

PORTFOLIO COMMITTEE NO. 7 – PLANNING AND ENVIRONMENT

Friday 13 March 2020

Examination of proposed expenditure for the portfolio areas

PLANNING AND PUBLIC SPACES

The Committee met at 09:30.

<h1>UNCORRECTED</h1>

MEMBERS

Ms Cate Faehrmann (Chair)

The Hon. Lou Amato

The Hon. Catherine Cusack

The Hon. John Graham

The Hon. Taylor Martin

The Hon. Mark Pearson (Deputy Chair)

The Hon. Adam Searle

The Hon. Penny Sharpe

Mr David Shoebridge

PRESENT

The Hon. Rob Stokes, *Minister for Planning and Public Spaces*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

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

The CHAIR: Welcome to the public hearing for the inquiry into the budget estimates 2019-2020 further hearings. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation, and extend that respect to other First Nations people present. I welcome Minister Stokes and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio areas of Planning and Public Spaces.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In the circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days.

Any messages from advisers or members' staff seating in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to the advisers sitting at the table behind you. Transcripts of this hearing will be available on the web as soon as possible. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister Stokes, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I also would like to remind the following witnesses that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing before this Committee: Mr Jim Betts, Mr Marcus Ray, Mr John Brogden, Ms Alex O'Mara and Mr Shaun Smith.

SHAUN SMITH, Chief Financial Officer, Department of Planning, Industry and Environment, on former oath

BRETT WHITWORTH, Deputy Secretary, Greater Sydney, Place and Infrastructure, Department of Planning, Industry and Environment, affirmed and examined

ALEX O'MARA, Group Deputy Secretary, Place, Design and Public Spaces, Department of Planning, Industry and Environment, on former oath

SARAH HILL, Deputy Secretary, Strategic Directions and Integration, Department of Planning, Industry and Environment, sworn and examined

MARCUS RAY, Group Deputy Secretary, Planning and Assessment, Department of Planning, Industry and Environment, on former oath

JIM BETTS, Secretary, Department of Planning, Industry and Environment, on former oath

JOHN BROGDEN, Chief Executive Officer, Landcom, on former oath

PETER DUNCAN, Assistant Chair, Independent Planning Commission, sworn and examined

The CHAIR: The hearing today will be conducted from 9.30 a.m. until 12.30 p.m. with the Minister, then with departmental witnesses only from 1.40 p.m. to 4.20 p.m. There will be a 10-minute break between 2.40 p.m. and 2.50 p.m., and I will potentially allow us a 10-minute break before the lunchtime break as well. We may finish earlier than 12 o'clock, depending on whether the Government asks any questions. I declare the proposed expenditure for the portfolio areas of Planning and Public Spaces open for examination. As there is no provision for any witnesses to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

The Hon. ADAM SEARLE: Minister, as we approached the last State election, there was a pause on further residential development applications in the Ryde local government area [LGA]. What were the triggers or considerations that led to that?

Mr ROB STOKES: As you would appreciate, I was not the Minister at the time, but my understanding was it was prompted by a review conducted by the Greater Sydney Commission [GSC]. I note that the CEO of the Greater Sydney Commission is here, albeit in another role. My understanding was there were concerns raised by the commission about the pace of residential development in terms of the provision of matching infrastructure over the same period. For example, the metro line had not been completed at that point. So there were concerns about a lag between infrastructure provision and the pace of residential development.

The Hon. ADAM SEARLE: Ms Hill, did you want to add anything?

Ms HILL: No, other than to say the commission was requested for advice in May 2018 by the then Minister for Planning and provided advice some time after that—a few weeks after that—having undertaken an initial review and provided advice on the alignment of infrastructure and growth, consistent with what the Minister just said.

The Hon. ADAM SEARLE: Okay. I have got with me a few documents from the Greater Sydney Commission, which seem to confirm that preliminary findings of the assurance review confirmed the commission's advice of May 2018 to pause new residential planning proposals and the further commencement of the Low Rise Medium Density Housing Code. Again, the considerations were limited coordination between local and State government, a lack of coordination of planning controls and a lack of infrastructure provision by the State Government. That theme seems to be quite up-front and centre, even in the final report of the Greater Sydney Commission of May 2019.

The key issues seem to be the misalignment between the scale of development and the coordination provision of the necessary infrastructure. The four key recommendations were to maintain the existing pause on new residential planning proposals, maintain the delayed commencement of the Low Rise Medium Density Housing Code and pause the finalisation of any existing residential planning proposals in the Ryde LGA. That last one was for a period of 12 months or until the infrastructure lag had been completed. My understanding is that pause has now been lifted on the Ryde LGA. When, Minister, did the Government decide to lift that pause and what exactly has been lifted?

Mr ROB STOKES: The pause, as I understand the recommendations, was for a period of 12 months until the expiration of 12 months. Given that those conditions have been met, the pause was lifted in accordance with the advice received from the GSC.

The Hon. ADAM SEARLE: When was that decision taken?

Mr ROB STOKES: It was taken at the expiration of 12 months, in accordance with the advice of the GSC.

The Hon. ADAM SEARLE: Maybe I am not counting it right. I am looking at a document dated 31 May 2019 and 12 months has not quite elapsed. Was it from an earlier date, Ms Hill?

Ms HILL: That is a matter I think is best answered by Deputy Secretary Brett Whitworth.

Mr WHITWORTH: The pause is dated from 28 February 2019. The assurance recommendations from the Greater Sydney Commission came in two stages. The first stage was provided and made publicly available on 28 February 2019, so that is the date on which we have taken the 12-month pause as being from.

The Hon. ADAM SEARLE: Okay. Did you inform Ryde LGA that the pause was going to be lifted from 28 February?

Mr ROB STOKES: Again, my understanding is that that is the case. I am happy to get details on notice.

The Hon. ADAM SEARLE: Please.

Mr ROB STOKES: But certainly there should be no surprises in that the Government acted in accordance with the advice that it had received and had been publicly released in relation to the recommendations of the GSC to pause that activity for that 12-month period.

The Hon. ADAM SEARLE: Sure, but it says here—I am just reading from the Greater Sydney Commission assurance review:

It is suggested that the pause on existing residential planning proposals in the Ryde LGA occur for a temporary period of 12 months ... or until the NSW Government has sufficient comfort that the matters raised by this report have been addressed.

It is an either/or proposition. What steps have you taken as a government to assure yourself that the concerns about the misalignment of infrastructure with development—

Mr ROB STOKES: There is a whole range of infrastructure projects that have advanced considerably during that period. Namely, as I mentioned perhaps, the biggest single one is the opening of the metro, which was the biggest single challenge in relation to ensuring that development could be transit oriented. But there has also been considerable advances in education, for example—the opening of the new Smalls Road school, and there is Denise Minifie's excellent school at Kent Road, Denistone East, as some examples.

The Hon. ADAM SEARLE: So you are satisfied that all of those problems raised in the assurance review have now been addressed?

Mr ROB STOKES: There are always going to be challenges in terms of calibrating infrastructure delivery with residential development and jobs growth. It is always a case of seeking to align those things as effectively as possible. I have just received a note: Yes, I did write to council upon the expiration of the 12-month clause on 1 March, so the council was advised.

The Hon. ADAM SEARLE: Has the pause on new residential development or planning proposals also been lifted?

Mr WHITWORTH: No, the pause on new planning proposals has not been lifted. The pause on existing planning proposals has been lifted. That pause only applies to four planning proposals.

The Hon. ADAM SEARLE: What about the delayed commencement of the medium-density housing code? Is that also going to be maintained?

Mr RAY: If I might answer that one, yes, the pause continues, or the delayed commencement continues, until 1 July this year.

The Hon. ADAM SEARLE: And that will apply to all the other councils that are in that pause or delayed—

Mr RAY: Yes, that is the case. There was an extension for the other councils to the same date—1 July.

Mr ROB STOKES: I will add a little more there. A series of councils met with me to express their concerns. Interestingly, all the councils said, "We support the concept of missing middle housing"—this idea that it is important to recognise that it is not just about more housing stock; it is also a recognition that a lot of the additional housing stock in Sydney has been one- to two-bedroom apartments in high rise and that there has been a need to recognise that there is a gap in lower rise or, particularly, two-storey style medium-density development. Councils have said, "We broadly support the aspiration." But in terms of the application of the code, they raised some concerns between the interaction of the code and where they had identified things like lot sizes in their general R2 low-density residential zone.

I encourage councils: If you have those concerns, bring to us planning proposals as to the way in which you seek to address those issues, and we will advance those. My frustration has been—some councils have been great and have put in suggestions of what they would do differently. I have been a little frustrated that some have asked for a deferral and then have not done anything. Ultimately, my encouragement to councils is that deferral will come to an end on 1 July, but in the meantime those councils that have put in planning proposals—the department is obviously looking at those and will allow them to proceed where they are appropriate and evidence based.

Mr RAY: I could say that six of those planning proposals have actually been finalised. The department has finalised six of those and there are a number of others that are in process under assessment and there are some others where council is yet to get back to the department.

The Hon. ADAM SEARLE: Is it not that one of the concerns of councils around the operation of the code is that a lot of the work would be done by private certifiers and that people having affected land adjacent to proposed developments would not get notification of development proposals? The first they might understand that something is going to happen next to them is when work actually commences, rather than, I think, at the moment when it is a council-led process you get notification of a development proposal next door.

Mr ROB STOKES: That is true, and these are some of the balances and trade-offs in the planning system. There is obviously increased certainty with complying development, and that is great news in terms of housing costs and certainty for the construction industry. But, yes, it does involve fewer consultation requirements than in a full DA process. Nevertheless, there is still provision for consultation. But, of course, the point is it is complying with predetermined codes. The point of the consultation is really for an adjacent owner to suggest, "Hang on, it doesn't actually comply with the code." So it allows for that sort of concern to be raised. But ultimately, in terms of the shape of the development, because it—the nature of it is if it complies with predetermined development standards, it is considered to be able to proceed.

The Hon. ADAM SEARLE: Is there not a potential halfway point where people do get notified?

Mr ROB STOKES: They do, but the notification requirements are somewhat truncated when it comes to complying development. I will refer you to the deputy secretary for the details.

Mr RAY: Yes. There is a notification requirement, but it is only that: It is a notification ahead of time that the complying development consent will be issued if the development complies with the predetermined standards. So it is not a consultation requirement, for obvious reasons, because you either comply or you do not comply with the predetermined standard. But there is a notification requirement to neighbours before the certificate is issued.

The Hon. ADAM SEARLE: Just returning to Ryde, one of the local controversies there is over the Meriton proposal, I think on Talavera Road. Have you, as planning Minister, now approved that planning proposal?

Mr ROB STOKES: Yes, it has been referred back now—ultimately, the planning proposal is approved, which will now enable the proponent to advance a development application.

Mr WHITWORTH: Sorry, Minister. We are finalising determination.

Mr ROB STOKES: Finalising. Pardon me. I should be careful there.

The Hon. ADAM SEARLE: Maybe a better question is: Where is this matter up to?

Mr ROB STOKES: For the purposes of certainty, it is appropriate I refer you to the deputy secretary.

Mr WHITWORTH: Thank you, Minister. We are finalising the determination of the 112 Talavera Road planning proposal. We are also finalising a determination on a planning proposal in Tennyson Road,

Gladesville. The two other planning proposals are with Ryde city council to make a final decision on how they want to progress them.

Mr ROB STOKES: For the purposes of added certainty there, yes, that is my understanding as well. It is in the process of being finalised. The point was that they were obviously caught up in the pause. Now that the pause has been lifted, those assessments can be finalised and, on the outcome, then the matter will be remitted to Ryde council to make determinations if the matter is finalised and if that facilitates any development applications. That will be a matter for council.

The Hon. ADAM SEARLE: Just on that, I think on 5 December Ryde council made pretty clear that they did not approve of the planning proposal and the reasons they did not. They still maintain there was a lack of supporting infrastructure, there was community opposition and there were queries about height and density. Have you taken those concerns on board or are you going to make a decision contrary to the wishes of the local council?

Mr ROB STOKES: No, certainly, they are all valid concerns and they are all concerns that are appropriately addressed throughout the planning process. They will be considered by the department in the ordinary course.

The Hon. ADAM SEARLE: Who makes the determination? Is it the department or you?

Mr ROB STOKES: I refer you to the deputy secretary.

Mr WHITWORTH: I am the delegate that is responsible for making a determination. The department deals with these matters under delegation as a standard matter of course.

The Hon. ADAM SEARLE: When you make your determination, it goes back to council? What power, if any, does council have to disagree with your determination? Or are they bound by it?

Mr WHITWORTH: The steps in the planning proposal process, without taking you all the way through—this particular planning proposal had been to council. It had been on exhibition. There had been a gateway that had been issued. The council had, as a response considering the submissions, said, "We do not support it being made."

The Hon. ADAM SEARLE: Yes.

Mr WHITWORTH: But that was not the plan-making authority. That authority rests with the department, so it is the department's decision as to whether the plan gets made or not made. If we choose to make the plan, then we will notify the plan through the standard processes on the Parliamentary Counsel website and we will advise council of our decision and the reasons why.

The Hon. ADAM SEARLE: Is it the case that you have not yet made a decision?

Mr WHITWORTH: We are finalising our determination on that plan.

The Hon. ADAM SEARLE: What communications have you had with the Ryde LGA about this?

Mr WHITWORTH: As part of the process of finalising a plan—a local environmental plan—there is an obligation under the planning legislation to consult the council on any final terms on a planning instrument. We have undertaken the consultation.

The Hon. ADAM SEARLE: I do not wish to prejudge anything, but it has been reasonably well canvassed in the media that a plan will be proposed by the department. Minister, can you indicate why you think the department is going to make a plan contrary to the wishes of the local council? Does that not underline the local planning authority of councils?

Mr ROB STOKES: A couple of things here. It is done in accordance with the provisions of the Act. I am not going to speculate in terms of outcomes. As the deputy secretary indicated, it is in the process of being finalised and then ultimately any subsequent decisions will be a matter for council.

The Hon. ADAM SEARLE: What scope does council legally have to disagree with the determination of the department? They do not have any, do they?

Mr ROB STOKES: In relation to what, specifically?

The Hon. ADAM SEARLE: To plan making, if they do not want the plan made in the form that has been proposed by the proponent and they have set out the reasons—for example, if the department says it is going to make the plan but with certain modifications or with caveats or what have you—what legal power does council actually have to differ from the position of the department? They do not have any legal power to do so, do they?

Mr ROB STOKES: In relation to the merits of the decision, rezonings are final and that has always been the case under planning law.

The Hon. ADAM SEARLE: Is there going to be an infrastructure contribution required from the proponent?

Mr ROB STOKES: I will refer you to the deputy secretary.

Mr WHITWORTH: Obviously we are finalising our determinations so it is a slightly hypothetical question. Should that determination be made for a proposal of that size and that determination be to approve, the standard practice would be to require a satisfactory arrangements certification process which would require the proponent to either enter into a voluntary planning agreement with the department or to make other arrangements for the provision of necessary infrastructure. That proponent has made an offer to enter into a voluntary planning agreement with the State Government. It had also made a similar offer to enter into a planning agreement with council.

The Hon. ADAM SEARLE: Are you able to indicate to the Committee what the quantum of the contribution would be under those offers?

Mr WHITWORTH: As I said, it is a slightly hypothetical question.

The Hon. ADAM SEARLE: An offer has been made. That is not hypothetical.

Mr WHITWORTH: An offer has been made but it has not been accepted by the department. There is always a process of discussion about what is an appropriate contribution. The process of the planning legislation is that any voluntary planning agreement needs to be exhibited for public comment as well. There will be full transparency and we place the draft of the voluntary planning agreement on our planning portal for people to see and make comment on if they desire.

