACT/Qld Assistant Secretary, Health Services Union, affirmed and examined

The CHAIR: I welcome our next witnesses, from the Health Services Union. Would you like to make an opening statement?

GERARD HAYES: Thank you. Firstly, I appreciate the opportunity of appearing before the Committee today. The HSU has held concerns for some time with respect to wastage, duplication of resources, supply and demand, and cost-shifting issues within Health. With respect to consulting services, this is another area where there is a potential and a reality of wastage and excessive expenditure. NSW Health is consistently under pressure from a service delivery and financial viewpoint. NSW Health absorbs nearly one-third of the State budget, and yet the system is still under stress. In relation to consulting services, while there is a place for it, it is costly; there is a lack of transparency with respect to cost, need and outcomes; it deskills departments with respect to managerial initiative and vision; and it promotes the perception of shifting risk, but the Government always is accountable for the outcome. The HSU has been campaigning for and has secured a commission of inquiry into health expenditure in the effort to ensure that roughly \$33 billion expenditure in health is efficient and productive. This inquiry will go some way to shed light on significant and ongoing expenditure. Thank you.

The Hon. MARK BUTTIGIEG: Thank you both for appearing. It's an important Committee in terms of probity over expenditure of public money on what should be used for the most efficient purpose, particularly in the area of health but right across the board. I read the submission from the HSU, which I thought was very helpful. In terms of the size of the problem, I guess, we're talking about, as you pointed out, a massive, massive budget here, almost a third of the State budget. How much money are we talking about in terms of—as you pointed out, it's not all waste. Presumably, some consultants do add value. But, if you were to give us a ballpark figure about the sorts of quantities we're talking about in terms of expenditure on consultants and where you think the same money could be better spent, could you just talk us through some of that?

GERARD HAYES: The answer to that is I've got no idea. I don't think anybody else does. I think the report from the Auditor-General clearly indicated that the transparency of consultants, the use of consultants, the need for consultants and the outcome of these consultants is very hard to understand or even identify. So this could be something that's enormous, at the end of the day—certainly, in the hundreds of millions of dollars, I would think. When you think about NSW Health, back in 2007, we went from 17 area health services to eight area health services, back to 17 area health services, a matter of some years later. Consultants were behind all of this. That was just a total waste of not only the serious health dollar but the taxpayer money to actually effectively move an administrative function, expand it and contract it. That makes no sense.

The accountability is always going to sit with Government. I think there is an opportunity for senior managers now to say, "I put it to a consultant. That's the advice we got. So that's why we're going to follow it." You can't abdicate your responsibilities in this. You are paid to manage. You are paid to have a vision. And you should have that. At the end of the day, when it falls over, it will be the Government and the ministry who pay that price, albeit that the consultants have all care but no responsibility.

The Hon. MARK BUTTIGIEG: I think part of your submission or the recommendation is that this commission of inquiry inquire into the use of consultants, presumably to get to the bottom of it, because we just don't know. This has been the consistent theme of the evidence, that it's actually hard to get a tight handle on what we are expending because there's all sorts of opaque ways of entering the use of consultants vis-a-vis contractors, whether they are consultants at all. Presumably, that's a key outcome for us. Is it your experience as a major health union in the sector that, when the union asks for these sorts of things, presumably, when you're talking to management, they're not forthcoming? Or they're forthcoming in a way that's just meaningless?

GERARD HAYES: No, they're not forthcoming at all. We can have union-specific consultative committees. We can have a joint consultative committee, ask all the questions you like, and you just don't get any detail. Now, it's not our job to manage but it's certainly our job to scrutinise what is being done. It's basically a piece of string at the moment. I couldn't tell you how many consultants are engaged by NSW Health, let alone the 17 local health districts, let alone the ambulance service as well, but I would be very surprised if there's not a queue right out the door.

The Hon. MARK BUTTIGIEG: Are there any emblematic examples of just blatant waste of public money on consultants that you can table here today in your evidence?

GERARD HAYES: I think Lauren's got a case study of that.

LAUREN HUTCHINS: Within our submission, we've given two case studies but I'd like to add a third, which I think goes to the heart of the problem. We have a local health district that three years ago undertook a restructure where a number of middle managers, between 80 and 100, were made redundant through voluntary redundancy. Three years on, the consultancy firm that was brought in to assist with change management still is now occupying pretty senior roles within that local health district. There is an incentive for this organisation to maintain chaos amongst that workforce because they continue to be paid to actually oversee a change that should have finished some time ago.

The CHAIR: Which consultant was that? Which firm?

LAUREN HUTCHINS: Elevate is the name of the consultancy firm. The human cost to that is that the local health district is unable to attract middle managers into roles that are unachievable, where the workload is unmanageable, and the consultancy firm continues to hold those roles.

The Hon. MARK BUTTIGIEG: So this is a conscious effort on behalf of the consultant to engineer a situation whereby they come in to fill—because some of these people are actually on the boards of the local area health districts, aren't they?

LAUREN HUTCHINS: In terms of on the board themselves, I can't answer that specific question about Elevate. I can't go to their motive.

The Hon. MARK BUTTIGIEG: Just in general, there are consultants on—

LAUREN HUTCHINS: To Gerard's point, there is no transparency. There's a lack of consistency in terms of how the LHDs are able to engage with these consultancy firms. To one of the examples that we've given, what we would say is a pretty fundamental role within human resources is being undertaken by a law firm kilometres away. So we're talking about the Mid North Coast Local Health District that engages a Sydney law firm to undertake what we would say is low-level investigations. When you have a workforce of over 170,000 employees, when you have a budget of \$33 billion, one would say that this is pretty core business—actually managing your staff. It shouldn't go to consultancy firms. It shouldn't be outsourced at all. What we see here is that years later the same firms that were brought in to actually manage change are actually profiting from the ongoing chaos.

The CHAIR: Just taking one year, last financial year we saw the local health districts spending more on consultants than Premier and Cabinet, Education and Customer Service combined. That massive spend on consultants—what does that look like or how does that feel for the workforce, for people who are actually having to live under that "consultocracy", as I've decided to call it?

GERARD HAYES: It's incredibly demoralising for the workforce. We have another issue with the southern local health district in terms of pathology. Consultants get brought in. The system ultimately doesn't work particularly well; the system crashes. The people working in this area have those abilities to design systems. They have the ability to understand the industry that they're actually working in, but to outsource to whatever level of consultancy, I don't believe you'll ever get that full understanding or that intimate relationship with the job at hand. So our members are telling us that they are just absolutely demoralised by the new system. They're demoralised with the fact that they were never consulted and they're totally demoralised by it not working as well as the system that they used to have.

It makes no sense why we can go down these pathways—and these are important pathways. In terms of outsourcing any kind of public dollar or union dollar, there's got to be total transparency to that process. Anyone should be able to look at that process and see these are the reasons, this is the amount, this is how we're doing it. It poses and projects potential corrupt activities if that transparency is not there. That is something I have concerns about.

The Hon. MARK BUTTIGIEG: Would it be fair to say that if you put yourself in the shoes of a health worker—a pathologist, an allied health worker, a cleaner; all the various iterations of your membership—and a government is going to start a conversation pretty soon about productivity and uplifting wages based on productivity, you might want to talk about cutting out blatant waste with consultants first? In order to get the buy-in from the workforce for those productivity improvements—they are only going to sit by and tell someone, from outside, how to do their job and getting paid millions of dollars, and then work harder when they can see all that weight. I mean, it's a credibility argument, isn't it?

GERARD HAYES: It definitely is a credibility argument. We get to the point where if we're talking about productivity, which we fully support, I think in this day and age productivity efficiency and recognition of what delivers that productivity is vitally important. To get a third party to come in and tell people virtually how to suck eggs I think is a real problem in terms of being able to build a collegiate workforce that is actually going to deliver

that productivity. If we continue down this pathway—hence, we were so keen to have a commission of inquiry to look at these activities and look at are these activities clear, transparent, open, honest and is there any potential for corruption and so forth. At the moment, I couldn't give you an answer to that at all, and I doubt that many other people would be able to do that. I think that's also reflected in the Auditor-General's report about it in terms of transparency.

The CHAIR: Obviously, we started this inquiry looking at Health. One of the reasons we looked at Health to begin with was because of the Auditor-General's report and that lack of transparency over the spend of local health districts, despite them having such a huge spend on consultants compared to other departments. Has this inquiry so far and the information that we've received on notice, in particular, about the spend from these local health districts been a surprise to you and your members?

GERARD HAYES: Not really, no. We've seen over the past probably 15 years cuts to create efficiency, cuts to back of house. That means that the job has still got to get done. The vision of the initiative to develop a program, a system, has to be done. When you have depleted your workforce at a senior level and a middle level, that means you've got no choice but to outsource. But where that starts and where that finishes, nobody knows.

The CHAIR: One of the local health districts that we were looking into a lot has been the South Eastern Sydney Local Health District because they had a PwC partner sitting on their board in 2013 and because of their significant spend on PwC. And, in fact, the whole of the local health districts and Health. I think we've worked out that they're spending one in four of their dollars on consultants, on PwC. But in the course of looking through those minutes from the South Eastern Sydney Local Health District, there is a lot of talk about what they call value improvement programs, which we have now worked out appears to be code for redundancies and increasing the intensity of work for staff. I have not had the time to look through all 15 local health districts, but is that value improvement efficiency-style program something that you've seen rolled out in other local health districts that we should also be looking into?

GERARD HAYES: I think that's fair to say. I'd be looking at Western Sydney Local Health District, a very big local health district that has got a lot of pressures on it. I just think it is fundamentally unacceptable from a conflict-of-interest point of view that someone who would have a substantial remuneration would be sitting on a board of that organisation. I don't understand that. When we are reliant on the big four and internationally reliant on the big four—no matter what major city you go to in the world, their neon signs are in the major centre there. We're talking about globalisation of a product that isn't necessarily in the interests of health; it's in the interests of their shareholders.

To be able to say, "Okay, a big spend in Health is labour"—of course, we understand that. But if you use labour wisely, productively and efficiently, your back-end savings are going to be enormous. A quick example is investment in a well-qualified paramedic in regional New South Wales. That paramedic will be able to intervene when someone has a myocardial infarct—who is having a heart attack. They will be potentially asymptomatic by the time they get to hospital. That drug, which costs about \$1,000, will save a week in an ICU bed at \$15,000 a day. That is a workforce being utilised. It is not saying, "We don't want to train these people. We don't want to have as many of these people." This takes pressure off, but I don't see any of the big four saying that investment in workforce is the way forward to get efficiency at the back end and productivity at the back end.

The Hon. MARK LATHAM: Mr Hayes, you've been around and have got extensive experience in the health sector. What is the change in public sector culture that's led to the growth of consultancies? It seems to me that two of the ones that are annoying for the taxpayer is to bring in external people to restructure your own organisation when you'd think that the collective knowledge and wisdom of running your own organisation gives you the in-house resources to do your own restructure. The other is cited in one of your case studies about bringing in external lawyers to deal with HR issues. They seem to me to have in common the soft option of bringing in external people to deal with your own staffing matters, where it might be a bit hard to say to someone, "Well, we've restructured and your position is no longer available", or there's an HR decision that needs to be made that's a bit tough face to face. What's the general change in culture? Have we run down expertise, or have we run down the courage of public sector managers to actually do their job?

GERARD HAYES: The whole reason for all of this is—it's a political reason where we're putting money into frontline services. It's been said for the last 15 years, "Frontline services. Cut all the back of house. Frontline services." A hospital—a health system—is a collegiate, collaborative workforce where one position supports the next, supports the next and supports the next. Even from that management point of view, if you do not have that vision and if you do not have that expertise to say, "We understand the system. It's not working here. It needs to go there. Those people, we've got to cut out", then what are you going to do? You are just going to actually go out to third party to actually tell you what you should've been employing people to do. Then the people who are at those senior positions now don't have the experience. Then there's the fear factor of making a decision and getting it wrong, so we'll just outsource our decision-making. That's where it comes down to. The last 15 years of saying

what politically sounds good, "We'll have someone at our front desk but actually we cut the back of house so the front desk isn't actually supported"—it's an absolute oxymoron right the way through, in my perspective.

If we can look at Health, there's over 300 different classifications in Health, from senior management, to a cleaner, to everything else on the way through, including clinical staff. There is a place for consultants, as I've said. That is not a rough figure. It is probably about 10 to 20 per cent, which is not what it is at the moment. If we can be drawing back what we estimate is probably about the best part of \$200 million, and that gets redirected into frontline services, suddenly that problem is resolved and we have a more efficient system so that people who are actually undertaking the work are participating in the decision-making process. If that works, then the system starts to flow, but at the moment all we're doing is putting square pegs in round holes.

