

# **PORTFOLIO COMMITTEE NO. 6 – PLANNING AND ENVIRONMENT**

**Friday, 7 September 2018**

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

## **ENVIRONMENT, LOCAL GOVERNMENT, HERITAGE**

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

### **MEMBERS**

The Hon. Paul Green (Chair)

The Hon. Lou Amato

Ms Cate Faehrmann

The Hon. Shayne Mallard

The Hon. Matthew Mason-Cox

The Hon. Mark Pearson

The Hon. Peter Primrose

The Hon. Penny Sharpe

Mr David Shoebridge

### **PRESENT**

**The Hon. Gabrielle Upton**, *Minister for the Environment, Minister for Local Government, and Minister for Heritage*

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**



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**The CHAIR:** Good afternoon and welcome to the public hearing of Portfolio Committee No. 6 and its inquiry into the 2018-2019 budget estimates. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay my respects to the elders past and present of the Eora nation and extend that respect to other Aborigines who may be present today or listening online. I welcome Minister Upton and accompanying officials to this hearing.

Today the Committee will examine the proposed expenditure for the portfolio of Environment, Heritage, and Local Government. Before we commence, I make some brief comments about the procedures. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record the Committee members and witnesses, people in the public gallery should not be the primary focus for any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments you make to the media or others after you complete your evidence as such comments may not be protected by parliamentary privilege if another person decided to take action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

Delivery of messages from the advisers or members of staff seated in the public gallery should be through the secretariat. Minister, I remind you that the officers accompanying you are free to pass notes and refer directly to your advisers seated at the table behind you. Transcripts of hearings will be available on the website tomorrow. If anyone has difficulty hearing, there are seats at the front close to the speakers. I suggest that mobile phones be turned to silent, or the volume turned down. All witnesses from the department, statutory bodies or corporations will be sworn prior to giving evidence. Minister, you are exempt as you have already taken an oath as a member of Parliament.

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**TIMOTHY HURST**, Chief Executive, Office of Local Government, sworn and examined.

**ANTHONY LEAN**, Chief Executive Officer, Office of Environment and Heritage, affirmed and examined

**ANISSA LEVY**, Acting Chair and Chief Executive Officer, Environment Protection Authority, affirmed and examined

**MARK GIFFORD**, Chief Environmental Regulator, Environment Protection Authority, affirmed and examined

**PAULINE McKENZIE**, Executive Director, Heritage Division, Office of Environment and Heritage, affirmed and examined

**The CHAIR:** I declare the proposed expenditure for the portfolio of Environment, Local Government, and Heritage open for examination. As there is no provision for a Minister to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. PENNY SHARPE:** Today is National Threatened Species Day. Are you able to explain to the Committee how we define threatened species in New South Wales?

**Ms GABRIELLE UPTON:** There are a number of levels of protection which apply to species across our State. There are ways in which this Government is sustaining their future. You would be familiar with our Saving our Species program—

**The Hon. PENNY SHARPE:** No, that is fine. Minister, I am asking how we define threatened species.

**Ms GABRIELLE UPTON:** —\$100 million over five years.

**The Hon. PENNY SHARPE:** I understand. I am very familiar with Saving our Species.

**Ms GABRIELLE UPTON:** Some of the species that we are protecting better through that program of funding you would be familiar with.

**The Hon. PENNY SHARPE:** I am asking you about the definition of "threatened species".

**Ms GABRIELLE UPTON:** Such as the spotted quoll, for example.

**The Hon. PENNY SHARPE:** I am asking about the definition of "threatened species".

**Ms GABRIELLE UPTON:** There is a scientific definition that is set by a scientific committee that defines what animals are threatened, the level of threat to their existence and when that is set. I will have Mr Lean speak to that detail, if you really require that level of technical detail, which is set by the experts—

**The Hon. PENNY SHARPE:** No. I am just wanting to know whether you know what a threatened species is, Minister?

**Ms GABRIELLE UPTON:** The point that I am making is that \$100 million is the dedicated commitment which this Government has made to threatened species, including the spotted quoll, which I have seen, which has engaged our young people across the community to better catalogue where the spotted quoll is—

**The Hon. PENNY SHARPE:** If you are not able to give us a definition that is fine, Minister.

**Ms GABRIELLE UPTON:** —what its existence is. Ms Sharpe, you have asked the question.

**The Hon. PENNY SHARPE:** I have asked you a question that you are not answering.

**Ms GABRIELLE UPTON:** Let me refer to Mr Lean.

**The Hon. PENNY SHARPE:** Look, I have asked you a question. If you do not want to give it to us, that is fine.

**Ms GABRIELLE UPTON:** Let me tell you, Ms Sharpe, I will refer that. For a specific definition of "threatened species", I will refer that to Mr Lean.

**The Hon. PENNY SHARPE:** That is fine. I am sure that Mr Lean knows what it is, because I want to know what it is.

**Ms GABRIELLE UPTON:** Mr Lean, would you like to comment on that?

**The Hon. PENNY SHARPE:** Minister, I want to ask you about the—

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**Ms GABRIELLE UPTON:** You do not want the answer now, Ms Sharpe?

**The Hon. PENNY SHARPE:** I know what the answer is, Minister. I wanted to know whether you knew what the answer was.

**Ms GABRIELLE UPTON:** Ms Sharpe, that is a technical definition that I can take advice on from the Chief Executive Officer of the Office of Environment and Heritage [OEH]—

**The Hon. PENNY SHARPE:** It is okay, I have it here. I do actually know what it is. It is on your own website.

**Ms GABRIELLE UPTON:** —if you would like that.

**The Hon. PENNY SHARPE:** Minister, there have been 14 plants and animals added to the threatened species list nationally this year from New South Wales—and New South Wales is the worst State. Do you accept there is a problem with—

**Ms GABRIELLE UPTON:** Worst State with what, Ms Sharpe?

**The Hon. PENNY SHARPE:** The number of threatened species that are being added to the Environment Protection and Biodiversity Conservation Act.

**Ms GABRIELLE UPTON:** Thank you for your clarification.

**The Hon. PENNY SHARPE:** I would think you would know that. There are 14 of them. Do you accept there is a problem with increased biodiversity loss in New South Wales?

**Ms GABRIELLE UPTON:** Ms Sharpe, this Government is concerned to support threatened species across New South Wales, and with the good management—

**The Hon. PENNY SHARPE:** Do you accept we have a problem, Minister? If we are the State that is adding the most to the list—

**The Hon. MATTHEW MASON-COX:** Point of order: We have got off to a less than favourable start. If the member would let the Minister finish her answer and not talk over the top, I think that might aid proceedings.

**The CHAIR:** I will set some strategic directions. The Minister can answer as she sees fit. The member asking the question can ask the question as she sees fit. But I would ask that both do not speak simultaneously because Hansard has to decipher who is saying what. If the member wants to move to another question, if she wants to engage that, she will indicate to the Minister that she is ready to move on, and that will be so. We will move to the Hon. Penny Sharpe.

**The Hon. PENNY SHARPE:** Minister, you do not accept that New South Wales has a problem with biodiversity loss?

**Ms GABRIELLE UPTON:** I do not accept that we have a problem that we are not able to arrest, we are not able to put resources behind, and that is why we have the Saving our Species program. If you would let me complete my answer, \$100 million over five years—

**The Hon. PENNY SHARPE:** Yes, thank you. You have said that three times. I would like to move on because I do know all about the Saving our Species program.

**Ms GABRIELLE UPTON:** As long as you know we have a strong commitment as a government to threatened species, and I make that point again.

**The Hon. PENNY SHARPE:** We have more than 1,000 species on the threatened species list. None are being taken off any time soon but you are saying that we do not have a problem. That is okay. Minister, do you know what animal is in this picture?

**Ms GABRIELLE UPTON:** I cannot see it from here, Ms Sharpe.

**The Hon. PENNY SHARPE:** I am happy to pass it to you. I can tell you what it is. It is a mountain pygmy possum.

**Ms GABRIELLE UPTON:** I cannot see it, Ms Sharpe. Could I take a look?

**The Hon. PENNY SHARPE:** Yes, you can take it. I am telling you what it is, though. It is a mountain pygmy possum.

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**Ms GABRIELLE UPTON:** Well, I do not know that. How am I supposed to know what you are pointing to? I cannot even see it.

**The Hon. PENNY SHARPE:** You are responsible. If I tell you what it is, are you aware how many of these animals are left in the wild in New South Wales?

**Ms GABRIELLE UPTON:** I will be happy to take a look, thank you, Ms Sharpe. And I will confer with my experts here. I will show that to Mr Lean, who is the head of the agency, OEH, and who has some technical knowledge in the matter.

**The Hon. PENNY SHARPE:** It is a mountain pygmy possum. That is fine. I am asking you, Minister. That is okay if you do not know what it is; I am just wanting to know. It is a threatened species that is located in Kosciuszko National Park. Do you know what this threatened species is?

**Ms GABRIELLE UPTON:** I do not understand your line of questioning.

**The Hon. PENNY SHARPE:** It is okay if you do not know; I am happy to tell you.

**Ms GABRIELLE UPTON:** I am a Minister; I am not a scientist.

**The Hon. PENNY SHARPE:** No, but you are also responsible for these animals.

**Ms GABRIELLE UPTON:** There are animals that are on the threatened species list.

**The Hon. PENNY SHARPE:** These are very well known.

**Ms GABRIELLE UPTON:** This is not a school—

**The Hon. PENNY SHARPE:** This is not obscure.

**Ms GABRIELLE UPTON:** —where we are doing show-and-tell. There are threatened species—

**The Hon. PENNY SHARPE:** This animal is on the front page of the Taronga Zoo annual report.

**Ms GABRIELLE UPTON:** —that are classified by experts—

**The Hon. PENNY SHARPE:** Do you know what it is?

**Ms GABRIELLE UPTON:** I do not know that you have the knowledge yourself to be able to identify these animals.

**The Hon. PENNY SHARPE:** I can tell you what it is: It is a corroboree frog. It was on the front page of Taronga Zoo's annual report.

**Ms GABRIELLE UPTON:** Would you like to tender that so we can take a closer look?

**The Hon. PENNY SHARPE:** I am very happy to tell you that it is called a corroboree frog. There are fewer than 50 believed to be alive in New South Wales, again, in the Kosciuszko National Park.

**Ms GABRIELLE UPTON:** This is why our Save our Species program has been fully funded to \$100 million over five years—

**The Hon. PENNY SHARPE:** Given that there are fewer than 50—

**Ms GABRIELLE UPTON:** —to address threatened species.

**The Hon. PENNY SHARPE:** Yes, you have said the same thing three times.

**Ms GABRIELLE UPTON:** And I addressed the fact that a number of animals of different species—

**The Hon. PENNY SHARPE:** I know about the Save our Species program .

**Ms GABRIELLE UPTON:** —we are taking care of through that program. That is the work a government does: It provides the funding and resources to the experts—

**The Hon. PENNY SHARPE:** You clearly do not know what a corroboree frog is.

**Ms GABRIELLE UPTON:** I do know what a corroboree frog is.

**The Hon. PENNY SHARPE:** You could not name it.

**Ms GABRIELLE UPTON:** Now you have tendered it to me, I will take advice from the expert to my left. I am not a scientist.

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**The Hon. PENNY SHARPE:** Is it or is it not a corroboree frog, Mr Lean?

**Ms GABRIELLE UPTON:** What I do—

**The Hon. PENNY SHARPE:** Oh, you do know what it is?

**Ms GABRIELLE UPTON:** I will confer with my expert.

**The Hon. PENNY SHARPE:** Is it a corroboree frog?

**Mr LEAN:** It is a corroboree frog.

**Ms GABRIELLE UPTON:** We have our expert, who is the head of the agency—

**The Hon. PENNY SHARPE:** Terrific; it is a "corollary" frog. Good.

**Ms GABRIELLE UPTON:** He is a technical expert and he has confirmed that it is a corroboree frog. It is a species to which this Government is also committing resources. The role of the Minister is to go in to bat to get the best possible resourcing to be able to address threatened species in New South Wales and to ensure they are protected to the degree that the Government can achieve. Thankfully, because we have managed the budget well, there is a big commitment—I will say it again—of \$100 million to threatened species.

**The Hon. PENNY SHARPE:** Why then did you pass the Kosciuszko Wild Horse Heritage Bill, given that both the corroboree frog, of which there are fewer than 50 in the wild in the park, and the mountain pigmy—there are fewer than 500 in the world—have been identified as being threatened? These are indigenous species that are also threatened by the burgeoning and very large number of feral horses in the park. How are you saving those animals when you are allowing them to be trodden to death?

**Ms GABRIELLE UPTON:** I totally reject your assertion.

**The Hon. PENNY SHARPE:** You do not believe these horses in Kosciuszko National Park are a key threat to those two threatened species?

**Ms GABRIELLE UPTON:** Will you allow me to answer your question?

**The Hon. PENNY SHARPE:** I do not know that you know the answer, but give it a go.

**Ms GABRIELLE UPTON:** This Parliament passed that bill, and you are a member of the upper House. It was designed to strike a balance between inherent wilderness features and the heritage and cultural values of wild horses in the park.

**The Hon. PENNY SHARPE:** That is fine; I understand that. If you are happy with that, that is fine.

**Ms GABRIELLE UPTON:** Under your Government, we drew a balance so that—

**The Hon. PENNY SHARPE:** I would like to move on.

**Ms GABRIELLE UPTON:** —we can work and move forward. There was no pathway forward to balance those diverse wildlife features together—

**The Hon. PENNY SHARPE:** I would like to move on, Minister.

**Ms GABRIELLE UPTON:** —with the Kosciuszko brumby in place.

**The Hon. PENNY SHARPE:** Other than suspending the National Parks and Wildlife Act, which is what that bill does.

**Ms GABRIELLE UPTON:** There are already other wildlife protections for other threatened species—

**The CHAIR:** Order! The member has indicated that she wants to move on.

**The Hon. PENNY SHARPE:** Do you know what this threatened species is?

**Ms GABRIELLE UPTON:** Again, would you like to tender the picture?

**The Hon. PENNY SHARPE:** I am very happy to do so.

**The Hon. SHAYNE MALLARD:** Is that a cockatoo?

**The Hon. PENNY SHARPE:** It is a regent honeyeater, for those who do not know. There are fewer than 400 in the wild in New South Wales. Mr Lean may have to answer this question. Is it the case that the Office



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of Environment and Heritage told Water NSW no longer to pursue identification of this critically endangered bird within the Warragamba Dam catchment because of the work being done to raise the dam wall?

**Ms GABRIELLE UPTON:** Are you directing that question to me?

**The Hon. PENNY SHARPE:** If you know, that would be great. But I suspect that Mr Lean—

**Ms GABRIELLE UPTON:** Can you repeat the question?

**The Hon. PENNY SHARPE:** This is a critically endangered bird—there are fewer than 400 left in the world—and it is prevalent in and around the Warragamba Dam catchment. There have been serious allegations that the Office of Environment and Heritage gave a direction to Water NSW—

**Ms GABRIELLE UPTON:** Who is making those allegations?

**The Hon. PENNY SHARPE:** I am trying to get to the bottom of that. That is why I am asking Mr Lean. If you want to interrupt, that is fine.

**Ms GABRIELLE UPTON:** I am trying to clarify the question.

**The Hon. PENNY SHARPE:** Has the Office of Environment and Heritage told Water NSW not to pursue further investigations of the regent honeyeater within the Warragamba Dam catchment?

**Ms GABRIELLE UPTON:** Mr Lean, would you like to address that assertion or allegation made by Ms Sharpe?

**Mr LEAN:** My advice is that that is not correct; we gave no such direction to Water NSW. My understanding is that the consultant engaged by Water NSW suggested that additional studies be carried out. We were not aware of that. We assessed the work that had been done against the guidelines dealing with impact assessments and, based on that work, we were satisfied that it was sufficient. I am advised that we were not aware that further work had been suggested by the consultant for Water NSW.

**The Hon. PENNY SHARPE:** Do you support further work being done, given that it is a critically endangered bird?

**Mr LEAN:** We reviewed the work that had been done and we were satisfied that it met the requirements of the guidelines.

**The Hon. PENNY SHARPE:** Don't look, don't find. Minister, do you know what this bird is?

**Ms GABRIELLE UPTON:** Ms Sharpe, I do not understand what you are doing.

**The Hon. PENNY SHARPE:** I am trying to establish whether you understand some of the key threatened species—

**Ms GABRIELLE UPTON:** I understand that we have key threatened species in New South Wales—

**The Hon. PENNY SHARPE:** —and that you have responsibility for them. If you cannot name them, that is fine.

**Ms GABRIELLE UPTON:** I am not a scientist.

**The Hon. PENNY SHARPE:** But you are the Minister.

**Ms GABRIELLE UPTON:** I think you misunderstand my role.

**The Hon. PENNY SHARPE:** I understand your role very well.

**Ms GABRIELLE UPTON:** I am happy to take advice. We want to ensure that we get the species right. I am not sure whether you know what species these birds are and whether you have accurately acquitted what you think they are. I am happy to hand over to the experts.

**The Hon. PENNY SHARPE:** Are you suggesting that this is not a powerful owl? When is an owl not an owl?

**Ms GABRIELLE UPTON:** I am happy to take the advice of experts.

**The Hon. PENNY SHARPE:** I know what it is; I have seen them in the wild. Have you?

**Ms GABRIELLE UPTON:** Do you understand the job of a Minister?

**The Hon. PENNY SHARPE:** Yes, I do.

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**The Hon. SHAYNE MALLARD:** Point of order: I am feeling for the Hansard reporter. The Minister and the member are talking over each other. Ms Sharpe should ask her questions and allow the Minister to answer without interruption.

**The CHAIR:** I agree.

**The Hon. PENNY SHARPE:** I am happy to hand the picture to the Minister, but I can assure her that it is a picture of a powerful owl.

**The CHAIR:** Both ladies will be thoughtful of the Hansard reporter trying to record their contributions. I ask that the Minister direct her comments through the Chair and not to Ms Sharpe.

**Ms GABRIELLE UPTON:** The advice I have from Anthony Lean, who is the expert here who advises the Minister—

**The Hon. PENNY SHARPE:** Yes, it is a powerful owl. I know.

**Ms GABRIELLE UPTON:** —is that he believes it is.

**The Hon. PENNY SHARPE:** Oh good! Terrific.

**The Hon. MATTHEW MASON-COX:** I thought it looked like Peter Primrose.

**The Hon. PENNY SHARPE:** I am not trying to be cute. These are serious issues that are very well known.

**Ms GABRIELLE UPTON:** I think you are.

**The Hon. PENNY SHARPE:** It is not my fault if you do not know what they are.

**Ms GABRIELLE UPTON:** It is my job to be advised by the experts who classify the animals into categories. They are scientific experts, including my head of agency, who is here. On his advice, my job as the Minister is to set the policy parameters to properly resource the work we do to help all endangered species—

**The Hon. PENNY SHARPE:** But do you know what it is?

**Ms GABRIELLE UPTON:** —whether it be the corroboree frog, the quoll or the powerful owl. These are all things that a Minister does. The Minister is not a scientist. I am proud of the work I do when I go before the Treasurer and I make the point—

**The Hon. PENNY SHARPE:** I want to ask a question about the powerful owl, which you are responsible for.

**Ms GABRIELLE UPTON:** I make the point that we now have \$100 million over five years to help—

**The Hon. PENNY SHARPE:** I know.

**Ms GABRIELLE UPTON:** —all of the threatened species that you have identified today.

**The Hon. PENNY SHARPE:** There are fewer than 3,500 powerful owls left in New South Wales. They are incredible birds, and I suggest you go walking in the national park to see them. You can see them in Lane Cove National Park and in the urban bushland around Byles Creek near Beecroft and Cheltenham. Are you aware that there is an owlet named Bethany in and around Byles Creek and Lane Cove National Park? There was supposed to be an agreement between the National Parks and Wildlife Service, Roads and Maritime Services and Ausgrid to look after the habitat in which the owlet is living. This is a precious threatened species. Are you aware that Ausgrid has essentially removed most of the lower branches of the tree it is living in contrary to previous advice that the National Parks and Wildlife Service would be working with Ausgrid to stop that happening?