The Hon. ADAM SEARLE: On the assumption that the plan is made and this contribution is forthcoming, is there a guarantee that all of that contribution would be spent within the Ryde LGA?

Mr WHITWORTH: The planning agreement sets out typically the infrastructure that the contribution is being made for. I am also reminded that we are working on the broader Macquarie Park strategic planning activity and as part of that process we are considering a broader steady infrastructure contribution for items of infrastructure that are within the Macquarie Park and Ryde areas.

The Hon. ADAM SEARLE: And in terms of that second category, what is the scope or quantum that you are considering?

Mr WHITWORTH: At this point we are not at the level of being able to quantify that in terms of a charge per dwelling or a charge per square metre of developable floor space, but we are because we also have to understand the development potential that might be realised as a result of the planning investigations.

The CHAIR: Minister, as I think you are aware, I chair an inquiry into koala populations and their habitat. I understand we sent you an invitation to appear before the last hearing of that committee recently and you declined that invitation to appear. Was there a particular reason why you have declined the invitation to appear before that committee hearing on 8 April?

Mr ROB STOKES: I am happy to. There are multiple opportunities you can ask me questions, right now being one of them.

The CHAIR: That is the question I asked you. I did ask you a question.

Mr ROB STOKES: Yes, and my answer is that you can ask me questions right now.

The CHAIR: That is right. So I am asking a question as to why you have said you would not appear at the koala committee?

Mr ROB STOKES: Because there are multiple opportunities, including right now, when you can ask me questions related to portfolio matters and there are many more opportunities—for example, through multiple budget estimates hearings—when you can ask me whatever questions you like, including on koalas.

The CHAIR: Do you agree that koalas have taken a significant hit in the recent bushfires? Are you aware of the population numbers roughly in terms of what has been impacted?

Mr ROB STOKES: I am certainly aware that the last statewide audit suggested there had been a significant decline in population. I think they were talking about 30,000 koalas in the wild in New South Wales.

Obviously the bushfires would have taken a significant toll on those numbers. The inquiry currently underway by Professor O'Kane and David Owens will no doubt shed some further light in terms of the impacts on native biota from the fires but of course they would have had a devastating impact.

The CHAIR: What discussions have you had internally in relation to potential changes of any policy or regulations in relation to koalas and protecting the habitats since the bushfires?

Mr ROB STOKES: The reason I am pausing is because I have had quite a few. I have had numerous conversations with local members, with the environment Minister and with the agency in relation to the appropriate way to respond. That has come at the same time as the koala habitat protection State environmental planning policy has come into force and there are obviously conversations about the guideline under the SEPP that is currently being exhibited.

The CHAIR: Are you part of any formal committee? I understand, for example, there was a committee that Forestry Corporation has talked about in relation to the logging of State forests after the fires and salvage logging as well. Are you aware of that discussion happening within the Department of Primary Industries?

Mr ROB STOKES: I am aware of the discussion.

The CHAIR: Who from the department is taking part in those discussions?

Mr ROB STOKES: I will refer you to the secretary in relation to personnel.

Mr BETTS: That is the Department of Environment, Energy and Science [EES]. We are the department which is in discussions with Local Land Services as well as with Forestry Corporation, so those discussions are being undertaken by functions which report to the energy and environment Minister.

The CHAIR: So Planning does not have anything to do with those discussions, just to be clear?

Mr BETTS: Unless Mr Ray wants to correct me on that?

Mr RAY: No, those discussions are between Local Land Services, Forestry and Environment, Energy and Science. We are not involved in those discussions, to my knowledge.

The CHAIR: Part of the strong feedback we are getting from experts in relation to koalas and the need to protect their habitat is the disjointed nature of government regulations in relation to protecting koalas and that in fact there really is nothing that stops koala habitat being destroyed other than national parks. Would you explain to the Committee what parts of the planning system actually protect koala habitat from being destroyed?

Mr ROB STOKES: Certainly. I mean even national parks, sadly, do not protect koala habitats being destroyed in the case of catastrophic bushfire events, but nevertheless I accept the premise of your question. In relation to the protections and the planning system, obviously the planning system is directed toward applications for development. It sets out both reactive protections in the face of applications but also proactive protections in a range of strategic planning documents. I point you specifically in terms of the latter in the case of the koala colony in south-western Sydney to Greater Macarthur 2040. One of the key constraints that it started from was the recognition of the need to preserve koala habitat and, wherever possible, restore and rehabilitate koala habitat. There is a draft State infrastructure contribution that was exhibited along with that plan that provided for \$179.3 million toward biodiversity conservation, particularly land acquisition.

The CHAIR: Just to pause you there. In relation to the Greater Macarthur 2040 plan and the Gilead plan—

The Hon. PENNY SHARPE: Now known as Figtree Hill.

The CHAIR: The Committee held a hearing out at Campbelltown. The koala inquiry held a hearing out in Campbelltown and we heard from Wollondilly Shire Council and their frustrations around the delay in the department approving their koala plan of management. The fact is that they had 13,000 residents in that part of the State signing a petition to protect koala habitat. The Department of Planning keeps approving areas of koala habitat that, in fact, within the koala plan of management the local council and community would prefer not to be cleared or are desperate for it not to be cleared to protect the habitat. What is the delay within the department, two years I understand, for the department to approve the Wollondilly koala plan of management?

Mr ROB STOKES: I do not understand that Wollondilly council has put one forward. I understand Campbelltown council has. That is my understanding. Nevertheless, in relation to Campbelltown council the challenge there was that the SEPP had not been remade. As I undertook to the Committee last time we met it was my aspiration to ensure that SEPP was made by the end of last year. That was achieved and it came into force at

the beginning of this month which now allows the Campbelltown comprehensive koala plan of management to be made and my understanding is that is now in the process of being finalised. I will refer you to the deputy secretary for further details.

The CHAIR: Just to clarify, I was talking about Campbelltown.

Mr WHITWORTH: Yes, we have received the final draft of the Campbelltown comprehensive koala plan of management. It did need to be updated to address the amendments to the State environmental planning policy. There is a specific transitional provision that enables us to determine it and it is in its final stages of being determined. I expect that it will be determined imminently.

The CHAIR: How many more councils do you expect to lodge a koala plan of management with the department as a result of the new SEPP?

Mr ROB STOKES: My understanding is that there are five that are now able to be finalised. They relate to Clarence, Coffs Harbour, Tweed and Byron shire councils. That was one of the great things about being able to finalise that State environmental planning policy. That is updated on the basis of the best available science. It provides much more granular mapping.

The Hon. PENNY SHARPE: How does it pick up what has happened with the fires? All of those areas are in significant hot spots and have been massively burnt out. How is that going to integrate given these plans have been sitting around for a couple of years pre-bushfire.

Mr ROB STOKES: A couple of things: The advice I have received is some of those bushland areas regenerate very quickly. That is the advice I have. Some of them will regenerate quickly and koalas will begin returning to some of these bushfire devastated areas.

The Hon. PENNY SHARPE: If they have survived.

Mr ROB STOKES: If they have survived, yes. It is important that we facilitate the making of those plans. Moreover, the new State environmental planning policy also facilitates the making of new plans to protect additional areas. It provides councils with the power to make those plans and also the evidence base, in terms of any investigation map, to show them the areas that we, on the basis of the best available science, believe—

The Hon. PENNY SHARPE: That map is going to be wrong now given half of it is burnt out.

Mr ROB STOKES: No, my understanding is that bushland rehabilitates quickly.

The Hon. PENNY SHARPE: Sure, but it is going to be years.

The Hon. MARK PEARSON: Considering you were referring to the position that your department takes as being "reactive" and "proactive" and these planning developments are on foot has there been any review of those planning developments that we have been talking about taking into account—whether in that particular area or not—koala populations following the bushfires? The underlying part of that question is, surely your department and you, Minister, would see that the importance of protecting these koalas is now even greater because of the catastrophic circumstance over the last six months?

Mr ROB STOKES: Just for the purpose of clarity, when you say "these koalas" which specific koalas?

The Hon. MARK PEARSON: The koalas that are in the areas that we are referring to in southern Sydney that the Campbelltown council and the community generally are wanting to protect. We met with them late last year and it was of serious concern then. As you say that your department and yourself are reactive and proactive surely the catastrophic events, even if they have not touched this particular area, must be in the equation of consideration for this planning development now, is it not?

Mr ROB STOKES: Yes, and I accept the premise of your question. Obviously that colony in south-western Sydney has always been important but it becomes even more important in the light of the devastation elsewhere in the State. Certainly the proactive planning, as I mentioned, involved the Greater Macarthur 2040 plan. Also the ongoing work to develop the Cumberland Plain Conservation Plan that I understand will be exhibited later this year.

The Hon. PENNY SHARPE: Yes. It is still not finalised.

Mr ROB STOKES: The beauty here in relation to that is the question related to how we are taking into account the impact of recent bushfires. The fact that that plan is being finalised enables that to take place.

The Hon. MARK PEARSON: Can you elucidate as to how? How is the department taking that into account? How are you taking into account the recent catastrophic fires when we are looking at this development? Have you changed aspects of the development to better protect the koalas as a consequence?

Mr ROB STOKES: Just for the purposes of specificity, which development are you referring to?

The Hon. MARK PEARSON: The development of south Sydney.

The CHAIR: Gilead.

The Hon. PENNY SHARPE: Gilead was not a good marketing exercise.

Mr ROB STOKES: In relation to Figtree Hill certainly specifically the environment Minister and myself have commissioned the chief scientist to review the biodiversity protections in place in that area in anticipation that there may well be a planning proposal submitted for the project known as Gilead stage two. That has not been submitted. So at this stage there is time to undertake that work. I understand the deadline for that research to be done is 30 April, if my memory serves me correctly. I refer you to the deputy secretary for more information on that point.

The Hon. MARK PEARSON: Maybe you could take that on notice. Coming back to something else you said. You seem to be quite comfortable and take refuge in the notion that the bush comes back quickly after a fire. Do you know how long a tree takes to grow to become a habitat that a koala can rely upon?

Mr ROB STOKES: Apologies if my comments were open to misinterpretation. I am not suggesting all of the bushland will recover but certainly recovery can start straight away. Certainly elements of the areas that have been burnt will take many, many decades to fully recover.

The CHAIR: Minister, in relation to Gilead—let us keep calling it Gilead—you suggested that you and the environment Minister have commissioned the chief scientist to do an investigation into the biodiversity situation there, is that correct? What is the report that Professor Mary O’Kane is undertaking? What is the research?

Mr ROB STOKES: There are two elements. There is obviously the bushfire inquiry that Professor O’Kane is leading together with David Owens. Then Professor Hugh Durrant-Whyte, the current incumbent chief scientist, is going to take a separate piece of work effectively to peer review the work to date in relation to the protections of koala habitat around the Gilead precinct, if you can call it that.

The Hon. PENNY SHARPE: Is that stage one and stage two or is it just stage two?

Mr ROB STOKES: I will refer you to the deputy secretary.

Mr WHITWORTH: It is just stage two.

The Hon. PENNY SHARPE: Is that because stage one has been approved?

Mr WHITWORTH: Stage one has already been approved and has already been through a biodiversity certification approval by both the Commonwealth and the New South Wales environment Minister.

The CHAIR: Have there been any approaches? This population is particularly even more important than I think we were hearing than it was last year because of the bushfires—hence, I think, the questions around this. The assessment of that habitat, whether to clear some of it for development or not, is even more important. Have there been approaches by the Federal environment Minister to you as planning Minister to have a look at whether there is any more need to further protect koala habitat in New South Wales since the bushfires?

Mr ROB STOKES: Not that I am aware of. There has not been any approach from the Federal Government on that point specifically.

The CHAIR: So the Federal Government released its report into the 113 species that were closer to the risk of extinction as a result of the bushfires; the koala is on that list. One of the urgent recommendations to prevent potential extinction was to look at protecting areas of unburnt forest next to those areas that had been burnt. Assuming that some areas of unburnt forest are not just in State forests or national parks, presuming that some areas are actually at the edge of town in areas that will be potentially slated for development or mining, you have not as planning Minister and, in fact, as head of the cluster of Industry, Environment and Planning—is there nothing on your table or plate right now to reassess the regulatory environment in terms of the clearing habitat as a result of these fires?

Mr ROB STOKES: Again, I have answered the question in terms of the Cumberland Plain Conservation Plan, which is the regulatory instrument that allows us to address that in a holistic landscape-scaled way.

The CHAIR: I should have been clearer: I am talking statewide now.

Mr ROB STOKES: Statewide we will rely quite appropriately on the recommendations of the expert review currently being undertaken by Mary O'Kane and David Owens in relation to matters that they raised with us. Otherwise we are acting in accordance with the Koala Strategy. Certainly if the recommendations coming out of that review in ways that we need to look at further protections or different arrangements in relation to koala or other native animals, of course we will take action following the recommendations that are made to us.

The CHAIR: Have there been any calls for moratoriums on clearing coming to your desk within the department?

Mr ROB STOKES: Not that I am aware of for any specific area.

The CHAIR: Speaking of clearing of habitat, I am aware that I think last year that we were talking about the old growth remapping exercise as part of the integrated forestry operations approval. Could you tell me where that process is within the Natural Resources Commission [NRC] and has that changed as a result of the bushfires?

Mr ROB STOKES: I will refer you to the secretary.

Mr BETTS: Absolutely. It was in November 2018 that the Natural Resources Commission was asked to undertake that work in accordance with terms of reference specified by the Premier. The question was basically whether there was any evidence that the mapping that had been undertaken unnecessarily precluded environmentally sustainable logging, which could ameliorate any future shortfalls in production. Close to 800,000 hectares of coastal State forests have been impacted by the fire and that work is on hold at this stage.

The Hon. PENNY SHARPE: It has been discontinued.

The CHAIR: So it is on hold.

Mr BETTS: Yes.

The CHAIR: Does that mean it is on hold until the report that Professor Mary O'Kane is undertaking is finalised or does that mean it is on hold until when?

Mr BETTS: Further notice, essentially. The question of—

The CHAIR: Discontinued, potentially.

Mr BETTS: The Natural Resources Commission is undertaking some work in the very near term to assess the scale of the impact, but at this stage the question that was originally asked is no longer a pressing one, given the catastrophic scale of the impact of the fires.

The CHAIR: That is clear. Thank you.

The Hon. PENNY SHARPE: Just quickly on Gilead and the assessment. It is clear that it is stage two. The clear evidence both from the work that Campbelltown City Council and surrounding councils have done and the work that environment groups have done is that the bushland connectivity is the key thing around koalas basically following both the Georges River and the connection to the Nepean. Will the work that you are doing look at preserving those corridors?

Mr ROB STOKES: Yes, there have been corridors identified in the Greater MacArthur plan, so north-south—

The Hon. PENNY SHARPE: There have been suggestions obviously for the creation of a national park, particularly along the Georges River. But there are also proposals for what someone has called the Two Rivers—that corridor that connects the Georges and the Nepean. Are you able to provide any information of what consideration you are giving to that?

Mr ROB STOKES: Certainly. The important north-south connection on the east side of Appin Road has obviously been identified, but there have also been connections that have been identified for east-west connections. They will be further detailed in the Cumberland Plain Conservation Plan. We are assisted by topography in some ways because obviously the gorge country itself does not lend itself certainly to development.

The Hon. PENNY SHARPE: No, but there are areas clearly that are ripe for development as well as being very good for koalas.

Mr ROB STOKES: There are. For example, the biggest single component of the draft State infrastructure contribution is the cost of acquiring land for conservation purposes. That is because, as you identify, some developable land is also very important to provide that connectivity both from a landscape perspective and also from a biodiversity perspective. That work is already underway. Obviously, there will be some negotiations as part of that. I suspect there will be a variety of views, but nevertheless it is the Government's intention to ensure that the areas that need to be protected have to secure the future for the koala populations of south-western Sydney are identified and protected as required.