The Hon. MARK BUTTIGIEG: In terms of that discussion around consultants vis-a-vis internal experts who live and breathe the work every day, how much buy-in does the union have in that consultative context? Does management come to the HSU and go, "Look, we're thinking of doing XYZ. What do you reckon?" before they go to consultants? Or is it generally that you find out that consultants are there without even being consulted?

GERARD HAYES: Well, it's quite the reverse. The management will come to us and say, "We've had consultants on board and here's the way forward. What do you think?" The money's already been spent. It's a total waste. I think if we cannot get to the point of investing at every level of Health then we're just going to let this money keep dripping out—well, not dripping, flooding out the back end, and you will never be able to have health. My big concern at the moment is we're at the precipice of losing universal health care. There is no doubt in my mind of that. This is one of the aspects, of probably about 30 or 40 different ones, that is contributing to particularly people in regional New South Wales dying when they don't need to die. A person who could have a colonoscopy and identify grade 1 cancer can't get it, can't afford it. They end up going to the hospital through the ED with grade 4 cancer. This is why this is such an impassioned issue. We can't keep supporting the big four and their respective shareholders at the expense of the people of New South Wales, particularly when it's their money.

The Hon. MARK BUTTIGIEG: So it's very much tick-a-box consultation after the direction has already been set from management.

GERARD HAYES: I can't tell you how many consultants the ambulance service would have, how many each of the 17 LHDs would have. But think about it again: Seventeen different area health services or local health districts—they're all the same. Why have they got different consultants? Some years ago the Ministry of Health had power over the 17 local health districts. They all run their own race now; they've all got their own boards now. So we've just duplicated all these processes.

The Hon. MARK BUTTIGIEG: So that decentralised structure that was initiated, from your evidence earlier, back in—

GERARD HAYES: 2007, I think it was.

The Hon. MARK BUTTIGIEG: That was designed with the consultants on board. That's part of the problem, because it's created all this duplication of the structural—

GERARD HAYES: It's a huge part of the problem, but the bigger part of the problem also is you have 17 identical individual bodies doing the same thing over and over again. The previous Government introduced local health boards, and the power and the influence of the Ministry of Health just decreased dramatically.

The CHAIR: Sorry, can we just clarify that? The reforms that took place in 2007-08 were a precursor to what we have now because they didn't devolve that responsibility in the same way. We have learnt through this inquiry that PwC and KPMG were involved in advising the new Liberal Government back in 2011 to have this local health district structure that we now have. There are a lot of questions about that, and we've seen a lot of things. But in the same way that McKinsey advised on the NHS system and then ended up profiting handsomely from local boards or trust boards in the UK, getting consulting work, in New South Wales now we're seeing consultants really profiting. Has any aspect of that devolved system created any efficiencies? I hear what you're saying about how they're replicating the work. Has there been anything good about that system?

GERARD HAYES: No, not a thing. When they went from 17 area health services to eight, they got rid of 1,300 back-of-house positions. When they went back to 17 local health districts, those positions never came back. That in itself cut a swathe of back-of-Health going to frontline services. Those would generally be the people who would have been involved in these planning processes, the development of systems and so forth. At the moment we are just seeing a duplication of 17 independent bodies, where there could be one that actually could look after it all.

The Hon. BRONNIE TAYLOR: Thank you very much for coming, Mr Hayes. I'm very conscious of disagreeing with you; I've seen your work and I'm a big admirer. But can I just flesh out your comments a little

bit? Because I'm online, I don't get everything, so I apologise if I've gotten the wrong take on this. I understand what you're saying about the devolution into the boards, but I think they've actually been very effective in a lot of ways. I was once on one, too, so I probably am a little bit biased. But the comment that everything could be centralised just concerns me a little bit in the context of this Committee.

Being a regional person—and I'm Zooming in from Nimmitabel as we speak—I know that all of our local health districts are different, our communities are different and their needs are different. That was the original ethos of that devolution, but you say that you think it could all be operated centrally. Do you not think that's potentially a risk for the regions, in terms of the fact that they are different and that it all gets centralised in Sydney, which takes that focus off those individual needs? I'm not arguing with the fact, Mr Hayes, that I think a lot of those things are duplicated. You make a very fine point there. But, in the context of the Committee, I'm really conscious that that's on the record now, so I am interested in your thoughts.

GERARD HAYES: I absolutely support your position that regional New South Wales—and that is my passion at the moment—will not be able to supply the services that are absolutely needed in regional New South Wales. When I talk about being centralised, with the Ministry of Health, your policy and development is centralised, so it's not just being repeated around the place. But that policy and development is going to equally support regional and rural areas as well as metropolitan areas because, as you would well know, someone having a major medical issue and then who's got to be flown to John Hunter or RPA—their family may be behind a week without being seen. When I am saying centralising, I am suggesting moving away from 17 boards and doing the same thing, but that regional focus has to be there and has to be a priority then.

The CHAIR: Before 2011 we had a structure of different local health areas but the difference was that we had—although we were getting that information back up at a community level and having community-specific decision-making, the accountability and responsibility wasn't devolved in the way it is now. From your organisation's perspective, is there a desire to go back to the pre-2011 structure? Is that what we're getting at?

GERARD HAYES: I think it is important in today's processes that we have that people have moved regionally and people want to remain regional. This is not just about focus on Sydney-centric issues. Through Zoom, through the pandemic, there are a whole range of remote outcomes that come now. I would like to see, from our perspective, that there is one position that then devolves into whether it's a regional area or a metropolitan area. But, at the moment, if I want to get a policy position, I can talk to the Ministry of Health and then I can talk to 17 local health districts and not necessarily get the same one anywhere.

That is the problem when we are all dealing with the health dollar. It's got to go around. It's got to be supportive of regional areas. But, at the moment, there are too many people making decisions about a very finite amount of money. I don't think for a minute any government is going to put more than one-third of the State budget into health. But I think there is potentially billions of dollars in health now that could be redistributed because they're going in the wrong areas, or they're being taken or they're being rorted. A good open look at that can then redistribute that money into the right areas.

The Hon. BRONNIE TAYLOR: Thank you very much, Mr Hayes, for your answer. I was really conscious to have that perspective as well. I absolutely agree that there are some things that can be centralised but I'd be really reluctant when you're talking about rural and regional because I think what we have to do and what our needs are are often very different. I think we have clarified that. I thank you very much for that and I thank you for your time today.

The Hon. MARK BUTTIGIEG: I want to go to some of your recommendations, which are really helpful. The second recommendation states:

Immediately review and report on all NSW Government consulting contracts awarded above \$50,000 to assess the quality of work provided by consultants and if net positive value propositions can be identified.

Then the footnote states:

Annual Reports (Statutory) Bodies Regulation 2015 requires agencies to report on the use of consultants. For engagements that cost \$50,000 or more this only includes reporting details on the name of the consultant, the title of the project and the actual cost of engaging the consultant.

Even above \$50,000, they're the only details you get now, are they?

GERARD HAYES: Apparently. That's the research that we've got, yes.

The Hon. MARK BUTTIGIEG: The recommendation would be that there is a full review into everything above \$50,000. What happens to the spend under \$50,000 on consultants? It just doesn't get reported.

GERARD HAYES: I couldn't answer that at the moment. I doubt that there would be much of a spend under \$50,000, to be honest; it would barely be worth people's interest. But I think it is something that—not only

that recommendation, but I think the transparency of the establishment and the need up-front, before going down that path. And if there's not that total transparency in relation to that expenditure, it straightaway brings into question the appropriate use of money. I think that focus point should be heavily dealt with.

The Hon. MARK BUTTIGIEG: There is another recommendation here to commit to reducing the use of consultants—you mentioned this earlier in your evidence—by 80 per cent. So the view of the HSU is that there is probably about 20 per cent of the current spend which is effective, and the rest can be done away with.

GERARD HAYES: Go over to St Leonards. There's a nice big building over there full of people—people on SES levels, people on senior HSM levels, people who have got a great skill set. They should be utilised for the abilities that they have. Failure to utilise them and continue to outsource them—well, those abilities will start to disappear. Those people will start to disappear because, at the end of the day, they want to be engaged, they want to be part of the resolution, not just to be passing the ball to somebody else to tell them how to do it. This is, I think, an opportunity to look at frontline services, but to also look at the back of house that will support those frontline services—and that expenditure that is currently being put out there gets brought back in. We have the people. We have the resources. Do we have the will? That's the question.

The Hon. MARK BUTTIGIEG: Is part of this stemming from a philosophy from a couple of decades ago wherein we have people on the books 24/7, but it is not really core business, so if we just get them all off the books and bring in people sporadically it will save us a ton of money. Was that part of the logic?

GERARD HAYES: I don't think so. I think people are risk averse. People don't necessarily want to take that responsibility for making that decision which could be worth millions and millions of dollars, but that's the job. I think it is important we can actually value people so they are confident to make those decisions and apply their skill set to actually develop systems and programs, as opposed to outsourcing to an organisation that has all care and no responsibility, apart from sending you an invoice and making that invoice pretty sizeable.

The CHAIR: Do you think part of the reforms needed are also looking at that board level? At the moment we have identified a significant number of ex-consultants sitting on local health district boards. Do you think that creates a culture of using consultants perhaps more than they might otherwise? Is that part of the picture?

GERARD HAYES: It's always been my view that Health is so big and there is so much money in it that there is a conga line of people queued up to get their piece of the pie in a whole range of different areas. Again, I go to the point of the commission of inquiry. It's just not one group; there is a whole range of people who are taking money, not necessarily inappropriately but maybe unnecessarily, and that money can be redirected into those frontline services or promoting efficiencies and scope of practice that limits pressure on the hospital system. But it's pretty hard to do it when that money has already gone out the door to someone who—it's going to go to their shareholders.

The Hon. MARK BUTTIGIEG: Are any of the other States doing this better than us?

GERARD HAYES: I'm probably not qualified to say that. I couldn't say.

The Hon. BRONNIE TAYLOR: When you earlier referred to St Leonards and said that's obviously the centre of NSW Health and where that happens, and just alluding to my previous question to you about my concern that—obviously I have an extreme bias to rural and regional New South Wales that I declare very proudly. If you were looking at that devolution of health boards, would you think then that to make sure that things are fair for rural and regional, there needs to be more of a setting in terms of the way NSW Health is set up to have a centre for—I mean, now we have a division of regional health, which I think is a big step forward. Do you think that needs to be based out in the regions to make sure that that fairness and expertise of the regions and the difference in regional health to metro health is there? Although the system is very linked as well and can't survive without each other, what are your thoughts on that? I'd be really keen to know.

GERARD HAYES: I think that it's very important. Just to qualify things, from 1990 to 2000 I was an intensive care paramedic based in Kempsey and I understand the regional system very well. It's very difficult to go 50 kilometres west of Kempsey and have to put chest drains into a person knowing that then, at least if you don't have a helicopter, you've got a patient that (a) is going to die, or (b) you're going to be lucky to get them to a hospital. It is vitally important. I fully support, as I said—I think there's got to be a regional focus. I note that your position in the previous Government had a regional focus and I think that should be maintained. Regional health and metropolitan health are two different things.

If I can give you an example, I was an intensive care paramedic on the motorcycles back in the early nineties. I would turn up to Darlinghurst Road with a person who was suffering a cardiac arrest. There would be me, there would be a general duty car come and then there would be another intensive care paramedic vehicle—five of us. We were effectively 2½ minutes from St Vincent's Hospital. Go to regional areas, same issue, you're

probably an hour and a half away from a hospital and there may be one or two of you. That is replicated in a whole range of different—whether it's community health in regional areas, women's health in regional areas or a whole range of areas that can only be focused on in their own right because there is a tyranny of distance. There is a lack of resources and there is a lack of services so we have got to be able to walk and chew gum at the same time.

The Hon. BRONNIE TAYLOR: Sure. I actually didn't realise you were a paramedic, so there you go. No wonder you are using all the jargon so well. Mr Hayes, it's pretty interesting to see, with those comments by you of Kempsey and the chest drain and stuff—I get that, having worked rurally most of my career. But now, if you perhaps have a stroke in a rural area—say in Cooma, down the road from me here—your likelihood is actually being treated faster in the regions than the metro is because of that Telestroke service. Those are some incredible advancements that we can capitalise on by increasing that scope of practice, too, of paramedics and pharmacists and everything in rural New South Wales. I think that would be really helpful.