**Ms GABRIELLE UPTON:** I am not aware of that. You are making an assertion. Is there a question behind this?

**The Hon. PENNY SHARPE:** The question is—

**Ms GABRIELLE UPTON:** Am I personally aware? No, as the Minister, I am not aware of that particular circumstance. If you have a question for me about it, I am happy to take it on notice.

**The Hon. PENNY SHARPE:** Are you concerned that a powerful owl—a threatened species—has a baby owlet called Bethany, who is living in a tree near Lane Cove National Park and Byles Creek and who is supposed to be protected, but there has been no negotiation between the National Parks and Wildlife Service and

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Ausgrid? As a result, Ausgrid has chopped off the lower branches of the tree in which it is living. Are you concerned as the Minister responsible for threatened species and are you worried that that was allowed to happen?

**Ms GABRIELLE UPTON:** Ms Sharpe, I am happy to take your question on notice and revert to you on that.

**RESPONSE:** NPWS and Ausgrid consult closely on such operations. Ausgrid operates under thorough environmental assessments and approval conditions.

Ausgrid was required to contact the Bird Life Australia Powerful Owl Project team prior to conducting maintenance works in the park.

NPWS is working with Ausgrid and Bird Life Australia to improve communication to ensure such situations do not occur again.

**The Hon. PENNY SHARPE:** That is good. All right, Minister, I think you know what this one is.

**Ms GABRIELLE UPTON:** Ms Sharpe, would you like to pass that over? This is getting really tedious.

**The Hon. PENNY SHARPE:** You are not prepared to identify the koala?

**Ms GABRIELLE UPTON:** I cannot see your picture from this distance at all, so we can go on with this charade.

**The Hon. PENNY SHARPE:** I think it is legitimate.

**Ms GABRIELLE UPTON:** I make the point again that my job as the Minister for the Environment is to be advised by experts about what are the threatened species to make the pitch to the Treasurer and to Cabinet to get good resourcing behind the programs that will take care of threatened species, no matter what they are—whether they are ones that you have pictures of and choose to distract the Committee with today or not. That is my job.

**The Hon. PENNY SHARPE:** You do not think it is legitimate on Threatened Species Day to ask about key threatened species?

**Ms GABRIELLE UPTON:** You obviously do not understand what a Minister does.

**The Hon. PENNY SHARPE:** You bet I do, Minister.

**Ms GABRIELLE UPTON:** If we are lucky you will never have the opportunity to prove us right or wrong.

**The Hon. PENNY SHARPE:** Okay. That is fine.

**Ms GABRIELLE UPTON:** So what did you want? I am confused now. There are so many pictures that are coming across here. It is a show and tell.

**The Hon. PENNY SHARPE:** I am interested in how little you know about the threatened species that you are actually in charge of trying to save. But we digress. I want to talk about koalas.

**Ms GABRIELLE UPTON:** We are having a fundamental disagreement about what my role is as a Minister, Ms Sharpe.

**The Hon. PENNY SHARPE:** You could not define what "threatened species" is under your legislation.

**Ms GABRIELLE UPTON:** Do you want my expert here to identify that species?

**The Hon. PENNY SHARPE:** You could not identify the key threatened species that have—

**The CHAIR:** Order! I ask both members again to be mindful of Hansard. I would expect at the senior level you are both at that you would defer to each other if the other one is talking. I call the Minister.

**Ms GABRIELLE UPTON:** Thank you, Mr Chair—

**The Hon. PENNY SHARPE:** No. I have got a question. Can I ask my question?

**The CHAIR:** Yes—the Hon. Penny Sharpe.

**The Hon. PENNY SHARPE:** Thank you. Minister, how many koalas are left in New South Wales?

**Ms GABRIELLE UPTON:** Ms Sharpe, there are many koalas left in New South Wales.

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**The Hon. PENNY SHARPE:** How many?

**Ms GABRIELLE UPTON:** Unlike your mischievous claims today and before, they are a vibrant population—

**The Hon. PENNY SHARPE:** How many?

**Ms GABRIELLE UPTON:** —to which our Government has committed \$45 million—

**The Hon. PENNY SHARPE:** How many?

**Ms GABRIELLE UPTON:** —to sustain and to grow.

**The Hon. PENNY SHARPE:** The office of the chief scientist has said this. Do you not know?

**Ms GABRIELLE UPTON:** Again, I am not an expert.

**The Hon. PENNY SHARPE:** You do not read your own reports from your own experts.

**Ms GABRIELLE UPTON:** It is not my role to go counting the number of koalas. They have diminished in population—

**The Hon. PENNY SHARPE:** Yes—significantly.

**Ms GABRIELLE UPTON:** We know that over the last 10 to 15 years they have diminished by about 25 per cent. It is because of that that this Government announced in May, together with the Premier, \$45 million— a comprehensive package that will address the risks around habitat, a dedication of 24,000 hectares of corridor and reserve for koalas—

**The Hon. PENNY SHARPE:** Terrific. Can I ask you specifically about that? I want to ask you specifically about that.

**Ms GABRIELLE UPTON:** —three million dollars for a Port Stephens veterinary hospital—

**The Hon. PENNY SHARPE:** But you sold off the Mambo Wetlands in Port Stephens for \$250,000 to a developer.

**Ms GABRIELLE UPTON:** Will you allow me to speak to that issue? Do you want me to answer that one or the question you asked about koalas? Which one?

**The Hon. PENNY SHARPE:** My question was: How many koalas are left? And you were not able to tell me, so I am happy to move on.

**Ms GABRIELLE UPTON:** I am happy to ask my head of agency.

**The Hon. PENNY SHARPE:** My question is about your koala reserves.

**Ms GABRIELLE UPTON:** I am happy to ask my head of agency about that. Would you like to comment about the number of koalas?

**Mr LEAN:** My understanding is it is 36,000.

**The Hon. PENNY SHARPE:** Correct. I am aware of that. Minister, what do you say to your colleague—

**Ms GABRIELLE UPTON:** Would you like me to address the question about Mambo Wetlands? That area is an important area—

**The Hon. PENNY SHARPE:** Are you buying it back, Minister?

**Ms GABRIELLE UPTON:** —that is currently in process with government. It is something that this Government will look to achieve because it is a special area.

**The Hon. PENNY SHARPE:** But you sold it in the first place.

**Ms GABRIELLE UPTON:** It is a special area.

**The Hon. PENNY SHARPE:** The Tomaree koalas are basically on track to be extinct within 10 years and your Government sold off core koala habitat that it is now going to have to buy back—is that true, Minister?

**Ms GABRIELLE UPTON:** The Mambo Wetlands is the subject of discussion in government at the moment to repurchase because it is an environmentally sensitive part of that area.

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**The Hon. PENNY SHARPE:** But you have not done it after you flogged it.

**Ms GABRIELLE UPTON:** It is work that we are not doing. If we can achieve it, we will achieve the acquisition of that land and dedicate it for the purpose that it should be.

**The Hon. PENNY SHARPE:** It should never have been sold in the first place, should it, Minister?

**Ms GABRIELLE UPTON:** That was a decision before my time, but clearly the Government recognises the environmental values of that site and we are seeking to acquire it again. That process is under way.

**The Hon. PENNY SHARPE:** Minister, I know that you have been talking a lot about the koala reserve process that you have been putting in place, and you have just touched on it there. Are you aware that your colleague Mr Paul Toole, the Minister for Lands and Forestry, basically said that the koala reserves that they have handed over are just unproductive State forests that they did not need?

**Ms GABRIELLE UPTON:** I am not aware of that particular assertion.

**The Hon. PENNY SHARPE:** The Minister said it in estimates this week.

**Ms GABRIELLE UPTON:** The land that we have dedicated to koala corridor habitat, a sizeable hectareage of land to the securing and future of the koalas, is part of the dedication that we have made, is unproductive State forest that will either become national park, State conservation area or flora reserve. That is the land.

**The Hon. PENNY SHARPE:** But it is unproductive so you think that somehow the koalas will be in it. I want to specifically ask about the Mount Boss State Forest.

**Ms GABRIELLE UPTON:** There are koalas, I am told by experts, in unproductive State forest. Koalas are on private land.

**The Hon. PENNY SHARPE:** Terrific.

**Ms GABRIELLE UPTON:** Koalas are in national parks. Koalas are in State conservation zones.

**The Hon. PENNY SHARPE:** You keep talking.

**Ms GABRIELLE UPTON:** Koalas can be found in all those tenures.

**The Hon. PENNY SHARPE:** Yes, but they are not in Mount Boss State Forest, which has not seen a koala since 1995 and you have made it a reserve.

**The CHAIR:** Order! We will move on to questions from crossbench members.

**Ms CATE FAEHRMANN:** Minister, back to Threatened Species Day, today we have seen the release of this report which I am sure you saw in the *Sydney Morning Herald* from the Nature Conservation Council and the World Wildlife Fund [WWF], which shows that forest and woodland clearing around Moree and Collarenebri has almost tripled in one year following repeal of the New South Wales Native Vegetation Act. This report says that 5,246 hectares of koala habitat in that region alone was destroyed, which is at the rate of 14 hectares per day. It says that 6,942 hectares of painted honeyeater habitat was also destroyed—that is 19 hectares per day. It also said that habitat for 247 native species may have been destroyed, including habitat for nine species of national environmental significance and two endangered species. This is Threatened Species Day, as I said. Are your land-clearing laws driving more of our species to the brink of extinction?

**Ms GABRIELLE UPTON:** Ms Faehrmann, are you referring to the report that was released yesterday? Shall we just clarify which report you are referring to?

**Ms CATE FAEHRMANN:** Released yesterday—it was in the paper this morning.

**Ms GABRIELLE UPTON:** Which report is that?

**Ms CATE FAEHRMANN:** Nature Conservation Council and WWF.

**Ms GABRIELLE UPTON:** Thank you.

**Ms CATE FAEHRMANN:** They undertook their own mapping, their own satellite imagery.

**Ms GABRIELLE UPTON:** Thank you for the clarification. Your question is?

**Ms CATE FAEHRMANN:** All of the evidence I just provided then of what was happening in the clearing of the land—did you hear all of that: the koala habitat, the painted honeyeater habitat, the 247 native

**UNCORRECTED**

species, koala habitat at the rate of 14 hectares per day, the painted honeyeater habitat at the rate of 19 hectares per day? Are your land-clearing laws driving more of our species to the brink of extinction on this National Threatened Species Day? That appears to be the case, does it not?

**Ms GABRIELLE UPTON:** Ms Faehrmann, I have seen that report published yesterday.

**Ms CATE FAEHRMANN:** Great.

**Ms GABRIELLE UPTON:** It is fair to say that it is a report that only refers to a certain area across the State.

**Ms CATE FAEHRMANN:** That is right.

**Ms GABRIELLE UPTON:** It is inaccurate in part, I am advised by the department. There are a number of reasons that that report cannot be relied upon to make the analogies or assertions that you are making. It includes the fact that what is not distinct on the mapping that is inside that report is that it might indeed include areas that are authorised for clearing. I would like Anthony Lean, as head of agency, to comment further on that report because we do not believe that we could rely on the data and therefore the findings or assertions that are in it to make any kind of comment.

**Ms CATE FAEHRMANN:** Just to clarify in terms of this report, I am not asking whether the clearing was authorised or not. It is the fact the clearing has taken place. They obtained and compared three satellite images from mid-2016, mid-2017 and mid-2018. I think you were environment Minister all of that time—is that correct?

**Ms GABRIELLE UPTON:** From April of 2017.

**Ms CATE FAEHRMANN:** The pictures were taken using the European Space Agency's Sentinel-2 satellite. That is what was used, so I am not talking about whether clearing was approved or not. The question is: Are your land-clearing laws driving more of our species to the brink of extinction?

**Ms GABRIELLE UPTON:** The point that I made before is that on advice I had that report and the data that was used cannot be relied upon to draw the assertion that you are making, because the maps are not distinct and there are difficulties with the data that has been used. I would like to make Anthony Lean comment on this because you are using that report as a means to make an assertion about the biodiversity reforms last year. Let us just clear up the concern that we have with this report and why we do not believe it properly represents the status quo. Mr Lean, would you like to comment?

**Mr LEAN:** Yes. When we do this sort of satellite image monitoring we undergo a rigorous process of analysis and validation where we take the satellite imagery and we match that with other data sources. We take it down to quite a granular level, pixel level, when we do that work. That is part of the reason why it takes so long to produce these in a form that is actually reliable so that they do not misinform the community. We have done a quick review of that report and it is clear that some of the sites that have been identified are, in fact, invasive native species, the clearing of which is recognised to have environmental values and, in fact, may have been approved.

There is one specific example in there where 1,300 hectares is alleged to have been cleared. Our understanding is that that was in fact authorised by a Property Vegetation Plan [PVP] in 2012 and relates to invasive native species. So that is 1,300 hectares of about 11,000; that is more than 10 per cent of the report. The other advice that I have is that it is quite common to have approvals in this area for invasive native species. The data when we do this work is rigorous and comprehensive. We do it for all of New South Wales. I would just like to re-emphasise that it is really important that we get that data right and that we do go through the validation process.

**Ms CATE FAEHRMANN:** Thank you, Mr Lean.

**Mr LEAN:** Certainly our concern is that that has not been done in this case.

**Ms CATE FAEHRMANN:** I was just curious as to when was the last time the Government actually released maps showing the rates of clearing over a historical period.

**Mr LEAN:** We released the reports for the 2014-15 year and the 2015-16 year a matter of weeks ago. I know that in the report it says that they are not released but that is not correct. They were actually released, I think, three or four weeks ago, from memory.

**Ms CATE FAEHRMANN:** Where are they available? Basically the reports are up to—

**Mr LEAN:** I am pretty sure they are on our website.

**UNCORRECTED**

**Ms CATE FAEHRMANN:** —2015-16, did you say?

**Mr LEAN:** Yes.

**Ms CATE FAEHRMANN:** But not since then?

**Mr LEAN:** No, not since then, but as I alluded to before in my answer—

**Ms CATE FAEHRMANN:** Two years ago.

**Mr LEAN:** —it is a lot of work. We are doing the whole State. We need to match the satellite imagery with other data sources, particularly other satellite imagery that we have which takes it to a far more granular level.

**Ms CATE FAEHRMANN:** When can we expect the next lot then? If that was two years ago, these new laws have been put in place and farmers are self-assessing, as we know. When will the next lot of satellite imagery be released by the Government in terms of land clearing?

**Mr LEAN:** I cannot put a precise date on that. The Government will release that when it is ready—when it is finalised and we have finished the validation work that we need to do.

**Ms CATE FAEHRMANN:** How long did it take you to do the 2014-15 and the 2015-16 work that you said that you have released a couple of weeks ago?

**Mr LEAN:** I am not across the exact time that it took to do that. There is some delay in getting the satellite imagery, as I understand it—in particular, some of the previous satellite imagery that we have used. I cannot put a precise time on it.

**Ms CATE FAEHRMANN:** Surely, Mr Lean, it cannot take two years or three years to release data in terms of land clearing across the State. Surely. You can understand why environment groups are getting so frustrated and undertaking their own work. If you are not sure of when this is happening, are you saying we could have it three or four years after the law has come in place, that we will be able to then see exactly what is going on?

**Mr LEAN:** That is not what I am saying.

**Ms GABRIELLE UPTON:** I think the point is, from Mr Lean's perspective and the Government's perspective, that we need to get it right. It needs to be evidence based, and there is good reason why the report that was released yesterday does not paint an accurate picture. It is only a part of the State. So we would be concerned that anything we did release properly represents, is comprehensive, is accurate and has been interrogated so that when it is put out we can all have a look at it.

I make the point—because this is where you started some time ago—that under the biodiversity laws there was a reason why they were reformed. They were not working. On independent expert advice there was a plea to reform the biodiversity protection across New South Wales. We did that a year ago. Along with that, to set your mind at ease, there are high levels of enforcement and compliance. Why do we do it? It was clear there needed to be a more transparent framework for stakeholders—

**Ms CATE FAEHRMANN:** Thank you, Minister. I do not need a history of reform.

**Ms GABRIELLE UPTON:** —and we need a more strategic program and approach to biodiversity.

**Ms CATE FAEHRMANN:** Chair, please. I have more questions to ask and the Minister is digressing.

**The CHAIR:** Order! New question.

**Ms CATE FAEHRMANN:** In relation to the native vegetation regulatory maps, which I understand divide the State up into areas of land where clearing can occur with or without approval, on the Government's website it describes these maps as a tool to give landholders certainty when planning future management of their land and are an essential part of the Local Land Services Act. They guide the application of land management codes and other approvals that govern how native vegetation can be managed. But one year on most of the mapping has never been released, as far as I can tell. Minister, with reference to the Native Vegetation Regulatory Map, why are all of the categories still not complete?

**Ms GABRIELLE UPTON:** That is not correct, Mr Faehrmann. There are maps that have been published.

**Ms CATE FAEHRMANN:** All of them—

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**Ms GABRIELLE UPTON:** There are maps that are still being consulted. Are you aware of that? That is very clear from the website.

**Ms CATE FAEHRMANN:** That is the question. Why haven't they been released?

**Ms GABRIELLE UPTON:** There are some maps that have been released.

**Ms CATE FAEHRMANN:** All of the maps.

**Ms GABRIELLE UPTON:** There are other maps—

**Ms CATE FAEHRMANN:** All of the categories, sorry.

**Ms GABRIELLE UPTON:** There are different levels of maps, as you would be aware.

**Ms CATE FAEHRMANN:** That is right; there are five.

**Ms GABRIELLE UPTON:** There are two that have been released, and they are already in place and can be enforced against. There are other maps that are being worked through. We have to get them right. I will ask Anthony Lean to comment on that directly.

**The Hon. PENNY SHARPE:** The legislation is operational and there are no maps.

**The CHAIR:** Thank you. Minister, the New South Wales Coastal Alliance has estimated 60,000 properties that are potentially affected by the State's coastal protection laws where land is deemed to be in an environmental hazard area. In 2016, the New South Wales Coastal Panel gave written advice that there was a legal precedent that land affected by environmental hazards could revert to the Crown without any compensation. Minister, what is the Government's policy on paying compensation to affected landowners and, if so, what has been allowed in the future budget estimates for compensation payments?

**Ms GABRIELLE UPTON:** Thank you for your question, Chair. You would be well aware that we have a new coastal management legislative framework. We have a new coastal council, which met on 26 June for the first time. There is a funding program that backs up that support of our coastal communities and our coastal councils and urges them—we are in the process of going through this—to put together coastal zone management plans [CZMPs] or conservation management plans [CMPs] that are acquitted by the department and that set a framework of the kind of work that local areas will want to undertake to best protect them for the future from coastal erosion.

The Government committed to that reform, has delivered that reform. It will help not only in relation to public land but private land. It also provides councils with an exemption from liability, where they follow the steps that are under the CZMPs that are either acquitted by myself as Minister or by the head of the Office of Environment and Heritage. When it is private land, that, I would think, it is a matter for another ministry of Government for compensation if there is an allegation, perhaps, of there being some public damage that has led to private diminution of wealth or value. I am happy to take the specific details which you are concerned about on notice and revert to you.