The Hon. PENNY SHARPE: Are the koalas specifically picked up? I am assuming they are in the Cumberland draft plan?

Mr ROB STOKES: I will refer you to the deputy secretary.

Ms O'MARA: Yes.

The Hon. PENNY SHARPE: Just to be clear, my understanding is that there has been some consultation around the plan. There were a bunch of submissions. You are working on the next iteration of that that will go out. Has it gone out yet?

Ms O'MARA: That is right. It will go out this year. There was consultation on the draft terms of reference, but we have been consulting for the past couple of years, I think.

The Hon. PENNY SHARPE: I do not think you ever see such consulting by the sound of it.

Ms O'MARA: I think it is important that we consult with the community. We have had a community reference group that is chaired by Jeff Angel. But in terms of koalas, it is looking at how to avoid impact to important koala corridors, but it is also looking at setting up a new reserve to protect up to 2,000 hectares of koala habitat.

The Hon. PENNY SHARPE: Where is that?

Ms O'MARA: Along the Georges River.

The Hon. PENNY SHARPE: It is easy because it is mostly publicly owned, having had a close look at it myself. I want to ask specifically about environmental protections within the planning for the Western Sydney Aerotropolis. As you would be aware, the Cumberland plan is obviously essential to how that works. How are they going to work together—the planning for the aerotropolis and the environmental protections with the Cumberland plan. Given there is a lot of crossover, how do they work together?

Mr ROB STOKES: The work of the Cumberland Plain Conservation Plan—there will be the opportunity to reflect that in the rezonings as they proceed in relation to the aerotropolis.

The Hon. PENNY SHARPE: So will they be aligned? Rezoning that are coming under the aerotropolis will be aligned to the Cumberland Plain plan. Is that right?

Mr ROB STOKES: Yes.

The Hon. PENNY SHARPE: As you know, there is a lot of fragmented bushland within this area. There are also opportunities to consolidate some urban bushland there. The fact sheets and information that I have been looking at suggest that the environmental recreational zones are all in the flood zones. Is that right?

Mr ROB STOKES: The ones that have been identified to date largely correspond with areas where there are concerns about flooding, particularly along South Creek and Thompsons Creek, and they are obviously, as you would appreciate, among the first areas that would be identified more for—

The Hon. PENNY SHARPE: So yet again, where you cannot develop you do not protect straightaway.

Mr ROB STOKES: No, I had not finished.

The Hon. PENNY SHARPE: The zone will specifically apply to all land affected by the one in 100 chance per year flood. I mean, pretty much, if it is going to flood that is the environment bit.

Mr ROB STOKES: No, that is not what I was about to say. What I was going to say was particularly those areas for active and passive recreation. In relation to biodiversity protection, obviously that is another matter.

The Hon. PENNY SHARPE: I do not expect you to know and I am not asking for this now but would you be able to provide on notice to the Committee where at this point the protection zones, other than Thompsons Creek, where the other environment and recreation zones are?

Mr ROB STOKES: There have been a number exhibited already in relation to the plans that have been put out to date. But we can provide you—

The Hon. PENNY SHARPE: Can I just say, as someone who actually takes an interest in this, I find it very confusing. There are constantly new maps, there are constantly six different plans which are fitting into the same issue. What I am really asking is with the aerotropolis—and this is purely bushland as opposed to recreational land—what land is there currently, whether it is private, Crown, whatever land tenure? What is going to be protected under the aerotropolis? Is there going to be any net increase? I am trying to get the net benefit of what we are actually protecting here because it is very hard to unpack, given that there are about six different plans guiding it.

Mr ROB STOKES: I point you specifically to the draft Western Sydney Aerotropolis plan, which was exhibited in December.

The Hon. PENNY SHARPE: I had a look at the interactive map, yes.

Mr ROB STOKES: Which provides the overall vision and guide. But in relation to the other elements I will refer you to the deputy secretary.

The Hon. PENNY SHARPE: I am happy for you to take it on notice. I understand it is a complicated question.

Mr WHITWORTH: I think it is important to talk about what the aerotropolis plan does is set out the high level zonings but it also says that there will be precinct plans developed and it is in those precinct plans where the greater detail will come about the individual sites protected for environmental values, the individual sites protected or identified for recreation and other purposes, just as there will be the road corridors and the areas identified for development. So it is a staged approach. The importance of the South Creek corridor was to identify it from the importance of creating an environmental link as well as to recognise that development within that area was limited by flooding. But in the case of Thompsons Creek, a decision was taken to expand that area beyond the one in 100 chance per year flood to identify the opportunities for both bushland and recreational activity in and around the aerotropolis core.

The Hon. PENNY SHARPE: But that is really the only area so far identified beyond the one in 100—

Mr WHITWORTH: The reason that we did that is that it is identifying the area where there will be some land acquisition and the community was quite concerned about having an early understanding of those properties that may be acquired, and that is why we did it. The more detailed precinct planning work will identify those subsequent areas to be identified for bushland value and/or recreation purposes.

The Hon. PENNY SHARPE: Minister, in terms of biodiversity offsetting through the process for Western Sydney Airport and the area, can you guarantee that areas that are not currently protected will double up and be included as offsets? It will be new offsets rather than if an area is already identified and has been used as an offset that it will not then be able to be used twice?

Mr ROB STOKES: I will answer that specifically on notice because I would need to get some advice in relation to that. But certainly the Western Sydney Airport precinct is 11,000 hectares, it is a vast area. A lot of it is, frankly, quite degraded peri-urban land and there are some real opportunities for rehabilitation and re-greening. So I am actually quite excited about the opportunities not just to preserve what is left—

The Hon. PENNY SHARPE: If you can also provide us with the number of hectares you think are going to be re-greened, I would be very interested in that too.

Mr ROB STOKES: That is certainly something that we are actively looking at how we can best achieve and that will be settled through the planning process, which obviously, as the deputy secretary has already indicated, will become more granular over time.

The Hon. PENNY SHARPE: My concern here is pretty straightforward, which is that the pressure on development—there is a huge opportunity around jobs, a huge opportunity around wise development and the city shaping that is happening through this. My concern is that environment and remnant bushland and those important corridors are not given the prominence that they are once you have layered all these other things over the top of them. What I am really seeking from you is what is currently protected. Is there any increase or are we really looking at a shrinking of what is there? What are we going to lose around some of that remnant material? Are all the tools that we are using, whether it is biobanking, whether it is offsetting, going to be there? As I said, I will wait for you to come back but I am very concerned about the offsetting arrangements. My understanding is a lot of hectares that are supposed to be offset would be required under the planning for the aerotropolis. My worry is

that things that are already protected are just going to get protected again and we are going to pretend that that is a good outcome.

Mr ROB STOKES: Sure, and I understand your concerns. Certainly in an area of more than 11,000 hectares where we are going to put 200,000 jobs and 60,000 homes, obviously that is going to have environmental consequences but at the same time, because so much of that land is currently in a degraded state, there are opportunities to rehabilitate and restore the landscape as well as the opportunity for vast swathes of parkland to be provided as part of the overall development.

The Hon. PENNY SHARPE: Speaking of somewhere under pressure and an important environmental asset, Riverstone wetlands, are you familiar with this issue?

Mr ROB STOKES: Ask me questions. I know the area.

The Hon. PENNY SHARPE: It is one of these things that occur—it is a human-made wetland. Essentially it has an incredible array of biodiversity. It is basically as a result of a pond that formed off an old meatworks in western Sydney.

Mr DAVID SHOEBRIDGE: You describe it so beautifully.

The Hon. PENNY SHARPE: I have been there. The reason I am asking this is it is a key test about how our planning system can manage to look after environmental assets. The issue is that it is basically sold for development. Funnily enough, it is on the flat part of where the development is, so the developer has no interest in keeping it; they basically want to fill it in. This particular wetland, that is not subject to particular flooding, basically is a very unique set of circumstances. Incredible groups of people have been looking after this wetland for a long time and have documented an incredible amount of biodiversity, including all of the migratory birds that came from Mongolia and Korea and all of those sorts of things. We seem unable to protect it. There have been some calls for whether we could buy a bit of land within this particular development to protect those wetlands. I am just wondering whether you are aware of it and what, if anything, you think would be able to done to save the wetland.

Mr ROB STOKES: I think it is appropriate I refer you to Mr Whitworth.

Mr WHITWORTH: Those Riverstone wetlands that you refer to are in the precinct that we call Marsden Park North. That is, as you say, an old effluent pond. Our understanding is that the effluent pond is constructed with contaminants, including asbestos. It is not an area that is suitable, we understand, for public access. During the exhibition of the draft precinct plan—

The Hon. PENNY SHARPE: Are you going to allow people to build on it?

Mr WHITWORTH: During the exhibition of the draft precinct plan we identified an option, having taken expert advice from an independent process, that we would require the construction of new compensatory wetlands in a location close to—

The Hon. PENNY SHARPE: You are aware that is a pretty controversial idea. There is a lot of community debate about that.

Mr WHITWORTH: We are aware that there is a lot of community debate about that but we are also aware that the wetlands in their current state would not be suitable for public access due to the degree of contamination that exists.

The Hon. PENNY SHARPE: But just to be clear, the plan then will be to bulldoze it and build over the top of it. So people cannot visit it but they can live on it.

Mr WHITWORTH: The plan would be that there would be no—first of all, Marsden Park North is still in a process of being finalised.

The Hon. PENNY SHARPE: Which is why I am asking because the opportunity is still there.

Mr WHITWORTH: Marsden Park North is still being finalised. We are taking advice on the ability to create a new wetland, a new compensatory wetland—taking advice on how we could locate that in a place where it would actually be available to the public to enjoy so it would be part of a broader public space offering for the Marsden Park area. Obviously undertaking a work of that nature in compensatory wetlands have been built in other places before you need to understand that the wetland can be constructed, that it will function to the same level of ecology that the existing wetland was before you could enable the demolition of the effluent pond. That would then enable it to be—

The Hon. PENNY SHARPE: The Riverstone Wetlands. I accept that it has been there for a long time.

Mr WHITWORTH: It has been, yes.

The Hon. PENNY SHARPE: They call it an effluent pond but it has not been an effluent pond for about 30 years.

Mr WHITWORTH: But it is also highly contaminated with asbestos and other contaminants. Our advice is that it is able to be decontaminated but you could not decontaminate it and then rebuild it as a pond in its current location.

The Hon. PENNY SHARPE: Minister, the female factory at North Parramatta, I know you are not specifically responsible for heritage but obviously the planning of that precinct continues. Why has there been a falling in the approaches to get World Heritage listing for the Parramatta Female Factory?

Mr ROB STOKES: As you have indicated, that is not specifically within my portfolio responsibility.

The Hon. PENNY SHARPE: No, but you have taken an interest over time.

Mr ROB STOKES: I think there is a very strong case for its consideration by UNESCO as a World Heritage site. It shares many of the features that the other Australian convict sites have in relation to their listings. I would be very supportive of those efforts and, certainly while it is not within my portfolio responsibilities, I am very happy to—

The Hon. PENNY SHARPE: Will you raise it with Minister Harwin?

Mr ROB STOKES: I am very happy to do so, and I am sure he is on board as well.

The Hon. PENNY SHARPE: Very good. Where are we up to with Callan Park?

Mr ROB STOKES: It is a very open-ended question.

The Hon. PENNY SHARPE: It has been going for a very long time and those buildings are crumbling around us, as we speak, and you are now responsible for them. What is happening with them, Minister?

Mr ROB STOKES: A couple of things. Certainly it has been going for a very long time and it will go for very many years in the future. It is a very important piece of regionally significant open space.

The Hon. PENNY SHARPE: How much money is being invested in it?

Mr ROB STOKES: And it contains significant heritage resources. There has been a landscape plan—

The Hon. PENNY SHARPE: Yes, I have heard all about the landscape plan. Have you got a tenant for the main building yet?

Mr ROB STOKES: There has been a series of lease arrangements that have been entered into. I will refer to the secretary for the specifics.

Mr BETTS: I will pass it to Ms O'Mara.

Ms O'MARA: Yes, there have been a number of leases that have been entered into recently.

The Hon. PENNY SHARPE: When?

Ms O'MARA: They would have been approved in March. One between the Inner West Council and the Health Administration Corporation for three sportsgrounds in Callan Park, amenities building, storage sheds and a community refugee welfare centre.

The Hon. PENNY SHARPE: They have been there for a while. I am talking about the main building where the College of Fine Arts was.

Ms O'MARA: Yes, the Kirkbride Building?

The Hon. PENNY SHARPE: Yes.

Ms O'MARA: It is owned by the Ministry of Health and my understanding is that they are undertaking work to look at who the new tenant for that might be.

The Hon. PENNY SHARPE: It has been vacant now for 12 months.

Ms O'MARA: My understanding is that the University of Sydney still has some presence.

The Hon. PENNY SHARPE: It is mostly out of it, though.

Ms O'MARA: Yes. There is still a presence there is my understanding. For example, Kaldor Public Art Projects are still there.

The Hon. PENNY SHARPE: They are existing leases; that is nothing new. Are you able to tell us how much money has been invested in Callan Park in the last financial year? You can take it on notice. That is fine.

Ms O'MARA: I am happy to take that on notice and come back to you.

The Hon. PENNY SHARPE: Open spaces and planning for open spaces, I want to know beyond accessible playgrounds what else is occurring in relation to disability inclusion in this part of department's work?

Ms O'MARA: Everyone Can Play is a really key platform for us.

The Hon. PENNY SHARPE: That is great—tick. I am very interested in all of the planning and place work that you are doing. What is being taken into account for people with limited mobility and other disability into building this in at the ground level rather than constantly trying to retrofit accessibility after the fact?

Ms O'MARA: I agree that there is an opportunity with the new Minister for Planning and Public Spaces and a new public spaces team to look at how we can embed that into the planning system. We have commissioned work from, I think, Obus and we expect a report out of that process in, I think, March or April to say, "Here are some things you can introduce into the planning system that might give a stronger presence to public space".

The Hon. PENNY SHARPE: Does that specifically deal with disability inclusion in respect to accessibility?

Ms O'MARA: Yes, it will look at that. It will include, for example, we are looking at a public spaces charter and we are looking at what tweaks could we make to the planning system that will back that in. I think that would very much look at what is the access to those public spaces. We would say that access is a key way to make sure we are delivering on the Premier's Priorities.

The Hon. PENNY SHARPE: One step means that people just cannot go—it is as simple as that.

Ms O'MARA: Absolutely. I think through Everyone Can Play we have demonstrated that we understand the value of that and we can deliver on those.

Mr ROB STOKES: I can also add to that. Throughout the various grant schemes within the department—whether it be the money to support priority precincts, the five million trees, the Everyone Can Play grants—access is a key determinant. Certainly in relation to the Premier's priority about providing public access to green open spaces, accessibility is a key part of usability. You cannot really have a public space if the public cannot access it.

Ms O'MARA: I might just add, the other thing we are looking at as part of the eight parks we are delivering with \$50 million, is how we can make accessibility a feature. Sarah Hill, my colleague, at the Greater Sydney Commission announced last week on International Women's Day a women's safety charter. One of the things we are doing as part of that is undertaking a series of night walks with the Chair of the Greater Sydney Commission's youth panel looking at accessibility at night in public open spaces. They are two other things I would say: One is looking at how our existing spaces work at night and what is the accessibility; and then, secondly, through the eight parks how can we design those so that they are accessible.

The Hon. PENNY SHARPE: I will come back to that this afternoon.

Mr DAVID SHOEBRIDGE: Minister, following the excellent report from the substantive members of this Committee, will you now confirm—given pretty much not a single stakeholder supports it—that the Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019 is dead?