GERARD HAYES: We're working with two professors in relation to rapid stroke access. I think that is something that, going forward, will be very good for regional areas—that first hour, to be able to identify and so forth. Things are changing, but I think it's really got to be consistent that metropolitan and regional health are viewed in the same manner and with the same level of priority.

The Hon. BRONNIE TAYLOR: Keep our paramedics happy.

GERARD HAYES: Indeed. Good luck!

The Hon. BRONNIE TAYLOR: Loving the windscreens at the moment. I tell you, it's a little bit different than it was in March, but anyway.

The CHAIR: Can I bring you back to your submission and some more case studies? There is one referred to in here—I'm not sure if we were talking about that one before—with a big four consulting firm brought in to redesign an IT system within an LHD department. Can you talk a bit more about that one and maybe tell us which firm that was, if you know?

LAUREN HUTCHINS: I don't have the details of the firm in front of me but we can take that on notice and come back to you. This is one of those case studies where one would assume, on the surface of it, that consultants are the right idea. There is some expertise that is required. But what clearly happened in this scenario was that the consultants had no real understanding of health. That is a pretty critical part of why there are failures across the system, in that when you are trying to redesign systems that don't have those frontline workers or those back-of-house workers who understand the intricacies of how systems work at the front, they are destined to fail. What we see here is that we have staff leaving. One of the things that is also lacking in transparency about all—the irony of all of this is we've got millions of dollars being spent on consultants to talk about HR and about restructures. At the same time, we don't actually understand the vacancy rate across NSW Health. So these consultants brought in have resulted—

The CHAIR: Sorry, just on that, is that because of the devolved structure?

LAUREN HUTCHINS: Yes. And there is not a requirement to report them in the same way we've previously had to report. Our understanding is that there are about 12,000 vacancies across New South Wales currently, but you can't actually put a figure on that. You cannot currently say, "At this time we have this many vacancies across the board." At the same time, we have consultants working on what we would say are full-time jobs. In this particular incident here, we have people leaving because the consultants have failed, because the systems they've delivered don't actually address the need of the organisation, the LHD, but also have caused additional stress to our members. The outcome of this is a net negative for everyone. We have a system that doesn't work and we actually lose that knowledge, that experience of people who have worked the system previously.

The Hon. MARK BUTTIGIEG: That was very concerning, that evidence. There's no requirement from the department for reporting on a full-time equivalent structure?

LAUREN HUTCHINS: The vacancy rates. We understand the headcount. We understand the positions that are currently held in our particular areas. There is information available on that. But what is lost in the system is, when someone leaves, actually quantifying that. The example I gave earlier of the consultancy firm working in a local health district—they currently occupy two positions that no longer appear as vacant but they're filling them as consultants.

The Hon. MARK BUTTIGIEG: I see, yes.

LAUREN HUTCHINS: I'm not saying it's just in relation to consultants filling those roles. There are 12,000 vacancies that we can see, but we can't give you that figure.

The Hon. Dr SARAH KAINE: Ms Hutchins, could I ask a follow-up question on that? Are you saying that, by region, by hospital or by service, you can't get an establishment figure of what positions are there? You can't see that? It would exist but you don't get access to it?

LAUREN HUTCHINS: That's correct.

GERARD HAYES: Can I add to that? I don't know that they have establishment figures anymore. They used to. If you don't have establishment figures, you can't be held to them. My understanding at the moment is that they don't have establishment figures anymore.

The CHAIR: One of the other issues that we've been probing in this inquiry is lack of going back and looking at the work consultants have done and seeing whether or not it was value for money. From the figures we've received from local health districts, the vast majority of consultant spends, when it comes to whether or not there's been a post-engagement review, are listed as "We paid the bill, so the work was done." For something like this example you've given us, where people have left and the staff have been demoralised and frustrated by the process, is there anything within the LHD system to capture that experience in order to feed it back into how effective that use of consultants has been?

LAUREN HUTCHINS: Not that we're aware of. Again, going to the example I've given, what has happened in that scenario is that we are losing employees because a consultancy firm that is now taking on this HR role is being relied upon through the local health district. The staff are demoralised because there is no middle management that now exists that actually has any responsibility to health, only to ensuring their consultancy firm continues. What we see, particularly in some hospitals, is that we are losing clinical and frontline services people to jobs down the road, with less stress and more management structure, in a cheese factory. That should give you a hint about what we're talking about here. People are leaving the organisation because of the consultancy firm and the arrangements in there are causing such distress. There is no reporting on that. There is no quantifying the human cost of all of this. What we do know is that when we lose staff, particularly in regional areas, there is an immediate flow-on effect with patient care. We know that in hotel services, if you don't have enough people who can serve food, that means that morning tea and afternoon tea are dropped because there aren't enough staff to serve.

The Hon. Dr SARAH KAINE: Ms Hutchins, could I ask one more question? In other evidence that we've heard from other witnesses, there appears to be some ambiguity about the definitions of "consultants" and "contractors". I wondered, in your experience, whether there are any other cases where you might have come across this blurring of definitional boundaries, which we're finding quite hard to extricate?

LAUREN HUTCHINS: One of the case studies we've given with our submission is the Sydney-based law firm that's now providing HR services for low-level investigations for disciplinary. That's not a consultancy arrangement. That is absolutely outsourcing. Having this consultancy firm in a LHD providing services after a restructure—three years after a restructure—that isn't consultancy; that is outsourcing work. That is contracting out by stealth.

The CHAIR: Yes, it is. Can we just get back to that then? This is Central Coast Local Health District, isn't it, that we are talking about with Elevate?

LAUREN HUTCHINS: No. It is Southern.

The CHAIR: Southern. Right. With that one, because that is not appearing on the data we have received so far, we have consultants coming in as part of their efficiency value improvement program, whatever they want to call it. They have actually cut the workforce and then we see them filling positions in the future, presumably as contractors. That is quite an extreme scenario. I guess when we are looking at all of the evidence we have now of consultants being brought in, whether it's the big four or smaller consultants who are coming in and advising on restructuring and basically reducing staff—and we are also hearing about secondments into these LHDs from these consultants and who are now contracting—this is quite nefarious, when you think about it. Do we have visibility over how many positions in these health districts now being occupied by consultants, consulting firms or contractors previously used to be occupied by Health staff?

LAUREN HUTCHINS: Only to clarify that my understanding is that Elevate was engaged as part of the restructure to manage the change, not necessarily to advise on the restructure, so I wanted to clarify that. My understanding is that they are currently sitting in the role of director of people and wellbeing, which has been vacant since last year, and currently acting in the role of assistant director of organisational development, which has been vacant for the last six months. So those are two particular roles that were occupied by employees, pretty senior roles, that are now being filled, to our understanding, by consultants through this process.

The CHAIR: You said before you don't have visibility over the total staffing arrangements, but does Health? If we had the department in front of us, would they be able to answer those questions?

GERARD HAYES: I don't know that Health would. Certainly the local health district would, you would expect, but the ministry, I don't know that they would have vision of that.

The Hon. MARK BUTTIGIEG: So you have a situation where a consultant comes in, takes FTEs for basically taking the brunt of outsourcing people—because the internal people don't want to do it—and then people come in and tell you how to do your job and learn your job so they can take your job?

GERARD HAYES: Sounds good.

The CHAIR: Good summation. Thank you so much. This has been very illuminating and given us a lot to ask Health about when they are next in front of us.

(The witnesses withdrew.)

(Short adjournment)

Mr LEIGHTON DRURY, State Secretary, Fire Brigade Employees Union of New South Wales, affirmed and examined

Mr JONATHON WRIGHT, Senior Organiser, Fire Brigade Employees Union of New South Wales, affirmed and examined

The CHAIR: I now welcome our next witnesses. Please note that parliamentary privilege applies to witnesses giving evidence today but it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge you to be careful about comments you may make to the media or to others after you complete your evidence today. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard it's important that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Would you like to begin by making a short opening statement?

LEIGHTON DRURY: Yes, both of us have a part to that. I will start. Again, thank you for the time on the Committee today. As I said, my name is Leighton Drury. I'm the State Secretary of the Fire Brigade Employees Union. I've been a firefighter for 24 years and been the State secretary since 2016. FBEU members take their work very seriously and we care deeply about our profession. Unfortunately, we are here today because our agency has recently been in the media for all the wrong reasons. The Committee will note that, within the State Government's talking points on the recent termination of Fire and Rescue NSW Commissioner Baxter's employment, the issue of the use of management of consultants is cited. The agency was led by Paul Baxter since 2017 and there's been a 137 per cent increase in consultant expenditure during that time.

Under the governing legislation the Fire Brigades Act, it is the duty of the Fire and Rescue NSW Commissioner to take all practicable measures for preventing and extinguishing fires and protecting life and property. As such, you would imagine the operational needs of firefighters are especially important. Those needs are also important to the New South Wales community we protect. The FBEU's recent campaign efforts saw huge numbers of professional firefighters engage the general public on this point.

The campaign, "When time's not on your side, we are", was built upon polling which demonstrated that the people of New South Wales expect firefighters to be resourced and equipped with everything they need to get the job done safely. Several months ago Fire and Rescue released a report peer-reviewed by Monash University titled *Adverse Structure Fire Outcomes 2016-2021*. The report demonstrated a statistically significant increase of preventable fire fatalities, detailing a strong correlation between survivability in a structure fire and the response time from firefighters. The report supports the FBEU's call to prioritise the operational needs of FBEU members.

The sad reality is, though, that those needs have not been met for some time. A report commissioned by the FBEU through the University of Newcastle's Centre of Full Employment and Equity this year documents that the predominant new source of workplace stress came from what firefighters considered to be the mismanagement of the service. The report cites a growing sense of dislocation and distrust of the Fire and Rescue NSW management, who are characterised by their workforce as careerists obsessed with achieving their own KPIs to advance their own fortunes while neglecting the needs and concerns of the operational firefighters.

The overuse of consultants connected to a campaign to rebrand the Fire service, the so-called "Plus Plan", was considered to be the height of that disconnect, with consultants accused of having limited understanding of the actual demands of firefighting. There was a strong perception that the core values of the service had shifted from being a service to the community to a business mentality that prioritised spin and optics. For one firefighter that meant "that we are two separate organisations and the station response structure now basically has to fend for ourselves".

In budget estimates, Fire and Rescue NSW stated that the millions that had been spent on the Plus Plan rebrand were unable to be accurately quantified. The rebrand as explained by Fire and Rescue is about re-creating identity. In reality, it is simply adding a plus between the words "Fire" and "Rescue" to rebrand the work firefighters are already doing and the community has always recognised. From annual report disclosures, we can see that the use of several key consultants was extensive in the creation and the execution of the Plus Plan. As I said, since 2016 disclosures in Fire and Rescue NSW and reports detail a 137 per cent increase in Fire and Rescue NSW's expenditure related to consultants—and this is only what is required to be disclosed.

JONATHON WRIGHT: Recently the FBEU committed to investigating Fire and Rescue's use of consultants. It's in an attempt to legitimise some of the expenditure that we're seeing reported in annual reports publicly available. Those investigations have uncovered some serious concerns and we believe that they're relevant to the inquiry today. On the documents that have been made available through our GIPAA applications and an NCAT Tribunal matter that followed, we can state that those issues are substantive and they include missing

contracts for an engagement of close to half a million dollars of public money on at least one consultant—and that's the consultant that's been referenced this morning with Fire and Rescue—some systemic cultural and structural issues related to due diligence, good governance and, in particular, record keeping; a failure to declare conflicts of interest for known and documented conflicts, or at the very least perceived conflicts; a lack of appropriate procurement processes to substantiate a required competitive process to appoint consultants; significant overspends on consultants well outside of initial proposals; and the misreporting of consultant expenditure in disclosures in annual reports.

As part of this investigation into the case study that we've detailed in our submission, we uncovered too that ICAC was made aware, through a public interest disclosure, of allegations of wrongdoing relating to a particular consultant engaged by Fire and Rescue and we've also got a copy of a redacted external investigation report into those matters. What that report confirmed—and that's in the appendix of our submissions—is that there was an intentional splitting of proposals and invoices to hide consultant costs under relevant procurement thresholds, and that this was both at the request of the agency, Fire and Rescue, and it was also facilitated by the consultant.

We've got briefing documents supporting expenditure extensions to an original contract that were misleading because they characterise this particular consultant as being pre-qualified under the government suppliers list, but they were in fact not at the time of the engagement. We have also got some matters where Fire and Rescue, on the record in front of the budget estimates committee, have stated that certain individuals had no involvement in the recruitment of this particular consultant, but it would appear that documents we've obtained are contrary to that position.