**RESPONSE:** The NSW Coastal Panel's advice related to situations where land that is permanently lost to the sea and fully submerged may revert to the Crown under the Common Law doctrine of erosion and accretion. It did not relate to all environmental hazard areas.

The matters relating to potential changes in property boundaries falls under the portfolio responsibilities of the Minister for Land and Forestry.

The matter of potential compensation for land acquisition falls under the portfolio responsibilities of the Minister for Finance, Services and Property.

**The CHAIR:** With the deadline drawing near for councils to have their coastal zone management plans completed, does the Government intend to ensure that councils advise owners whose properties are deemed to be at risk, either now or sometime into the future?

**Ms GABRIELLE UPTON:** I am being advised by Anthony Lean that the deadline is 3 October for the CMPs or the CZMPs to be finalised. My head of agency is in contact with all of those councils to be able to ensure that they have the best opportunity—

**The CHAIR:** It is about the property owners.

**Ms GABRIELLE UPTON:** I am sorry?



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**The CHAIR:** It is to ensure the property owners are informed if their properties are affected; to ensure that either the councils are going to do that or—

**Ms GABRIELLE UPTON:** Sorry, I am not understanding your question, Chair.

**The CHAIR:** To ensure that councils advise owners of those properties that are deemed to be at risk. Do you have some sort of plan of what you are going to do to ensure that the councils are making contact with those property owners?

**Ms GABRIELLE UPTON:** I will ask Anthony Lean to comment on that.

**Mr LEAN:** The role of the Minister or myself under delegation is to certify CZMPs before they are formally gazetted by the council. One of the things that we specifically look at when we do that is the adequacy of consultation that has occurred with the community. Off the top of my head, I think there is a requirement that the draft CZMP has to be released for a period of 21 days before it is submitted to the Minister.

**The CHAIR:** But with all due respect, Mr Lean, you do not want people having a sudden surprise that their property is caught up in this. Whether they are building on it, selling something or whatever they are doing, the last thing they want to find out is that actually they have been affected by this coastal zone management plan. That is all I am saying. Have you got a checklist of what you are doing to make sure councils are ticking the box saying that they have been informing the people who are affected by these particular outcomes?

**Mr LEAN:** As I said, we put guidelines out to council that specified what they need to do to make a CZMP that will get certified at the end of the process and one of the core requirements is that they have a program of community consultation in developing that plan.

**The CHAIR:** Yes, but that is different—anyone who has been in local government knows that community consultation and making property owners aware that their property has suddenly become affected by either a planning zoning or some sort of impact from local government. They should be made aware.

**Mr DAVID SHOEBRIDGE:** Or climate change or the world.

**The Hon. PAUL GREEN:** That is right. That is a classic example where we did the SEPP 70, I think it was.

**Mr DAVID SHOEBRIDGE:** They need to know.

**The CHAIR:** Property owners should be informed and I am hoping you have got a box that you tick to ensure that council met that obligation with those affected landowners. Minister, can you comment in regard to submissions that are received from community groups, for example, commenting on coastal zone management plans? Will responses be provided to community groups following their submissions, especially where technical experts have provided their expertise?

**Ms GABRIELLE UPTON:** I will ask Anthony Lean to respond to that.

**Mr LEAN:** My understanding is that many councils do in fact respond directly to submissions that have been received. Certainly one that I have been dealing with quite recently, it was quite clear that the council did go back to the stakeholders and respond to their submissions. What they are also required to do before they come to us for certification is to prepare a summary of all of the issues that are raised and explain in that document how those concerns raised in the submissions have actually been responded to. So I am confident that it is covered by the guidelines that were issued.

**The CHAIR:** Minister, I understand that the role of the Office of Environment and Heritage is to ensure that due process is followed when it comes to establishing policy and guidelines for the management of New South Wales coastlines. What is the role of OEH in regard to investigating the science and technical assessments when making decisions on coastal management? Who is responsible within the department for making evidence-based decisions?

**Ms GABRIELLE UPTON:** A Minister makes decisions based on evidence. The department head makes decisions based on evidence to frame the right policy framework. I really do not understand your question.

**The CHAIR:** We just talked about threatened species and you said you are not the expert.

**Ms GABRIELLE UPTON:** That is right, but I am given advice by experts and I make policy decisions.

**The CHAIR:** With all due respect, you are not the expert; that is right. So I am asking what is the role of OEH in regard to investigating the science and technical assessments? I understand that you are not the expert

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but I am asking who is in your department, and who within the department is responsible for making evidence-based decisions on coastal management?

**Ms GABRIELLE UPTON:** I will ask Anthony Lean to comment on that.

**Mr LEAN:** The responsibility for developing coastal zone management plans and also coastal management plans under the new legislation is the responsibility of local councils.

**The CHAIR:** Let me just clarify that, if I could; I do not mean to be rude and interrupt but it is just a clarification. You are saying that the science and technical experts are not in OEH; they are actually in the local councils environment sections?

**Mr LEAN:** No. The point that I was making was that it is the responsibility of councils to prepare these plans. In doing that, OEH can play an advisory role and we frequently do that in a number of areas of the State.

**The CHAIR:** So do you co-opt expertise from outside the department?

**Mr LEAN:** Councils will often do that themselves. They will get their own technical engineering expert reports to inform the development of the coastal plan.

**The CHAIR:** But does the department do that too, if need be?

**Mr LEAN:** If we need to get that advice, but because the plans are developed by councils it is more likely that it is them that would obtain that advice themselves. Now if there is an issue that we think we may need to get advice on, we would do that. The other thing is the Coastal Council—

**Ms GABRIELLE UPTON:** Yes, I was going to say that if you look at the membership of our Coastal Council, headed by Bruce Thom, there are experts sitting on that council who then of course rely on other expertise. But they are acquitted for their credential to sit on that council, which is the body that is advising OEH and myself as to whether we should acquit CZMPs and CMPs.

**The CHAIR:** Minister, what role do you think community-based expertise has in this process?

**Ms GABRIELLE UPTON:** As Minister, I always welcome feedback from people across the State about what they think we should do in response to why the policy settings were set up, announcements we have made, frameworks, laws or regulation, and our process around CZMPs and coastal management is one that takes account of their feedback. Did you want to talk, Mr Lean?

**The CHAIR:** No, that is okay. I will keep moving, if that is okay. Do you think that the evidence and expertise of qualified experts from local communities should be fully considered by the department and those within the department that are making scientific and technical decisions on behalf our State?

**Ms GABRIELLE UPTON:** When a government makes decisions about policy settings and law you want all stakeholders' views to be known, so those views are made known through to the department, from local councils, when they have a chance to work out their coastal management plans or the coastal zone management plans and that forms part of all of the information that comes together to be able to form policy decisions.

**The CHAIR:** Thank you. I will finish with this. Minister, are you aware of the concerns raised by Collingwood Beach Preservation Group? I am concerned that whatever decisions are made in regard to this particular issue will have ongoing implications for every other beach, particularly in the Shoalhaven. My understanding is that the OEH has classified the Collingwood Beach Preservation Group as an unreasonable complainant based on eight pieces of correspondence relating to the current Collingwood Beach Dune Vegetation Management Plan submitted over a period of 12 months. I note that my time is over. I will pause and come back to that question.

**Mr DAVID SHOEBRIDGE:** And there is huge support for the great work that the mayor is doing there to protect that beach.

**The CHAIR:** I do thank the Minister. She did come down, go onsite and gave all her time to actually understand the issues. So I do acknowledge the Minister's presentation on that. We will go now to the Opposition.

**The Hon. PETER PRIMROSE:** Thank you. Good afternoon, Minister.

**Ms GABRIELLE UPTON:** Good afternoon, Mr Primrose.

**The Hon. PETER PRIMROSE:** Can I refer to the cash flow statement for the Office of Local Government? There is an amount of—

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**Ms GABRIELLE UPTON:** What report are you referring to, Mr Primrose?

**The Hon. PETER PRIMROSE:** Budget Paper No. 3.

**Ms GABRIELLE UPTON:** What page?

**The Hon. PETER PRIMROSE:** I think it is 7-30.

**Ms GABRIELLE UPTON:** 7-29, 7-28, yes.

**Mr DAVID SHOEBRIDGE:** I think he said 7-30.

**Ms GABRIELLE UPTON:** The cash flow statement; yes, thank you.

**The Hon. PETER PRIMROSE:** There is a budgeted amount there of \$7.435 million. Can you run us through what that is for, please?

**Ms GABRIELLE UPTON:** Do you want to refer me exactly to what line item that is, please?

**The Hon. PETER PRIMROSE:** There are no line items?

**Ms GABRIELLE UPTON:** There are. I am looking at page 7-30. What was the item name again?

**The Hon. PETER PRIMROSE:** There is an amount "Grants and contributions" of \$7.435 million.

**Ms GABRIELLE UPTON:** I see. So that is under the "Receipts" item. That is second from the bottom. And I think you are referring to the \$7.435 million that is identified there?

**The Hon. PETER PRIMROSE:** Yes.

**Ms GABRIELLE UPTON:** And your question is?

**The Hon. PETER PRIMROSE:** Can you run us through what this?

**Ms GABRIELLE UPTON:** I am going to refer that to the chief executive, Tim Hurst.

**Mr HURST:** Thank you, Minister. Mr Primrose, my understanding is that number reflects the combined effect of net cash flows from operating and investing activities, including a lower recurrent budget from Treasury of \$5 million to reduce the net cash balance and special expenditure on the cats and dogs register in 2017-18.

**The Hon. PETER PRIMROSE:** What is the difference between last year and this year when nothing was allocated?

**Mr HURST:** As I say, this is a variation in the grant provided from the Treasury to the agency to effect a change in the cash balance of the agency itself. It reflects the use of cash balances by the agency during the year instead of drawing on a contribution from the Treasury.

**The Hon. PETER PRIMROSE:** Do you have a projection as to what it may be next year?

**Mr HURST:** I think we would need to find out what Treasury's assessment of the office's cash balances, including the balance in the Companion Animals Fund from cats and dogs registrations, would be and then Treasury would assist us to manage the cash balance at an appropriate level for the agency for 2019-20.

**The Hon. PETER PRIMROSE:** Minister, as the unsuccessful party in a number of court cases by the Court of Appeal relating to your forced council merger policy—

**Ms GABRIELLE UPTON:** We were successful in some and unsuccessful in others.

**The Hon. PETER PRIMROSE:** I would like to finish my question.

**Ms GABRIELLE UPTON:** I just wanted to clarify a fact.

**Mr DAVID SHOEBRIDGE:** It was a disaster. Just own up: It was a disaster, Minister.

**The Hon. PETER PRIMROSE:** —has the Government now paid all the successful parties as per the orders made against it by the appellate court?

**Ms GABRIELLE UPTON:** As you probably know, the Crown Solicitor's Office [CSO] is managing that litigation on behalf of the State and those questions need to be directed there. It is conducting those negotiations and is settling whatever settlements. Obviously, both parties are expected to meet whatever cost orders are made by the court. In fact, that question is probably better directed to the Department of Justice, in which CSO sits.

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**Mr DAVID SHOEBRIDGE:** Point of order: I have a point of order on the Minister's answer. The Minister is the client and is obliged to answer the question.

**The CHAIR:** There is no point of order. It is the Hon. Peter Primrose's time and he can clarify that if he chooses.

**Mr DAVID SHOEBRIDGE:** She is the client.

**The Hon. PETER PRIMROSE:** I think Mr Shoebridge raises a fair point but I—

**Ms GABRIELLE UPTON:** He has to help you out here, obviously.

**Mr DAVID SHOEBRIDGE:** No, we are just trying to get you to answer one question. The lawyers cannot do it without your say-so. You have to give the answer. You cannot hide behind your lawyers.

**The Hon. SHAYNE MALLARD:** Point of order: Mr Primrose is asking the questions, not Mr Shoebridge.

**The CHAIR:** I acknowledge that but Mr Primrose has acknowledged the interjection by his colleague and is allowed to build on that if he chooses.

**The Hon. PETER PRIMROSE:** I will continue because I am concerned about the unease the Minister has on this point.

**Ms GABRIELLE UPTON:** There is no unease on my part.

**The Hon. PETER PRIMROSE:** Minister, I asked you if funds had been paid to those respective councils that defeated your Government in court over its forced merger policy.

**Ms GABRIELLE UPTON:** As I said, that is a matter that is being handled by the Crown Solicitor's Office. It is conducting the litigation on behalf of staff and it sits within the Department of Justice. It is a matter for the budget of the Department of Justice to fund whatever cost orders are made against any party to proceedings, whether it be councils, which in some instances have been unsuccessful in that litigation, or whether it be the Government. It is not a matter that falls within my responsibility or remit.

**The Hon. PETER PRIMROSE:** As the Minister for Local Government, you believe you have no responsibility or remit in this matter?

**Ms GABRIELLE UPTON:** The Government has a responsibility to respond to court orders that have been made—if any—against it, as does any other party to any litigation before the courts. As I said, the Crown Solicitor's Office has conducted the litigation and the oversight of the settling of costs and responding to cost orders by the courts. That will be done, as it should be, in accordance with whatever those cost orders are that the courts have ordered. But it is a matter for the Crown Solicitor's Office to conduct, and any settlement that needs to be made will be made by the Department of Justice, which is what I have said, because that is where the Crown Solicitor's Office is set.

**The Hon. PETER PRIMROSE:** So that is a no?

**Ms GABRIELLE UPTON:** No, that is not a no. I do not think you are listening to my answer—

**The Hon. PETER PRIMROSE:** Minister, I am simply asking if you believe that you have any responsibility.

**Ms GABRIELLE UPTON:** The Crown Solicitor's Office is running the litigation. I do not have oversight of that. It is not my responsibility to settle those court orders.

**Mr DAVID SHOEBRIDGE:** She is just a client. Heaven help us.

**The Hon. PETER PRIMROSE:** Would you like to refer to experts, Minister?

**Ms GABRIELLE UPTON:** It has nothing to do with whether—you are not understanding what I am saying.

**The Hon. PETER PRIMROSE:** I understand it perfectly.

**Ms GABRIELLE UPTON:** This is a matter of litigation that is being conducted by the Crown Solicitor's Office.

**The Hon. PETER PRIMROSE:** But you are the Minister for Local Government.

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**Ms GABRIELLE UPTON:** This is a matter of litigation that is before the courts. The conduct of that litigation and the settlement of any cost orders is not a matter for me; it is matter for the Crown Solicitor's Office and the Department of Justice. I could not be clearer.

**The Hon. PETER PRIMROSE:** Minister, there are local councils that your Government lost cases against. They appeared before the Court of Appeal. A year ago, the Court of Appeal directed that your Government—these are local councils—had to pay costs. To date, your Government has been totally recalcitrant.

**Ms GABRIELLE UPTON:** I reject that claim. The Government will met any cost orders that are made against it.

**The Hon. PETER PRIMROSE:** I have not finished. I am asking you, as these involve local councils, if you feel that you have any role at all in this.

**Ms GABRIELLE UPTON:** The litigation in the courts has been conducted on behalf on the Government by the Crown Solicitor's Office. Any cost orders that are made either in favour of the Government or not in favour of the Government will be paid. They are in the Department of Justice's budget to settle.

**The Hon. PETER PRIMROSE:** Minister, I will eventually find something that you are responsible for. I am going to move on to something else. I will find something. Ideally I will not need photos, but if I can find something you are responsible for—

**Ms GABRIELLE UPTON:** You can do a show and tell as well.

**Mr DAVID SHOEBRIDGE:** Just for the record, the Minister was the defendant in every one of those cases. Minister, you were the defendant and now you will not even answer basic questions.

**Ms GABRIELLE UPTON:** I have given you your answer.

**The CHAIR:** Order! Mr Shoebridge, it is disorderly to interject and it is Mr Primrose's question time.

**Mr DAVID SHOEBRIDGE:** It is disorderly to not answer questions when you are the defendant.

**The CHAIR:** Mr Shoebridge, it is not your time for questions. You will have your time in 12 minutes.

**The Hon. PETER PRIMROSE:** I can understand his frustration because I am feeling it too. Minister, how do you define what a regional council is?

**Ms GABRIELLE UPTON:** For what purpose?

**The Hon. PETER PRIMROSE:** Different State funding programs use different definitions of "regional", meaning some councils are ineligible for some regional funding but are eligible for others. How does the New South Wales Government and its Minister for Local Government define what a regional council is?

**Ms GABRIELLE UPTON:** For what purpose?

**The Hon. PETER PRIMROSE:** For the provision of grants.

**Ms GABRIELLE UPTON:** Would you like to offer up some particular examples so that I can make an informed comment?

**The Hon. PETER PRIMROSE:** You do not know?

**Ms GABRIELLE UPTON:** No, you are saying there are anomalies: Where are the anomalies?

**Mr DAVID SHOEBRIDGE:** He just asked for the definition.

**The Hon. PETER PRIMROSE:** What is the definition of a regional council?

**Ms GABRIELLE UPTON:** You are telling me it depends on how they are defined for different grants or applications. You are making an assertion that it is different for different circumstances. I am saying if it is, tell me why it is. Where is it?

**The Hon. PETER PRIMROSE:** Let us assume it is not different. What is the definition of a regional council?

**Ms GABRIELLE UPTON:** For what purpose?

**The Hon. PETER PRIMROSE:** For the use by the Government—your Government—when it is making decisions and when you are making recommendations.

**UNCORRECTED**

**Ms GABRIELLE UPTON:** What decisions relate to that definition?

**The Hon. PETER PRIMROSE:** What is a "regional council"?

**Ms GABRIELLE UPTON:** For what purpose? You are undermining the purpose of your question. Your question was an assertion: "I think there was some anomaly or difference in the definition for different purposes." I am asking you, so you get a fulsome answer, what is regional and why is it different for different purposes?

**The Hon. PETER PRIMROSE:** Let us assume that your assertion is correct and there is no difference—

**Ms GABRIELLE UPTON:** I have made no assertion. I am asking you to clarify.

**The Hon. PETER PRIMROSE:** What is the definition? Someone has passed you a piece of paper now. Can you at least tell us—

**Ms GABRIELLE UPTON:** We are having a good laugh here.

**The Hon. PETER PRIMROSE:** That is good. Maybe I will ask if you could please table that if you are going to start doing this.

**Ms GABRIELLE UPTON:** I am telling you that if you are making a point—which I think you are, but I am trying to be clear—that there are different definitions of "regional" for different grant purposes or applications or decisions, I am asking, so I can understand your question and assist you with an answer, where are the differences: for what purpose and for what grant program?

**The Hon. PETER PRIMROSE:** Minister, do you have, as a Government, a definition of what a regional council is?

**Ms GABRIELLE UPTON:** There would be a definition for different processes, different grant applications and different laws. But if you have a specific instance there—

**The Hon. PETER PRIMROSE:** Okay, let us move on. I will find another one then. Let us try this one. You support the recognition of local government in the Australian constitution, do you not?

**Ms GABRIELLE UPTON:** That is a matter for the Federal Government. I am the local government Minister for the State. I have nothing more to add.

**The Hon. PETER PRIMROSE:** Do you or do you not—

**Ms GABRIELLE UPTON:** It is not a matter for me. I am a State Minister and I am not a Federal member of Parliament.

**The Hon. PETER PRIMROSE:** Do you have a view?

**The Hon. SHAYNE MALLARD:** I am not sure that has any relevance to estimates, Mr Chair.

**Ms GABRIELLE UPTON:** It is not relevant.

**The Hon. PETER PRIMROSE:** Of course it is relevant to the estimates if you understand the litigation that has taken place and the reason for having a constitution—

**Ms GABRIELLE UPTON:** I do not believe it is relevant. I am here as the State Minister for Local Government.

**The Hon. PETER PRIMROSE:** You know the reason that Local Government NSW, Australian Local Government Association and others want the constitutional recognition of local government. Do you or do you not support it?