Mr ROB STOKES: I certainly thank the Committee for its report and it will be responded to in the appropriate course. The legislation is there for the Parliament to make its determination in relation to but we will consider the report and respond in due course.

Mr DAVID SHOEBRIDGE: Why will you not withdraw the bill? Not a single stakeholder supports it. Even the Minerals Council does not support your attempt to mollify it with the bill. Why do you not just do the decent thing and withdraw it, particularly given the climate crisis we are in?

Mr ROB STOKES: Certainly I do not agree with your characterisation of the bill as an attempt to mollify the Minerals Council. If indeed it were mollifying the Minerals Council, the Minerals Council would be mollified.

Mr DAVID SHOEBRIDGE: No, no, you could have failed in your efforts—which you clearly have.

Mr ROB STOKES: That is your characterisation, Mr Shoebridge. But certainly the Gloucester Resources case raised an issue, as common law often does, that needed a response in relation to raising the uncertainty about the application of the Newbury test effectively toward the imposition of conditions of development consent. There is longstanding common law principles that conditions of development consent need to be reasonable: They need to relate reasonably to the development in question, they cannot relate to extraneous matters and ulterior purpose, and they cannot be manifestly unreasonable. The bill clearly seeks to ensure that when a condition to a development consent that a decision-making authority believes should be approved that those conditions should relate to the development specifically and not to extraneous matters.

Mr DAVID SHOEBRIDGE: So, Minister, you are not walking away from that appalling piece of legislation, notwithstanding the terrible summer we have seen, the obvious calls in the community to do more on climate change; you are not still not walking away from the territorial limits bill. Is that as I understand it?

Mr ROB STOKES: Mr Shoebridge, the territorial—

Mr DAVID SHOEBRIDGE: Nothing will change your pro-coal agenda from your Government?

Mr ROB STOKES: No. There are a couple of things here. First, the territorial limits bill, as we have made clear in the second read, relates generally to development, not merely to applications dealing with fossil fuels. For the purpose of the inquiry, I want to read a piece from Lord Denning—of all people—who made the point that although the planning—

The CHAIR: All morning you have been waiting for that.

Mr ROB STOKES: This is worth considering, because this has a much broader application.

Mr DAVID SHOEBRIDGE: This is the guy who would not intervene to set aside some of the most gross injustices in the United Kingdom criminal legal system and you are relying on him now, in 2020—the same guy, Lord Denning, who said he did not mind if people were wrongly convicted of murder, he was not going to touch any of that. That is the guy you are bringing up in 2020 for your case?

Mr ROB STOKES: Hang on.

Mr DAVID SHOEBRIDGE: For goodness sake!

Mr ROB STOKES: A couple of things here. I am not talking here about wrong convictions for murder. We talking about planning law and we are talking specifically about the reasonableness of conditions to development applications. This authority says:

Although planning authorities are given very wide powers to impose 'such conditions as they think fit', nevertheless the law says that those conditions, to be valid, must fairly and reasonably relate to the permitted development. The planning authority are not at liberty to use their powers for an ulterior object, however desirable that object may seem to them to be in the public interest.

We need to be very clear in relation to planning matters, that planning authorities can either approve a development, refuse a development or approve it subject to conditions. Where they choose to approve a development subject to conditions, we need to be clear about the appropriate ambit of those conditions.

Conditions that seek to relate to controlling matters of international trade are really a matter for Federal Government regulation. The Constitution makes it quite clear that State authorities and consent authorities should not really be trying to control matters of international trade. That is simply what this amendment seeks to do: to make it clear as to the appropriate purposes to which planning conditions should be applied.

Mr DAVID SHOEBRIDGE: Minister, are you aware of the community campaign to prevent the land clearing for development that has come from the community of Manyana on the South Coast?

Mr ROB STOKES: I am not aware specifically of that movement but I am certainly aware of urban development pressures around Manyana, Bendalong, Cunjurong Point and that community, yes.

Mr DAVID SHOEBRIDGE: Are you aware that after the terrible fires over the summer that ripped through the national park the fire was only stopped right at the edge of Manyana and Cunjurong Point?

Mr ROB STOKES: I am very well aware.

Mr DAVID SHOEBRIDGE: Are you aware that the only intact woodland for kilometres around after the fires that the community very much loves and respects—the only intact bushland—is now slated for clearing for a subdivision? Are you aware of those basic facts?

Mr ROB STOKES: In relation to specifics, I certainly am familiar with the area. I am happy to take on notice any specific questions or you can ask me now.

Mr DAVID SHOEBRIDGE: There are three outstanding development approvals granted eight or more years ago. Those development approvals wrap around Manyana and Cunjurong Point. They cover pretty much all of the intact forest—the bits that have not been savaged after the fires. It is all slated for bulldozing, all slated for removal. The community have requested you repeatedly to intervene to protect that bushland. Have you received a briefing from your department about the issue?

Mr ROB STOKES: I will refer you to the deputy secretary for the specifics.

Mr DAVID SHOEBRIDGE: Could you answer my first question—and I am more than happy for my second question to go to Mr Ray? Have you received a briefing from the department about this issue?

Mr ROB STOKES: I am certainly aware of your correspondence on the issue and I am referring it to Mr Ray to answer on the specifics.

Mr RAY: I understand that there are two project approvals, issued in 2008 and 2010, to allow some development at Manyana—obviously 12 years and 10 years ago. I am advised that both of the project approvals are subject to strict conditions to preserve the site's environmental values. They both prohibit broad clearing of vegetation and they permit the removal of selected trees on a staged basis to accommodate the various stages of the development. There is another proposal that is not a development consent. Obviously those development applications were assessed in the ordinary course 10 and 12 years ago, and there are conditions.

There is another proposal, which I am told is at the Inyadda Drive site, which is North Manyana, which is actually a planning proposal. There has been a gateway decision from the department. That gateway decision to allow the planning proposal to proceed was actually made in June 2015. But as far as I am aware, council has never exhibited that planning proposal.

Mr DAVID SHOEBRIDGE: Minister, the approved housing development in Manyana anticipates some 6,000 new residents in the area, thousands of new homes over an area that is currently largely bushland. Do you accept, given that, the statements from Mr Ray that there are conditions in there to protect the bushland, because on the face of it I would characterise those statements as utterly unreal?

Mr ROB STOKES: I am aware of the community concerns. I am also aware that you have lodged a petition in relation to this matter. I will certainly ensure that a response is provided in accordance with the standing orders but, more than that, I will undertake to this Committee that I will have a further look into these matters. I am aware of the bushland that you are referring to. Certainly in relation to approved developments, approved developments are approved developments. Nevertheless, I am very happy to make inquiries and ensure that I am satisfied that the matters that Mr Ray has referred to involve appropriate protections.

Mr DAVID SHOEBRIDGE: Minister, these approvals were granted in 2008 and 2010. The community has been fighting them ever since. It fought them at the time and it has been fighting them ever since. Do you accept that following these savage bushfires, where particularly on the South Coast so much of that coastal forest has been savaged, the reality has changed from whatever it was in 2008 and 2010? As somebody with the kind of custodial obligations that the planning Minister has for our natural environment, you should be willing to review historical developments when the reality has changed?

Mr ROB STOKES: I certainly accept the sentiment of your question. Obviously the legal rights enter into matters when we are talking about approved developments. Nevertheless, the best I can say at this stage is I am very happy to look into it and see what might be done, certainly in light of the recent bushfires. Nevertheless, the law is pretty clear that an approval is an approval.

Mr DAVID SHOEBRIDGE: Yes, but one of the benefits of being in government and having an institution like a Parliament is you can change the law. Do you agree with that? It is one of its purposes?

Mr ROB STOKES: Yes, you can change the law, I agree.

The Hon. PENNY SHARPE: A bit challenging with our upper House.

Mr DAVID SHOEBRIDGE: Admittedly your Government does not have a great track record recently on it but, given the reality has changed, do you not think it is your obligation as the planning Minister to consider whether or not the law should also change?

Mr ROB STOKES: Again, I am happy to consider matters, but effectively if you are suggesting I put forward legislation to somehow seize private property that would not be something the Government would support.

Mr DAVID SHOEBRIDGE: No, what I am suggesting to you—to be clear about it—is you put forward either a SEPP or a legislative package that has a moratorium on the large-scale clearing, particularly of coastal forest although not just coastal forest, but forest for the purpose of subdivision in seriously fire-affected regions of New South Wales. Will you do that?

Mr ROB STOKES: I am very happy to look at any proposal you bring to me. Again, you are raising these matters in the Committee; I am happy to have a subsequent conversation, but I am certainly not going to commit to a legislative plan of action on the basis of these questions—

Mr DAVID SHOEBRIDGE: I have not asked you to commit to it; I have asked you to consider it. It seems to me we are having—

Mr ROB STOKES: I am very happy to talk further.

Mr DAVID SHOEBRIDGE: I am not against the commitment, just to be clear. Does your department have a database of large-scale subdivision development approvals across the State? Do you have a sense of where they are, how many have been activated, how many are sitting on the books waiting to go?

Mr ROB STOKES: There certainly are registers of approvals but I will refer you to Mr Ray in relation to the specifics.

Mr RAY: Mr Shoebridge, obviously the department has a database of its own approvals. The ePlanning initiatives over the last few years have enabled and will enable a database of all council approvals to be gathered over time. My feeling—I might have to come back to you. I will seek some information in the meantime and I will have to come back to you a bit later on today to actually determine whether we—I do not think we have a comprehensive database of subdivisions across the State. We probably do not have the information completely about which ones have been acted on or which ones have been partly acted on, or which ones have not been acted on. If I can get that information during the day I will come back to you on that.

Mr DAVID SHOEBRIDGE: Thank you, Mr Ray. Minister, one of the ongoing concerns that communities have specifically about large-scale subdivision development applications is that they can be granted, as is the case around Manyana, some 10 years, eight years, sometimes 15 years ago and then a very minor of amount of works onsite—literally digging a hole and putting a fencepost in—has been said to be sufficient for substantial commencement, and therefore that preserves the DA beyond the legislated five years that they are otherwise extant for without work being done. You must have had representations to you previously about this issue?

Mr ROB STOKES: Yes, I have views as well in relation to physical commencement. Nevertheless, we are led here by the way the common law has developed, particularly in the Land and Environment Court, that has been very clear about what "physical commencement" means.

Mr DAVID SHOEBRIDGE: I mentioned to you earlier that one of the benefits of a Parliament is that if the common law is not working or previous statutes are not working you can change it and fix them. Do you agree that the threshold for substantial commencement or practical commencement—however you want to describe it—is too low and that allows for basically "sleeper" DAs to be sitting there for years and years and years—

The Hon. ADAM SEARLE: Zombie DAs.

Mr DAVID SHOEBRIDGE: —as we have seen in the case of Manyana?

Mr ROB STOKES: I am happy to delve further into those matters. If I can just repeat: The law is fairly clear on this.

Mr DAVID SHOEBRIDGE: But Minister, I am putting to you that it is broken. I heard a characterisation that they are "zombie DAs"—to be sitting on the books for 10 years, 15 years, 20 years when the law was crafted to say, "You have got five years to do your work. You have got five years to get your DA up and running". That was for good, positive public interest reasons, was it not?

Mr ROB STOKES: Yes.

Mr DAVID SHOEBRIDGE: But those public interest reasons are being defeated by the interpretation of substantial commencement or practical commencement having such a low threshold—literally digging a hole and sticking a fencepost in preserves that DA in perpetuity.

Mr ROB STOKES: It depends on the nature of the development and it is a matter for the court ultimately to interpret whether physical commencement has—

Mr DAVID SHOEBRIDGE: There literally are cases where digging a hole and putting a fencepost in is considered sufficient.

Mr ROB STOKES: I think the best response I can say at this stage is it is a matter—as with all laws, we are happy to look at ways in which we can improve them and are more than happy to consider any suggestions you might want to raise with me.

Mr DAVID SHOEBRIDGE: Minister, what is the current progress of the implementation of the medium density housing code? Is it applicable in Ryde?

Mr ROB STOKES: A couple of things: Firstly, the medium density housing code is now in force across most of New South Wales and most local government areas. There are around I think 40 councils—

Mr RAY: It is 45.

Mr ROB STOKES: There are 45 councils where it has been deferred at the request of those councils. Those deferrals will conclude on 1 July. Those deferrals were sought by councils that wished to receive a deferral to enable them to prepare a planning proposal where they felt that the operation of the code in the context of their R2 zone and the permissible uses in their R2 zone would have unintended consequences. I have certainly listened to those concerns and provided now a couple of deferrals to give councils time to bring forward planning proposals. With those councils that have done what they have asked for the opportunity to do, we in good faith are progressing those proposals. I understand six of those have been finalised.

My frustration is some of the councils that said, "We want a deferral so we can plan a planning proposal" have not prepared a planning proposal. In relation to those councils, ultimately something cannot be deferred indefinitely. For those councils that thought they had a better way to achieve the objective of a greater diversity of housing supply, we are certainly progressing on those proposals.

Mr DAVID SHOEBRIDGE: Which are the six councils that have a planning proposal—I was not quite sure what stage you said that planning proposal was at? Which are the—

Mr ROB STOKES: My understanding is it is finalised.

Mr DAVID SHOEBRIDGE: —six councils and where are those planning proposals up to?

Mr RAY: Mr Shoebridge, those six councils have had planning proposals that are made. They have made local environmental plans [LEPs] so they are absolutely completed.

Mr DAVID SHOEBRIDGE: Which are they?

Mr RAY: I can tell you they are Camden, Campbelltown, the Central Coast, Georges River, Randwick and Sutherland. Actually, there is another one, which was Lane Cove—which was the first. So there are actually seven.

Mr DAVID SHOEBRIDGE: And those councils will be excluded from the medium density housing code by reason of that?

Mr RAY: Each planning proposal is being crafted by each council individually to address their particular concerns. Some of the planning proposals relate to the permissibility of certain of the development types in the medium density code in the R2 zone. Others relate to questions about larger minimum lot sizes for those development types. They will not be totally excluded from the code but they have been given the opportunity to make amendments to their underlying planning controls to ameliorate the perceived impacts of the code.

Mr DAVID SHOEBRIDGE: Can you give us the status of the other 39 councils on notice?

Mr RAY: Could I just say that only 21 councils in total have actually lodged a planning proposal.

Mr DAVID SHOEBRIDGE: Can you give us that list?

Mr RAY: Yes, I can give you that.

The Hon. ADAM SEARLE: Mr Ray, of the 45, are the seven part of the 45 or is the 45 plus—

Mr RAY: Yes. No, the seven are part of the 45.

The Hon. ADAM SEARLE: Okay. That takes it down to 38. How many of those 38 have got planning proposals in the works?

Mr RAY: There are another 14 planning proposals in the works where a gateway determination has been issued by the department. That is 21 overall. Doing the arithmetic, there are another 24 councils that have not brought forward a planning proposal even though they have now been given—we are 21 months into the deferral. I might just also say that within the first 12 months there were a number of councils—Lane Cove actually brought forward a planning proposal but there were three other councils that actually decided to adopt the code without making any changes. They had the deferral for 12 months, but at the end of that 12 months they indicated to the department that they did not require any further deferral and so they were included in the code on 1 July 2019.

The Hon. ADAM SEARLE: I am happy to receive on notice the list—I think you said it was 21 from which you had not received planning proposals?

Mr RAY: It was 24.

The Hon. ADAM SEARLE: In relation to the ones where you have received planning proposals, is the code not going to apply to them or does it apply in a modified format? What is the impact of them having done their local planning proposals?

Mr RAY: As I was attempting to explain in response to Mr Shoebridge's question—

The Hon. ADAM SEARLE: I am much more reasonable, Mr Ray, so continue.

The CHAIR: Mr Shoebridge is not here to respond.