Our concerns have been documented and provided to the information and privacy commissioner, ICAC, the NSW Procurement Board, the Audit Office of New South Wales, the Ombudsman and the budget estimates committee. We are not aware of further investigations and whether they have been undertaken by any of those bodies. We want to state, too, that we do acknowledge as a union that the use of consultants is an important aspect of public sector work in certain circumstances, but it is clear that poor governance in this space has reputational risks to an agency, both in terms of public perception and, importantly for us too, the notion of perceived organisational support. Firefighters undertake incredibly dangerous work. It is researched and confirmed that the perception of support from senior management is very important. It is a very minor assurance that we think the agency needs to provide these workers, and that is through just the demonstration that their priorities are suitable to the operational needs and realities of our members' work.

The CHAIR: Before I pass to Mr Buttigieg, thank you for all the investigative work that you have done around this issue. Many issues with consultants have only come out because either the media or a union such as yours or someone else has done the work to find the information. It is clear from what you have uncovered that this branding and PR plan that cost Fire and Rescue so much money and was kicked off by the strategic plan consulting work was riddled with problems from an internal perspective around that procurement. Watching this morning, what did you think when we had the Acting Commissioner, I guess, accepting there had been failures in procurement with that previous branding exercise, but then discovering we've had almost \$300,000 spent in just two months doing something very similar with Deloitte? Was that something that you knew about? What do you think about that new expenditure?

LEIGHTON DRURY: To answer one of the questions, yes, we did know. I am trying to temper my words here. I find it astounding, I really do. The FBU campaigned on a whole number of things at the last election. Part of that is, obviously, we have fire stations that are falling apart. We have fire trucks that are falling apart. We are nearly 300 firefighters short, which is now coming out and we are working with Fire and Rescue on. Then you find out they're about to spend \$300,000 to work out how to get to 2050. I will tell you some of the ideas that came out of that. One of them was exoframes for firefighters, AI, and robots in buildings to see if the smoke detectors have actually detected a fire or not. That is the sort of stuff we are spending taxpayers' money on instead of fire trucks.

The CHAIR: Robots?

LEIGHTON DRURY: Robots.

The CHAIR: To go in instead of firefighters to work out if a building is on fire?

LEIGHTON DRURY: That is what we are spending minimum \$300,000 on.

The Hon. MARK BUTTIGIEG: What are the exoframes?

LEIGHTON DRURY: I have no idea. I imagine it's some sort of robotics you strap to yourself so you can run into buildings.

The Hon. Dr SARAH KAINE: Climb up walls.

LEIGHTON DRURY: I'm not sure why we would need those. That again is just pie in the sky nonsense in my view. This is on the back of we don't have a plan to put a fire station in next to that airport they're building out there in Western Sydney. Allegedly Fire and Rescue has missed that one around not knowing we need to put at least five fire stations out there.

The Hon. MARK BUTTIGIEG: What is the nearest fire station to that?

LEIGHTON DRURY: St Mary's. Oran Park. The reality is we need five fire stations out there as of next year, but we haven't even bought the land. There is no plan to buy the land; there is no plan to build the station; there is no plan to source the money for the staffing nor the trucks. So the Plus Plan really was no plan.

The CHAIR: So the \$300,000 that Deloitte was given to write this science fiction document—was there any consulting by the consultants during that process?

LEIGHTON DRURY: We were asked to go along. My senior officers' sub-branch secretary went and said it was a farce. We generally don't go to those things because we generally think they are a waste of time; we don't encourage those sorts of things. But, yes, certainly the work we have seen come out of it is not worth the money.

The Hon. MARK BUTTIGIEG: If I were to put a generous interpretation on it, could it be a function of the overhang of the previous culture, prior to the election, where consultants were pretty much de rigueur on the drip, and, because it's May, that decision was kind of made and the new Government hadn't found its feet yet? Would that be a fair assessment, maybe?

LEIGHTON DRURY: Yes, when I have raised it with Minister Dib, he has said a lot of these things were already in the pipeline and had already been signed off on, which is problematic because it obviously goes against the Government's view around the use of consultants. But I was listening to Mr Hayes' evidence given around no-one wants to make that stand or make that decision anymore. We pay our public servants quite a lot of money to make decisions, but they would rather nearly offset that risk or offset making a bad decision by the use of consultants. I totally agree with him around the points he was making around if you're not using your subject matter experts, which are your firefighters and the people in the organisation, then you do end up with worse outcomes.

The Hon. MARK BUTTIGIEG: This case study that you've helpfully put in your submission, and that we discussed at length with Fire and Rescue NSW this morning, is an emblematic example of where it can and has gone pear-shaped. The question is—and we tried to explore it this morning with the acting commissioner, who I think was very frank, honest and helpful in his evidence—how much broader is this problem? Are there other examples?

It seemed as though from the evidence the best you could say was that there were branding exercises and all sorts of esoteric PR exercises to try and convince, allegedly, the public, and in my view were also to try and convince the Government. So the best you can say is that it's a misdirection of taxpayers' money, at worst, because we don't have oversight of the procurement processes. We don't know yet but the ELT looks like it may not have known; the Audit and Risk Committee didn't know about it. This could be a much bigger problem as part of that whole Plus Program fiasco; it's not just the Stigter money. It could be a lot broader. Is that the view of the FBEU?

LEIGHTON DRURY: Absolutely. I will let Jonathon talk briefly about what we were doing in NCAT on Monday. But Fire and Rescue are now using counsel and paying counsel to stop us getting information about this matter. We asked for the contract. We heard Mr Fewtrell say a contract was signed at some point, but they're still fighting us in NCAT saying, "We don't want to give it to you", or that there is now no contract.

JONATHON WRIGHT: The crux of this particular matter related to the case study, and the submission is that the Acting Commissioner, Mr Fewtrell, did state this morning that they have a contract. That contract is for an engagement period between 2018 and 2021. What is still missing is an engagement period between 2017 and 2018, which is almost half a million dollars, and how they substantiate that. To answer your question in a roundabout way, I think, we're not experts in this matter—issues of probity and governance and record keeping—but we're also taxpayers and we represent members, as I said, in very dangerous lines of work. To state that you cannot find a contract is very difficult to believe. It suggests that the contract never existed.

Now, to raise payments, I understand—or we understand—to suppliers as a government agency, you need to create a vendor in your system. That vendor, according to Fire and Rescue's internal documentation, has to have supporting documentation to demonstrate why one of, I think, four people at Fire and Rescue will create a vendor. It needs to be justified, and you can't lawfully, in our understanding, raise payments to someone without such justification. It raises questions that even if that were the case that there was no contract and half a million dollars

was spent, how did, say, the finance team reconcile the payments without a reference document stating that "this person is giving us these services at this cost during this period"?

The Hon. MARK BUTTIGIEG: Can I just tease that out a little bit? You have a table on page 6 of your submission, which is helpful, where you step through a comparison of the quantum spent in each of FY 2016-17, 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22, and you do a comparison of the annual report and the vendor payment. What you're saying there is that 2016-17, 2018-19, 2019-20, 2020-21 and 2021-22 were all justified contractually with supporting documentation to Stigter, but for 2017-18, where it's reported that there was a spend of \$439,067 and the vendor payment was actually \$424,510—a tick above—that particular spend has no contract associated or any supporting documentation?

JONATHON WRIGHT: Not that's been provided to us through GIPAA and NCAT processes.

The Hon. MARK BUTTIGIEG: Right.

JONATHON WRIGHT: I should clarify that what we do have is two briefing documents to the commissioner, with several key personnel signing off from Fire and Rescue, that extend an original contract, a further \$66,000 and \$150,000 separately in that same financial year, but the original agreement that is referenced has not been made available.

The Hon. MARK BUTTIGIEG: The evidence that was put on by the Acting Commissioner this morning when I teased this out with him was, "The contract was sort of written in a way which allowed us to justify that subsequent expenditure." He's going to get back to us on the specifics, to be fair to him. But the impression I got was that they were using that earlier contractual arrangement to try to massage this money into it. Is that where we're at, at the moment, in the absence of any documentation?

JONATHON WRIGHT: That's right, and we don't—

The Hon. MARK BUTTIGIEG: Although, the amounts you just specified are still way under the \$500,000?

JONATHON WRIGHT: Yes. We don't contest that there was a contract for the 2018-21 period and that there was a request for quote through eTendering that ties a legitimate process to that expenditure. But there is no documentation for the earlier expenditure. I just want to reiterate the point that you can't raise the payments, is our understanding, without the contract. So that suggests that, as I said, either: (a) it didn't exist, or (b) it's been lost or destroyed. I think one of the take-home points from our submission and our evidence today will be that in the digital age, in the public sector, we don't believe that you can lose contracts, and we don't believe that an agency is not full of people with due diligence obligations and training to make sure that such things don't occur. So, in a roundabout way, to answer your question, this appears like it may be a cultural issue. This agency has the appropriate framework and these things still occur, which suggests that the problems might be more systemic.

The Hon. Dr SARAH KAINE: Can I ask more of a technical question? Thank you, Mr Drury and Mr Wright, for appearing today. Mr Drury, I think you said that you had made a complaint with the NSW Procurement Board. Is that correct?

LEIGHTON DRURY: Yes.

The Hon. Dr SARAH KAINE: Was I right in hearing that there wasn't a response from them?

JONATHON WRIGHT: No, there hasn't been a formal response as yet.

LEIGHTON DRURY: Not a formal response.

The Hon. Dr SARAH KAINE: We took evidence from members of the Procurement Board yesterday who seemed to indicate that they hadn't received any complaints, so I was interested to know that.

The Hon. MARK BUTTIGIEG: At the moment, this is subject to an NCAT hearing, is it, and FRNSW are briefing legal counsel and, in your opinion, they're withholding this information? They haven't definitively said, "We can't find it"; they're just saying, "We're not going to give it to you"?

JONATHON WRIGHT: They've said definitively that they cannot find it. They choose not to have a position on whether it existed or not—or suggest that it should exist.

LEIGHTON DRURY: Some background to this as well—this process actually started last year. GIPAA's are supposed to take roughly 28 days in and out, really. We've had multiple different batches of information come at random times, even after they've said that there's no more information and then it turns up perhaps two weeks later, with 50-odd more pages. It's like someone is still searching around. But at the same time, they're still not wanting to give us certain documents, which is obviously the contract, which we're now in NCAT around.

The Hon. MARK BUTTIGIEG: Going back to this table here, the purpose of the table is to illustrate what appears to be a systematic attempt—we touched on this in the evidence with the HSU, with this \$50,000 threshold, where it looks like you have to report expenditure above 50, and then all you have to do is say who it was, how much was spent and a title. Below 50, you don't have to worry, pretty much. It looks like in 2016-17 the annual report stated that the expenditure was under 50 but the vendor payment was \$47,556. That's okay; that's accurate.

In 2017-18—which was the Stigter year, the year that we're saying is unaccounted for—it was 439 when the expenditure was 424. That's not too much of a discrepancy. But when you start to get into FYs 2018-19, 2019-20, 2020-21 and 2021-22, there are four years in a row where the annual report understates the payments made. In 2019-20, 2020-21 and 2021-22, it's all the \$50,000 threshold. The purpose of that evidence is to illustrate the point that there was a systematic attempt to misreport, to avoid the threshold trigger of saying, "This is what we spent it on. Here are the consultants."

JONATHON WRIGHT: Look, we don't jump to conclusions on a lot of this. As I said, we're not experts on it. All we say before the Committee is that it's unusual, on balance. We should probably mention that the annual report disclosures that we're talking about are tied to the annual reports Act and the Government Sector Finance Act. This is the information that the agency presents to the Audit Office for sign-off every financial year. As you say, we've got vendor payments. That was a separate GIPAA that sought to have Fire and Rescue present, line by line, when and where they paid this consultant and what amount. When we crunch the numbers on that, whether we're looking at when the services were rendered or when the invoice was paid, we see pretty obvious discrepancies in their reporting. We don't know what that is about.

The Hon. MARK BUTTIGIEG: Has this been put to Fire and Rescue NSW?

JONATHON WRIGHT: It has been put to the Audit Office. The table has also been part of submissions in NCAT, so Fire and Rescue are aware of it.

The Hon. MARK BUTTIGIEG: Have they given you a response, to date?

JONATHON WRIGHT: No.