**Ms GABRIELLE UPTON:** I do not know their views on this issue and I do not believe it is even relevant because I am a State local government Minister—

**The Hon. PETER PRIMROSE:** You are kidding? You are the State Minister for Local Government.

**Ms GABRIELLE UPTON:** Exactly. And that is a matter for the Federal Government and Federal representatives. I am not a Federal representative.

**UNCORRECTED**

**The Hon. PETER PRIMROSE:** Okay, let us try number five. IPART handed your predecessor its report on compliance and red tape in April 2016. IPART handed its review, which was requested by the Government, of the local government rating system in December 2016. When will they be made public?

**Ms GABRIELLE UPTON:** They are still under consideration by the Government, Mr Primrose.

**The Hon. PETER PRIMROSE:** April 2016 and December 2016 and they are still under consideration by the Government?

**Ms GABRIELLE UPTON:** They are.

**The Hon. PETER PRIMROSE:** When do you expect to complete your consideration?

**Ms GABRIELLE UPTON:** They are still under consideration by the Government.

**The Hon. PETER PRIMROSE:** When do you expect to finish them?

**Ms GABRIELLE UPTON:** In the fullness of time, Mr Primrose.

**Mr DAVID SHOEBRIDGE:** In the appropriate junctional. This is like a *Monty Python* skit.

**Ms GABRIELLE UPTON:** I do not make light of it; I just make the point that they are still under consideration.

**The Hon. PETER PRIMROSE:** These were important reports and were commissioned by the Government because they dealt with important issues. You received one of them from IPART after a substantial investment of time and money in April 2016. It involved how local government could deal with compliance and reduce costs due to red tape. That was in April 2016. We are now in September 2018. Can you give us a clue of when you may deign to consider responding to this important report?

**Ms GABRIELLE UPTON:** Mr Primrose, Ministers in Government can commission reports on all kinds of issues at any particular time. Those particular reports are still under consideration.

**The Hon. PETER PRIMROSE:** Let us see if you have an answer for number six. In October last year, the Local Government Engineers Association and the Institute of Public Works Engineering Australasia (NSW Division) published a detailed report entitled, "Building New South Wales Together: Improving the Infrastructure Delivery and Engineering Capacity of Local Government". One of the many valuable recommendations was that you as Minister establish an engineering workforce development committee and provide funding for engineering cadetships in local government in order to build future engineering and delivery capacity. Do you support that recommendation?

**Ms GABRIELLE UPTON:** I am familiar with and I have met with a number of times the professional association for engineers. They are a very august, considered, sensible, representational group.

**The Hon. PETER PRIMROSE:** Absolutely. One thing we agree on.

**Ms GABRIELLE UPTON:** I did want to take the opportunity to say that they make an important contribution at the council level to the work that councils do to support, deliver on good services across local government areas in New South Wales.

**The Hon. PETER PRIMROSE:** Absolutely. Do you support their recommendations?

**Ms GABRIELLE UPTON:** So the specific recommendation, again, was, Mr Primrose?

**The Hon. PETER PRIMROSE:** One of the many valuable recommendations was that you, as Minister, establish an engineering workforce development committee and provide funding for engineering cadetships in local government in order to build future engineering and delivery capacity, made by a group, as you have said, who are very capable and very experienced and certainly non-partisan.

**Ms GABRIELLE UPTON:** They have not personally made that request to me. I am happy to consider it, as I would for any stakeholder.

**The Hon. PETER PRIMROSE:** Have you received a copy of their report?

**Ms GABRIELLE UPTON:** I am happy to consider any suggestion. As I said, they are a stakeholder that does a really good, good job across local government.

**The Hon. PETER PRIMROSE:** Minister, they sent you a copy of the report.

**Ms GABRIELLE UPTON:** I am happy to consider that recommendation.

**UNCORRECTED**

**Mr DAVID SHOEBRIDGE:** You have got it already.

**The Hon. PETER PRIMROSE:** You have one. You have had it for months. You have had it for the same length of time that I have.

**Ms GABRIELLE UPTON:** I am happy to consider that recommendation.

**The Hon. PETER PRIMROSE:** Has your—

**Ms GABRIELLE UPTON:** You have my answer.

**The Hon. PETER PRIMROSE:** Has the Office of Local Government considered those recommendations through you, Minister?

**Ms GABRIELLE UPTON:** I am happy to ask Mr Hurst to respond to that.

**Mr HURST:** The office has a number of ways that we engage with the engineering professional bodies in New South Wales. Through those formal and informal processes, we are keen to progress with them the discussion about what needs to be done in local government to promote the needs of engineers as a profession, engineers within individual councils and their career paths, with a particular emphasis on how engineers can be introduced into the local government sector at the entry level, how they can be attracted and retained in regional councils, and obviously to provide the career paths through different councils and different engineering opportunities so that they can grow and develop their careers.

**The Hon. PETER PRIMROSE:** Thank you, Mr Hurst. Can I ask you if you could please address the specific recommendation that they made in that report in relation to an engineering workforce development committee and providing funding for cadetships? Has that been considered by the Office of Local Government?

**Mr HURST:** It is under consideration. Obviously, we are aware of the proposals put forward by the professional bodies and we engage with them—

**The Hon. PETER PRIMROSE:** I am pleased someone is.

**Mr HURST:** —through the groups that talk about engineers specifically, but also other workforce needs across the sector to talk about all of the different proposals for ways that we can support local government training and employees.

**The Hon. PETER PRIMROSE:** Minister, Local Government NSW supports making mandatory repayment of superannuation to mayors and counsellors in addition to the stipend paid to elected officials. Do you support this?

**Ms GABRIELLE UPTON:** I am not aware of that particular proposal. That has not been raised with me directly by their president, but I am happy to consider it.

**The Hon. PETER PRIMROSE:** Have you read any of the recommendations of the last local government conference for New South Wales?

**Ms GABRIELLE UPTON:** I attended the last local government conference. I meet regularly with the President of Local Government NSW.

**The Hon. PENNY SHARPE:** You were not paying attention.

**Ms GABRIELLE UPTON:** I have attended in the last number of months their annual dinner, their awards dinner. It has not personally been raised with me by their president.

**The Hon. PETER PRIMROSE:** It is one of their recommendations.

**Ms GABRIELLE UPTON:** It has not personally been raised with me.

**The Hon. PETER PRIMROSE:** Not personally raised?

**Ms GABRIELLE UPTON:** They have many good ideas.

**The Hon. SHAYNE MALLARD:** One of 500, probably, at least.

**Ms GABRIELLE UPTON:** I am always happy to consider new and good ideas to support the local government sector.

**The Hon. PENNY SHARPE:** She has one job.

**The Hon. SHAYNE MALLARD:** Five hundred recommendations.



**UNCORRECTED**

**The Hon. PENNY SHARPE:** You think she cannot look at these?

**The Hon. PETER PRIMROSE:** Minister, how much money is left in the Fit For the Future funding reserve?

**Mr DAVID SHOEBRIDGE:** They have changed their format. There are only about 100 now.

**The Hon. PETER PRIMROSE:** Minister?

**Ms GABRIELLE UPTON:** I am going to refer that question to Mr Hurst. Mr Hurst, would you like to address that, please?

**Mr HURST:** The Fit For the Future process has concluded, and so the process of paying out funds for new council implementation funds and the Stronger Communities Fund to new councils established in 2016 concluded with the end of the Fit For the Future process.

**The Hon. PETER PRIMROSE:** So there is no funding left in that reserve?

**Mr HURST:** So we do not just have a reserve. Obviously, the Office of Local Government is allocated grant funding in the budget. Those numbers are detailed in the budget papers. But, as I say, with the conclusion of the Fit For the Future process, the use of funding to support the establishment of new councils is concluded.

**The Hon. PETER PRIMROSE:** Can I ask you, then—and my time for this section is almost up—I note that the Office of Local Government, Minister, announced in June 2018 the appointment of six new council engagement managers. Can you tell me what funding was made available for those positions and whether it is ongoing?

**Ms GABRIELLE UPTON:** I believe there was an appointment of engagement managers. I will ask Mr Hurst to comment on their function and their progress on engagement.

**The Hon. PETER PRIMROSE:** And their funding, which is what I asked.

**Ms GABRIELLE UPTON:** And their funding.

**Mr HURST:** I am very pleased to discuss the council engagement managers. This is an important way that the office is structuring itself to present staff to the councils in a way that operates in a collaborative and engaging way. All of the people who are appointed to those roles were appointed through a process that allowed us to draw on existing employees who were fully funded in our existing budget, as well as a combination of two temporary positions that are funded for a limited period of time, and that comprises the team.

**The CHAIR:** That is time.

**The Hon. PETER PRIMROSE:** So there is no additional funding? Okay.

**Mr DAVID SHOEBRIDGE:** Minister, did you sign off on the proposal to pretend to protect Australia's oldest colonial infrastructure, being the barrel drains at Windsor where the bridge is being constructed, with styrofoam? Did you sign off on that proposal and are you aware of the so-called protection that has been given to the barrel drains by having them covered in styrofoam?

**Ms GABRIELLE UPTON:** Mr Shoebridge, good to see you. I know this is a matter that has been exercising you and others in the community. I think you are talking about the Windsor bridge.

**Mr DAVID SHOEBRIDGE:** Correct.

**Ms GABRIELLE UPTON:** Yes, which is—

**Mr DAVID SHOEBRIDGE:** Australia's oldest public square and Australia's oldest non-Aboriginal infrastructure, which is about to be destroyed by your Government.

**Ms GABRIELLE UPTON:** So, are you asking me this in my capacity as heritage Minister?

**Mr DAVID SHOEBRIDGE:** Correct.

**Ms GABRIELLE UPTON:** This is a State significant infrastructure project—

**Mr DAVID SHOEBRIDGE:** Correct.

**Ms GABRIELLE UPTON:** —and as heritage Minister, I do not have a direct role in that.

**Mr DAVID SHOEBRIDGE:** Have you not intervened to try to protect—

**UNCORRECTED**

**Ms GABRIELLE UPTON:** I have no direct role.

**Mr DAVID SHOEBRIDGE:** —to try to protect Australia's oldest non-Aboriginal infrastructure, which at the moment the only protection proposed for it is that they are going to cover it with styrofoam before they throw a bridge over it? Have you not even become aware of the proposed protections?

**Ms GABRIELLE UPTON:** They are your allegations and assertions, Mr Shoebridge, which may or may not be correct. But, as I said, as heritage Minister, I have no role to play in the process.

**Mr DAVID SHOEBRIDGE:** Do you not know?

**Ms GABRIELLE UPTON:** Are you not familiar with the State Significant Development [SSD] process?

**Mr DAVID SHOEBRIDGE:** I am familiar with it.

**Ms GABRIELLE UPTON:** I am happy to take you through that.

**Mr DAVID SHOEBRIDGE:** I am familiar with it.

**Ms GABRIELLE UPTON:** I am happy to take you through that. Do you not know that I have no role to play?

**Mr DAVID SHOEBRIDGE:** I am familiar with Australia's oldest non-Aboriginal infrastructure about to be destroyed and the pretend protection is to cover it with styrofoam, and you are just saying you do nothing as the heritage Minister. Nothing. Is that right? That is your evidence?

**Ms GABRIELLE UPTON:** I am saying the process is one where a heritage Minister has no formal role. That said, as—

**Mr DAVID SHOEBRIDGE:** Yes, I am asking about your informal role. Have you intervened to try to protect this crucial part of our heritage? If the answer is no, just say it.

**Ms GABRIELLE UPTON:** The process does not have a heritage Minister having a role when it is a State significant infrastructure project.

**Mr DAVID SHOEBRIDGE:** All right. No.

**Ms GABRIELLE UPTON:** You should know that. You should know that.

**Mr DAVID SHOEBRIDGE:** I know what you do, Minister, and I know what you do not do.

**Ms GABRIELLE UPTON:** I will make no further comment. No further comment.

**Mr DAVID SHOEBRIDGE:** Minister, here is something you do have—

**Ms GABRIELLE UPTON:** That said, heritage across the State—

**Mr DAVID SHOEBRIDGE:** I thought you said no further comment?

**Ms GABRIELLE UPTON:** I am talking generally about my role as heritage Minister.

**Mr DAVID SHOEBRIDGE:** I do not want to hear generally, Minister. My question was quite specific.

**Ms GABRIELLE UPTON:** There are many other things that I do to protect heritage across the State.

**Mr DAVID SHOEBRIDGE:** Chair, my time is limited.

**The CHAIR:** Yes. Order!

**Ms GABRIELLE UPTON:** I do not have a role in SSDs.

**The CHAIR:** The member wants to ask another question.

**Mr DAVID SHOEBRIDGE:** Here is something you do have a role in: the proposal to privatise six major buildings at South Head, at Watsons Bay, in the heart of your electorate, which is opposed not just by the local community, but by everybody who cares about our national parks. Why do you not just kill this off as Minister and say no to the privatisation of Gap Park?

**Ms GABRIELLE UPTON:** Mr Shoebridge, you know that that is in the process of revised consultation of the proposal with the local community. That consultation on the revised proposal closed yesterday—

**UNCORRECTED**

**Mr DAVID SHOEBRIDGE:** They hate it.

**Ms GABRIELLE UPTON:** —and, as the decision-maker, I make no further comment about that.

**Mr DAVID SHOEBRIDGE:** But this is your job, Minister—to be accountable. Why did you let this go through the process at all? Why did you not, as Minister, say, "No, I am not going to allow the privatisation of Gap Park. I am not going to allow the privatisation of our national parks. My own local electorate hates it. I will not let it go through this process." Why did you not do that?

**Ms GABRIELLE UPTON:** Mr Shoebridge, this is part of a process where there needs to be probity, there needs to be consultation. The consultation feedback then has to be considered. That is an important process that ensures that as a democracy of the State—

**Mr DAVID SHOEBRIDGE:** You are the Minister. You do not have to let it go through this process. You can just save the park.

**Ms GABRIELLE UPTON:** Mr Primrose, you fundamentally—

**Mr DAVID SHOEBRIDGE:** "Shoebridge" is the name.

**Ms GABRIELLE UPTON:** You fundamentally understand that might be the way that you make decisions, but when you are in government—and you will never be in government—

**Mr DAVID SHOEBRIDGE:** You do not make decisions, Minister.

**Ms GABRIELLE UPTON:** —because you are a minority partner.

**Mr DAVID SHOEBRIDGE:** Minister, you do not make decisions. Your in-tray is an occupational health and safety risk.

**Ms GABRIELLE UPTON:** Process is important—

**Mr DAVID SHOEBRIDGE:** You do not make decisions

**Ms GABRIELLE UPTON:** —probity is important. If you were being a little bit more up front, you would be better describing this as a process where there is now a consultation that has just closed underway with local community and anybody who wants to have a say. All of that consultation material, all those submissions, will be considered fulsomely for what they are.

**Mr DAVID SHOEBRIDGE:** Yes—in the archaic sense of the word.

**Ms GABRIELLE UPTON:** And a decision will be made in the fullness of time. But the process is something that is important to go through. Everybody in our local communities expects there is natural justice, there is a process that will inform important decisions, and that is what we are going through now.

**Mr DAVID SHOEBRIDGE:** Minister, you do not have to go through a process if at the outset you say, "I am not going to privatise our national parks and I will not put forward as a proposal and invite tenders for it." Why did you invite these tenders? Why did you invite the proposal? Why did you not just protect the national park?

**Ms GABRIELLE UPTON:** There is a process underway, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Okay, Minister. Have you heard of a Mr Glenn Handford?

**Ms GABRIELLE UPTON:** I have not, Mr Shoebridge. Would you like to tell me some more?

**Mr DAVID SHOEBRIDGE:** He is one of the administrators your Government appointed to the MidCoast Council. Does it ring a bell now?

**Ms GABRIELLE UPTON:** No. I am still not familiar with the name but please go on.

**Mr DAVID SHOEBRIDGE:** Are you not at all troubled by the fact that the former administrator and General Manager of the MidCoast Council has now left the council and gone to work with a property billionaire with a whole series of development proposals in that council? He has gone from gamekeeper to poacher. Are you not aware of it and, if you are not aware of it, why are you not aware of it?

**Ms GABRIELLE UPTON:** What is your allegation, Mr Shoebridge? I do not understand. I do not have personal knowledge of that person from that council.

**UNCORRECTED**

**Mr DAVID SHOEBRIDGE:** Mr Hurst, are you aware of Mr Handford going from gamekeeper to poacher?

**Ms GABRIELLE UPTON:** Is there an allegation that you are making?

**Mr DAVID SHOEBRIDGE:** Mr Hurst?

**Ms GABRIELLE UPTON:** Mr Shoebridge, is there an allegation that you are making against a particular person?

**Mr DAVID SHOEBRIDGE:** Yes. My allegation is that the man who has a deep conflict of interest from previously having regulated a wealthy property developer with a whole series of controversial developments in the area is working with that property developer, with no gap between.

**Ms GABRIELLE UPTON:** Thank you for your clarity on that point. I will ask Mr Hurst to comment.

**Mr HURST:** Thank you, Minister. I was seeking to clarify that Mr Handford was not the administrator of MidCoast Council.

**Mr DAVID SHOEBRIDGE:** He was the general manager; you are right. Are you aware of the fact that he has gone from gamekeeper to poacher, Mr Hurst?

**Mr HURST:** His engagement after he leaves the local government sector is not a matter controlled by the Local Government Act.

**Mr DAVID SHOEBRIDGE:** Minister, do you believe that there should be laws that prevent somebody from leaving local government and getting a job in private industry in an area where there is a direct conflict with the work they used to do in local government?

**Ms GABRIELLE UPTON:** Mr Shoebridge, in general, it is important that people do not use information that they have gained in past employment in a situation where they could particularly benefit from that—

**Mr DAVID SHOEBRIDGE:** He was the general manager; he knew everything.

**Ms GABRIELLE UPTON:** —in a private capacity in their new employment. As a principle, I accept that.

**Mr DAVID SHOEBRIDGE:** Why do you not put controls on so that people such as Mr Handford cannot go from being in charge of the local council to being a key adviser for a local controversial property developer? Why do you not prevent that—pass laws, make it illegal?

**Ms GABRIELLE UPTON:** I am not familiar with the particular circumstance you are raising.

**Mr DAVID SHOEBRIDGE:** It is a general problem.

**Ms GABRIELLE UPTON:** You are making an allegation—

**Mr DAVID SHOEBRIDGE:** It is a general problem.

**Ms GABRIELLE UPTON:** —and I have expressed my principal response to that, which is that information that is non-public should not be used by somebody in another context where they personally gain from it.

**Mr DAVID SHOEBRIDGE:** You did not know about Mr Glenn Handford. Do you know about a Mr Stapleton?

**Ms GABRIELLE UPTON:** I do not. In what context?

**Mr DAVID SHOEBRIDGE:** Well, do you know about a council called Parramatta council? Have you heard of Parramatta council?

**Ms GABRIELLE UPTON:** I have, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Have you heard about the controversy about the appointment of their chief executive officer [CEO]?

**Ms GABRIELLE UPTON:** There has been some media reporting on that.

**Mr DAVID SHOEBRIDGE:** Do you know what the name of that CEO is?

**UNCORRECTED**

**Ms GABRIELLE UPTON:** I am sure you will tell me, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Mr Hurst, do you know the name of the CEO?