Mr RAY: The issues for each council really depend on their underlying planning controls because the medium-density code sits on top of the zoning in each individual case. While we do have a standard instrument, sort of a template LEP, there is actually a fair degree of variation as to what development types are included in each zone. Each council who has put in a planning proposal has specific concerns about how some of the development types—there have been manor houses, dual occupancy, terrace-type housing—would be included where perhaps lower density zones actually allowed for that development type. For example, Lane Cove brought in a planning proposal that was to exclude some of the larger development types from their R2 zone. Other councils are doing that. Some councils are making changes to the minimum lot size on which you can do a dual occupancy or a manor home.

The Hon. ADAM SEARLE: Just pausing there: Is it the case that that even if they do a local planning proposal the code will still apply to it?

Mr RAY: It will.

The Hon. ADAM SEARLE: It is not going to be modified? It is not going to be waived?

Mr RAY: Some aspects of the code will still apply to them in certain circumstances. The issue is largely around both the minimum lot size in the code where councils did not have minimum lot sizes in their LEP for those development types or allowing some of the development types in the R2 zone, which they were happy to assess by way of development application but were concerned about if a code applied. The code will apply but it will be modified in different ways for each house.

The Hon. ADAM SEARLE: And depending on what they do locally.

Mr RAY: Yes.

Mr ROB STOKES: And I think one of the real areas that councils raise as a concern was some councils had a very broad range of uses that were permissible in their R2 zone. So for an R2 zone low density residential, some councils already provided for terrace house developments in their R2 zone. They were concerned that this code would have dramatic impacts, unintended impacts, on the basis it was to facilitate terrace house development in areas where it was already facilitated. Their concern was it was going to have unintended consequences in the context of their R2 zone. We have listened to their concerns and have given them the opportunity to tailor their controls to obviously facilitate greater housing diversity but do it in a way that is sympathetic to local conditions.

The Hon. ADAM SEARLE: Where are you up to in terms of your communication with those 24 councils? I am mindful that a lot of councils are pretty flat strapped with their planning staff. Attracting and retaining qualified planning staff is difficult. A lot of councils' planning departments are under real pressure. Responding to the medium density housing code would be an additional pressure. They may not have been sufficiently resourced to be able to do this as well as redoing their LEPs, for example. Are you still proposing to continue with the implementation of the medium density housing code for those 24 councils from 1 July? Are you proposing to change the medium density code in any way?

Mr ROB STOKES: A couple of things: Firstly, the code was substantially consulted on over a long period of time. It was then introduced and then there were requests for deferrals that were acceded to. There were requests for further deferrals that also were acceded to, remembering that many of these councils have also been the beneficiary of a \$2.5 million grant to enable them to undertake the work to complete their local strategic planning statements and their LEP within an agreed time frame. We identified the resourcing constraints that some of these councils are under and provided them the resources to do it. We concede that there is a great amount of planning work that we are asking councils to do right now. But the reason is we are transitioning from what was a much more reactive planning system to a much more strategic planning system.

Ultimately, while I accept that councils are really under the pump at the moment to produce new comprehensive LEPs based on the best available data through their local strategic planning statements, on the other side of that effort there will be a much more regular review of LEPs, which means that the planning effort will be lower because it will not be this dramatic effort once every couple of decades. Instead there will be iterative change every five years.

The Hon. ADAM SEARLE: And, again, will you proceed with the full implementation of the medium density code from 1 July unchanged?

Mr ROB STOKES: Yes, of course, with the caveat that we have provided many opportunities for councils to raise their concerns. We have also provided them and I have eyeballed several councillors to say, "Absolutely I hear that you have raised concerns. By all means put in a planning proposal and we will progress that planning proposal and work with you to get a reasonable outcome." Those opportunities have been provided on multiple occasions. There have been some councils that I am concerned have said, "No, we want a deferral because we want to do a planning proposal." They have said that on numerous occasions and they still have not prepared a planning proposal. To those councils I have to say we have given you ample opportunity. But at the end of the day—

The Hon. ADAM SEARLE: Is that a big proportion of the 24 or is it a small proportion of the 24?

Mr ROB STOKES: I am not sure off the top of my head.

The Hon. ADAM SEARLE: I am happy for you to answer that on notice as well.

Mr ROB STOKES: Yes.

The Hon. ADAM SEARLE: Just getting back to Ryde, Minister, you have delegated the plan-making functions to Mr Whitworth, I think. The local community has come out against the Meriton proposal, the council has opposed it and your Cabinet colleague the local member has opposed it. Why have you delegated that function? Why will you not make the determination yourself?

Mr ROB STOKES: Certainly delegations are standing delegations. It would be highly unusual for me to step in and unmake a delegation in respect of a single planning proposal, for example. As a general principle I do not think that would be a wise precedent. I also note that that council's position has actually changed. Council was initially supportive, understand, of the Gateway and then changed their view.

The Hon. ADAM SEARLE: There might be a difference of opinion between council staff and councillors, perhaps.

Mr ROB STOKES: Sure.

The Hon. ADAM SEARLE: That might be the situation.

Mr ROB STOKES: Sure. But nevertheless this matter will be finalised based on its planning merits. Ultimately if changes are made, they will be reflected in the council's LEP and then it will be a matter for the council to determine any applications made from that point. I understand also that the councillors themselves actually initially asked for the Gateway and then it was the councillors that changed their view. That is the advice I have received.

The Hon. ADAM SEARLE: I can come back to you on that one perhaps. Minister, last year there was a lot of discussion about whether or not there had been overdevelopment in parts of Sydney and a small part of Sydney—I think five out of 15 planning regions—had been the recipients of well over half of all the development occurring in greater Sydney over the last two decades, which has led to a feeling of fatigue among those areas that had received what might be termed more than their fair share of development in Sydney, often compounded by the lack of infrastructure coming in.

More recently places like Mosman, Hunters Hill and Hornsby have had reductions of up to 40 per cent in their projected additional housing whereas places like Blacktown and Parramatta, the City of Sydney, Cumberland and Liverpool have all had significant additional increases, bearing in mind that they had also taken a lot of the existing last two decades worth of development in Sydney, with, again, concerns around infrastructure. Having regard to the Greater Sydney Commission's assurance report in relation to Ryde, those comments by the Greater Sydney Commission in fact apply with equal or perhaps even greater force to many other parts of Sydney. Why has your Government not implemented a development pause in those areas that have already taken well over half of all the development in Sydney over the last two decades?

Mr ROB STOKES: The reality is Sydney is a growing city and that brings with it challenges and great opportunities as well. The pace of growth in Sydney at an international level is significant and the role of Government is to provide the infrastructure to facilitate growth in the right areas. You nominate Hunters Hill as one example.

The Hon. ADAM SEARLE: Yes.

Mr ROB STOKES: Hunters Hill is a tiny local government area, but put that to one side.

The Hon. ADAM SEARLE: That is another field of inquiry, Minister.

The Hon. PENNY SHARPE: Have you dealt with the uranium radiation issues yet?

Mr ROB STOKES: But in relation to infrastructure provision on the Hunters Hill peninsula, there is not much capacity to do much in relation to augmenting existing infrastructure. In some of the areas you have nominated they have got large greenfield areas, like Blacktown for example. Other areas are where there is significant expenditure on new infrastructure. One of the things that is being done for the first time, which I think is very significant, is the Long Term Transport Master Plan, the State Infrastructure Strategy and the Sydney regional plan have all been reviewed at the same time on the same datasets to ensure that where the projected development and growth is going to be is also where the infrastructure is targeted to be provided as well.

The Hon. ADAM SEARLE: But I guess the two things that we have not quite got right, you have got the uneven development issue across Sydney and then you have got the matching of the infrastructure. So you say that is in train, is it?

Mr ROB STOKES: I am not sure that I accept the premise in relation to the uneven development as you position it. Obviously there are some areas of Sydney that are already quite dense because they have been settled for a long period of time and the opportunities for urban renewal in those areas are more difficult because the costs of retrofitting infrastructure are very high as well as the fact that property ownership is very fragmented. So it is much more difficult to bring about feasible development change in some areas as opposed to other areas. It is also much more cost effective to provide infrastructure in some areas than in other areas. This was one of the main reasons for establishing the Greater Sydney Commission so that at a meeting of State Government and local government there could be some discussion about where growth was best directed and what infrastructure was required to enable it.

The Hon. ADAM SEARLE: But it is also the case, is it not, that some areas of Sydney are already quite well resourced in terms of their social and physical infrastructure, whether it is schools, hospitals or public transport. What are you doing to ensure that development occurs in those areas where there is already the infrastructure?

Mr ROB STOKES: A good example would be one I recall very well in my tenure as education Minister. There were some very, as it turned out, unprophetic assumptions about people living in apartments not having kids and therefore—

The Hon. PENNY SHARPE: It did not go so well.

Mr ROB STOKES: —there was a gap that opened up in relation to the provision of schools in some of the middle ring suburbs of Sydney, which has been a very expensive exercise to correct. But that is what the Government is currently embarked on in terms of the school infrastructure program.

The Hon. PENNY SHARPE: Has Wentworth Point got their school yet?

Mr ROB STOKES: Some of the work of the Greater Sydney Commission—

The Hon. ADAM SEARLE: That would be no.

Mr ROB STOKES: —also looked at things like tree canopy, for example. We know some parts of the city are well provisioned in terms of tree canopy. So our efforts in relation to greening initiatives are focused on those areas that have not benefited from the established tree canopy of other areas of Sydney.

The Hon. ADAM SEARLE: Minister, changing topics, what instructions have you issued to the Independent Planning Commission [IPC] about the Narrabri Gas Project?

Mr ROB STOKES: The referral documentation is publicly available on the Independent Planning Commission website.

The Hon. ADAM SEARLE: When did the department finish its assessment?

Mr ROB STOKES: I will refer you to the secretary, Mr Ray.

Mr RAY: The department has not yet finished its assessment of the project.

The Hon. ADAM SEARLE: Where is the department up to with the assessment?

Mr RAY: The department is well advanced in the assessment of the project and is undertaking a final round of consultation in relation to various aspects of the proposal and will complete its report in due course.

The Hon. ADAM SEARLE: Do you have an estimated time frame for that?

Mr RAY: We are working to complete it within about a month. It could be a little bit sooner but it could be as long as a month.

The Hon. ADAM SEARLE: Minister, in the referral documentation or at least the reports of it, as I have not read the documentation, is it the case that you have set a time frame of 12 weeks from referral for the IPC to make a decision?

Mr ROB STOKES: Certainly we have indicated a time frame when I would like the commission to finalise its determination. This is an issue—

The Hon. ADAM SEARLE: So it is not an instruction. What is it?

Mr ROB STOKES: I am quite appropriately limited in what I can do. I certainly cannot direct the commission in relation to its finding. But I can provide direction in relation to procedure. It is appropriate for me to provide an indicative time frame for the commission. There is an old axiom that justice delayed is justice denied. This has been a process that has taken a long time to get to the point and acting efficiently and expeditiously is important for everyone, whether it be the applicant, whether it be the surrounding communities, the council. It is in everyone's interest to try and ensure this matter is finalised as quickly as possible without compromising the integrity of the process. Obviously the commission will take whatever time it needs. But it is in the public's interest that it be finalised as quickly as reasonable.

The Hon. ADAM SEARLE: Have you set a time frame for the commission to make its determination?

Mr ROB STOKES: I have indicated the time frame that I believe would be appropriate for them.

The Hon. ADAM SEARLE: And that is 12 weeks?

Mr ROB STOKES: That is correct.

The Hon. PENNY SHARPE: How does that work if the department has got a month to go to finalise their work? Is it 12 weeks plus a month? Does the clock start ticking when you finish, Mr Ray?

Mr RAY: Yes, it is from referral. So the report will be referred. It will be made publicly available and that 12-week period would start from referral. So there is no reduction in that period while the department completes its report. It is always open to the commission—as they complete their assessment and hear from people and consider the matter—to ask for an extension. Where there is good reason, those extensions are routinely given because the commission is there to do the appropriate work and if they feel they need to have an extension of some sort—a couple of weeks or what have you—those matters will obviously be considered. It is important people are satisfied that the commission has done its work.

The Hon. ADAM SEARLE: Minister, is it unusual to have the referral documentation developed and made public in advance of there being an assessment finalised by the department? Does this not usually happen afterwards?

Mr ROB STOKES: It has been done in accordance with existing processes, but I will refer to Mr Ray.

The Hon. ADAM SEARLE: Existing processes, sure. But the timing is a bit unusual.

Mr RAY: No, it is quite common. It is quite common for the referral to be made before the assessment report is finalised.

The Hon. ADAM SEARLE: But the time frames do not start ticking until the full assessment is—

Mr RAY: No, the time frames never start until the assessment report is released.

The Hon. ADAM SEARLE: So, Minister, what else is in your instructions to the commission? Is there anything about having a public hearing, I assume?

Mr ROB STOKES: Yes. I felt it was important, given the considerable sensitivities around the Narrabri Gas Project, that public hearings be held.

The Hon. ADAM SEARLE: That extinguishes the merit appeal mechanism, does it not?

Mr ROB STOKES: It does. However, I would also say that merit appeal is problematic on a couple of levels. Firstly, it gives rise to a very expensive process of litigation whereas a public hearing provides open standing to all. Secondly, I think it is in everyone's interests that the merits of this case be fully examined but then once a decision is reached—whatever that decision is—there is a level of finality to it. But of course there will always be open standing in relation to questions of law.

The Hon. ADAM SEARLE: Minister, the chief scientist was asked by the Government in which you serve to do a report on coal seam gas and what should happen and the final report was in September 2014. From that time both the Government and the Opposition parties committed to full implementation of the chief scientist's report before progressing coal seam gas in New South Wales any further. An upper House committee inquiry recently reported on where the Government has gotten up to with that and the findings were that of the 16 recommendations only two had been delivered in full. Eight had not been delivered at all and six were partially delivered—and by "partially" they really mean very partially. In the report, I think it is from about page 49, there is a compliance table, if you like. It is pretty clear that the Government as a whole has not substantially implemented the recommendations of the chief scientist. Is it not now inappropriate to refer this matter to the IPC in advance of all of the recommendations being fully implemented?

Mr ROB STOKES: There are a couple of comments that I want to make in reply. Certainly the chief scientist's report, as you have identified, was released some years ago. The department has obviously had the benefit of those recommendations in formulating its response to the environmental impact statement [EIS] submitted by the applicant Santos, and certainly those recommendations have been had regard to during the process of preparing the assessment report. I also note that the IPC has the benefit of that report, as well as the assessment report, as well as, of course, the upper House report. I note that the conclusions reached by the committee were not necessarily supported by Government, but there will be an opportunity for Government to respond—and when I say that, I understand that that was not the evidence provided by Government, but nevertheless—

The Hon. ADAM SEARLE: It is pretty clear that it was. Anyway, let us not delay—

Mr ROB STOKES: I think the appropriate thing for me to say is that the progress on the implementation report requires Government to provide a response by, I think, the end of August and a response will be provided, and I will say that obviously some of the recommendations of the inquiry bear no relevance to the Narrabri project; for example, the idea that there should be a single piece of legislation governing on-shore mining activities.

The Hon. ADAM SEARLE: Minister, let me just cut to the chase: In the estimates hearings recently the energy and environment Minister was asked quite closely about this and he said this—and this is at page 60 of the transcript:

What I accept is before coal seam gas drilling can occur, we should implement the full recommendations made by Professor O'Kane. That is something I have already said today and I will continue to say it. I want to see the strongest safeguards in place around coal seam gas to give the community confidence that it is not going to trash the environment.

I asked him this question:

Just to be clear, you agree that all of the recommendations should be delivered in full before coal seam gas is given any green light in this State?