The Hon. MARK BUTTIGIEG: We explored with the Acting Commissioner the broader issues of the Plus Plan and the Brand Council \$500,000. Are there any other examples where—aside from what appears to be a misallocation of public money. My colleagues articulated why they thought that was a misdirection of public monies, given "F+RNSW", as part of it, when the public knows very well what Fire and Rescue does. In terms of probity and the potential misuse of money along the lines of Stigter, are there any other red flags, as part of that other bigger Plus Plan pot of money, that the FBEU has come across?

JONATHON WRIGHT: We watched this morning's proceedings, with Fire and Rescue in the inquiry. I think they accurately suggested that there were a number of other consultants and big players in that period of time scoping the Plus Plan and putting it into practice, particularly in the 2017-18 financial year and the 2018-19 financial year. Both sets of information are publicly available. But you have consultants separate to the one in our case study earning almost another half a million dollars. All I can say is that in some of the documents we've received through the GIPAA and NCAT process, the case study consultant, Dr Stigter, who we reference, is one of several concerns that seemed to be raised by the procurement team and Fire and Rescue internally at the time. But that information is redacted to the FBEU. It suggests, again, that there were systemic problems, but we can't comment. This raises some concerns about the intent of things like the GIPA Act, which is based around transparency.

The Hon. MARK BUTTIGIEG: You said the "procurement board"? What's it called?

JONATHON WRIGHT: Internally, it is the procurement team, I think.

The Hon. MARK BUTTIGIEG: There is evidence that they raised concerns, but you are not able to get the evidence of those concerns, either under GIPAA or via NCAT?

LEIGHTON DRURY: One of the things that I think the Committee should take as part of our whole submission is that this has taken a lot of months to get to just here and we are still getting things that are redacted. We are still getting pushback out of Fire and Rescue. There are no reflections on any of these agencies, but it sort of feels like there is nowhere for us to go, because it is not big enough for ICAC—because ICAC have sort of looked at it—and we can't get the help out of NCAT or even the GIPAA process. There is obviously something that smells here is what we're saying. It's very hard to find someone to go, "Can you do this?" At some point, it's actually not the FBEU's part to play in this. We obviously look after our members and so forth—

The Hon. MARK BUTTIGIEG: This was the point that was made earlier by the Chair. In the absence of media, upper House committees and unions, 99 per cent of this stuff would go under the radar.

LEIGHTON DRURY: Correct.

The Hon. MARK LATHAM: What is the Minister doing? Have you asked Minister Dib to undertake an independent audit and investigation of all of these matters?

LEIGHTON DRURY: My understanding is the Minister has put somebody in to have a look at that and they are putting together a report now.

The Hon. MARK LATHAM: Who has he put in there?

LEIGHTON DRURY: I'm not sure. I think he's chosen someone independent.

The Hon. SCOTT FARLOW: A consultant?

LEIGHTON DRURY: I'm not sure. All I know is they're doing a health check. I have spoken to them—but yes.

The CHAIR: It's always a valid question.

The Hon. MARK LATHAM: Just on that, how do you respond to those who defend Paul Baxter by saying that O'Connor Marsden reported on this and none of the allegations against the commissioner were substantiated?

LEIGHTON DRURY: I think if you look at the documentation, it says that something has gone on. Certainly, the information that we've received from New Zealand—from GIPAA applications that were made by the New Zealand service on behalf of us—talks to this is actually a pattern of behaviour by somebody. It is certainly happening in New Zealand as well as it's happening here.

The Hon. MARK LATHAM: Is anyone who worked on that investigation for O'Connor Marsden now working in a managerial role at Fire and Rescue NSW?

JONATHON WRIGHT: It wouldn't be our place to say, if we did know.

The Hon. MARK LATHAM: You did say it in your redacted submission, so I'll take the answer as yes. Are you aware that there are some concerns—the question of who will guard the guardians?—about the actual independence and integrity of O'Connor Marsden, who seem to have almost a monopoly across the State Government on conducting these probity investigations?

JONATHON WRIGHT: OCM, as they're referred to, appear to be an external consultant. I think they're a pre-qualified government supplier. We have inherited a redacted report from theirs. That's about all the information we had to go off.

LEIGHTON DRURY: This is the only one that we've said—report that they've done. We've no other knowledge of any other reporting or probity issues that they look into.

The CHAIR: Hopefully, this pattern doesn't get repeated with the new Government, but we've certainly seen over the last decade or so a pattern of issues occurring within a government agency, where a scalp is taken, a person is fired or there's been some sort of action of that kind, and then it's assumed that everything is fine now, and we move on—again, this litany of missteps and the questions that you've very validly raised here in relation to that procurement process in 2017. They can't have operated in a vacuum with just one person, could they. Are you concerned that there is a culture or a need to go and actually explore, at a far more deep level, what has happened at Fire and Rescue NSW and how we can prevent it happening again?

LEIGHTON DRURY: It would be hard for us to say that this operated just by one person. It certainly looks to us that—we talked about we're still having this fight in NCAT. We're still having a fight around GIPAA's. We've got about 18 to 20 GIPAA's. We've just been told by Fire and Rescue that they're turning them into one GIPAA and they're now not going to look into that GIPAA because it's now too much work. That's the sort of systemic things that Fire and Rescue are trying to do to stop us getting information at the moment. This is after Paul Baxter has left. So to say that there are people in the organisation that are not necessarily listening to the winds of change that I think the Government is trying to bring around transparency in governance, that there are people, probably not just in Fire and Rescue but in every other department—certainly, when I talk to other secretaries, they hear the same problems across all agencies, unfortunately.

The Hon. MARK BUTTIGIEG: The acting commissioner this morning—one of the benefits of these committees, I guess, is really listening to these concerns—appeared to me to be quite concerned. But what you're

pointing to is a deeper cultural issue that he's going to have to deal with if we're going to get beyond these problems.

LEIGHTON DRURY: Correct. Yes. Either him or whoever gets the commissioner's job. I think they've got some work to do in that area.

The Hon. MARK BUTTIGIEG: This GIPAA—just walk me through some of the detail of that. You had 20 GIPAA's in. I think there's a provision in the Act, whereby, if they think it's too onerous or tedious or they haven't got the resource, they can say, "It's all too hard. Sorry." So they've consolidated the 20 into one and said it's all too much.

LEIGHTON DRURY: Yes.

JONATHON WRIGHT: There is a threshold, within the GIPA Act, that can provide an agency for some relief. If they think that a single applicant, being the FBEU, has put in GIPAA's of a—I think the phrase is—"similar content", they can bundle those up. Then they can, additionally, reject a GIPAA if it's a lot of onerous work. The problem is that these separate GIPAA's aren't terribly related at all, which is again indicative of more systemic problems.

The CHAIR: I guess now that this has become of interest to this Committee and relevant to our inquiry, we could now be requesting Fire and Rescue NSW, as a supplementary question, to provide us with those documents you've been trying to obtain through the GIPAA process. Perhaps that might be a way to shortcut this. We can do that, definitely.

The Hon. MARK BUTTIGIEG: In evidence this morning from the HSU, I explored this question about consultation with people who live and breathe the work. We've got subject matter expertise who have, obviously, got their own agenda. We understand that unions, rightfully so, advocate for members' wages and conditions. But there is a lot of synergies there because they know all about the workplace hazards, how do we respond to fires quickly, all those sorts of things, because it's their profession. What level have you experienced in terms of the FRNSW's willingness to bring the union onboard to talk about how we can fix things? It seems to me as though—and this is replicated across the evidence across all agencies—there is an almost default position of saying let's bring the consultants in because, number one, it outsources responsibility for decision-making and, number two, it justifies how we can reduce the workforce. There's almost a default position to go to that first instead of saying if we really want to improve things, we might want to talk to people on the ground first-up. What level of engagement has your experience been historically in that respect?

LEIGHTON DRURY: I mean, up until two months ago, exactly as Mr Hayes said and as you put it, terrible. They get to us at the back end of things. Consultation is more about having a conversation than walking out the door for them. Certainly over the last six weeks we've seen, I think, a much more—I won't say totally engaged but they're certainly open to talk about things with us in a way that they've never done before. They're now looking at things. A lot of the conversations we're having are about a lack of firefighters. They've now identified that there is a massive shortage of firefighters. We're obviously going through our award process at the moment and you're looking at a different consultation clause, which will be quite new for Fire and Rescue and that is that you come to the union at the start. We talk to our membership at the start of these things and hopefully come up with a better outcome.

The Hon. MARK BUTTIGIEG: Meaningful consultation up-front rather than tick a box post-decision.

LEIGHTON DRURY: Exactly.

The Hon. MARK BUTTIGIEG: Those structures are all in place—you have consultative committees where delegates get to talk to management about this sort of stuff—but they're not used, or the structures aren't there either.

LEIGHTON DRURY: The structures haven't been there.

The Hon. MARK BUTTIGIEG: Right.

LEIGHTON DRURY: We're about to set all those up once we get our award over the line.

The Hon. MARK BUTTIGIEG: Yes. I think there's this whole theme, too, which we touched on earlier, about how it's important that we get productivity uplift and frontline workers get wage rises to recognise the work they do. In the long term, the Government's keen on productivity uplift but in order to get the credibility to get people's buy-in for that, you actually need to show that you're not wasting taxpayers' money on consultants. Is it the same story in FRNSW?

LEIGHTON DRURY: Yeah, absolutely. Mr Latham, I think, asked Gerard, who said it quite well: Everyone knows who's in a fire truck. Everyone knows we're Fire and Rescue. Everyone knows what firefighters do. We could have bought—how much money was it?—35 new fire trucks. Our fleet has got fire trucks in it that are over 24 years old, so they're the stuff that our members go and get on and get injured by, what is becoming nearly every week now, and wasting money on consultants for no good reason.

The Hon. MARK BUTTIGIEG: Was part of that previous branding exercise or the Plus PR exercise to try and convince the Government, which is kind of what the evidence was from the commissioner—I'm not going to verbal him because he did say it was about educating the public as well. But was a big part of it, in your view, trying to convince the Government that, "You're telling us we've got all these people on the books, all these fires working"—is it a 12-hour shift now they work?

LEIGHTON DRURY: Yes—different rosters, yes.

The Hon. MARK BUTTIGIEG: "And they're not utilised for the full 12 hours because, guess what, there's not fires all the time." Was that part of the internal bureaucracy trying to convince the Government, "Yes, but you get good value out of them because they also do this, this, this and this"?

LEIGHTON DRURY: I believe so. I suppose it's no secret that the previous Government totally underfunded Fire and Rescue. We were a hundred firefighters short when the Liberals got into power in 2011, which has led to the massive understaffing that we do have now, the lack of fire stations being built or being even maintained, and obviously our fleet is an absolute mess. So, yes, I think part of the Plus Plan was to convince MPs to take notice of Fire and Rescue.

The Hon. MARK BUTTIGIEG: But that begs the question that if you want to socialise this with your colleagues internally who are decision-makers about money—Treasury, even the Minister—then don't you just go to them and have a conversation? Why employ consultants?

LEIGHTON DRURY: I totally agree with you, Mr Buttigieg. That's certainly what I do. That's certainly what I've been telling Fire and Rescue to do for now. Even with the previous Government, we took all these problems to a couple of different Ministers and were somewhat ignored by that. No, I agree; I don't think you need consultants to sell emergency services.

The Hon. MARK BUTTIGIEG: Mr Hayes had a rule of thumb that he put on evidence this morning whereby he believes that of the consultant spend you could probably cut out about 80 per cent; you still need 20 per cent for boutique specialist services which are not resident. Do you have a similar ballpark figure for Fire and Rescue?

LEIGHTON DRURY: Probably not, but that sounds about right. There are obviously bits and bobs that are outside of—that are part of our organisation, like designing new fleet and designing things like that. Sure, you might want to bring consultants in for things like that, but outside of that—we've been here for 140 years. Things don't change that much, funnily enough. You go from horses to diesel and we will probably move to electric, but you still need to put water on a fire.

The Hon. MARK BUTTIGIEG: What about the other jurisdictions in Australia? Is the use of consultants in other States better, worse or the same? Do we have any eye over that?

JONATHON WRIGHT: No, we don't. We did analyse what we could find on the consultants' expenses at Fire and Emergency New Zealand, where the previous commissioner had come from, prior to 2017. We did find some similar trends that we're happy to go into, if it's helpful to the inquiry. The common theme between those two agencies was what appeared to be a desire to sort of recreate what firefighting is. If we go back to our opening statements, it's the core operational needs of our members that need to be prioritised by senior management, and we can all but quantify what happens when the senior management don't do that. It's largely negative outcomes for firefighters and substantial issues of trust and faith and priorities. We haven't put a dollar figure on those, but that is also an expense as a result of getting your priorities wrong.