**Mr HURST:** Yes.

**Mr DAVID SHOEBRIDGE:** What is the name?

**Mr HURST:** Mr Stapleton.

**Ms GABRIELLE UPTON:** Who is asking the questions here?

**Mr DAVID SHOEBRIDGE:** I am; it is me, here.

**Ms GABRIELLE UPTON:** Mr Shoebridge, there has been some media reporting on this issue. What is your point?

**Mr DAVID SHOEBRIDGE:** First of all, you are the Minister for Local Government and you do not even know the name of this controversial CEO for Parramatta council. How can you possibly—

**Ms GABRIELLE UPTON:** Mr Shoebridge, there are allegations in the paper about all manner of things in the local sector.

**Mr DAVID SHOEBRIDGE:** —pretend to be competent and not know this?

**Ms GABRIELLE UPTON:** Mr Shoebridge, there are allegations made against the many thousands of people in the State who are involved in the local government sector.

**Mr DAVID SHOEBRIDGE:** Have you sought a review or any information about the very controversial appointment of Mr Stapleton at the council that is responsible for Sydney's second central business district? Have you sought a review? Have you sought a report? Have you even sought information about who the guy is?

**Ms GABRIELLE UPTON:** Mr Shoebridge, I am aware of the circumstance that you are referring to and it is a matter that I am having the Office of Local Government look at, and perhaps Mr Hurst would comment on that.

**Mr HURST:** Thank you, Minister. Mr Shoebridge, at the outset I would point out that the appointment of the general manager is a matter for council. The general manager is a council employee not employed by the Government, and that the processes of appointing and the performance management of a general manager are undertaken by—

**Mr DAVID SHOEBRIDGE:** I get it, it is not your responsibility; you know nothing.

**The Hon. PETER PRIMROSE:** Are you sending someone to the meeting tonight?

**Mr DAVID SHOEBRIDGE:** I know that Mr Pearson has been waiting patiently, I will give him the last questions.

**The Hon. PETER PRIMROSE:** Are you sending someone to the meeting tonight?

**The CHAIR:** Mr Pearson has very little time.

**Mr DAVID SHOEBRIDGE:** She has no idea.

**The Hon. MARK PEARSON:** Under the Biodiversity Conservation Act 2016, the responsibility to prevent unnecessary harm to wildlife, and in this case particularly kangaroos, is your responsibility?

**Ms GABRIELLE UPTON:** I have some responsibilities when it comes to kangaroos, yes.

**Mr DAVID SHOEBRIDGE:** That is her first admission.

**The Hon. MARK PEARSON:** Are you aware that there have been recent changes to the licence conditions in relation to harming kangaroos where landholders can now shoot kangaroos or allow shooters to come on to their property to kill kangaroos without the requirement of a let lie or drop tag licence?

**Ms GABRIELLE UPTON:** Mr Pearson, there were some recent changes to better address some of the concerns that have been raised with the Government about kangaroos in situ. If you have a particular question, I think you are just asking about my awareness, which is yes. And your question?

**UNCORRECTED**

**The Hon. MARK PEARSON:** Are you aware of the potential harm? Have you satisfied yourself that these animals are not going to be seriously harmed because of the lifting of these requirements that have been in place for decades as part of monitoring what is a protected Australian native animal?

**Ms GABRIELLE UPTON:** Mr Pearson, I would be concerned to ensure that those changes were done with the utmost attention to animal welfare. Animal welfare, of course, is the responsibility of my colleague, Minister Blair.

**The Hon. MARK PEARSON:** Correct.

**Ms GABRIELLE UPTON:** But the particular circumstance I will have Mr Lean comment on.

**Mr LEAN:** If I could clarify, there is still a requirement to obtain a licence in order to shoot kangaroos on properties. What we have done is remove some of the unnecessary red tape around tagging.

**The Hon. MARK PEARSON:** Who said it was unnecessary?

**Mr LEAN:** There are a lot of issues with the tags. They deteriorate, they were essentially introduced as a compliance mechanism so that checks could be undertaken. But we have satisfied that we can actually do that by issuing a number that farmers or licensed shooters are allowed to take.

**The Hon. MARK PEARSON:** All they need to do now is send an email or make a phone call saying whatever figure they wish to—say 300, 400, 5,000 kangaroos they need to shoot—"Yes, go ahead." But the tag does not have to be put on the animal and therefore there is no accountability to assure the Minister that these animals are not being harmed in the way which is a contravention of the Act, which is protecting them.

**Mr LEAN:** The tag, in our view, was an unnecessary piece of red tape. It did not in any way impact or lead to better animal welfare outcomes. What we have done as part of the licence, and we continue to do this—

**The Hon. MARK PEARSON:** Animal welfare is not the Minister's portfolio responsibility, as she has pointed out, but the protection of the animal is as a sentient being and a wild animal that needs to be protected under the biodiversity legislation.

**Mr LEAN:** The licence continues to contain conditions that the person who has been issued with the licence—the person responsible—must comply with the National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes. We are at the moment developing proactive enforcement or compliance activities so that we will be able to monitor the impacts—

**The Hon. MARK PEARSON:** The information that is coming—

**The CHAIR:** Order! Mr Pearson, we have been very generous with our time. I have given you some of mine and Mr Shoebridge has given you some of his. I would like to ask my questions now, given that we are three minutes into my time.

**The Hon. MARK PEARSON:** Thank you.

**The CHAIR:** I refer again to my understanding of the Office of Environment and Heritage classifying the Collingwood Beach Preservation Group as an unreasonable complainant based on eight pieces of correspondence related to the Collingwood Beach Dune Vegetation Management Plan submitted over 12 months. Is that true? Has anyone in the office done such a thing?

**Ms GABRIELLE UPTON:** I have met with representatives of that group on site—

**The CHAIR:** Yes, you have, and it is much appreciated.

**Ms GABRIELLE UPTON:** —and they took me through some of the issues. However, I will ask Mr Lean to address your specific concern.

**Mr LEAN:** I can confirm that a letter was sent to the Collingwood Beach Preservation Group. However, when I was made aware of the matter it became clear to me that the issue they had most recently written about did not relate to the historical issue that they had written about in the past. It was a new issue relating to the Shoalhaven CZMP. I have apologised to the president or chair of that organisation.

We are currently considering the Shoalhaven CZMP and looking to establish whether it has met the requirements to be certified under the Act. That includes looking at the consultation that was undertaken, which was one of the key issues raised by the preservation group. We have also looked at some of the other issues the group has raised, including the legal authority for the plan to be certified. We are satisfied it is possible under the transitional provisions of the legislation. As I said, I have apologised to the gentleman.

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**The CHAIR:** That is fine and it is good that you acknowledge that. It appears that some of the correspondence simply related to inquiries about why OEH personnel had not responded to correspondence from the Collingwood Beach Preservation Group. The chief executive officer personally directed the group to contact certain people in the office. Does the OEH have a policy of shutting out community groups simply because they do not accept what the office is telling them? We talked about experts earlier, and I appreciate them and all they have to offer. However, my experience coming off the land is that there is a lived experience. The people living on the foreshore have been there for 30 years or 40 years and they have an understanding of it because they built it, and they "get" that area.

**Mr DAVID SHOEBRIDGE:** Some of them keep chopping down and poisoning the trees.

**The CHAIR:** Some people do, and it is not right. We are not trying to justify vandalism—in fact, it is criminal. These people have lived there for 40 years. Does the OEH have a policy of shutting down communication if people do not accept what it determines in terms of scientific and technical findings?

**Ms GABRIELLE UPTON:** I would like to make a general statement.

**The CHAIR:** With all due respect, Minister, I should have directed my comments through you.

**Ms GABRIELLE UPTON:** I would be most concerned if an agency under my oversight took that approach. We should welcome all views, as long as they are not abusive or harassing or breach any other law or expectation of behaviour. I would want to hear all of those views, even if they were voiced numerous times, which they often are.

**The CHAIR:** The chief executive officer has confirmed in correspondence with the Collingwood Beach Preservation Group that technical advice is being provided by OEH personnel to Shoalhaven City Council in the case of the Dune Vegetation Management Plan for Collingwood Beach. The acting team leader has stated that the proposed dune clearing works at Collingwood Beach are likely to set a precedent for similar works to be undertaken at other localities in the local government area and that this could create unsustainable expectations for council. Why has the OEH advised the council that vegetation on dunes should not be removed in case it sets a precedent for other locations?

**Mr LEAN:** I cannot recall the specifics of that particular issue. I know that we were having a debate with the preservation group about the appropriate plants or trees to be planted as part of the dune management program. I think we had a different view from the preservation group's about what was appropriate and was not. Our view was that it was appropriate to use, I think, banksias in that circumstance. I would imagine, based on what you have said, we would have been concerned that it would create a precedent if that sort of vegetation were removed. As I understand it, it is used frequently and is valuable in preserving dune integrity.

**The CHAIR:** I think they planted most of that beach 40 years ago to save its integrity. Surely the OEH focus should be on maximised dune resilience for each specific location while ensuring that vegetation on the dunes complies with the New South Wales Coastal Dune Management Manual. Do you agree?

**Mr LEAN:** I do agree, and we believe that that complies with the manual. I think that is the fundamental issue and we simply have a difference of opinion that we have not been able to reconcile.

**The CHAIR:** One of my favourite topics is the section 88 waste levy. The levy is now paid to the State Government. The increasing fees for a trip to the tip have resulted in an increase in illegal dumping in our national parks, State forests and on Crown land. Despite the levy going to the State Government, local councils are still responsible for dealing with local waste and illegal dumping. Given the added cost imposed on local governments and the NSW Forestry Corporation, which are responsible for cleaning up illegal dumping, which often includes asbestos, is the redirection of the section 88 waste levy away from council waste management a fair thing? Local councils must now raise the additional revenue to respond to local waste management and illegal dumping and trying to divert waste from landfill. Minister, I note your earlier comments about the Shoalhaven area being defined as metropolitan, but for tourism grants it is defined as regional. We would like to be defined only as regional.

**Ms GABRIELLE UPTON:** I acknowledge your longstanding concerns about this issue. The Shoalhaven has shared in some of the proceeds of the waste levy being reinvested in the community—in fact, many dollars from the waste levy have gone back to the local community. Obviously we consider policy settings from time to time. Both you and the Shoalhaven City Council—which I met—have made strong representations to achieve what is seen as a more appropriate sharing arrangement. We are always happy to consider better policy parameters and grant provisions.

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**The Hon. PETER PRIMROSE:** Through you, Minister: Mr Hurst, you would have received a letter yesterday from the Lord Mayor of Parramatta, Councillor Andrew Wilson, requesting that a representative of the Office of Local Government attend an extraordinary council meeting this evening and a council meeting to be held on Monday 10 September. Will someone from the Office of Local Government be attending?

**Mr HURST:** As I mentioned previously, the office is monitoring the situation at council and providing assistance as required. It is correct that the lord mayor asked the Office of Local Government to attend both the extraordinary meeting this evening and the ordinary council meeting being held on 10 September. I replied to the lord mayor this morning indicating that we will be sending two officers to the meeting this evening. We will reassess the need to send representatives to the meeting next week once we see what happens this evening. But I would caution that their role is not to participate in the meeting, to offer advice. They are there as observers and obviously part of our role is in monitoring how the governing body is being effective at dealing with the issues that are put before it.

**The Hon. PETER PRIMROSE:** That is fair enough. Thank you very much, Mr Hurst.

**The Hon. PENNY SHARPE:** Minister, you would be aware that we are facing a pretty dreadful season coming upon us in relation to bushfires. There have been over 2,000 bushfires and grassfires just in the last month in New South Wales. Emergency services have warned, as I said, of a dire bushfire season with the eastern part of New South Wales particularly at risk. Why has the amount of hazard reduction burns in kilometres treated by the National Parks and Wildlife Service appear to have been cut by two-thirds in the last figures provided in 2016-17?

**Ms GABRIELLE UPTON:** Ms Sharpe, thank you for the question. I do not know that to be the case. The National Parks and Wildlife Service has a very proud history of assisting the other emergency services with tackling fires as they emerge. We know that we are in a drought period here so that risk is even higher. Every year in budget there is a strong dedication of funding to resource their efforts. In fact, they are exemplars when it comes to fire and bush management because they go overseas and share their expertise.

**The Hon. PENNY SHARPE:** Can I just confirm that funding comes from the Climate Change Fund?

**Ms GABRIELLE UPTON:** To your specific question—

**The Hon. PENNY SHARPE:** Are you aware that the amount of kilometres—

**Ms GABRIELLE UPTON:** —you have said that there has been a reduction in bushfire management.

**The Hon. PENNY SHARPE:** Yes, by two-thirds, within national parks.

**Ms GABRIELLE UPTON:** I would like Anthony Lean to address your direct question. I do not know that to be the case. Mr Lean, would you like to respond?

**Mr LEAN:** We have a rolling target which is averaged over, I think, five years. Those numbers just do not sound right to me.

**The Hon. PENNY SHARPE:** Can I take you through them then? Is that okay?

**Ms GABRIELLE UPTON:** Can we take that on notice, Ms Sharpe? Because if the chief executive—

**The Hon. PENNY SHARPE:** You can, but let me just tell you. In the annual report it says that for 2016-17 there were 143 hazard reduction burns on the park and that that basically treated around 88,136 hectares. If you look back over the last four years prior to that, generally on average there were around 210,000 hectares treated or there were two years where there were 110,000. So there is a significant reduction. I am happy for you to take it on notice.

**Mr LEAN:** I would like to make some comments on it. It is done as a rolling target over a number of years because conditions in individual years may prevent a flat yearly target being met.

**The Hon. PENNY SHARPE:** Sure.

**Mr LEAN:** So you have picked one year.

**The Hon. PENNY SHARPE:** A significant reduction over the last four years—I am not just hand-picking one.

**Mr LEAN:** The Government has made available significant funds as part of the Enhanced Bushfire Management Program.



## UNCORRECTED

**The Hon. PENNY SHARPE:** Can I just confirm that money comes out of the Climate Change Fund?

**Mr LEAN:** That is my understanding, yes.

**Ms GABRIELLE UPTON:** It does, and it was awarded, Ms Sharpe, as you probably know, in 2016. There was approximately \$80 million that was dedicated to that project.

**The Hon. PENNY SHARPE:** So money for climate change is funding core business of the National Parks and Wildlife Service, that being bushfire hazard reduction.

**Ms GABRIELLE UPTON:** No, this was enhanced bushfire management, over and above the regular important job that the National Parks and Wildlife Service people do in managing and addressing fires and fire reduction measures as well. So it is additional to that. It is enhanced bush management.

**The Hon. PENNY SHARPE:** Are you aware that the Australian Workers' Union [AWU], the union that represents workers with the National Parks and Wildlife Service responsible for bushfires, has raised with you: "The National Parks and Wildlife Service is now critically short of experienced firefighters who can coordinate and manage complex bushfire responses across the State." Do you accept that, Minister?

**Ms GABRIELLE UPTON:** I would like Anthony Lean to comment on those issues, please.

**Mr LEAN:** I am extremely concerned at what has been claimed by the AWU because there are a number of falsities in that letter.

**The Hon. PENNY SHARPE:** I am asking you about one specific thing which is their concern about the loss of experienced firefighters. Are you saying you have not lost people with a lot of experience?

**Mr LEAN:** What they have asserted is that we have lost 25 per cent of our firefighting capability. That is just plain incorrect.

**The Hon. PENNY SHARPE:** I am not asking you about that.

**Mr LEAN:** They have said that we have lost—

**The Hon. PENNY SHARPE:** I am not asking you about that. I am asking you about their raising concerns and the fact that it appears as though the amount of hazard reduction burns we are doing is significantly less than it has been in the past, and we are heading into a bad bushfire season.

**Mr LEAN:** And I have explained to you year on year the level of hazard reduction burn varies because of seasonal conditions. Some years it will be wetter than others and you cannot burn. In other years the conditions are—

**The Hon. PENNY SHARPE:** With respect, Mr Lean, we are heading into a drought, which I think everyone accepts, so over the last few years it has been getting drier and drier. And you are saying the only reason this number has been so low is because it has been too wet.

**Mr LEAN:** No, that is not what I am saying. I am saying we look to do hazard reduction burning when the conditions suit. At the moment with the very dry and windy conditions it is very difficult to do it. In other years it is wet. That is why we have a rolling average over a number of years. It is wrong to focus on one year and assert that there is a two-third reduction.

**The Hon. PENNY SHARPE:** I am just following the figures.

**Mr LEAN:** My recollection—I will report back on this—

**The Hon. PENNY SHARPE:** You are going to take it on notice, which I appreciate.

**Ms GABRIELLE UPTON:** We are taking it on notice.

**The Hon. PENNY SHARPE:** That is great. Can I move on then?

**RESPONSE:** The National Parks and Wildlife Service (NPWS) Enhanced Bushfire Management Program aims to treat 135,000 hectares of national parks and reserves for fuel hazard reduction on a five-year rolling average. Over the five years prior to June 2018, NPWS treated over 125,000 hectares per year. The five-year rolling average is applied to even out variations.

**Mr LEAN:** —is it a rolling target of 135,000 hectares on average over a number of years.

**Ms GABRIELLE UPTON:** Can I just say I am very proud of what National Parks and Wildlife Service do in this regard when it comes to bushfire management—

**UNCORRECTED**

**The Hon. PENNY SHARPE:** They are incredible. You have made their job very hard. I would like to move on, though, Minister.

**Ms GABRIELLE UPTON:** —when there are emergencies and when they do their work, their maintenance.

**The Hon. PENNY SHARPE:** I have a different question.

**Ms GABRIELLE UPTON:** We resource them. We are doing enhanced bushfire management.

**The Hon. PENNY SHARPE:** You have cut over \$100 million out of the service, Minister.

**Ms GABRIELLE UPTON:** We invest in what they do. They are exemplar people who do a good job—

**The Hon. PENNY SHARPE:** They no longer appear in the budget papers, so tell us how much you love them.

**Ms GABRIELLE UPTON:** —not only in New South Wales but they go to Canada and places across the world so their expertise can be shared with other nations who look to us as the State of New South Wales as being the exemplar in bushfire management.

**The Hon. PENNY SHARPE:** Great. Thank you, Minister. I would like to go back to the proposal for the wedding facility at The Gap Bluff Centre at Sydney Harbour National Park. In the past, as the local member you have had very strong views in relation to this proposal and you have suggested it has been a bad process and it is a bad project. Is that still your view?

**Ms GABRIELLE UPTON:** The process is, as I described to Mr Shoebridge before, there is a consultation that just closed yesterday upon which anybody could make a comment as to whether they had different or the same views in respect of a revised review of environmental factors [REF], a revised proposal. That is the process that is underway. As Minister I will not comment any further.

**The Hon. PENNY SHARPE:** Minister, can you then comment on the fact that the National Parks and Wildlife Service because of the cuts that have been sustained over the last seven years are now required to do more and more commercial activity and this is what is pushing this proposal?

**Ms GABRIELLE UPTON:** No, I refute that assertion entirely. The National Parks and Wildlife Service are well resourced by this Government over time. To explain to you why in fact they continue to do more and different work and that that assertion you are making is false, I am going to ask Anthony Lean to comment.

**The Hon. PENNY SHARPE:** No, I do not need to do that. I would like to move on because I have too many questions and not enough time. I just wanted to check: you previously said that you do not support the project at Gap Bluff. You were very strong in your comments when the petition was put forward to Parliament and you spoke very strongly at a local public meeting. That was before you were the Minister—I accept that. You are now the Minister with responsibility for this. Are you going to knock this proposal on the head?