And he answered, "Yes". There are other places in the transcript where we deal with that issue, but your Cabinet colleague, the environment and energy Minister, has said in essence that no green light should be given to coal seam gas until all of the recommendations are fully implemented. He did not cavil with the findings of the upper House inquiry that they have not yet been fully implemented. I am just wondering is this not a difference of opinion between you and the environment Minister? Is there not a danger that referring this to the IPC now could give rise to an approval absent all the safeguards recommended by Professor O'Kane that do have relevance to the Narrabri project?

Mr ROB STOKES: Obviously I cannot comment on a hypothetical, but what I can say is that certainly the sentiment of my colleague I wholeheartedly agree with. We need to make sure that all environmental safeguards are appropriately put in place before any activity would occur and, as I have suggested, it is appropriate for Government to respond to the inquiry within the response timeline and that will be—

The Hon. ADAM SEARLE: Sure, but this is a bit more than just the inquiry. Mary O'Kane made her recommendations in 2014. Five-plus years later they are not all done. Just to take one outstanding issue, the issue of insurance against risk by neighbouring landowners, that is something that is not available. There is no product that people can acquire. The danger of a referral to the IPC now is that it could—I know it is hypothetical, but could—give rise to an approval without protections, and there is nothing the IPC can do by way of conditions that can address that matter. So why are you, as Minister, taking the risk of putting land and water at risk, which cannot be addressed in the consent conditions, at a time when the full recommendations have not been implemented by Government?

Mr ROB STOKES: I do not accept that my actions are putting land and water at risk. I do not accept that. I believe that, as I have indicated, it is appropriate for Government to respond to that inquiry. You will appreciate the inquiry report was only released about 14 days ago. A response will be made in due course. In the meantime, the IPC and the department have the benefit of both the recommendations of the O'Kane report as well as the recommendations of the upper House inquiry.

The Hon. ADAM SEARLE: So you will not reconsider your referral?

Mr ROB STOKES: As I have said, the Government appreciates the report that has been done and will respond to it in due course.

The Hon. ADAM SEARLE: Will we get a Government response before the IPC makes a determination?

Mr ROB STOKES: That is a matter for Government, so I am not going to speculate on that time frame.

The CHAIR: Before we continue our questions, I think we will have a five-minute break. We will begin again at 11.30 a.m. and go through with questions until 12.05 p.m. unless the Government then has questions.

(Mr Duncan withdrew.)

(Short adjournment)

The CHAIR: For the record, Mr Peter Duncan from the Independent Planning Commission left at 11.30 a.m. by arrangement.

The Hon. ADAM SEARLE: And I thank the Minister's office for their offer of a briefing with the acting chair of the IPC. I did actually have questions, but they were for him rather than for you and I did not want to waste our time with you.

The CHAIR: We will get back into things with questions from the crossbench, beginning with the Deputy Chair, Mr Pearson.

The Hon. MARK PEARSON: Minister, you would agree, would you not, that since the bushfires over the last six months and even longer, the world is watching Australia very closely, more than it ever has before, particularly in relation to what we are doing about the warming of the earth or climate warming?

Mr ROB STOKES: Certainly from my perspective, yes, we are under a great deal of international scrutiny. I think Australia always has been, but—

The Hon. MARK PEARSON: Certainly much more now, would you not say?

Mr ROB STOKES: I have no reason to disagree with your assertion.

The Hon. MARK PEARSON: Therefore, would you agree that there is a sense of global responsibility? Countries have their own sovereign space and place, but now we are all looking at each other's countries to see what they are doing and how they are committing to the whole climate issue. That is certainly reflected when we have summits like in Paris, et cetera, a lot of countries come to those, but now even more so there is a serious concern. The fires in the Brazilian forest of the Amazon caused an international outrage to the point where Europe threatened to boycott products from Brazil, so there is an holistic different view that is occurring and a sense of responsibility that we have for the whole planet.

Mr ROB STOKES: I think certainly ever since the Rio Earth Summit in the early 1990s, and even before that, Our Common Future in 1987, there has been a sense that certainly things like the atmosphere are global commons, so what happens in one part of the world can have impacts on other parts of the world.

The Hon. MARK PEARSON: So why would you want to have carriage of a bill that limits a court's discretion to consider that very thing?

Mr ROB STOKES: I do not accept that that is what that bill does.

The Hon. MARK PEARSON: We have had evidence when we questioned the environment Minister and others about this very issue, when we actually looked at this bill very specifically, and it was conceded that the bill clearly limits the discretion and the capacity for a court to consider what might just happen to something we dig up out of the ground in another part of the world and how the treatment of that thing may contribute or otherwise to the atmosphere or to global warming.

Mr ROB STOKES: With respect, Mr Pearson, I do not accept that characterisation of the bill.

The Hon. MARK PEARSON: So what was the purpose of the bill?

Mr ROB STOKES: The bill was quite clearly directed toward the issue of development consents, where a court tribunal or the consent authority is minded to approve a development and then is considering conditions of consent to that approval. What matters are reasonable for those conditions of consent to relate to? It does in no way limit the capacity of a consent authority to approve or refuse a project based on concerns, as you mentioned, about the—

The Hon. MARK PEARSON: But it certainly limits the scope of consideration for that court and it specifically does that, does it not?

Mr ROB STOKES: No, it does not. No, there is nothing in the bill that limits the range of matters that a consent authority can have regard to in making a determination whether to approve or refuse an application.

The Hon. MARK PEARSON: So why do you think so many environment groups, individuals and the mining industry are opposed to it?

Mr ROB STOKES: You would have to ask them. The various issues that have been raised depend upon the perspective of the stakeholder. But certainly I think it is in the public interest to provide clarity about those sorts of matters for which conditions of development consent can be attached. There is a long history of authority in the High Court of Australia. For example the Temwood decision, Justice McHugh's decision there, relates to effectively the range of matters for which it is reasonable to make a condition of development consent. I need to emphasise here it is important for the Committee to recognise and realise that if a consent authority were minded to approve a matter, subject to them being satisfied that they could condition that development a particular way— if it is very clear to that body which conditions are reasonable, it is always open to them to refuse an application if they do not think that they can satisfactorily condition its impacts.

The Hon. MARK PEARSON: Unfortunately the evidence does not support that view. Let us move on to another subject. Yarra Bay—the development proposal there for a cruise terminal. Where is that up to?

Mr ROB STOKES: I will refer you to the deputy secretary.

Mr RAY: I can only speak from the planning function within the department. As far as I am aware we have not received a proposal and I do not think we have even issued environmental assessment requirements, but I would just have to check that.

The Hon. MARK PEARSON: So you have not actually received a proposal from anybody at all?

Mr RAY: From anybody. I think that is—

The Hon. MARK PEARSON: So what is all the noise about, do you think?

Mr RAY: Well, I am not the right person to ask that question of.

Mr BETTS: I think the agencies which have carriage of this are the transport department and the tourism portfolio.

The Hon. MARK PEARSON: But it would have to go before your department for aspects of the approval if it were to go ahead, correct?

Mr BETTS: Down the track, yes.

The Hon. MARK PEARSON: And would the Minister's department take into consideration the potential environmental impacts, including for marine life, if that were to get to the next step?

Mr RAY: Absolutely. If an application was lodged, the department will fully assess all the impacts of that application, whether they be environmental, social or economic.

The Hon. MARK PEARSON: Finally, I am not so sure—and I think you would agree, Minister—that not many people would be queuing up to get onto a cruise ship at the moment.

Mr ROB STOKES: I would not seek to venture an opinion about people's travel plans but obviously there are very serious concerns and we need to be very vigilant to follow all health advice.

Mr RAY: I can actually confirm that we have not been asked to issue environmental assessment requirements.

The Hon. MARK PEARSON: Thank you for that. That is helpful.

The CHAIR: Minister, are you giving active consideration to revising any planning legislation to take into account climate change impacts?

Mr ROB STOKES: Certainly I am very happy to discuss any reforms you would be interested in suggesting. The first thing I would say is that it is very well established that climate change impacts are a fundamental matter for the planning system to consider. In the objects of the Act itself, ecologically sustainable development and the precautionary principle and intergenerational equity are really very relevant matters that speak directly to climate change impacts. There are also the matters itemised in section 4.15, I think it is (1) (b), of the planning legislation that makes it clear that the environmental impacts more broadly need to be considered in any assessment process. Certainly the sorts of matters to which State environmental planning instruments or local environment planning instruments can be made include quite directly looking at both climate change mitigation and also, more relevantly at a sub-national level, climate change adaptation.

The CHAIR: Given how much has shifted since the Environmental Planning and Assessment Act or EP&A Act came into force, obviously, and since those objects were set, even the last six months in relation to the bushfires and the changes within, well, the environment Minister being more ambitious than most other Liberal environment Ministers on climate change, which is not saying a huge deal, but he is trying. Given those changes, the EP&A Act does not mention climate change though. Yes, it mentions ecological sustainability. It does not mention climate change. It does not talk about, for example, trying to reduce the impacts of greenhouse gas emissions or to reduce greenhouse gas emissions in planning approvals. Is there any consideration by the Government to revise or strengthen planning legislation in relation to climate change specifically?

Mr ROB STOKES: A couple of things. First your opening statement—can I just say I am very supportive of Minister Kean's approach in relation to climate change mitigation and adaptation and I certainly applaud his efforts to point to the fact that this is a Government that has a commitment to work towards zero net emissions by 2050. We work together as a Cabinet to achieve that outcome. Obviously that is a transition over time, and where we can look to ways in which we can accommodate appropriate change in our planning system I am obviously keen to do so. I think it goes deeper than just changing terms or verbiage though and I do think that there is a whole line of authorities—most recently the Rocky Hill or Gloucester Resources decision—that make it very clear that climate change adaptation and mitigation are fundamental elements of our State's planning system. I am very happy to reiterate that to the Committee today.

The CHAIR: Yes, but I think in terms of providing explicit requirements within the planning framework—and I think the Environmental Defenders Office has done some very good work in this regard—have you met with them in relation to this?

Mr ROB STOKES: Yes, and I certainly applaud them for the work that they have done here. I do think that some of the issues that they raise are frankly—and I have said this to them directly—probably duplicative or unnecessary. I think it is fair to say that they have conceded that actually part of their agenda is to increase public

awareness of these issues. But in terms of the operation of the system itself I am satisfied that every consent authority needs to give due regard to a whole range of environmental factors of which, of course, the impacts of anthropogenic climate change are fundamental.

The CHAIR: Why would you not then amend the planning Act to make explicit reference of the need to consider climate change impacts within the whole planning framework? Why would you not do that?

Mr ROB STOKES: I guess the opposite is also true. Given that it is also very clear that the law already contains those requirements, why do we need to engage in legislative change just for the sake of it when we know that the law already very clearly requires these matters to be thoroughly considered?

The CHAIR: So you think enough is being done within the planning framework to encourage developers, to encourage mining applicants and mine proponents, to consider the impact of climate change on these developments? Do you think enough is there?

Mr ROB STOKES: I think, as with many things in government, there is always more we can do and there are always more reforms we can look at. I would be open to look at those. Certainly, in relation to, say, secretary's environmental assessment requirements for major projects, there is very clear guidance provided to applicants about the sorts of things they need to refer to in their EIS and very clear reference is provided to considering climate change adaptation and mitigation, I think it is safe to say. Also, in terms of—we have a program of looking at how we can better integrate our State environmental planning policies. We have a list of about 50 of them. I am very keen to bring that number down and, as part of those reforms, very keen to see ways in which we can more effectively regulate the way in which greenhouse gas emissions are considered.

Obviously, in our development system, the primary consideration needs to be given to the direct impacts of development. As impacts become more indirect, the level of assessment reflects that. But, nevertheless, one of the issues that certainly Rocky Hill raises is issues of cumulative impact: the cumulative impact of individual decisions towards things like our nationally determined contributions in terms of the UNFCCC—United Nations Framework Convention on Climate Change.

The CHAIR: Going back to the new koala SEPP, the guidelines have just been released for public consultation—I think on 2 March. The two new maps that underpin it—there is the new Koala Development Application Map and the new Site Investigation Areas for Koala Plans of Management Map. How is, firstly, the site investigation areas map—how was that made?

Mr ROB STOKES: I will refer you to Mr Ray.

Mr RAY: Chair, those maps were part of the Koala Habitat Information Base that was developed by Environment, Energy and Science—part of the department—and they were published in, I think, the first half of September 2019. They were obviously a product of the Koala Strategy. Those maps were—obviously, Minister Kean at that time indicated that he thought that those maps should have a regulatory basis. So all parts of the department worked very closely together to see how that could actually be made, and we had the vehicle of the new State environmental planning policy on koalas to do that. I understand those maps, based on—I am relying here on advice from my colleagues in Environment, Energy and Science, but I understand those maps are based on the feed trees.

Each region of the State has been mapped on the basis of the relevant feed trees for koalas in that region, and I understand there is a probability index—those maps have some degree of probability associated with them. For further information about that, you would need to ask my colleagues in Environment, Energy and Science. So the development application map, which is the pink map, has trees that are shown on that map based on the various regional trees that are important to koalas in the various regions, based on—there is a reasonable probability that that is where koalas could be, based on the feed trees. The blue map, which is the broader map, which is a KPOM map, has a slightly lower probability. That, then, is the map—a broader map—which councils should look to as the basis for developing their koala plans of management.

The CHAIR: Okay, explain what you mean by the lower probability with the site investigation areas map.

Mr RAY: Again, I am not the expert on this. The way the maps are done, there is a probability component of them. That can be dialled up or dialled down.

The Hon. PENNY SHARPE: Probability of what? There being a koala there? Or being a feed tree?

Mr RAY: I think it is the probability of a koala being there, I think, based on the density of feed trees and the location of feed trees. But, again, I am not—I am doing—

The Hon. PENNY SHARPE: We have heard a lot about mapping, Mr Ray. We understand it is challenging.

Mr RAY: Yes, okay. There are people who are much better than me about the mapping. So the focus on the blue map—the broader map—was that these were the areas that councils should be looking at in those council areas when they are developing their new koala plans of management.

Mr ROB STOKES: It tells whether there is likely to be a bear in there.

The CHAIR: And if there is likely to be a bear in there, no clearing is allowed, Minister?

Mr ROB STOKES: Then, certainly, in relation to the DA mapping—then, in relation to consideration of any DA, the matters outlined in the guidelines have to be considered before any consent is issued. In relation to preparing a KPOM, then that would have to be reflected in the koala conservation plan of management.

Mr RAY: I must point out, obviously, that koalas are not bears.

The CHAIR: Yes, that is a good point. So the interaction between the new koala SEPP and the Biodiversity Conservation Act and the Local Land Services Act—how will that be occurring?

Mr RAY: There is no change to the provisions relating to the Biodiversity Conservation Act. My understanding is that there is no change to the provisions relating to the Local Land Services and private native forestry. So if a KPOM is made and core koala habitat is found, that is category 2 land under those relevant provisions.

The CHAIR: We will come back to that.

The Hon. PENNY SHARPE: We were talking about Camden—a very nice place. I want to know what the projects are for housing in Camden for the next five to 10 years. Are you able to provide that? I know that you will.

Mr ROB STOKES: I think that is probably best provided on notice, unless one of the deputy secretaries wants to.

Ms HILL: I can provide the housing targets for the next—the five-year housing targets.

The Hon. PENNY SHARPE: Whatever way you measure it, that is great.

Ms HILL: Sure. But in terms of the actual realisation of that supply, there may be more detailed information that the department has.

Mr WHITWORTH: We can take that and come back to you this afternoon with an advice.

The Hon. PENNY SHARPE: Great.

Mr WHITWORTH: That will be pulling that information out of the population projections that we published.

The Hon. PENNY SHARPE: Thank you, I would appreciate that. I am trying to get a handle on it. I am aware that there are significant projections for housing growth in the Camden area over the next five to 10 years. I want to understand how, within that planning, the heritage protection of particularly the Camden township is being taken into account.