The Hon. SCOTT FARLOW: You cited the Minister's statement with respect to the commissioner, or the former commissioner, on his departure and citing the use of consultants. In any of your five meetings with the Minister before the commissioner was dismissed or your phone call with the Premier, did you request that the commissioner be dismissed?

LEIGHTON DRURY: Sorry, can you repeat the question?

The Hon. SCOTT FARLOW: In any of your five meetings with the Minister before the former commissioner was dismissed or your phone call with the Premier following the election, did you request that Commissioner Baxter, the former commissioner, be dismissed?

LEIGHTON DRURY: I wouldn't have said that I asked for him to be dismissed. What I would say is that I don't think he was very good for the organisation. We hadn't received all the evidence around our GIPAA's back at that stage. Certainly if I had, I would have asked the Minister to do that. It looks like some of the behaviour is quite questionable. Certainly, the evidence around that is. I asked even the member for Cootamundra to say that I don't think Paul Baxter is the right fit. My members, I think, have seen through this person quite early on. They moved a vote of no confidence in the commissioner nearly two years ago in the way that he was leading the organisation. Certainly, I have made it well known that I didn't think he was a good leader for the organisation. I don't shy away from that one bit. But as for meetings with the Minister around that, we talk about, I suppose, a lot of different things. Part of that would have been that obviously Paul Baxter wasn't fit for the role but also the train wreck that, unfortunately, the previous Government has left Fire and Rescue in.

The CHAIR: Thank you so much for your time and your submission and, again, all of that work you have done getting to the bottom of this particular use of consultants. To the extent that there are questions that were taken on notice, or that there will be supplementary questions, the Committee secretariat will be in touch and you'll have 21 days to respond. Thank you very much.

(The witnesses withdrew.)

Dr JULIA ANAF, Research Fellow, Stretton Health Equity, Stretton Institute, University of Adelaide, before the Committee by videoconference, affirmed and examined

The CHAIR: I now welcome our next witness. Dr Anaf, as you are appearing from outside New South Wales, parliamentary privilege does not apply to your evidence given today. I therefore encourage you to be careful about comments you may make during the hearing, and to the media or others after you complete your evidence here today. Did you want to begin by making an opening statement?

JULIA ANAF: I did send an opening statement but I can just recap that. I was thanking the Committee for the opportunity to speak today and I just wanted to say that my submission is informed by broader research that we are currently undertaking on the commercial determinants of health, or the systems, practices and pathways by which the private sector affects health. These pathways are many and varied but one we have found is the growing use of private consultancies in the public sphere.

Of course there will always be a need or occasions for this expertise but the level at which it is now, we believe, has led to the hollowing out of the State and the public service expertise, the loss of frank and fearless advice and institutional memory, and a lot of conflicts of interest within this sphere, including a loss of taxation through different practices that could otherwise go towards health and social investments for the public good. We would say that managing conflicts of interest is very important and it will involve greater transparency, accountability, stronger regulation, restoring the capacity of the Australian public service and providing strong whistleblower protections. That's an overarching view.

The CHAIR: Thank you for your submission and for the work that you've been doing in this area. Conflicts of interest has become a large part of the work that this Committee has been doing in this inquiry. I wanted to go first to what they call "walking both sides of the street". Today *The Guardian* reported one of the findings we had raised in a hearing last month, which was EY being both a critical part of a policy document in relation to the future of gas in New South Wales, as well as being the auditor for Santos. Can you explain to the Committee why that matters and why despite a firm saying they put in place an integrity wall—or whatever they're calling it these days—walking both sides of the street matters?

JULIA ANAF: It means that you really have to decide which side you're going to be on. You cannot really be working in the interests of both the public interest, the public good, and giving the same commitment to protecting the vested interests and the private interests of private corporations and other entities like that. It would be very difficult to straddle both of those fields. But walking both sides of the street is also when you have companies providing, say, both auditing services and then also advisory services or supportive or facilitative services. Those are two very different areas where conflicts arise there, of course, as well.

The CHAIR: One of the more shocking things about the report from today is that EY are apparently saying that they didn't disclose this as a conflict of interest because they didn't see it as a conflict of interest. I'm not sure at what point we allow consulting firms to tell us what they think is a conflict of interest, but what is your view of that approach—that they didn't need to disclose it because they didn't even begin to see it as a conflict of interest?

JULIA ANAF: The most basic understanding about having a key position and then a secondary position is key interests, and then having a secondary interest that will take you over, so to speak, is a huge conflict. I don't know how that can be managed. To say that you don't need to disclose because you didn't understand is a little bit like "I don't need to understand" or "I didn't go to the trouble to understand". These are very important issues that should be—I suppose people talk about Ethics 101. Before anybody joins a business or a public sector role, it should be made quite clear what conflicts are and how you're easily compromised. These must be disclosed and you can disclose them. It may not be able to prevent conflicts, but at least disclose them. You really must know that you are up for a conflict. It should be quite clear from the beginning, really.

The CHAIR: Even if it was disclosed, should that work have been undertaken? In your view, do we need to break up those firms to ensure that the auditing function doesn't bleed over into the consulting work?

JULIA ANAF: Yes, there's a tax ethicist, George Rozvany, who's the head of the International Tax Ethics Centre in Sydney and he talks about this. Many other commentators for many years have talked about how these firms are too big to fail and too big to indict, and they need to be broken into the auditing arm and the other arm of advice on tax and other issues. But not only should they be split that way but the firms themselves should also be split into more than one firm. There should be at least eight entities out there in this field to allow for proper competition and the firewalls between their roles so that, if one does have to be litigated against and does have to fold up, there's still plenty of competition. That's my understanding from reading the international literature: governments are too frightened to indict or too frightened to let companies fail, a little bit like the banking crisis

in 2007-08 in America. These entities are so powerful. They apparently appear to be more powerful than government sometimes. That view is quite widespread about the need to split these firms, both in number and in roles.

The CHAIR: I think that's one of the bits that we haven't really focused on. We've been talking about the roles of these consultants and consulting firms and being influenced by what else they're doing but you talk about this concept of "too big to fail", which, as you say, has been used predominantly in relation to the banking industry post the global financial crisis. But, in terms of the importance of preserving that audit function as an independent, accurate and ethical enterprise, that has become incredibly important for the operation of the financial markets. There is a risk, isn't there—and perhaps we won't see it until there is another crisis—that that audit function isn't working as well as it should be, and that then has far greater impacts on the financial markets.

JULIA ANAF: That's right. I haven't got the actual details here at the moment but I remember reading that the global financial crisis was exacerbated in the US because the consulting firms or the auditing firms were selling so-called packages of financial goods to people and then also auditing to say that those goods had resulted in a perfect audit. There was nothing to show wrong with the books, when the books were actually wrong. Of course, it's always the poorer people who suffer from the job losses and things like that when companies fail because the books are wrongly audited or they have these cosy relationships. So that was a big problem in the global financial crisis to say, "Everything's alright here," when actually it wasn't. Auditing services have to be 100 per cent in the public interest and, correct, not something that can be glossed over.

The CHAIR: Can we talk a bit about this management of conflict of interest? I think it's one of these terms and concepts that's not very well understood. A lot of the reaction we've had so far when we've talked about conflicts of interest with witnesses in this inquiry who we feel potentially haven't managed their conflict of interest well is that they say, "Well, I disclosed that," as though that's the end of it: As long as you're excluding yourself from specific decisions that include a particular past employer or another interest that you have, then that's fine. But what we've been seeing on local health district boards in particular is that, even though an ex-consultant sitting on that board might not be giving work to the firm that they used to work at, there is a bias towards giving consulting work, potentially. Is that something that you have uncovered or looked at in other areas? Can you talk to us about that?

JULIA ANAF: It's a little bit like people with like interests are going to—say, people with particular private interests supporting private enterprise above the public good are more likely to refer to people with the same value systems. These people could refer to research institutes or places that will give frank and fearless advice in the public good. But you often see this revolving door between people from one consulting group going to another or from consulting groups going into government and vice versa. One commentator I heard talked about this sort of boundary slippage as being like a solvent, dissolving the boundaries between the public and the private.

So the more private firms that come into the public sector, the more attuned to those interests become the public servants, the less skilled they are and things like that. So there is maybe an automatic bias towards whoever you see as your own, whether it is another consulting firm or another big business. So I think it's very hard to say you disclose a conflict and that's that. How is that going to really colour what you do in your work? It's one thing to say, "By the way, I must declare that I have a particular relationship with this person, but it's not going to affect the values of what I'm going to do in this work." I think it's very hard to keep that separate.

The Hon. BRONNIE TAYLOR: Thank you very much for coming today to give evidence. I'm also online. I'm interested in fleshing out your comments about conflicts and that it is one thing to declare them but to then think that that's over with is probably—will demonstrate that it's not effective, potentially. You mentioned relationships. If people do declare an interest and they have responsibility over something and they have a relationship, how then, once they've declared that, should they manage that? For instance, some of the original evidence that was given to us by the Independent Commission Against Corruption in one of our hearings said that, to manage those, you need a transparent plan of how you are going to manage that conflict, and then that plan has to be continuously reviewed. That was the evidence they gave. What would be your comments on that in light of what you just said about how difficult it is, particularly when it is relationships?

JULIA ANAF: That transparent plan is something that I understand New Zealand has. It's called a procurement plan, and I've got it here somewhere. Every year they have to declare all of their procurements and, through a very transparent policy, looking at—it's called the Procurement Capability Index framework. This is what people have to follow, looking at the strategies and commercial and social outcomes of what they do—governance and assurance, risks and benefits and all of this planning. Every year they have to go through this to see how they've been managing procurements in New Zealand in a very transparent plan.

The Hon. BRONNIE TAYLOR: If there was a situation where an individual, organisation or a local health district was not wanting to make that plan transparent and not offering that up as a plan of management to deal with a conflict of interest, would that raise red flags and alarms for you?

JULIA ANAF: I think anywhere that didn't want to disclose or have a plan or an idea—I wonder why that would be. That would, I think, raise a red flag. I'm not talking about a particular health network or anything like that, but anywhere that doesn't want to disclose or be transparent, it would worry me, but—

The Hon. BRONNIE TAYLOR: Yes. So it is important as well, because then, if you can see the plan and the plan is transparent about managing the conflict of interest, there's nothing to hide?

JULIA ANAF: No, that's right. I would imagine, at some point, somebody that has got very deep conflicts, in some way—I can't think of a hypothetical scenario—should maybe just recuse themselves from taking on a role. It's going to be very difficult to negotiate, even if there's a plan out there—a clear plan. I don't know how you can't be necessarily captured by these conflicts. But it would be a matter of having a plan, having it rigorously checked and being open to defending your position. Maybe that would happen. But I think you see a lot of situations where people, even within Parliament, will recuse themselves because of conflicts, or in business or even in research.

The Hon. BRONNIE TAYLOR: Thank you very much, Ms Anaf, for those comments. I agree with you that one would hope—

The Hon. MARK BUTTIGIEG: Could I ask a follow-up on that, Professor? We have explored this in previous evidence, I think. There's a qualitative judgement, I think, that would be made. We've heard evidence from local area health districts and various organisations and agencies within government whereby it's very important that a conflict is declared and that the public are aware of that because of the nature of the bureaucracy, where the public wouldn't normally be privy to what the agency is, let alone a potential conflict. It's important that that thing is put up-front. When it becomes a subject of matter in the public arena and becomes politicised, it takes on a different nature, doesn't it, by virtue of the politicisation of it? Would you accept that?

JULIA ANAF: It depends, I suppose, on what the political angle is in the press or in the public sphere.

The Hon. MARK BUTTIGIEG: My point is, just to tease that out a bit, that if the subject has been very well aired in the public arena via media and the Parliament, that in itself provides an extra layer of scrutiny, doesn't it, of the issue itself?

JULIA ANAF: Yes, it lets some light in, I think is the term. But it depends on whether the information out there is truthful or whether it's misinformation, deliberate or otherwise. Just because it's in the media, it doesn't necessarily mean that the public are getting the right story. But if the media is doing its own frank and fearless work—

The Hon. MARK BUTTIGIEG: Faithful reporting, yes.

JULIA ANAF: —proper reporting, then I would imagine that should be seen as a positive thing.

The Hon. BRONNIE TAYLOR: I suppose, too, further to that, when the media is pursuing something it is even more important to be transparent.

JULIA ANAF: That's right, yes—and for the media to be properly doing their job as well.