**Ms GABRIELLE UPTON:** I have made my comments on the record here. I will make no further comment. I have answered your question.

**The Hon. PENNY SHARPE:** We have talked about the rates of New South Wales land clearing and you quite gleefully said to Ms Cate Faehrmann that the figures have now been provided, which I am very pleased about. It has been a long time. How do you feel about the fact that basically in the last two years there has been an eightfold increase in land clearing in New South Wales?

**Ms GABRIELLE UPTON:** The period you are referring to is what?

**The Hon. PENNY SHARPE:** This is from your own report, the NSW Report on Native Vegetation. You were very happy to tell us it was on the website. For 2013-14, 900 hectares of new clearing of native vegetation; 2015-16, 7,390 hectares.

**Ms CATE FAEHRMANN:** Ouch!

**The Hon. PENNY SHARPE:** That is an incredible change and that is before these current changes to the rules have even been rolled out. Do you think on National Threatened Species Day that this is something you should be concerned about?

**Ms GABRIELLE UPTON:** Firstly, that report does refer to a period that is prior to the introduction of the new laws. In fact, it is the reason why we introduced the new laws. The period of time—

## UNCORRECTED

**The Hon. PENNY SHARPE:** If the increase is already up by eight, why on earth did you need new laws, Minister?

**Ms GABRIELLE UPTON:** That native vegetation report does identify land clearing and it was for that and other reasons—including a clearer framework for all stakeholders to make good decisions, for a more strategic approach to biodiversity and for the opportunities of providing private land conservation and those opportunities to landowners across the State—that we introduced the biodiversity laws on 25 August last year.

**The Hon. PENNY SHARPE:** Thanks, Minister. I would like to move on. Yes, I am very aware of that.

**Ms GABRIELLE UPTON:** There are strong enforcement measures. We have stepped them up.

**The Hon. PENNY SHARPE:** How many prosecutions have there been?

**Ms GABRIELLE UPTON:** There are more enforcement measures.

**The Hon. PENNY SHARPE:** Can you take on notice how many prosecutions there have been of the land clearing in the last three years?

**Ms GABRIELLE UPTON:** There is more resourcing behind the Environment Protection Authority [EPA] and the Office of Environment and Heritage [OEH] to address issues of land clearing when and if they occur.

**The Hon. PENNY SHARPE:** That is great, Minister. Can you take on notice then the number of prosecutions that there have been for illegal land clearing every year since 2013-2014? You do not have to answer it now.

**Ms GABRIELLE UPTON:** I think I will take that on notice, but in the last year there have been three serious prosecutions with fines in excess of \$700,000 for unlawful land clearing. That is appropriate because when people do the wrong thing and breach the laws, both OEHL, when it comes to clearing, and EPA, when it comes to other issues around other parts or other tenures across the State, have strong enforcement powers to be able to ensure that those people who do not comply with the law are prosecuted in cases where it is very serious. Up to \$5 million of fines are available.

**RESPONSE:** Statistics for completed prosecutions against illegal land clearing are detailed in the Office of Environment and Heritage (OEH) annual reports, which are available on the OEH website at <https://www.environment.nsw.gov.au/howeare/reports.htm>

**The Hon. PENNY SHARPE:** We will see about that, Minister. That is fine. I would like to move on please, Mr Chair.

**Ms GABRIELLE UPTON:** They stop the work that possibly could be unauthorised land clearing. There are strong measures which all agencies across my portfolio have to be able to ensure that people comply with the law, whatever that law is.

**The CHAIR:** Order! Minister, the member wants to move on.

**The Hon. PENNY SHARPE:** Minister, are you confident that all probity and accountability measures were put in place when it came to the tendering of the land at western parklands for the new Sydney Zoo?

**Ms GABRIELLE UPTON:** The zoo, Ms Sharpe, is on Western Sydney Parklands land.

**The Hon. PENNY SHARPE:** Yes, I know that.

**Ms GABRIELLE UPTON:** The lease? I am assuming that I will have the chief executive answer in more detail what is executed between that trust and Sydney Zoo. For further details, I will have Mr Lean comment.

**The Hon. PENNY SHARPE:** No, that is fine because I understand that. I understand what has happened with the leasing. My question is that for you, as the Minister with oversight of all of this and being responsible for the probity of all of these issues, are you confident that all probity and accountability measures were put in place in relation to this tender?

**Ms GABRIELLE UPTON:** Ms Sharpe, that was before my time as Minister, but I would imagine—

**The Hon. PENNY SHARPE:** There has been a bit of controversy about it, Minister. Have you not—

**Ms GABRIELLE UPTON:** —and be the case that good probity follows tendering processes across government. It does not matter what asset it is, who are the tenderers and who are the procurers. There is a probity

**UNCORRECTED**

that is put in place to ensure public assets are cared and protected for at the same time that things that enhance their value and enhance their use are able to take place as well.

**The Hon. PENNY SHARPE:** Minister, how many drivers have you had since you have been a Minister?

**Ms GABRIELLE UPTON:** I am happy to take that on notice, Ms Sharpe.

**RESPONSE:** The allocation of Ministerial drivers is a matter for the Department of Premier and Cabinet.

**The Hon. PENNY SHARPE:** Minister, are there any official staff complaints, either of current or previous staff, in relation to the operation of your office?

**Ms GABRIELLE UPTON:** Not that I am aware of, Ms Sharpe.

**The Hon. PENNY SHARPE:** Minister, is it true that there is no centralised correspondence system within your office in relation to the handling of correspondence?

**Ms GABRIELLE UPTON:** Ms Sharpe, the way in which my office operates as a ministerial office is the same as any other ministerial office across government, which includes processes that ensure that records are kept and that the department properly keeps what it should in terms of correspondence. I am satisfied that that is a process that is one that has integrity and one that reflects processes across ministry and across government.

**The Hon. PENNY SHARPE:** Minister, are you aware that I have been involved in a long-term case with your office in relation to freedom of information and the release of correspondence between MPs and you in relation to the Return and Earn scheme?

**Ms GABRIELLE UPTON:** I am aware and I believe that is the subject of court proceedings, so I am not going to comment any further, Ms Sharpe.

**The Hon. PENNY SHARPE:** So you are not going to accept that there is no central document management system for the retention and management of documents received by and created within your own office?

**Ms GABRIELLE UPTON:** As I said before, I answered your question. The processes that apply in my ministerial office regarding correspondence are those that apply across ministry and I will not comment further on the particular matter that you raised because it is currently before the courts.

**The Hon. PENNY SHARPE:** Minister, if someone writes to you, writes you a letter—

**Ms GABRIELLE UPTON:** This is hypothetical, Ms Sharpe, or does it relate to the case?

**The Hon. PENNY SHARPE:** I am trying to get to it. You refusing to answer the first question that was very specific. You do not want to answer that. So I am very happy to give you an example so that the community can understand that if they write you a letter what happens to the letter that goes into your office and that it is not just a dead letter office, where nothing happens with it.

**Ms GABRIELLE UPTON:** I am sure it is not a dead letter office, Ms Sharpe, but please go ahead.

**The Hon. PENNY SHARPE:** It appears that it is a dead letter office, given that your office could not put its hands on the very correspondence that does exist between you and Ministers in relation to the Return and Earn scheme.

**Ms GABRIELLE UPTON:** That is your assertion, Ms Sharpe. Please continue.

**The Hon. PENNY SHARPE:** I think you will find that is actually the accepted wisdom of your office. I will keep going. Did you meet with Minister Elliot in relation to the EPA prosecution of Smiles Onsite?

**Ms GABRIELLE UPTON:** Not to my recollection, Ms Sharpe, no.

**The Hon. PENNY SHARPE:** You have not had a meeting with Minister Elliot where you discussed the issue of the Australian Aged Dental Care Smiles Onsite joint venture that was providing X-rays of schoolchildren across New South Wales for dentals?

**Ms GABRIELLE UPTON:** Not to my knowledge, Ms Sharpe.

**The Hon. PENNY SHARPE:** Minister, are you aware that the EPA had a successful prosecution against this organisation?

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**Ms GABRIELLE UPTON:** I am aware. That was publicly reported.

**The Hon. PENNY SHARPE:** But you are saying that you never discussed the matter with Minister Elliot?

**Ms GABRIELLE UPTON:** Ms Sharpe, there was a prosecution, as I understood it, in which the EPA was successful.

**The Hon. PENNY SHARPE:** Yes, that is not my question. My question is: Has Mr Elliott, the member for Baulkham Hills, raised this issue with you?

**The Hon. SHAYNE MALLARD:** Point of order: The Minister has answered this question for times.

**The Hon. PENNY SHARPE:** Not quite. Whether she met or whether she raised it, that is all I want to know—whether you have had a discussion about it.

**Ms GABRIELLE UPTON:** I have not raised the matter with my ministerial colleague.

**The Hon. PENNY SHARPE:** Did he raise it with you?

**Ms GABRIELLE UPTON:** But as you would understand, with your colleagues, there are conversations that we all have from time to time about a range of matters. What is your assertion, Ms Sharpe?

**The Hon. PENNY SHARPE:** My assertion is: Did Minister Elliot talk to you about the prosecution and what was going on in relation to this case?

**Ms GABRIELLE UPTON:** Not to my recollection, Ms Sharpe. As I said, there has been a prosecution successfully brought in the courts, which I believe has meant that there are fines that are paid and perhaps the licence there that has been withdrawn from the operator.

**The Hon. PENNY SHARPE:** And you are aware that during the prosecution phase children were still being X-rayed across the State under the existing licence, without the appropriate supervision or qualifications in place of the organisation that was doing the X-raying? Maybe Ms Levy knows about this.

**Ms GABRIELLE UPTON:** The Environment Protection Authority, when matters came to their attention, took direct action. This is also a matter for the Minister for Health, the Minister for Education, so—

**The Hon. PENNY SHARPE:** I am asking about the licensing issues and the risk to children as a result of the way in which you managed this prosecution.

**Ms GABRIELLE UPTON:** As far as my portfolio responsibility is concerned, and I will ask this to Ms Levy, who is the head of EPA—in fact, it might go to Mr Gifford as chief regulator—as soon as these matters were drawn to the regulator's attention, there was swift action that was taken. I call upon him to make some direct comments.

**The Hon. PENNY SHARPE:** Mr Gifford, I am looking at this specifically. I am not trying to be tricky with this. I think that there is probably a loophole here which is there were very serious allegations and ultimately a successful prosecution, which is very welcome. My question is that, even though what was occurring under this licence, whether the EPA had any ability to suspend the licence while they were waiting for the prosecution, or were not able to do that? That is what I am trying to get to.

**Mr GIFFORD:** The nature of the prosecution was that there was no licence in place. That was why they were prosecuted.

**The Hon. PENNY SHARPE:** Yes, okay. So there is no gap, there is no ability to do that?

**Mr GIFFORD:** So there is no ability to suspend their licence that was not in place.

**The Hon. PENNY SHARPE:** The question is: What are the other options in relation to stopping this? It is a very serious matter; I am not trying to be silly about it. I am genuinely trying to understand it. It is very good that we had the prosecution, but I am concerned that, whilst the issue was raised, kids were still being X-rayed and we did not seem to have any ability to intervene in that.

**Mr GIFFORD:** As with any prosecution, we reviewed thoroughly the outcomes of that prosecution investigation process and whether or not there is anything that needs to be addressed in terms of either the way that we undertake our investigations are indeed if there are gaps or reforms that might need to occur. In this particular case, it is certainly something that we are looking at in terms of the structure of the legislation with respect to the licensing of these kind of activities.

**UNCORRECTED**

**The Hon. PENNY SHARPE:** So you will be looking at some recommendations around that?

**Mr GIFFORD:** Yes.

**The Hon. PENNY SHARPE:** That is very welcome. That is terrific. Minister, Taronga Zoo has had a long history and strong advocacy in their pursuit of plastic pollution. [*Time expired*]

**Mr DAVID SHOEBRIDGE:** Minister, was your department consulted before the dreadful local government election funding laws were presented to Parliament in May?

**Ms GABRIELLE UPTON:** Which particular laws, Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** The laws for election funding that are now under review by the Joint Standing Committee on Electoral Matters—the ones that we voted on in May.

**Ms GABRIELLE UPTON:** That went to the issue of, Mr Shoebridge, that you are particularly concerned about?

**Mr DAVID SHOEBRIDGE:** Electoral funding.

**Ms GABRIELLE UPTON:** The cap on electoral funding? Is that the particular issue you are concerned about?

**Mr DAVID SHOEBRIDGE:** Yes, the caps for third parties and the irrational caps for local councils. Was your department consulted?

**Ms GABRIELLE UPTON:** You may say they were irrational but they are now law, as I understand it. I will ask Mr Hurst—

**Mr DAVID SHOEBRIDGE:** Minister, everybody agrees they are terrible laws. You are not trying to defend them, are you?

**The Hon. SHAYNE MALLARD:** That is not true.

**Ms GABRIELLE UPTON:** That is your assertion.

**Mr DAVID SHOEBRIDGE:** Okay, you can defend them.

**Ms GABRIELLE UPTON:** But they are laws that passed both Houses of Parliament and you are a member of the upper House yourself. Your House passed those laws.

**Mr DAVID SHOEBRIDGE:** Yes, that is right. And I sought amendments because everybody agrees they are dreadful. Do you not agree they are dreadful and be rational?

**Ms GABRIELLE UPTON:** They are now law and setting a cap is an important thing to do for local government.

**Mr DAVID SHOEBRIDGE:** A cap that is \$15 or \$50 a vote in regional councils and 20¢ a vote in the City of Sydney. Do you support those laws?

**The Hon. SHAYNE MALLARD:** Point of order—

**Ms GABRIELLE UPTON:** The upper House supported them. They are now law, Mr Shoebridge.

**The Hon. SHAYNE MALLARD:** Is it the place of the estimates committee to go through legislation which both Houses of Parliament have passed but you have lost? Two times you have done it now. Is that a legitimate estimates question?

**The Hon. PETER PRIMROSE:** It has been referred to a parliamentary committee by the Government.

**Mr DAVID SHOEBRIDGE:** Nevertheless, he is chewing up my time. I want to move on.

**The CHAIR:** Order! The member can choose to ask the question.

**Mr DAVID SHOEBRIDGE:** Through you, Minister, to Mr Hurst: Mr Hurst, was your department consulted, and did you do any modelling about the impact of those electoral funding laws for different councils across the State?

**Mr HURST:** I cannot comment on the Cabinet process, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** You can comment as to whether or not your department was consulted. Rather than asking the content of it, was your department consulted on the laws before they went to Parliament?

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**Mr HURST:** I am afraid I cannot reveal the Cabinet process, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Mr Hurst, have any councils approached you or has the Local Government Association approached you with concerns about the electoral funding laws?

**Mr HURST:** Not that I am aware of.

**Mr DAVID SHOEBRIDGE:** Minister, when are we going to get standalone Aboriginal heritage protection laws in this State?

**Ms GABRIELLE UPTON:** Mr Shoebridge, there have been—

**Mr DAVID SHOEBRIDGE:** Just tell us when.

**Ms GABRIELLE UPTON:** As you would know, there has been legislation—

**Mr DAVID SHOEBRIDGE:** It is a simple question.

**Ms GABRIELLE UPTON:** —that has been out for consultation to all the stakeholder groups at the moment.

**The Hon. PENNY SHARPE:** Are we going to see it before the end of the Parliament?

**Mr DAVID SHOEBRIDGE:** It is a simple question.

**Ms GABRIELLE UPTON:** We have received that feedback from them. We have met with them and we are working towards legislation—

**Mr DAVID SHOEBRIDGE:** Minister, when are we going to see the legislation in Parliament?

**Ms GABRIELLE UPTON:** That is in the hands of the Cabinet and the Government to bring forward, but I am doing steady work—

**Mr DAVID SHOEBRIDGE:** Who is the Minister responsible?

**Ms GABRIELLE UPTON:** I am doing steady work with my colleague the Minister for Aboriginal Affairs, Ms Mitchell—

**Mr DAVID SHOEBRIDGE:** You say it is with the Cabinet. Who is the Minister responsible?

**Ms GABRIELLE UPTON:** Will you let me finish the answer, Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** Who is the Minister responsible?

**Ms GABRIELLE UPTON:** Mr Shoebridge, my colleague the Minister for Aboriginal Affairs and I regularly meet with Indigenous leadership groups—

**Mr DAVID SHOEBRIDGE:** It is always anybody's responsibility but yours, isn't it, Minister?

**Ms GABRIELLE UPTON:** —about this particular issue. But are you aware, Mr Shoebridge? You are ignoring the fact—

**Mr DAVID SHOEBRIDGE:** It is the Cabinet's problem; it is the Minister for Aboriginal Affairs' problem. Who is the responsible Minister here?

**Ms GABRIELLE UPTON:** Do you realise that there is a piece of legislation that has been consulted on in the last couple of months?

**Mr DAVID SHOEBRIDGE:** When is it coming to Parliament, Minister?

**Ms GABRIELLE UPTON:** We have had feedback on that specific piece of legislation to make sure that we get it right.

**Mr DAVID SHOEBRIDGE:** When is it coming to Parliament?

**Ms GABRIELLE UPTON:** We are still talking with stakeholder groups about the form which that legislation will take. It will take a decision of Cabinet, of course, to bring it forward in the Houses of Parliament. But you know we have done more than that.

**Mr DAVID SHOEBRIDGE:** Is it going to happen before Parliament rises and we go to an election, Minister? Minister, just answer this question, because it is a serious issue for Aboriginal communities,

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stakeholders, elders and knowledge keepers across this State. Will you commit to bringing the legislation to Parliament before Parliament rises for the election? Yes or no?

**Ms GABRIELLE UPTON:** Mr Shoebridge, you are being cute.

**Mr DAVID SHOEBRIDGE:** I am not being cute.

**Ms GABRIELLE UPTON:** You know the work that we have been doing with the community leadership—

**The Hon. PENNY SHARPE:** It is a pretty basic question.

**Mr DAVID SHOEBRIDGE:** I am being asked this all the time. You must be being asked this all the time. When are we going to get the laws?

**Ms GABRIELLE UPTON:** —together with me, together with Sarah Mitchell, the Minister for Aboriginal Affairs.

**The Hon. PENNY SHARPE:** You are the person who has the ability to decide.

**Ms GABRIELLE UPTON:** We are consulting on a piece of legislation which all stakeholder groups have got to be happy with. That is the discussion that is being had at the moment. Consultations are taking place. We are having feedback.

**Mr DAVID SHOEBRIDGE:** Minister, how many Aboriginal Heritage Impact Permits [AHIPs] were approved in the last 12 months?

**Ms GABRIELLE UPTON:** Aboriginal impact—

**Mr DAVID SHOEBRIDGE:** Aboriginal Heritage Impact Permits.

**Ms GABRIELLE UPTON:** Are you talking about Aboriginal places that have been—

**Mr DAVID SHOEBRIDGE:** No, Minister, I am talking about AHIPs. Mr Lean knows what I am talking about. He is trying to help.

**Ms GABRIELLE UPTON:** Thank you, Mr Shoebridge. I will refer that to Mr Lean. Mr Lean, how many?

**Mr LEAN:** I think I will need to take that on notice.

**Ms GABRIELLE UPTON:** We are happy to get back to you on notice.

**Mr DAVID SHOEBRIDGE:** Were any refused, Mr Lean?

**Mr LEAN:** I will have to take that on notice.

**Ms GABRIELLE UPTON:** We will take that on notice.

**Mr DAVID SHOEBRIDGE:** Mr Lean, you must know. It would be a red-letter day. There has not been one refused for seven years. Has one been refused in the last 12 months? You would know this.