Mr WHITWORTH: The majority of the housing that is likely to occur in the Camden area—Camden is an area that is transforming from a peri-urban area into very much an urban area. We have very much seen the shift of the focus of both housing and commercial activity from the traditional Camden town centre to places like Narellan town centre and now to Oran Park. The growth centres planning that we have going on at the moment with development potential at places like Oran Park, the draft planning that was released for Lowes Creek Maryland—it sees very much all of that housing growth typically in those areas. I would have to come back to you on any specific measures in the Camden centre itself but I do know from memory that there are a number of heritage conservation areas in its local environmental plan.

The Hon. PENNY SHARPE: There were people there who wanted the whole township to go through the heritage process. Again, it is not really for this Committee.

The Hon. ADAM SEARLE: Minister, is the Hunter and Central Coast Development Corporation still in your portfolio?

Mr ROB STOKES: It certainly is.

The Hon. ADAM SEARLE: Are you familiar with the sale of 4 Stewart Avenue, Newcastle West?

Mr ROB STOKES: Off the top of my head no, apologies.

The Hon. ADAM SEARLE: It is a property that was valued on 1 July 2018 by the Valuer General as being worth \$2.855 million. It was sold to Doma Interchange Office Pty Ltd apparently for \$10. Can you confirm whether that is in fact the sale price?

Mr ROB STOKES: I am very happy to get you specifics on notice, unless the secretary has anything to add at this point.

Mr BETTS: We will take it on notice unless we can get that information for you and report back in this afternoon's session.

The Hon. ADAM SEARLE: The managing director of the company that bought the property has been described by your colleague Andrew Constance, the transport Minister, as his old-time, old university mate. There is an agreement by the State Government to be an anchor tenant for the property when it is redeveloped. I think there is an intention to move government agencies into that property. Are you aware of that proposal?

Mr ROB STOKES: No, I am not.

The Hon. ADAM SEARLE: It looks like the Government has sold the land to a company, the company will redevelop it and the Government will be the tenant.

Mr ROB STOKES: I am not aware of the nature of the transaction but I am sure we can get you that information as Mr Betts said either this afternoon or on notice.

The Hon. ADAM SEARLE: If that is not the correct sale price, I would like to know what the sale price is and to the extent that you can what the full arrangement is. Relating to ePlanning, ePlanning was meant to be finished by the end of 2019 but it is still ongoing. Will councils have to pay for this mandated ePlanning system that your Government wants them to adopt by this year?

Mr ROB STOKES: Firstly, ePlanning offers great opportunities for councils and for government in terms of transparency around DA processes. In relation to the plans to use a single platform I will refer you to the secretary.

Mr RAY: At the moment the Government makes no charge for ePlanning. As part of the announcement to make ePlanning mandatory, the Government has asked us to look at ways in which we could make that a self-funding exercise or whether that is possible or not. We are in the process of looking at options and there is nothing that I can really say beyond that at the moment.

The Hon. ADAM SEARLE: Minister, can I ask you to respond to three things because my time is about to expire. There are three things I would like you to take on notice.

Mr ROB STOKES: Yes.

The Hon. ADAM SEARLE: First, councils currently have a range of individual commercial arrangements—

Mr ROB STOKES: There are about five or six platforms out there.

The Hon. ADAM SEARLE: They have commercial arrangements in place that mandating this would cut across. Secondly, I am informed that of the back systems, or back-office arrangements, that would need to be put in place by councils there are only four current providers. They are worried about price gouging by those four if ePlanning became mandated. The third thing is that the current ePlanning system as it stands does not capture all the information that a lot of councils currently require under their planning instruments. Even once an ePlan is lodged through the portal, councils would then still have to make physical contact with the proponents and collect the rest of the data. It does not seem to really match the whole purpose of automating this system.

Mr ROB STOKES: By way of quick reply: I will provide more detail on notice but these are all issues that the Government is actively considering.

The Hon. ADAM SEARLE: And the total costs of ePlanning last financial year and the current financial year?

Mr ROB STOKES: Sure. We will give you information on notice.

The CHAIR: I refer back to the koala SEPP again. I am just trying to get some clarification on it. Firstly, with the guidelines that are on public exhibition at the moment, the standards within the guidelines, are they mandatory or not? How are the guidelines applied?

Mr RAY: The guidelines are caught up in the State environmental planning policy so they will provide the more detailed approach to how people must prepare both koala plans of management and development applications. My understanding is that compared to the previous State Environmental Planning Policy No. 44, this guideline is much more comprehensive and much more detailed than the previous material that was available to individual applicants who had to make a development application and also to councils that decided to make a koala plan of management.

The CHAIR: Do you know how many hectares of land the new SEPP will apply to?

Mr RAY: I do not have that figure. I can investigate and try to come back to you today.

The CHAIR: I will put a few of those on notice to you in terms of that request for more specific information.

Mr RAY: Yes, sure.

The CHAIR: You talked about the five or six more councils that are going to put in koala plans of management. There are many more councils that have core koala habitat in their LGAs. What incentives or assistance is the Government providing councils now to put in koala plans of management?

Mr ROB STOKES: A couple of things. I will state some preliminary comments and hand to Mr Ray for some specifics. The SEPP really provides for both possibilities. It sets out a process by which councils can create koala plans of management under the SEPP and certainly a much greater information base is provided for councils. I imagine it would substantially reduce costs for councils undertaking this planning activity because we have already provided them with the investigation maps. In relation to these councils that choose to, councils are democratically elected, they have opportunities to choose what planning exercises they engage in, but we encourage them through making the process easier. For those councils that do not have a koala plan of management, there are then development application maps that must be considered for any development on sites greater than one hectare in areas picked up within those maps. I will refer to Mr Ray for any additional information.

Mr RAY: The maps do provide the database. Under the old system individual surveys had to be carried out, whether it was for a development application or whether it was for a koala plan of management. It is updated to the latest science, across the State there is 123 different feed trees, there used to only be 10. It has also been regionalised so that the important feed trees in each region are listed. As the Minister said, there is much more base information that is there. Obviously the guideline is more detailed. It provides a greater level of guidance for councils and their ecologists in preparing that plan. Again, that is based on the advice of Environment, Energy and Science, the best available science, and the department's regional teams. That is a core part of their work to provide assistance to councils if they choose to develop a koala plan of management.

The CHAIR: Clearly there is still a lot of koala habitat in the State that remains very vulnerable and indeed able to be cleared despite the devastating bushfires and despite the catastrophic impact on koala populations in New South Wales. Minister, what extra steps will you take if the koala is listed as endangered by the NSW Scientific Committee?

Mr ROB STOKES: At the moment, as you would appreciate, under the Biodiversity Conservation Act the NSW Scientific Committee has listed the koala as vulnerable under the International Union for Conservation of Nature categories. Obviously if the NSW Scientific Committee changes its advice we will act in accordance with that. At this stage I cannot really comment on a hypothetical, but certainly that would be something the Government would clearly need to respond to.

The CHAIR: As planning Minister, if the scientific committee comes back and says the koala is at greater risk of extinction, lists it as endangered, do you commit to put in place extra measures to protect koala habitat in New South Wales?

Mr ROB STOKES: Certainly this Government is committed to doing everything it can to preserve, restore and rehabilitate koala habitat. We are very mindful. That is why we commissioned the Chief Scientist and Engineer to undertake a body of work and then provide funding through the Koala Strategy to address concerns about the long-term decline in koala numbers in the wild. I am very mindful on advice that we have currently that koalas in the wild on current projections, or current trajectory, may not appear in the wild by the middle of this century.

The CHAIR: Become extinct.

Mr ROB STOKES: That is right. Clearly that is something that the apparatus of government needs to work to do everything we can to support koala populations. If advice from the science changes then obviously we will need to respond accordingly.

The CHAIR: That is the end of this morning session. Thank you, Minister, for attending the hearing.

(The Minister for Planning and Public Spaces withdrew.)

(Luncheon adjournment)

The CHAIR: We will continue questioning with questions from the Opposition.

The Hon. ADAM SEARLE: Mr Betts, in the Minister's absence I think you are the person to ask. In November of last year the Minister issued a release as Minister for Planning and Public Spaces about a new approach to supercharging Sydney's precincts and part of that seems to have been a claim to return certain planning powers to council. It was in three parts. There were going to be things where the State would continue to lead the planning process. There would be others where it would be a joint approach and the third one would be where decisions were returned to council. Could you delineate what the three categories are in a practical sense?

Mr BETTS: Yes. There are actually four categories.

The Hon. ADAM SEARLE: I am going off the Minister's press release.

Mr BETTS: We had 51 existing precincts and the view was taken that if you have 51 priorities you do not have any priorities, so the idea was to focus effort where the State Government could add greatest value. It was those which were in a relatively early stage of strategic planning, early investigations, and that strategic planning work would be led by the department. I can run you through precincts that fell into that category. The State led rezonings, of which there were 12, and collaborative planning between State and councils, which was 15 precincts, and then a further 11 where there were council-led rezonings. Different criteria were applied. Consistent criteria, rather, were applied to allocate the precincts under those broad headings. So, for instance, in the case of State-led rezonings that was an approach where it was a strategic imperative for Department of Planning, Industry and Environment [DPIE] to lead the rezoning on the basis that it included places with current and future city shaping infrastructure and investment which was likely to capitalise development and the creation of new places.

The Hon. ADAM SEARLE: Like Pyrmont for example? Was Pyrmont one of those?

Ms O'MARA: Pyrmont was a collaborative precinct.

Mr BETTS: Places like Bays Market district, Central station, Cherrybrook, Crows Nest.

The Hon. ADAM SEARLE: In a practical sense what is being returned to councils to do?

Mr BETTS: I will ask Mr O'Mara to go through that.

Mr WHITWORTH: In terms of the council-led precincts, these are precincts that were either early in their formation or they were precincts where there is sufficient work done and we identified that working collaboratively with the council we could enable them to progress the finalisation of the rezoning in a more effective way. A number of council-led precincts, for example, are Land and Housing Corporation proposals within the City of Sydney. The Land and Housing Corporation and the City of Sydney have been working very closely together on a number of those precincts, such as Cowper Street, Glebe; Elizabeth Street, Redfern; and Franklin Street. Other of these precincts were precincts where we had already done a number of pieces of work such as Leppington super centre or Schofields town centre.

We have created a project control group with both Blacktown and Camden council to progress the planning for those areas enabling the council to finalise any rezoning or changes to the planning system that it needs. Whilst we are working together to resolve whether it is transport issues, for example, with Schofields town centre there is a question about how we would plan for the potential extension of the Greater West Metro line as that planning progresses through that town centre. These are some of the things that we are doing right now with councils and giving the council certainty that it can go ahead and finalise zoning plans in those areas.

The Hon. ADAM SEARLE: Just to be clear, councils are getting back the planning powers to the extent they are doing the planning instruments but you will not be returning DA approval powers to the councils, is that right?

Mr WHITWORTH: There was never a removal of the DA consent role in these places. The DA consent role was as it has always been.

The Hon. ADAM SEARLE: Except that is in the hands of planning panels now rather than elected councillors.

Mr WHITWORTH: Sorry, I suppose I was answering the question on the basis that the precincts had not specifically taken away the DA role. The DA assessment processes are consistent across New South Wales in terms of the thresholds set out in both the State and regional development SEPP and the Act and regulation.

The Hon. ADAM SEARLE: What has been the feedback, I guess, from the development industry about these changes, Mr Betts or Mr Whitworth or whoever is the appropriate person?

Mr WHITWORTH: I think the development industry wants to ensure that there is certainty of process. That is always something that the development industry is quite concerned about. We have been at pains to stress to the development industry that we are still there, working actively with councils. This is very much part of a broader approach to build a stronger degree of collaboration between the department and local government. We have a responsibility to share planning. That means that we need to work together more actively and this is part of that process of working together more actively. I think the Greater Sydney Commission has demonstrated the great value in forming a more collaborative and collegiate process to the way in which we go about planning. This is just an example of doing that.

The Hon. ADAM SEARLE: Given the additional roles that councils will gain under this part of the policy, what if any additional resources have been extended to councils to assist them?

Mr WHITWORTH: We have provided to the councils any studies that we have prepared. We have provided those directly to the councils. We are exploring the possibility of effectively novating any agreements that we had to cover rezoning costs. But I also point out that many councils already have rezoning application fee policies in place, so they are better able to utilise those rezoning applications fees than the department. We have also been talking to councils about how we can ensure that the provision of infrastructure is managed. We are using schemes like the Precinct Support Scheme to assist councils with both the infrastructure and the planning processes for the delivery of that infrastructure to support growth and development in these precincts.

The Hon. ADAM SEARLE: One of the councils—I do not know whether "beneficiary" is the right term—that is gaining some extra roles is Camden, which, I read, will be taking the lead on the South Creek West precinct and will lead the planning on that site. What impact is that going to have for Camden Council?

Mr WHITWORTH: We have created a project control group, which has met several times with Camden Council. The South Creek West precincts are one of those precincts that we had put into the collaborative planning base.

The Hon. ADAM SEARLE: Okay, it is a collaborative planning.

Mr WHITWORTH: The reason that we had identified South Creek West as an example in the collaborative planning is that the resolution of the planning controls for development in the south-west growth centre is heavily dependent on arriving at servicing decisions in terms of Sydney Water servicing decisions, as well as implementing the outcomes of the Infrastructure NSW sector strategy review for South Creek, looking at ways in which we can keep more water in the landscape. Those two issues are fundamental to undertaking planning for future development activity in the area—working both with council through the project control group and also working with our State agency colleagues more broadly in identifying how we can resolve that. The point of the collaborative planning is that once those issues are resolved, the rezoning process is much simpler and more straightforward. Those are some of the ways in which we are working with Camden to help it through the planning process. This is very much, as I said before, a collaborative process. We have not dropped these precincts with councils and said, "See you, we are out of here." We have very much said, "We want to continue working with you. We want to build the collaborative relationship."

The Hon. ADAM SEARLE: Thank you for that. In relation to the work done by the chief scientist on mining in the water catchment, Mr Betts, I know there are the two reports, I think, dated October last year. There are two parts; there is also an interim report. It makes for some pretty dense reading. It is not entirely clear to me what the recommendations are. I understand that the panel has essentially not said that mining should not continue in the water catchment but, as I read it, it is found that there is subsidence following cold extractions and that there is some issue about water loss, as set out, I think, in the submissions of WaterNSW. Can you tell the Committee what your understanding of the findings is and where government is at in terms of responding to that? Maybe Mr Ray is the appropriate person.

Mr BETTS: Mr Ray will be able to talk to some of the detail of that. I acknowledge that the advice is—I guess by its very nature—quite highly technical.

The Hon. ADAM SEARLE: Yes.

Mr BETTS: The Government is still formulating its response. That is a process that is internal to the Government at the moment. I will hand over to Mr Ray to take us through.

Mr RAY: The panel made around 50 recommendations, most of them highly technical. What it found in its final report is that there is some water loss but the amount due to mining is very small with other losses from the catchment, such as the losses from evaporation—

The Hon. ADAM SEARLE: And leaks in the water infrastructure.

Mr RAY: —and leaks in the water infrastructure. It found that about eight megalitres of water a day is entering the Dendrobium mine. That is equivalent to four 50-metre swimming pools. That obviously is a lot less in proportion to the fact that 820 megalitres a day are lost to evaporation and other causes.

The Hon. ADAM SEARLE: How much is lost to evaporation?

Mr RAY: Evaporation and other causes, 820 megalitres a day. That is more than 100 times.

The Hon. ADAM SEARLE: Of which 130 is leaks in the water infrastructure. Is that right?