The CHAIR: If I could bring it back to another issue we have been discussing, obviously we've been talking a lot about how we've got a lot of consultants and ex-consultants sitting on government agency boards, and we're talking about the conflict of interest register, the processes they might follow and whether they have a management plan for managing conflicts et cetera. But we've also discovered in the course of this inquiry a huge number of consultants being involved in boards not in an official way. We now know of a thing that they're calling the Observership Program that PwC is part of, and also of these mentoring arrangements where consultants have access to board deliberations without being board members and so they are not subjected to those standard directors' duties and conflict-of-interest expectations. Who should we be looking at in those circumstances to regulate what would create some sort of conflict of interest, you would think, in that scenario—or at least some potential for information to flow back into the organisations they're working for?

JULIA ANAF: I would say that stronger regulation in any field is the role of government—to not be undermined or allow itself to be undermined by private interests. We see this sort of thing happening around the world: people, I think they say, "getting a seat at the table"—big commercial actors getting a seat at the table—whereas NGOs or civil society people don't get the same right to know what's going on and so there's a power imbalance. It's the Government's role to come up with proper regulation, not only of consulting firms but other huge corporate entities—banks, whatever it might be. It can't really be a smaller player because it's a democracy.

We should be expecting our governments to take on the responsibility to be ahead of and more important than an enormous financial giant. That's how I'd read it as a layperson. I'd want my government to be there for the public good and not allowing people to inveigle their way into their deliberations who haven't been voted in or haven't got public backing. I think it is the role of government. I don't know how that would be done; I'm not in that field. But who else other than government can do it, unless it's an independent board. But then who pulls together an independent board? Who has a say on who's on that independent committee? There are all those questions. Ultimately, the Government is here for democracy and for the people.

The CHAIR: I have two questions. In that sphere of looking at the New South Wales government agency or public sector boards, is there a case for greater transparency around who exactly is attending those board meetings and in what capacity? Also, given what we are seeing with this overuse of consultants in New South Wales, should we be looking to restrict the numbers of consultants who can sit on or advise these boards?

JULIA ANAF: If they're going to have consultants on a board, they may well have some valuable information to offer government, but that should definitely be balanced by having somebody supporting the public interest, civil society actors. The same as in any setting, there should be a balance; otherwise you're going to have vested interests having much more power to influence government than representatives of the broader community. I wouldn't say you should never have a private consultant on a government committee if that person is called upon on a very strict basis for some particular expertise, but there shouldn't be a right to be sitting there and having equal power to our elected members. If you're going to have consultants being invited, then you do need to have, on occasion, civil society or public sector actors being included.

The CHAIR: That's very useful. Do any other Committee members have any further questions at this point? Mrs Taylor, do you have anything further online? No? She doesn't think so. That winds up this session of the hearing. Dr Anaf, thank you so much for coming along and giving us the benefit of your expertise and for your excellent submission. To the extent that there are supplementary questions, the Committee secretariat will be in touch. Ordinarily, you have 21 days to respond to them.

(The witness withdrew.)

(Luncheon adjournment)

Ms NANCY MILNE, OAM, Chairman, Accounting Professional and Ethical Standards Board, sworn and examined

Mr CHANNA WIJESINGHE, Chief Executive Officer, Accounting Professional and Ethical Standards Board, affirmed and examined

The CHAIR: Would you like to begin by making a short opening statement?

NANCY MILNE: Yes. Thank you for inviting the Accounting Professional and Ethical Standards Board, APESB, to appear at this inquiry. APESB develops and issues professional and ethical standards for members of the Australian accounting profession. It is a public company limited by guarantee that functions independently of the accounting profession and is governed by a board of non-executive directors. APESB has developed a robust, comprehensive suite of Australian professional and ethical standards, which are benchmarked to the international standards issued by the International Ethics Standards Board for Accountants, IESBA, and the International Auditing and Assurance Standards Board, and which codify global best practice.

Compliance with APESB's code of ethics and ethical standards is mandatory for members of CA ANZ, CPA Australia and IPA, the member bodies or professional accounting organisations in Australia. APESB is also a significant participant in the development of the IESBA's international ethical standards, which are contained in a code of ethics that is adopted or used in over 130 jurisdictions, including, substantially, all western economies. The CEO of APESB, Channa Wijesinghe, who is with me here today, is a public interest board member of the IESBA and participates directly in the international standards development process.

APESB's mandate is to develop and publish ethical standards. It does not include monitoring or enforcement activities, which are the province of the member bodies. Our code of ethics sets out fundamental principles of ethics which underpin the profession's responsibility to act in the public interest. These principles establish standards of behaviour expected of a member. The fundamental principles are integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

We are disappointed with the observed ethical failings in the conduct of large firms providing services to government. We are especially disappointed that the reported failings have occurred within firms that have been required to comply with the code of ethics and the ethical standards of the APESB which are clear in respect of fundamental ethical obligations, including maintaining confidentiality and identifying and addressing conflicts of interest. It is our view that it will always be possible to improve professional standards. However, failures to observe appropriate ethical practice will not be prevented without processes that will ensure compliance with standards, which requires a robust system of monitoring and compliance, and the imposition of appropriate sanctions upon the few who fail to comply. Last week we held a workshop with some key stakeholders to consider how the current regulatory framework can be enhanced, as we believe that the current arrangements are not working and a package of measures is required. I'll hand over to Channa now to talk about those measures that we are considering.

CHANNA WIJESINGHE: Thank you, Nancy. The potential measures—and these are APESB's preliminary views of measures or actions that might be taken to address the issues that have arisen in the accounting profession, which need to be further researched and consulted upon. The first one is provide legislative backing for APESB's ethical standards by moving APESB under the oversight of the FRC consistent with the other Australian accounting and auditing standard setters. The APESB should develop a standard that focuses on large firm culture and governance in the Australian environment based on the UK FRC's audit firm governance code. APESB, in conjunction with IESBA, both work strengthening the global code on issues that impact firm culture and governance. APESB considers the development of a professional standard for management consulting.

Enhance transparency of large firms by requiring them to prepare general purpose financial reports, including remuneration disclosures, and subject them to audit, and establish an independent body to monitor all professional accountants who are not subject to statutory regulation or regulatory oversight, including taking enforcement actions where appropriate. This body should prepare an annual report of its monitoring and enforcement activities to enhance public trust.

Enhance the existing ethics module of the professional programs and continuing professional development by increasing the coverage of APESB standards. Whilst notable recent events are associated with large international accounting firms, we anticipate that the inquiry will encounter issues with professional and ethical behaviour that are not confined to the accounting profession. Accordingly, we encourage the inquiry to consider the opportunity to establish a rigorous code of ethical behaviour that would be applicable to all firms or persons that contract with, and provide, any form of professional services to government. We support this inquiry and are happy to answer your questions.

The CHAIR: I absolutely hear you when you say that the APESB does not have any monitoring and enforcement powers. I think, as part of this inquiry, we've been really focusing on this network of quasi regulation. We have this sort of self-regulation model within these firms, it appears, with multiple bodies being responsible for members. Then we have, as you say, the APESB setting standards of behaviour expected by members of those bodies. When we look back at the last few months and all of the attention that the industry has had on it—we've had obviously the PwC tax advice scandal. Before that we had the KPMG TAHE debacle.

There was the PwC education investments issue; the EY Broderick report into workplace culture; KPMG defence contracts issues; Deloitte's misuse of confidential government information; this cosy relationship between all four big firms and the tax board, including hosting tax board meetings in big four offices; Deloitte's failure to disclose a conflict of interest to Home Affairs and also with the Australian National Audit Office; the information reported today in relation to Ernst & Young and the Santos conflict; Deloitte's misuse of government information nine times last year and 18 times the year before; KPMG's 88 internal complaints about staff conduct last year, majority classed as code of conduct breaches; Deloitte's 121 instances of misconduct in the last financial year, with 13 including partners, and 78 instances the year before; and accusations during this inquiry by the Audit Office of "loss-leading" on auditing of local governments. That is just some of what the public has heard. You say that you were disappointed by some of these revelations. I think a lot of Australia is furious and, being on this inquiry, I am becoming increasingly more furious. Does this meet the standard of behaviour expected by members of the accounting profession?

NANCY MILNE: No.

The CHAIR: You listed the potential recommendations for how we might turn things around, some of those were standards for managing consultants, things of that nature, but it is glaringly obvious that what is missing is the aspect of enforcement and monitoring. I know that you touched on that but, without that piece, without someone who is able to deliver real consequences for wrong behaviour, are those codes of conduct worth much?

NANCY MILNE: I think that they are worthy but without proper monitoring and enforcement it seems that we are not going to have a situation where they are going to be voluntarily adhered to by some members of the profession. I make the point that the accounting profession is a very large profession and the instances you've identified seem to be within the larger firms. Even at those firms there are a lot of very good people who are adhering to our standards and other standards, but it is clear that there is a systemic problem that needs to be addressed. It is not dissimilar in many ways to what was unearthed in the banking royal commission. The parallels are quite apt. We think there needs to be some real action.

The CHAIR: Does there need to be structural reform in terms of breaking these big organisations up?

NANCY MILNE: I'm not sure that that will actually solve the problem, and it may cause other unintended consequences. One of the benefits of having these large firms is that you do have access to specialist knowledge within those firms that is able to be accessed, for example in audit or even in consulting. If you look at what the UK has done, there may be some examples there of how you can have some form of separation that isn't actually throwing the baby out with the bathwater.

The CHAIR: When I left university and went into law, I remember very clearly at that time law firms were law firms, banks were banks and accounting firms were accounting firms. Those firms did accounting work and audit, but the management consultancy work was very much a different type of beast. We now have these accounting firms that are so far beyond their original formation taking on management consulting. Think whatever you will of this, but I know when I read that Ben Roberts-Smith had been offered a job at PwC as a partner—there are so many people now who are getting these partnership positions in what were accounting firms that don't have any accounting experience. A lot of them have government executive experience and they are going in still wearing that same badge that these accounting and auditing firms that were very well respected at the time used to have, sort of trading off of that reputation that the accountants and auditors had for integrity. Is there a need to wind that back when we are talking about splitting up these big entities, sort of hiving off that consulting arm from that accounting and auditing work?

NANCY MILNE: I think that's difficult. Not impossible, but, as I said, I think there are some advantages in having the different fields of expertise under one banner. But it is something that probably requires more consideration and, of course, there is a Federal Government parliamentary joint committee that's going to be looking at those issues as well. Channa may want to say something about this too.

CHANNA WIJESINGHE: I think with respect to the separation, when you look at the turnover numbers that the firms disclose in their transparency reports, you would see that the audit business is roughly about 15 per cent, and then the non-audit services to audit clients is about, let's say, another 7 or 8 per cent and you round it up—say 25 per cent of the business is coming from audit clients and 75 per cent is coming from non-audit

services to non-audit clients. I think you need to address the 75 per cent and that's where a lot of the recent problems have been unearthed, and the audit side is probably more used to regulation. They have ASIC coming and overseeing their activities as well. While the UK has gone the route of virtual operational separation by having separate governance boards over the audit and non-audit businesses, which at the moment only applies to the big four, I think you have to address both the consulting side as well as the audit part of the business.

The Hon. SCOTT FARLOW: To clarify, when you say the audit and non-audit side, so the audit side and then ancillary services, do you include taxation and the like in that? Or would that be in the other 75 per cent?

CHANNA WIJESINGHE: No, it would be whatever you provide for the audit clients.

The Hon. SCOTT FARLOW: How much would you say, for instance, a big four would be on accounting products? Whether it be taxation or whether it be audit or the like, how much would be covered by your membership base, effectively, or people who were governed by your rules through one of the three constituent membership bodies?

CHANNA WIJESINGHE: I can't say what the numbers would be because those would be with the member bodies. We don't have any membership data as such at the APESB. Just going by the transparency report, that's what I can gather, that the audit and associated non-audit services to the audit clients is roughly about 25 per cent.

The Hon. SCOTT FARLOW: The theory is that there is recourse. In terms of people who are covered by your rules, people who are members of the constituent bodies, even though that regulatory framework may not be ideal, there is still some form of recourse. Whereas, as we have discussed in this inquiry already, if you're an economist, there's no constituent body and we had that evidence yesterday. If you're providing general advice, there's no constituent body that you need to be a member of either. So it's just trying to get to that in terms of where the recourse is for any breach that may occur from such people and what rules govern them in their operation with government as well.

CHANNA WIJESINGHE: Yes, that's where one of our recommendations is—the accounting and auditing standards are law under the Corporations Act—to also make the APESB standard law, so then you would be, in effect, breaching the law and then there will be consequent penalties for that.