**Ms GABRIELLE UPTON:** We are going to take that on notice, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Fireworks would have gone off.

**Ms GABRIELLE UPTON:** We are going to take that on notice, thank you.

**Mr DAVID SHOEBRIDGE:** Can you tell me how many were lodged, how many were refused and how many were approved?

**Ms GABRIELLE UPTON:** We are happy to take that on notice.

**Response:** Information about Aboriginal Heritage Impact Permit (AHIP) decisions is available on the AHIP public register at [www.environment.nsw.gov.au/licences/ahipregister.htm](http://www.environment.nsw.gov.au/licences/ahipregister.htm).

**Mr DAVID SHOEBRIDGE:** Minister, are you aware of the Sansom review into local government, of October 2013, which this Government paid for at great expense?

**Ms GABRIELLE UPTON:** I am aware of the Sansom review. Yes, Mr Shoebridge.



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**Mr DAVID SHOEBRIDGE:** Are you aware that one of his key recommendations—or one of the key recommendations of the panel which Professor Sansom headed—was for there to be rating review by the Independent Pricing and Regulatory Tribunal, because the current funding for local councils was unsustainable?

**Ms GABRIELLE UPTON:** I believe that that was part of his review. He also made a number of other recommendations, of course, at that time. It was some time ago.

**Mr DAVID SHOEBRIDGE:** It was some time ago. It was more than five years ago. Five years ago, Professor Sansom recommended, because of the financial crisis in local councils, that there be a review of ratings by IPART. Eventually, IPART was tasked with undertaking that review. Are you aware of that history?

**Ms GABRIELLE UPTON:** I am.

**Mr DAVID SHOEBRIDGE:** Do you know where the review came from? Do you now know that the review was actually first recommended in October of 2013? Do you understand that?

**Ms GABRIELLE UPTON:** Mr Shoebridge, we have already been through this issue with Mr Primrose. I am happy to answer exactly the questions there.

**Mr DAVID SHOEBRIDGE:** Minister, do you understand that the recommendation for the IPART review dates back to October 2013—yes or no?

**Ms GABRIELLE UPTON:** That was a matter which was being considered by IPART. The report back from IPART is still under the Government's consideration.

**The Hon. PETER PRIMROSE:** I did not get an answer on that.

**Mr DAVID SHOEBRIDGE:** Minister, local government has been waiting since October 2013 for the IPART review. It has been in your in-box, gathering dust, covered by cobwebs since December 2016. Will you accept responsibility for failing to act upon it and failing to do what local government wants, which is to fix ratings?

**Ms GABRIELLE UPTON:** Mr Shoebridge, I have answered the question. It is still under the Government's consideration. That does not mean—

**Mr DAVID SHOEBRIDGE:** Who in Government is considering it?

**Ms GABRIELLE UPTON:** That does not mean that it is lying dormant. It is still under Government consideration. That is the prerogative of government—to consider reports, to agree or disagree with them, take them forward. That is the prerogative of government.

**Mr DAVID SHOEBRIDGE:** Minister, you do not have an in-box; you have a cemetery where things go to die in your office.

**Ms GABRIELLE UPTON:** I reject that, Mr Shoebridge. It is about making the right decisions at the right time, and that report is still under our consideration.

**Mr DAVID SHOEBRIDGE:** Minister, who is considering this IPART report? Who is the Minister responsible for considering the IPART report?

**Ms GABRIELLE UPTON:** It is still under the Government's consideration. I have answered your question.

**Mr DAVID SHOEBRIDGE:** Minister, who is the Minister responsible for considering the IPART report?

**Ms GABRIELLE UPTON:** It is a report that is held within my portfolio, but ultimately, whether reports and recommendations move forward is a matter for the whole of government. As I said, that report is still under the Government's consideration.

**Mr DAVID SHOEBRIDGE:** Has it moved from your office anywhere, or is it sitting, like so much, dying a long, slow, painful death in your office? Has it moved from your office to anywhere else?

**Ms GABRIELLE UPTON:** Mr Shoebridge, I have answered your questions.

**Mr DAVID SHOEBRIDGE:** No, Minister.

**Ms GABRIELLE UPTON:** I answered the question to Mr Primrose. It is still under the Government's consideration.

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**The Hon. PETER PRIMROSE:** I got no answer, either.

**Mr DAVID SHOEBRIDGE:** Minister, local council needs some changes to ratings so that they can be financially sustainable. Are you going to accept that your failure to even move the IPART report out of your office is adding to the problems for local council? When will you take action on the report?

**Ms GABRIELLE UPTON:** I refute your assertion. I have already answered the question.

**The Hon. PETER PRIMROSE:** This is hopeless.

**Mr DAVID SHOEBRIDGE:** Minister, how many breaches related to Aboriginal heritage were reported to OEH in the last financial year?

**Ms GABRIELLE UPTON:** I will see if Mr Lean can assist you there, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** And how many prosecutions were there?

**Mr LEAN:** I do not have a precise number on that at the moment, but there were certainly a number of breaches reported. We will take that one on notice.

**Mr DAVID SHOEBRIDGE:** Are you aware of a single successful prosecution?

**Mr LEAN:** I will have to take that on notice.

**RESPONSE:** In 2017-18 the OEH Environment Line received 113 calls reporting alleged Aboriginal cultural heritage incidents. One Aboriginal cultural heritage prosecution commenced in 2017-18.

**Mr DAVID SHOEBRIDGE:** Minister, have you been asked to provide advice to the Federal Government in relation to the protection of the Butterfly Cave at West Wallsend?

**Ms GABRIELLE UPTON:** As you know, Mr Shoebridge, that is the subject of an Aboriginal place designation, which gives it strong connections—

**Mr DAVID SHOEBRIDGE:** If you could just answer the question it would be really helpful.

**Ms GABRIELLE UPTON:** I just wanted to give context to the protection there.

**Mr DAVID SHOEBRIDGE:** I just want an answer.

**Ms GABRIELLE UPTON:** I will take advice from Anthony Lean in that respect.

**Mr LEAN:** The Commonwealth Minister has sought advice from the State around a review that they have undertaken under the relevant Commonwealth legislation.

**Mr DAVID SHOEBRIDGE:** What is the advice that has been provided? Are you supporting the protection of the Butterfly Cave?

**Mr LEAN:** Sorry—could you repeat the question, please?

**Mr DAVID SHOEBRIDGE:** What advice have you provided? Is your advice supporting the protection of Butterfly Cave?

**Mr LEAN:** I think that process is still ongoing, so I do not think it would be appropriate to comment on what our advice was.

**Mr DAVID SHOEBRIDGE:** I think the community needs to know. Are you proposing to protect Butterfly Cave or allow it to be destroyed?

**The CHAIR:** Order!

**Ms GABRIELLE UPTON:** It is protected, Mr Shoebridge. It is an Aboriginal place.

**The CHAIR:** Your time has expired.

**Ms GABRIELLE UPTON:** It has been protected for some time.

**The CHAIR:** Minister, can you clarify for me who decided the composition of the New South Wales Coastal Council, and have any new panel members been included that did not serve on the previous New South Wales Coastal Panel?

**Ms GABRIELLE UPTON:** Mr Chair, I understand those appointments were made by Cabinet, if I am correct.

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**Mr LEAN:** Yes.

**Ms GABRIELLE UPTON:** They were made by Cabinet. There was a regular process of applications, consideration of expertise that needed to be staffed onto that panel. I do believe there were a couple of incumbents who were reappointed, but there were some new people. If you want further detail, I am happy to give that to you.

**The CHAIR:** No, it is great that there were some new people. As you know, 100 per cent of New South Wales is or certainly recently was in drought. It is great to have some rain. What support is the New South Wales Government providing to local councils that are currently experiencing drought?

**Ms GABRIELLE UPTON:** There is \$1 billion worth of varied supports that the New South Wales Government has made available to drought-affected areas across New South Wales. They range from assistance with feed through to practical measures for families who are obviously suffering great distress in the dilemma that they have. We have done work in the environmental portfolio to ensure that we can make environmental water flows available on the market for people to bid for that environmental water to be made available to other processes. In respect of local government in particular, I might ask Mr Hurst to comment specifically.

**Mr HURST:** The Minister for Primary Industries has established a unit within the Department of Primary Industries under a drought coordinator. We have had regular contact with the drought coordinator and we are exploring with them what opportunities there are to assist councils with some of the practical problems that they are facing through periods of drought and how we can assist them to work better with their communities.

**The CHAIR:** We are working through local mayors, are we, through that system?

**Mr HURST:** We have also been talking to stakeholders about that process, but councils have access to machinery and equipment that can be used to support farmers through the drought. As I say, the program has not been limited to money; it is about thinking about the practical support that we can provide to councils and that they can provide to their communities.

**The CHAIR:** On 10 December 2017 a child nearly died in Centennial Park trying to reach the Ian Potter Children's Wild Play Garden. Exactly as predicted by safety experts, a child raced onto the new horse track crossing area when it was being used by a horse rider. The child narrowly avoided being nearly trampled to death. The impact was much worse on the horse and the rider, who smashed against the fence to avoid killing the child. This near-death experience was reported to the authorities. It was a direct result of the poorly designed construction of the crossing which trapped a child and frightened a horse in a confined space built by the Centennial Park Trust. Why was the dangerous entrance to the Wild Play Garden not immediately closed since there is an alternative entrance currently used at the education centre?

**Ms GABRIELLE UPTON:** That is a horrible circumstance. I know that you have asked questions previously on this issue. I know it is of concern to you. I am not aware of the particular circumstance but I will take some advice from Mr Lean as to what response there was to that very tragic incident.

**Mr LEAN:** My understanding is that a complaint was made to the trust and they did look into it. Prior to that incident they had done a number of safety reviews and sought expert advice in locating the crossing. My understanding is that there is no other practical option that does not raise more significant issues in terms of safety. It is obviously very serious and I know that the trust and the board is very concerned to ensure that the park is safe for everyone. Those chicanes that you talk about, as I understand it, are used in other parts of the park as well. But, as far as I am aware, the matter was raised with the trust. It was considered to be an isolated incident and no further action was taken but the matter was reviewed.

**The CHAIR:** In 2018 in a report to New South Wales Public Service Commissioner the Centennial Park Trust indicated that the visitor numbers assessed by AusSafe and Reliance Risk were 250,000. This contradicted evidence to the NSW Ombudsman in 2017 that Centennial Park had informed safety assessors from AusSafe and Reliance Risk that only 100,000 visitors were expected. Minister, will you dismiss the chief executive officer of the Centennial Park Trust for misleading either the Ombudsman or the Public Service Commissioner? Obviously, they both were not told the true number used by the safety assessors. One hundred thousand versus 250,000 is a lot different.

**Ms GABRIELLE UPTON:** I am concerned to hear the circumstances you have read. I will ask Mr Lean to comment. I am not familiar with them, but I will ask him to comment.

**The CHAIR:** I am quite happy to put another question on notice about that.

**Mr LEAN:** Complaints were made to the Public Service Commission about a range of matters. The Public Service Commission asked that I commission an investigation into those matters, which I did.

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We communicated the outcomes of that initial investigation back to the complainants and a number of additional issues were identified. We are currently in the process of looking into those matters further. Once we finalise that I will be in a position to comment further on the specific allegations that you have raised.

**The CHAIR:** As you know, the Sydney water catchment is vital to the residents of Sydney. The New South Wales chief scientist said that our catchment is the only publicly owned drinking water catchment in the world where coalmining is allowed. Can you outline the process for granting approvals for mining within the Sydney water catchment area?

**Ms GABRIELLE UPTON:** Both the EPA and OEH take an important role in any proposal for mining. It will include licensing of water quality, dust that might be omitted or any communal or environmental impacts that relate to such a project. Do you have specifics in mind? The agencies under my oversight play a role in advising and sometimes putting in formal reports in what might be an approval process. So they provide that advice forward, it is considered as part of an approval which probably ends up before the Independent Planning Commission [IPC] or before the Minister. Do you have a specific comment that you would like me to make on that?

**The CHAIR:** I might keep asking the questions and you will probably give me the answers I am after. Are you familiar with feather mining?

**Ms GABRIELLE UPTON:** I am sorry—will you repeat the question?

**The CHAIR:** Yes, feather mining. My understanding is it is a proposal of Hume Coal.

**Ms GABRIELLE UPTON:** I am familiar with the project but not that mining technique.

**The CHAIR:** I would suggest you probably want to make yourself familiar with it to just see that it is right, because my understanding is that it will be the first time it is used in Australia. For the sake of New South Wales, I think we need to be sure of that technique. You may want to take that on notice. I recently visited Berrima community representatives who raised concerns me about the impact of coal dust on the local town. Of course, they are talking about Hume Coal that is likely to have something like an 800-metre line of coal sitting at Berrima. They are worried about the coal dust that will come from that and about storage issues. I note recently there were some coal dust issues in the Namoi region. Are you aware of these concerns?

**Ms GABRIELLE UPTON:** I have met with stakeholders from the Berrima region and I have obviously had concerns raised with me by the local member. Yes, I am familiar with the fact that it is an underground mine. Just to be clear, I do not have any formal role in its approval but I know that those stakeholders were concerned to raise the issues that they believe might impact them if indeed it is approved. As I said before, the Environment Protection Authority and OEH have an advisory role to the Department of Planning and Environment [DPE], which is taking care of the planning process. Those agencies provide technical advice to the Independent Planning Commission. I understand that there are comments from the EPA that went to DPE both last year and this year. I believe the review and public hearing by the IPC is yet to take place. But the point I would make is that any approval, if it is approved, would be something that the EPA would license and would regulate in a regular way. That would be the way that we would seek to protect the community and manage the environmental impact.

**RESPONSE:** I am advised the 'Pine Feather' mining method is an alternative to common longwall mining which is used in underground mines in NSW Coalfields.

Coal mining proposals, including Hume Coal, are assessed by the Department of Planning and Environment under the state significant development provisions of the Environmental Planning and Assessment Act 1979.

As Minister for the Environment I do not have an approval role for mining projects. Questions about mining proposals or assessments should be directed to the Minister for Planning.

**The Hon. PENNY SHARPE:** Has Taronga Zoo raised any concerns with you about the development of a zoo in Western Sydney Parklands?

**Ms GABRIELLE UPTON:** Just for clarification of your question, the Sydney Zoo in Western Sydney parklands you are referring to and Taronga having raised those concerns with me?

**The Hon. PENNY SHARPE:** Correct. As to the public zoo and the development that is happening in Western Sydney parklands, have they raised concerns with you about that development?

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**Ms GABRIELLE UPTON:** I believe there was a matter that was before the courts. I believe that matter is settled, but that is the extent of my knowledge.

**The Hon. PENNY SHARPE:** It does not matter about branding. I assume you meet with Taronga Zoo regularly, given you are their responsible Minister. Do you meet with Taronga Zoo regularly?

**Ms GABRIELLE UPTON:** We have regular correspondence and contact between my office and through Mr Lean as head of the agency with Taronga Zoo.

**The Hon. PENNY SHARPE:** When was the last time you met with Taronga Zoo?

**Ms GABRIELLE UPTON:** I visited Taronga Zoo last time to inspect its veterinary efforts in helping platypus and assisting—

**The Hon. PENNY SHARPE:** But you do not have a regular meeting with their CEO or with the chair of the board?

**Ms GABRIELLE UPTON:** My office has regular meetings with the head of Taronga Zoo—

**The Hon. PENNY SHARPE:** I am asking about you, Minister.

**Ms GABRIELLE UPTON:** —and regular meetings with Anthony Lean as head of agencies. I meet with the board on a reasonably regular schedule. But your specific question, as I understand it, relates to Sydney Zoo.

**The Hon. PENNY SHARPE:** Yes. Have they raised any concerns with you at any of those meetings, either with you or with your office?

**Ms GABRIELLE UPTON:** They may have raised concerns with me, but, as I said, that issue, I believe, related to matters that have now been settled before the courts.

**The Hon. PENNY SHARPE:** That is one particular issue. That is okay, Minister, I am happy to move on. Taronga Zoo has played a really important and leading role in drawing attention to the issue of plastic pollution in our oceans. Are you aware that the number of turtles and other animals that are presenting to Taronga Zoo have more plastic in their gut than ever before?

**Ms GABRIELLE UPTON:** Plastic in our oceans and in our environment is obviously an issue that this Government is tackling. We have a 40 per cent litter reduction target, which we are edging closer to every day.

**The Hon. PENNY SHARPE:** With respect, Minister, the turtles are not eating plastic.

**Ms GABRIELLE UPTON:** In relation to plastic, you should have been pleased, Ms Sharpe, to see that as part of the marine strategy that we released two weeks ago there is a dedicated \$7 million by this Government to tackling marine plastic litter.

**The Hon. PENNY SHARPE:** That is terrific, but I am asking about the work of Taronga Zoo.

**Ms GABRIELLE UPTON:** Taronga Zoo is an agency that makes its own decisions about how it will in fact conserve and support all the wonderful species that it is charged with looking after, and it may include initiatives around plastic.

**The Hon. PENNY SHARPE:** Minister, are you aware that it used to have a campaign around banning single-use plastic bags? Are you aware of that campaign?

**Ms GABRIELLE UPTON:** I am not directly aware, no. But, as I said, where plastic pollution is an issue, which is both on the land and in the marine environment, we are taking action to address that. In the marine context there was \$7 million that we announced as part of the strategy about plastic in the marine environment.

**The Hon. PENNY SHARPE:** That is terrific, but I am asking about Taronga Zoo and the incredible work it does around plastics and dealing with particularly marine wildlife. Minister, is it the case that your office at any point in time has had contact with Taronga Zoo and told it that it is not allowed to campaign on the issue of single-use plastic bags?

**Ms GABRIELLE UPTON:** Not that I am aware.

**The Hon. PENNY SHARPE:** Can you take it on notice and check, and come back to us?

**Ms GABRIELLE UPTON:** I can check with my office, but not that I am personally aware.

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**The Hon. PENNY SHARPE:** Will you take it on notice and provide us with an answer that you can confirm that your office has not told Taronga Zoo to cease its campaigning when it comes to single-use plastic bags?

**Ms GABRIELLE UPTON:** I am happy to take that on notice.

**RESPONSE:** I have no knowledge that supports your assertion.

**The Hon. PENNY SHARPE:** I have some questions for Ms McKenzie. Through you, Minister—you can choose to answer these if you like—I am interested in the ongoing backlog of the number of items that have been recommended for assessment to be added to the State Heritage Register. I understand that this has been the process, that in June 2017 there were around 216 items that had been forwarded to the office for assessment and that the division was working on around 73 at the time. Are you able to confirm that, Ms McKenzie? I am drawing from the State Heritage Council minutes of 17 June 2017.

**Ms GABRIELLE UPTON:** Could I make a statement at the start? It is to the point. These heritage decisions are important. There have been 37 that I have made since becoming Minister.

**The Hon. PENNY SHARPE:** Yes, I am aware of that. I am not asking about your decisions.

**Ms GABRIELLE UPTON:** And 21 in the last year. I just want to put that context for your question.

**The Hon. PENNY SHARPE:** I welcome you finally signing off on some of them, Minister, but I am asking about the backlog.

**Ms GABRIELLE UPTON:** These are important decisions that sometimes will take lots of considerations, both at the level of ministry, and also the Heritage Council do a great job.

**The Hon. PENNY SHARPE:** It takes you half a year to make a decision on these. I am well aware of your time frames, as you know I am.