The Hon. SCOTT FARLOW: But would that then apply to people who weren't working in an accounting capacity?

NANCY MILNE: It would depend on the legislation.

CHANNA WIJESINGHE: Yes, it would depend on the legislation.

NANCY MILNE: It would possibly be open for legislation to make that provision.

The CHAIR: That's a really good point because it brings up the difference—and we heard this before—with, for example, the legal profession. Lawyers are subject to a bunch of rules and requirements, and the consequence of not complying with those rules and requirements is being struck off and unable to be a practising lawyer. I think part of the problem we have here is that every time we ask anybody a question about their use of consultants or accountants, they come back and say, "Yes, but they're subject to all these rules. They sign off to say that they abide by this code of ethics", and it creates a self-regulatory measure. It creates, what I see as, a false assurance that these people are bound by those rules, that they're bound to act in an ethical way. But what we've discovered in this inquiry and through the Senate inquiry is that they're not really bound because there are no consequences if they don't do the right thing. That sets accounting apart, in a different way, I guess. We're looking at these consulting firms; they have the air of regulation without actually being regulated in practice. Do you think that's fair to say?

NANCY MILNE: Yes, I do.

The CHAIR: If we were to give legislative backing to the APESB rules and guidelines—and, I apologise, I don't know what the APESB looks like from a governance perspective—presumably, the board itself would have to be constituted in some way or overseen by government as well. Is that how you would envisage it?

NANCY MILNE: We would envisage it, and it would be similar to the way the auditing standards board operates and the accounting standards board at the moment.

The CHAIR: You said you have an independent board of non-executive directors. Where are they sourced from at the moment? Would you expect that that would have to change if there was a legislative framework?

NANCY MILNE: The current arrangements are that the APESB is a company limited by guarantee. Its members are the three accounting bodies—CA ANZ, CPA and IPA—and they are responsible for funding. Each

of those member bodies, under the constitution, is entitled to appoint two directors, and the chair is then appointed by those directors. The chair cannot be an accountant or member of any of those bodies. Therefore, I'm a former lawyer, not an accountant, and I'm appointed by the other six directors. Each of those directors fulfils a non-executive capacity and acts independently of their appointing body. In practice, that's how it operates.

The CHAIR: Thank you, that's really useful. Jump in, Dr Kaine, if you want to. If did have that, that would then address those people in these consulting firms who are members of CA ANZ, CPA or IPA. But then that leaves—and this is what you were getting at before—those people who are management consultants working within these firms. So is that the proposal that you were talking about before that we would end up with some sort of additional code or standard of behaviour that would govern those people within these firms? And, if so, would that be something that the APESB would be responsible for or are you proposing a different body for them?

NANCY MILNE: That would be one possibility. Obviously, this is something that requires further consideration and exploration, but it would be one possibility that the ethical code and the standards could be expanded. At the moment, we're dealing with a related situation in relation to sustainability. Obviously, sustainability involves many areas of expertise other than accounting, and there are a number of inquiries going forward internationally and nationally in terms of what sustainability standards and obligations will look like.

Channa will correct me if I'm not right here, but there is an attempt internationally to make sustainability standards, which are being prepared at the moment by the International Sustainability Standards Board to make them profession-agnostic. So there is consideration going on at the moment about those kinds of developments. Obviously, that sort of expansion would require further thought and consideration. But it's something, given what has happened, that we think is well worth putting some effort into to see if something could be developed. It may involve APESB, ultimately. It may involve another body. But it seems to us that there's probably a need for something like that.

CHANNA WIJESINGHE: In Australia, currently APES 110 is referred via ASA 102, the auditing standard. Effectively, all auditors in Australia need to comply with APES 110, whether they are a member of a body or not. Separately, the SMSF audit regulations also refer to APES 110. Effectively, that's the code of ethics and independence standards that corporate auditors and SMSF auditors need to comply with.

Going back to Nancy's point on sustainability, the International Ethics Standards Board has made the decision that they are going to develop the sustainability ethical and independence standards—particularly the independence standards—in a professionally agnostic manner. For disclosure, I'm on the sustainability independence work stream at IESBA. That is because IOSCO, the international regulators, have said, "You can't develop this and limit it to accountants, because globally there are a lot of people involved in sustainability assurance. You need to open it up so that accountants and non-accountants alike can access this." That is the reason why IESBA is developing the sustainability independence standards in a professionally agnostic manner.

The Hon. Dr SARAH KAINE: At the moment, the sustainability example you're giving is an example of a type of professionally agnostic standard. You're not suggesting that somehow what we're talking about here is going to be captured in that—more that that's a model.

NANCY MILNE: Yes.

The Hon. Dr SARAH KAINE: Thank you. I just wanted to check.

The CHAIR: It's really interesting. I said before how some of these consultants come into these firms and appear to have no particular professional experience previously, but then there are people within these firms who are accountants and lawyers and everything else, all together. It's a real mixed bag of expertise sitting within these consulting firms. If there was even a suggestion that if you were employed by one of these big firms then it wouldn't matter which kind of professional body you were subjected to, you would have to comply with this overall code, that would seem to be a start and a step in the right direction. Is that something that you have seen in other jurisdictions, other than the sustainability issue? We can't be the only people grappling with this now. Are there other jurisdictions—and Mr Primrose isn't here to ask this question—that we can look to as the gold standard for how we might be regulating these consulting firms?

CHANNA WIJESINGHE: I can't, off the top of my head, think of an example where it's directed at consulting. But generally, for auditing, the way they do it is like the UK FRC. The UK FRC's board sets standards, as well as the annual monitoring and enforcement. They issue ethical standards which will apply for public company audits, regardless of who does it, because it is in-effect law. The only way you can get it to apply to everyone is by legislating.

NANCY MILNE: Of course, government could also have some requirements in their procurement arrangements. We would see that as something that is certainly a good opportunity for government, because I suspect any legislative change is going to take a long time.

The CHAIR: Can you clarify what you mean by that? In our procurement processes—

The Hon. SCOTT FARLOW: We could require a membership or an adherence to a standard or the like as part of our procurement pre-qualification.

NANCY MILNE: Yes.

The Hon. SCOTT FARLOW: In terms of your body—and I'm just googling this—in 2006 you were set up by both Chartered Accountants Australia and New Zealand and also CPA Australia. Is that correct? And the Institute of Public Accountants became a member or part of the organisation at some point. Looking at expanding that brief to consulting services and the like, we're spending a lot of time talking about the big four but, of course, the constituent members of Chartered Accountants Australia and New Zealand or CPA Australia are much broader than the big four. I imagine a suburban accountant may say, "This really doesn't impact my business. I shouldn't be paying for a regulatory system or contributing to a regulatory system for consulting when that doesn't impact what should be my membership in accounting." Is there perhaps another organisation that might be needed in terms of that management in consultants where it does cross across the whole range of disciplines?

NANCY MILNE: It's certainly a possibility, I think.

The Hon. Dr SARAH KAINE: Or circumvent and just regulate. From what I'm hearing from you, you don't necessarily need a third-party body if you do some direct regulation.

The Hon. MARK BUTTIGIEG: In this paragraph in your submission, titled "Monitoring, enforcement, and collaboration with regulators", you make the point:

... APESB's mandate does not include monitoring and enforcement. The three professional accounting bodies and regulatory authorities (i.e., ASIC, ATO) are responsible for monitoring and enforcing ...

Are there examples that you're aware of where this sort of monitoring and enforcement has happened on a frequent or large scale? Is that a reactive system where someone will bring a complaint to ASIC or the ATO and then they do something about it, or is there proactive oversight?

CHANNA WIJESINGHE: At certain points, ASIC and the ATO might come to us and say, "We need some strengthening of the standard", and then we will take action. For example, we were looking at the non-assurance services provisions and, based on international standard, as well as some representation from ASIC and the ATO, we strengthened it and a new standard became effective from 1 July 2023. In those instances, the ATO and ASIC officials will come and speak to us and tell us certain things they are observing and where to strengthen. They might give suggestions to the board on where to strengthen the provisions, and then the board will take it on board and work on the provisions. They may not tell us about the actual cases—particularly the ATO is very careful on their communication.

The Hon. MARK BUTTIGIEG: But if there's a systemic problem, they'll come to you and say, "We think there's a gap that needs to be"—

CHANNA WIJESINGHE: Yes.

The Hon. MARK BUTTIGIEG: But then, if you've got no enforcement powers, they're outsourcing responsibility to you, are they, in a way? They're saying, "Fix all this up so that your membership are aware that this is the new standard." But, at the end of the day, if I'm an accountancy firm that wants to game the system, I'm like, "They've got no real enforcement powers. So as long as I don't fall foul of the ATO or ASIC, I'm right." There seems like there's systemic weaknesses in the government's defence here?

CHANNA WIJESINGHE: Once we change the code, as I said before, because it's already referred to by an auditing standard, which is a legislative instrument, and it's incorporated in SMSF regulations, which refers directly to APES 110, it's the law. Then ASIC and ATO can take whatever action necessary.

The Hon. MARK BUTTIGIEG: So they're aligning your criteria with their requirements so that it's prosecutable if they want?

CHANNA WIJESINGHE: Yes.

The Hon. MARK BUTTIGIEG: But we don't have any oversight on how proactive that is, I guess. No.

The CHAIR: Presumably, it won't help New South Wales either, if it's the ATO. They won't be—

NANCY MILNE: It's probably also worth mentioning monitoring. Monitoring is within the realm of the professional bodies—CA ANZ, CPA and IPA. They each run a quality review system or regime whereby, as far as we know, they actually do review most of the smaller and medium practices within the accounting profession. I don't know whether it is worthwhile for the inquiry to actually look at the quality review regimes a little bit more. As ASIC has performed an annual review of the big four firms as part of their yearly audit inspection program, CA ANZ performs periodic reviews to avoid duplication of efforts.¹

The CHAIR: Interesting.

The Hon. MARK BUTTIGIEG: Does that mean it's opt-in?

NANCY MILNE: No. I don't think it does mean it's opt-in.

The CHAIR: They're in the too-hard basket.

NANCY MILNE: There's been something that—I don't know. Do you know why the big four aren't part of the quality review program?

CHANNA WIJESINGHE: I think, if you step back—about 10 years ago, which was before pre-merger, ICAA did do a quality review report and showed the quality review activities they'd undertaken. It was an annual public report, which fell away after the merger. Then, I think, they came to an understanding with ASIC: that, because ASIC is reviewing, then it's a bit of duplication. Then at times, there were surveys done and light-touch reviews. But the problem with that is ASIC's mandate is over audit. ASIC's mandate doesn't cover other areas.

The CHAIR: Can we just go back to that suggestion you were talking about before. I'm quite interested in things that we can do to improve matters in the short term. But, when we look at the procurement processes, even if we were to put for government to have a new requirement—that consulting firms that it did business with had to see themselves as compliant with a particular APESB, not just for their accountants but also for their consultants within the firm—we're doubling down on the same thing that's been happening in the past decade, which is tick a box of getting these consultants to assure us that they're doing the right thing but there being no consequences for that breach. Is there any part that APESB could play in terms of rules for its member bodies to follow when it comes to a breach of these? Could you put out something that basically says a bit of guidance for those member bodies that, when there is a breach of the standards that we expect from your members, that they actually face some consequences?

NANCY MILNE: I think that would be a substantial change to our current remit. I guess it's not impossible but it certainly wouldn't fall within our constitutional remit at the moment.

The CHAIR: Which is, of course, directed by the very bodies that you would be seeking to—

NANCY MILNE: Precisely, and I think that's one of the reasons why we see that situation should not continue. I think it has to be remembered that the professional bodies did a very good thing in actually saying, "We will fund this organisation and bring it into existence and enable it to function", but time has moved on and there's probably a need for some kind of evolution.

The CHAIR: Absolutely. Thank you so much. It has been really useful hearing from you and having the benefit of your submission. I'm also really heartened to hear that there have been some proactive moves to try and work out what a better regulatory system might be. It's been incredibly helpful to talk through some of those ideas today. To the extent that there were questions taken on notice, or there might be supplementary questions, you'll have 21 days to respond to those and the Committee secretariat will be in touch. Other than that, that concludes our hearing for today. Thank you very much.

(The witnesses withdrew.)

The Committee adjourned at 15:10.

¹ In [correspondence](#) to the committee received 15 August 2023, Ms Nancy Milne OAM, Chairman, Accounting Professional and Ethical Standards Board, provided a correction to their evidence.