**Ms GABRIELLE UPTON:** Sometimes that is appropriate.

**The Hon. PENNY SHARPE:** That is terrific, but that is not my question. My question is about the backlog and what—

**Ms GABRIELLE UPTON:** Quick and early decisions are not the way a good government operates. I am happy for you to have asked the question of Ms McKenzie.

**The Hon. PENNY SHARPE:** My question is about the backlog. Ms McKenzie, can I just confirm that as of the meeting on 17 June there were around 216 items that were with the division to be decided upon how they progressed?

**Ms McKENZIE:** The meeting in June 2017 was discussing a range of matters related to what I would call deferred listings.

**The Hon. PENNY SHARPE:** Explain what a deferred listing is for the Committee please?

**Ms McKENZIE:** The Heritage Council over a number of years determined that it would prioritise particular themes in listing to address gaps in the State Heritage Register. A review of the State Heritage Register had indicated that there were a whole range of different aspects of heritage that were not well represented on the register. The Heritage Council, I think it was around 2010 or 2009—I am not sure of the exact year—adopted a process of looking at themes and it also adopted a process of deferring nominations that were not within themes. Those deferred nominations then lapsed sitting there unattended.

**The Hon. PENNY SHARPE:** That was about 216 items you think it was most likely to be?

**Ms McKENZIE:** I do not have the exact numbers in front of me. We went through a process of getting all of those deferred nominations and by the time we took them to the committee there were duplications and a range of different issues contained in the 216 figure, I think, that might have been originally looked at. I think it probably also may have contained other nominations besides the deferred nominations.

**The Hon. PENNY SHARPE:** It ended up coming down to 133, I think.

**Ms McKENZIE:** One hundred and thirty-nine deferred nominations were considered by the State Heritage Register committee and 53 of those were closed and nominees advised of those, including some duplications, and then 80 of those were determined to progress in some form or another.

## UNCORRECTED

**The Hon. PENNY SHARPE:** My understanding is that 19 are going to notice of intention to be listed and that 61 were assessed with a determination of a draft. What is the status of those that are draft? Are they just really re-deferred?

**Ms McKENZIE:** No. Basically the State Heritage Register committee review would be the equivalent of saying yes, at a draft stage there will now be work done to progress those. That is quite a lengthy process and has to be undertaken.

**The Hon. PENNY SHARPE:** It is my understanding that basically the division has the capacity to deal with about 30 listings a year. Is that right?

**Ms McKENZIE:** In terms of getting them to the point of listing, but there would be a much larger number that we are dealing with because, it depends on the listing, some of them are quite quick if all stakeholders, if everybody is in agreement with the research and the information is available, and others may take a very long time.

**The Hon. PENNY SHARPE:** Could you provide to the Committee the number? Obviously this is a little bit old and I am keen to work out where they have all gone. My concern, of course, is that people take the heritage of New South Wales very seriously and there are some very passionate people across the State who are very keen to see the protections put in place for heritage items that cannot get those protections without it being listed. With so many being deferred I am wanting to understand the pathway.

**Ms McKENZIE:** Just to clarify: There are no deferred nominations any longer.

**The Hon. PENNY SHARPE:** Once they have been draft what has happened to them?

**Ms McKENZIE:** They are in various stages of work occurring in relation to those. Within the system there is a range of things that are happening: they could be awaiting further information from a nominee—sometimes the nominations are not complete and you need further information from a nominee; there could be research being undertaken in terms of the actual heritage values, because in order to be recommended we have to have researched each of the criteria and the history that goes with that and, depending on the availability of that information and the availability of the people to provide us that information, that can cause various issues. It is all about the complexity; it can take a long time.

**The Hon. PENNY SHARPE:** I accept all of that. None of that is in contention for me. My question really is that there have been 216 sites where people have thought that there were serious heritage issues that would warrant assessment and I want to make sure that none of those are lost over time. Would you be able to provide to the Committee the status of each of those 133? If you say they are no longer deferred that is fine, but I would like to know what the progress is. I am not asking you to give us information on the ones that have been rejected by the council. Would you be able to do that?

**Ms McKENZIE:** All 80 of them? No, not here. I would have to take it on notice.

**RESPONSE:** I am advised that the nominations the State Heritage Register Committee (SHRC) determined to progress at its meeting on 28 September 2017 included 19 they found were capable of going to notice of intention to list and 61 nominations at a preliminary stage – totalling 80 nominations. The total number of items to be progressed was initially 80, however, this has been reduced to 76 with combined listings.

The 19 notice of intention to list nominations are all being progressed including work to determine the appropriate curtilage and further consultation with owners.

The 57 at preliminary nomination stage are at various stages of research, owner consultation and assessment.

**The Hon. PENNY SHARPE:** No, I am not saying now. I really do not want you to do that—that would be unfair. I have one last question on that. I am aware that there is a very active heritage group in Camden. Camden is obviously an incredibly important site for all Australians given that it is the Macarthur site, and there are a lot of individual heritage items there. I am aware that the local community has done an extensive amount of work to try to get the township itself listed. Can you tell me what the status of that is? Minister, if you do not know I am happy to ask Ms McKenzie.

**Ms GABRIELLE UPTON:** We would need to take that on notice but I welcome the question.

**The Hon. PENNY SHARPE:** I have been informed that the people who produced the very detailed report on the heritage assessment of Camden were told that there were not the resources within the Heritage Division office and that basically this issue was not going to be pursued. Would you be able to take that on notice and confirm whether that is the case and what the current status of that work is?

## UNCORRECTED

**Ms GABRIELLE UPTON:** I am happy to take that on notice, yes.

**RESPONSE:** In June 2016 the Heritage Council's State Heritage Register Committee considered a listing nomination and interim heritage order request for the Camden Town precinct. The Committee resolved not to recommend an interim heritage order and not to progress the nomination. OEH wrote to Camden Council on behalf of the Committee in regards to the interim heritage order and nomination encouraging the Council to proactively engage with their community in regard to heritage and planning matters.

**The Hon. PENNY SHARPE:** I realise that today you have advertised for members for the Heritage Council, including the chair and deputy chair. Are you spilling and filling all of those members or have they come to the end of their term and you are seeking renominations?

**Ms GABRIELLE UPTON:** Ms Sharpe, there are a number of positions that fall vacant towards the end of the year, from recollection, so we are doing what we would normally do in that process and are asking for a larger number of applicants than there are positions. That is appropriately what we do—

**The Hon. PENNY SHARPE:** So you are not cutting short the term of any of the current members—it is just that their terms are up?

**Ms GABRIELLE UPTON:** We are doing that in anticipation of their terms expiring in, I think, November or October.

**Mr LEAN:** December.

**Ms GABRIELLE UPTON:** December—I have been corrected.

**The Hon. PENNY SHARPE:** Thank you for that. In the minutes for the Heritage Division and the State Heritage Council there is some suggestion in or around September or October last year that you yourself as the Minister were keen on pursuing a New South Wales heritage strategy. Can you tell us where that is up to?

**Ms GABRIELLE UPTON:** That is currently under discussion in Government.

**The Hon. PENNY SHARPE:** Under consideration?

**Ms GABRIELLE UPTON:** Under discussion and consideration.

**The Hon. PENNY SHARPE:** Can you confirm that you are producing a New South Wales heritage strategy?

**Ms GABRIELLE UPTON:** As I said, the strategy and approach are under consideration within Government.

**The Hon. PENNY SHARPE:** Minister, there has never been a heritage strategy for New South Wales; it is actually quite a significant development, I would have thought. You are not able to confirm yes or no about whether you are going to be pursuing that and releasing that?

**Ms GABRIELLE UPTON:** No, I have answered your question.

**The Hon. PENNY SHARPE:** That is terrific. Minister, I want to go back to koalas.

**The Hon. SHAYNE MALLARD:** Oh, great!

**The Hon. PENNY SHARPE:** It is pretty serious. If we cannot save koalas I am not sure what we can save. A really significant issue, which I know Ms Cate Faehrmann raised earlier today during the roads hearing, is the death of koalas on Appin Road. What advice have you received in relation to the 13 deaths of koalas on that road? Has OEH provided any advice, or is it providing any ongoing advice, to either your colleague the roads Minister, your colleague the planning Minister or anyone else within Government—assuming you take a whole-of-government approach—to how you can stop the massacre of koalas in Campbelltown and Appin Road?

**Ms GABRIELLE UPTON:** We do take a whole-of-government approach, which is what is represented by the \$45 million package, which, as I said, represents veterinary expertise being developed and medical research. In relation to Appin Road, there is a Roads and Maritime Services package. The agencies and my portfolio are working to ensure there is better road safety as part of Appin Road. That is an active piece of work and is important work.

**The CHAIR:** We move to questions from the crossbench.



**UNCORRECTED**

**Ms CATE FAEHRMANN:** Minister, I refer to the regional advisory committees [RACs], as established under the National Parks and Wildlife Act. I understand that you have been filling those committees at the moment. Is that correct?

**Ms GABRIELLE UPTON:** Yes.

**Ms CATE FAEHRMANN:** I understand that eight Nature Conservation Council [NCC] of NSW and National Parks Association [NPA] representatives recently renominated for these committees but that you have only appointed three of those and have written to NCC and NPA asking them to submit new nominations. Is that correct?

**Ms GABRIELLE UPTON:** That is correct. If I have not written, the agency has written to that effect, yes. We are keen to fill those positions.

**Ms CATE FAEHRMANN:** Why were they rejected?

**Ms GABRIELLE UPTON:** We are keen to fill those positions and to have as many nominations for consideration as possible. I am waiting on a response from those organisations.

**Ms CATE FAEHRMANN:** Minister, are you aware of your obligations under the Act?

**Ms GABRIELLE UPTON:** What is your question, Ms Faehrmann? These are under active consideration.

**Ms CATE FAEHRMANN:** It is not up to you. The Nature Conservation Council and the National Parks Association, under Schedule 8 to the National Parks and Wildlife Act, jointly nominate a person to go on each regional advisory committee. It is not up to you. Are you aware of that?

**Ms GABRIELLE UPTON:** These are matters that we have asked nominations for from both those bodies and I welcome those nominations.

**The Hon. PENNY SHARPE:** You rejected them, Minister.

**Ms GABRIELLE UPTON:** I welcome further nominations.

**Ms CATE FAEHRMANN:** Speaking from experience, because I did head up the Nature Conservation Council for five years, the standard practice, which is supported by the legislation, is that those two organisations nominate a representative and they are the representative on those committees. Why have you rejected those nominations? You are in fact going against the legislation.

**Ms GABRIELLE UPTON:** Further nominations are requested; none have been rejected. I do not see that that is of concern. It is important to have the representation of those people on those RACs, as it is with the other nominations, and these are very closely prescribed.

**Ms CATE FAEHRMANN:** But the legislation says that the NCC and the NPA "nominate their representative". There is nothing in the legislation that says the Minister has to approve.

**Ms GABRIELLE UPTON:** There are many instances where that provision is made in legislation across the many boards, committees and trusts under the oversight of either myself or other portfolios of Government. Asking for further nominations from those organisations is what is done in the instances that you have raised and I look forward to receiving those nominations.

**Ms CATE FAEHRMANN:** I understand that a number of the people who were nominated have been on those committees for some time and have extensive knowledge and experience of national parks and come representing conservation interests. Was there something in particular in the nomination applications of those four people that led you to reject them, even though technically you are not allowed to?

**Ms GABRIELLE UPTON:** I welcomed the nominations from both those stakeholder groups. It is important to have them on those RACs and in the fullness of time we will appoint somebody to fill those roles because the other positions are now filled. It has been an extensive process because many of the RACs across the State have very prescriptive membership. I am pleased that we have been able to do that and all of the stakeholders have been working closely with me to achieve that objective.

**Ms CATE FAEHRMANN:** Minister, will you commit to accepting the people whom the Nature Conservation Council and the National Parks Association submit to you as nominations for those committees? I understand, as you said, that they have been asked to renominate. I assume that you will receive some correspondence from them in a short time. Do you commit to accepting those nominations?

**UNCORRECTED**

**Ms GABRIELLE UPTON:** There will be appointments from those groups to the RACs. That is a requirement.

**Ms CATE FAEHRMANN:** They are required to nominate. This time, will you commit to accepting their nominations onto those committees, as per schedule 8 to the National Parks and Wildlife Act?

**Ms GABRIELLE UPTON:** There will be an appointment from those stakeholder groups—which is important—onto those RACs.

**Ms CATE FAEHRMANN:** That is what happened the first time. Hopefully they can look forward to their nominations being accepted this time. Minister, back to the Native Vegetation Regulatory Map that I was referring to during my last round of questions: I think we got to the point where you said that a couple of categories, as part of the Native Vegetation Regulatory Map, had been approved. I understand that two still have not been approved and I understand that they are category 1, the blue category, unregulated land; and category 2, regulated land, yellow. Is that correct?

**Ms GABRIELLE UPTON:** I believe that to be the case and there are two that have been approved and are currently in operation.

**Ms CATE FAEHRMANN:** Why was the legislation proclaimed before the maps were ready?

**Mr LEAN:** The Government made clear its intention when it introduced the reforms that there would be a period of consultation around the maps before they came into force. As a result of that, the Act or the regulation has in place transitional provisions that define the two categories of land that you are talking about that ultimately will be reflected in the maps. It is a matter for landholders in consultation with Local Land Services to understand what are the controls that apply on the particular land they may seek to manage. These transitional provisions have been in operation for 12 months.

**Ms CATE FAEHRMANN:** Were the maps ready before the legislation was proclaimed—the maps with the categories? Has the department actually had those maps ready but you have not released them?

**Mr LEAN:** A draft of the maps was released for consultation during the last round of consultation on the regulations in March or April before the Act commenced. The commitment was that there would be a formal release of the map so each individual landholder could obtain a copy of their map and seek a review of that for which the fee would be waived.

**Ms CATE FAEHRMANN:** When will the maps be complete?

**Mr LEAN:** That is a matter that is being considered at the moment.

**The CHAIR:** Minister, Dr Ian Wright at the University of Western Sydney is an independent expert on coalmine closures and has undertaken work on a number of sites across the Greater Sydney drinking water catchment. His research at Boral Berrima Colliery at Medway found that mine in care and maintenance mode was discharging 30 litres a second of heavy metal contaminated water directly into the Wingecarribee River. This is equivalent to an Olympic swimming pool a day. Dr Wright considered that the polluted discharge accounted for about 20 to 25 per cent of the river's flow given the dry conditions.

The Wingecarribee River is a catchment and its water ends up in Warragamba Dam that supplies drinking water. Dr Wright's report on water discharge from the mine was provided to the EPA and Boral in August 2017. I note that the EPA told the ABC that on-contamination only emerged in late 2017. The Committee was not told about the pollution by Boral's Berrima mine until Dr Wright's report was subject to media reporting in August 2017. Why was this so?

**Ms GABRIELLE UPTON:** Mr Gifford is the environment regulator and will comment on that.

**Mr GIFFORD:** This matter has been a long and ongoing one.

**The CHAIR:** Two thousand and fifteen to 2017 at least.

**Mr GIFFORD:** Correct. We worked with Dr Ian Wright and Boral, the owners of the mine. That mine is in care and maintenance and the discharge that started to occur from the mine was of concern to the EPA, as it was to the local community. We have had a lot of interaction with the local community. There have been a number of studies undertaken to determine exactly what needed to be done to rectify the discharge. Boral have now commenced a process of filtration for that discharge. That is a trial process that is underway at the moment and we are actively monitoring it.

**UNCORRECTED**

**The CHAIR:** Given the major impacts from no less than eight operating closed and proposed coalmines within the Sydney drinking water catchment, why is the Government continuing to approve longwall mining and looking to issue new coal exploration licences in the catchment?

**Ms GABRIELLE UPTON:** I think that is a matter of policy and the decision of the Independent Planning Commission if they are State significant developments.

**The CHAIR:** I would have thought the environmental impacts were significant for you to have some sort of input.

**Ms GABRIELLE UPTON:** Within a process we do have an input. When I say "we", the agencies, both OEHL and the EPA, have an important advisory role and sometimes a formal role in the processes that go to whether SSDs will be approved and, if they are approved, what environmental licensing, or protections or conditions might be placed on those licences. We do have a role. It is a guiding role, it is an advisory role and it is something where the expertise of both agencies can be offered up to inform the process and outcome.

**The CHAIR:** Given the significant impacts from each and every one of the eight mines in the catchment, including the proposed Hume coalmine, should there not be a full assessment of the local and cumulative impacts of the coal operations on the quality, quantity and safety of the drinking water in the Sydney catchment?

**Mr GIFFORD:** The cumulative impact of mining is taken into consideration during the environmental impact assessment. The EPA provides advice into that process, but ultimately that is a decision made by the planning Minister, with advice from his department or in some cases through the Independent Planning Commission.

**The CHAIR:** Why does the Government continue to approve coalmining in the catchment in spite of a statement by the New South Wales chief scientist, "Our catchment is the only publicly owned drinking water catchment in the world where coalmining is allowed".

**Ms GABRIELLE UPTON:** To my understanding, Mr Chair, they are decisions made by independent planning authorities within the State that are set up to consider all the evidence, of which environmental impact is part of the consideration. As Minister for the environment, obviously those views are important to be shared within the process—formally or informally—but ultimately the decision about whether a State significant development infrastructure project goes ahead is a matter for an independent planning authority.

**The CHAIR:** Why was the Dendrobium mine approved for expansion before the recommendations of the limited expert panel were released?

**Ms GABRIELLE UPTON:** To the extent that involves a portfolio of which I have oversight, I will take that on notice.

**RESPONSE:** Coal mining proposals in the catchment, including the Dendrobium Mine Extension Project, are assessed by the Department of Planning and Environment under the state significant development provisions of the *Environmental Planning and Assessment Act 1979*.

As Minister for the Environment I do not have an approval role for mining projects. Questions about mining proposals or assessments should be directed to the Minister for Planning.

**The CHAIR:** We have previously raised concerns about the PFAS contamination at the RAAF base at Williamtown, Albatross, Richmond, Wagga Wagga and Holsworthy and residents in these areas are concerned about PFAS ability to cause harm to human health. Minister, what are you doing to support a ban on the use of PFAS across our State?

**The Hon. PENNY SHARPE:** Good question.

**Ms GABRIELLE UPTON:** It is a good question, because the State is doing—

**The Hon. PENNY SHARPE:** Is not doing it.

**Ms GABRIELLE UPTON:** Ms Sharpe, you have been misleading people about this. The fact is no State has a ban. New South Wales has been phasing—

**The Hon. PENNY SHARPE:** South Australia and Queensland do.

**Ms GABRIELLE UPTON:** That is not correct. You look at the detail of what they are doing. We have been phasing out the non-essential use of PFAS since 2010 amongst the agencies that historically have used PFAS

**UNCORRECTED**

as a firefighting agent. We continue to advocate to the Federal Government to adopt and sign up to the provisions of the Stockholm Convention, asking for them to adopt it. It is only at that level when the import of this chemical is restricted that we can have what is effectively a ban.

**The Hon. PENNY SHARPE:** You can do plastic bags.

**Ms GABRIELLE UPTON:** What we are doing is phasing out PFAS for all non-essential uses across the State. We are doing what other States are doing—not all States are doing it—but we are doing just that because it is a important step towards minimising the use of this chemical.

**The CHAIR:** That concludes the examination of these two portfolio areas of Local Government and Heritage. Minister Upton and your officers, thank you for attending the hearing. In light of the evidence you have given, the Committee may have further questions. You will have 21 days to answer those and the secretariat will help you to establish the questions you have taken on notice. Thank you for your commitment to the Office of Environment and Heritage and Local Government.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**