Mr RAY: I would have to check the particular amount but that sounds reasonable. At the moment the independent expert panel found that the amount of water losses was not sufficient to in any way compromise WaterNSW to supply water in the catchment. They were not of a magnitude that was in any way compromising that. The recommendations are broadly consistent with the longstanding precautionary approach that has been adopted with the regulation of mining in the catchment over the past many years.

The Hon. ADAM SEARLE: And that is incremental approvals?

Mr RAY: That is a series of incremental approvals and also ramp-ups in monitoring. The panel recommended a range of technical measures to improve the monitoring in the area. These broad measures are measures that are being looked at by government at the moment. The Government will respond to that approach. The panel also has given advice on individual proposals that are already—there are a number of mines that are approved there too, in particular, Metropolitan and—

The Hon. ADAM SEARLE: Dendrobium?

Mr RAY: —Dendrobium. They are the ones that are operating. They both have development consents but there is a process to look at individual longwall plans as they are advanced.

The Hon. ADAM SEARLE: I will pause you there, Mr Ray. By that, do you mean plans within those approvals? They are already technically approved but nevertheless a closer eye should be had on the specific, if you like, longwall process.

Mr RAY: Yes, Mr Searle. The approval of the mining across those areas is approved and then as the mining company develops its plans for the next number of longwalls, there is an increased look once more detail is available and also once, in the circumstances, there is more information available and more monitoring available. So the department's process has been, since the independent panel was established—and it was in the terms of reference of the independent panel when it was established—to look at those individual decisions about longwalls as they come up and seek the advice of the panel.

The Hon. ADAM SEARLE: The panel has completed its work now? There are no more reports outstanding?

Mr RAY: The panel has broadly completed its work in relation to the major reports. If there are further longwall proposals that come before it—it already improved mines—the department is still referring those to the panel for their view.

The Hon. ADAM SEARLE: That is like an expert reference group to provide further detailed advice to the department about whether further conditions should be placed on the approvals, for example?

Mr RAY: Yes, but it is not only the independent expert panel; all the relevant agencies are involved in those discussions. The Dams Safety Committee has a particular role.

The Hon. ADAM SEARLE: WaterNSW?

Mr RAY: WaterNSW. So in all of those decisions and having a look in more detail at what is proposed in an individual group of longwalls, those matters are referred to all the agencies and any decisions that are taken are taken in line with agency advice and with the advice of the panel. For example, in the past, longwalls have been shortened quite considerably—300 metres from dams. Even though technically approved in the actual approval in the development consent, if the advice then is that a more precautionary approach should be taken, then that approach is taken.

The Hon. ADAM SEARLE: So there is a fair bit to digest with these reports. Mr Betts, is there a time frame within government that you are aware of or you can tell us about for the implementation of at least some of these recommendations or what period of time is it assessed that it will take to get across all of these recommendations?

Mr BETTS: I think the intention is to bring some advice before Cabinet in due course. It would not be appropriate for me to comment on that, but it is actively being progressed through government.

The Hon. ADAM SEARLE: Awaiting that body of work, is it still the case that no new development applications for mining in the special areas will be determined?

Mr RAY: Yes, that is the case. I think there is an application for an extension of Dendrobium. That will not be progressed until the Government has responded to the independent expert panel.

The Hon. ADAM SEARLE: Just to be clear—we do not know whether moratorium is the right word—no new applications, but also that affects modifications and extensions?

Mr RAY: Just to be very clear, the statement is no new development applications. I do not know that we have a modification. I would have to check on whether there is a situation where there would be a modification, but the consideration of longwalls under already approved mines are not included in that statement.

The Hon. ADAM SEARLE: Maybe you need to take this on notice. It would be useful to know exactly what is covered by the pause or the moratorium, or how we want to determine it, and the mechanism by which that is effected. How does the department or how does the Government—what do you do if someone comes along and makes an application?

Mr RAY: At the moment the department would not progress that application to a situation where we would issue an assessment report. We have made it very clear to the mining companies involved that that is the circumstance and, as Mr Betts said, the response is under active consideration within government and ultimately a decision will be made on that in due course.

The Hon. ADAM SEARLE: At the risk of covering old ground, should we expect some developments in this space during the course of this year? Would that be a reasonable expectation?

Mr BETTS: I think that would be a reasonable expectation, yes.

The Hon. ADAM SEARLE: Turning now to the issue of waste to energy issues in terms of the way they are dealt with in the planning system we have at the moment—obviously there was the Dial A Dump proposal in western Sydney, I think there is now a proposal from a company called Cleanaway. How many waste to energy style applications or projects are currently before the planning system or on their way to the planning system?

Mr BETTS: I am happy for Mr Ray to answer that one if he can, or we may need to take this on notice.

Mr RAY: No. It is just alluding me. There are a number and there is the Cleanaway proposal. I think that that was not particularly helpful.

The Hon. ADAM SEARLE: The Cleanaway proposal or the note?

Mr RAY: Sorry about that, Mr Searle.

Mr BETTS: We can come back to that.

The Hon. ADAM SEARLE: Perhaps I could change it up a little bit. I understand waste to energy is obviously a part of the energy mix in continental Europe, for example. But hold that thought; we will come back to it.

The CHAIR: I want to turn to a couple of questions in relation to the SEPP70 and affordable housing contribution schemes. Firstly, how many New South Wales councils do you know have prepared affordable housing schemes? While you are trying to find that answer, what support does the Government currently provide local councils to prepare the affordable housing contribution scheme?

Mr RAY: I would have to check the figures. There are only about four or five that have been prepared under SEPP 70. There was an amendment to the SEPP, I think in late 2018, which made it easier from a regulatory point of view to enter the scheme, and the department has been working with councils on proposals. There is a proposal from the City of Sydney. I think there is also a proposal from Randwick, but I would have to get you more details on that. We have been working with the commission and developing a feasibility model. Obviously, feasibility is a very important part of imposing any contribution regime, and we have been working with councils on developing that model. I am happy to get you more details on that.

The CHAIR: Does that also include providing assistance to councils to amend their LEPs so that they are able to use SEPP 70? What does that assistance look like?

Mr RAY: There is a number of people in the department that will work with councils and also through the Greater Sydney Commission to work together to progress those proposals.

The CHAIR: Do you know whether there is a backlog of requests?

Mr RAY: I do not know that there is a backlog of requests, but I will have to see if I can get some further information for you.

The CHAIR: If you could take on notice specifically the concrete measures that the department is taking to provide support to local councils to prepare those schemes.

Mr RAY: Yes.

The CHAIR: My next lot of questions is in relation to the affordable rental housing SEPP. As a result of the affordable rental housing SEPP, do you know the number of affordable rental dwellings made available?

Mr RAY: I do not think I have got those numbers with me at the moment. I would have to provide you with those details. Do you have a date range or a particular period that you are interested in or is it just overall?

The CHAIR: Overall. I will get you some questions on notice in relation to how many of these dwellings will revert to market rentals this year. Do you have that figure now?

Mr RAY: No, I do not have that information but I can get that information.

The CHAIR: And the over the next period. In relation to the five million trees target that the Government has within the Greater Sydney area by 2030, how are you measuring progress for those trees planted and trees living, if you like, by 2030?

The Hon. PENNY SHARPE: Not dead.

The CHAIR: What is the measurement that you are using? How is progress against that target being measured?

Mr BETTS: I will ask Ms O'Mara to give you all the detail on that.

Ms O'MARA: We have a website where people can register their trees. But we also measure canopy. We measure it two ways: trees that are planted but also the net number of trees and that is measured by EES and we use that data to assess how it is going.

The CHAIR: When you say people can register their trees, are you talking about local councils or Landcare groups?

Ms O'MARA: Yes. We count basically any tree that is planted in Greater Sydney. For example, the councils that we fund under five million tree target we require them to register the trees on the website. Anyone who plants a tree in their backyard can go onto the website and register it. We would encourage them to do that because we know that really to achieve an increase in canopy it needs to be trees in peoples' backyards, street trees, trees on State Government land. So it is important that we target lots of different ways of meeting that target because really it is about the right tree in the right place. There is a big focus through that priority, for example, on how to engage citizens in planting trees. I am not sure if you have read the research that came out from Macquarie University in the last week or so which looks at how important it is in achieving a canopy target that some of those trees are on private land.

The CHAIR: I assume that areas like Cumberland Plain and all of that area is Greater Sydney?

Ms O'MARA: Greater Sydney, yes.

The CHAIR: Do you subtract from this website to which you are referring the trees that are cut down?

Ms O'MARA: That website tracks how many trees are planted and then as I said we also measure canopy across the city. That would look at has there been an increase or decrease overall?

The Hon. PENNY SHARPE: Will it pick up the trees that have been lost in the recent storms?

Ms O'MARA: For example, yes.

The Hon. PENNY SHARPE: What is the delay on that? Earlier we had that terrible storm, all the trees came down. How long will it take before that actually shows up in your measurements?

Ms O'MARA: I will have to check how often we measure canopy. It is basically through the Urban Vegetation Cover to Modified Mesh Block dataset that basically is done by the Environment Energy and Science Department. That dataset is publicly available on the seed online database.

The Hon. PENNY SHARPE: How often is it done?

Ms O'MARA: I do not know. I will have to take that on notice. I will find out and come back to you but it is not obviously done by my team. It is done by EES. We can check and provide that information.

Mr BETTS: Notwithstanding the fact that the Premier's priority, as originally envisaged, was merely about tree planting, the use of a supplementary indicator around tree canopy is to ensure that we do not achieve a target but miss the point of that target hence the dual track approach. We are on track, that having been said, to have procured at least 480,000 trees by the end of 2020 and that includes 180,500 which were registered as at mid-February, 80,000 tree which we expected to be planted by mid-2020 when the weather cools—so this is a seasonal process in part—and 220,000 trees that we are working on with partners like Landcare.

Ms O'MARA: That is right. We are also putting together in the next round of the grant program which will target spring and we are commissioning work, the focus of which is on water efficiency and how to get the most value out of the public dollar in terms of the trees we have planted so the learnings out of that. Also behavioural architects are working on the people in the community who do not like trees, why is that happening, incentivise more tree planting on private land, on council land and also looking at what can we do through the planning system to make it easier for councils, private individuals, government agencies to plant trees.

The CHAIR: Is there a canopy retention target?

Ms O'MARA: Yes.

The CHAIR: That is 40 per cent by the same year? Is that a 2030?

Ms O'MARA: Yes, and that comes out of the Greater Sydney Commission plan.

The CHAIR: Looking at the planning system about incentives to plant trees, did you say, or retain trees?

Ms O'MARA: Both. I suppose what I am saying there is a range of ways we look at how to hit that target. As Mr Betts points out, it is really, the million trees is a way of driving performance to hit the real target which is the canopy target. So really what we are seeking to do is improve canopy across the city. One way to do that is to plant a million trees. We are looking at a range of different ways that you can make sure that the value of those million trees is maximised. And that is why I talk about the right tree in the right place. It is not just about getting seedlings in the ground, it is about getting the right trees that are going to create canopy over the longer term.

The CHAIR: What is the percentage of canopy in Sydney at the moment? If you are saying it is 40 per cent by 2030, what is it now?

Ms O'MARA: I can give it to you—I think it is 21 per cent was what it was in the Greater Sydney Commission poll which was released last year. It measured canopy across the city and my understanding it is 21 per cent at the moment. But obviously across different districts there is different levels of canopy. For example, in the north district it is 39 per cent. In the west it is 16 per cent and that is why we are targeting different measures at different parts of the city and looking at a multi-pronged approach that is going to some grants, some planning reform, some work with the community to try to get them excited about planting trees on their private property.

Mr BETTS: Also the way in which projects are appraised and designed. For instance, traditional Treasury approach is to discount rates you would have the upfront cost of planting a tree but you do not get the benefit of a tree canopy for some time. The traditional approach would be to discount those benefits into the future. By design the Premier's priority is changing the way in which the Government does business and, in particular, changing the value that is placed on things like tree canopy and project business cases because they tend to be the

first things traditionally which have been designed out when value engineering has to take place because budgets are under pressure. We are trying to shift that.

The Hon. PENNY SHARPE: You are including things like heat island effect—

Mr BETTS: Completely.

The Hon. PENNY SHARPE: And the fact that it will be cooler around the planting because you can get it up from 16 to 40 per cent now to being captured?

Ms O'MARA: Absolutely.

Mr BETTS: You get the health benefits and you also get the benefit in terms of reducing ambient temperatures which then affects household electricity consumption and the list goes on.

The Hon. PENNY SHARPE: That is being counted or you are hoping it will be counted into the future?

Mr BETTS: The dial is shifting in terms of the benefit cost analysis at the moment.

Ms O'MARA: Yes, so that part of the priority is to work with Treasury and other government agencies on changing policy settings so we are getting the right—

The Hon. PENNY SHARPE: You are hoping that the Treasury will say yes.

Mr BETTS: We talked earlier about South Creek and the work that is going on there about retaining water in landscape and tree canopy and the cost benefit analysis that has been done around that green infrastructure and the greening of the landscape absolutely captures the benefits that flow to health and everything else as a result.

Ms O'MARA: The advice from the Environment Energy and Science is to map canopy every two years so that you can pick up change. That is the way we are doing it but obviously it will show changes in canopy. I suppose the other point to make is with government agencies is things like, for example, when we hand out funding under Everyone Can Play we now require people to plant a tree for every \$2,500 we give them. So we are really looking at every possible way to incentivise tree planting. One of the election commitments of the Government was around better use of surplus and under-utilised land. So under the Housing and Property Group it is looking at bringing together land owning agencies and looking at what trees we plant on State land. So lots of furious activity of trying to hit that target but also deliver better canopy.

The CHAIR: I want to go through those numbers you provided earlier, Mr Betts, of the number of trees that have been planted so far. When did the tree planting begin? Was it 180,000 had been planted and a 480,000 target by the end of 2020?

Mr BETTS: We are saying 480,000 by the end of 2020.

Ms O'MARA: Will be procured.

Mr BETTS: Yes. That includes 180,000 trees which were registered as at 18 February and nearly 80,000 trees that will be planted by the middle part of this year when the weather cools and 220,000 that we are working on with partners like Landcare.

The CHAIR: Roughly you have 500,000, you have about half a million goal to be planted. Is that correct, by 2030?

Ms O'MARA: It is a million by 2022.

The CHAIR: Yes.

Mr BETTS: We will be half way there.

The CHAIR: Additional incentives in terms of guidance and resourcing additional incentives to councils to meet that target—it sounds like you will have to increase your activity given that it is 180,000 as of 18 February—are any additional resources being provided to councils to do this planting?

Ms O'MARA: The funding that we provide under the five million trees program recently went to council. The first round of that went out last year. As I said, there will be another round, our aim is to get that out in time for the spring planting.

The CHAIR: That was all exhausted, I assume, the round of funding by councils. I assume it was snapped up, is that correct?

Ms O'MARA: Yes, absolutely. That was very well subscribed and we are expecting similarly when we release another round of funding that will also get more applications from councils. But we are also working with councils through Resilient Sydney. We are working closely with them on measures to drive resilience across the city and then working with specific councils, for instance, Penrith council. We went and presented at their heat summit. We are working with Campbelltown council on a demonstration project at Rosemeadow looking at water sensitive urban design at Macquarie University. How can we ensure that the trees we plant are going to survive in difficult conditions?

The CHAIR: I understand in some LEPs there is a significant number of black or very dark roofs in western Sydney. Will any action will be taken to address that, given what black roofs do in respect of urban heat island effect?

Ms O'MARA: We have commissioned a piece of work about embedding climate resilient materials and mechanisms such as dark roofs and water sensitive urban design in the planning system. We are expecting that report in July. That will inform the kind of work I discussed earlier about changes to the planning system or other regulatory or policy frameworks that might help us to achieve that.

The CHAIR: That information has been around for quite a number of years, that dark roofs generally make houses hotter, make streets warmer, make suburbs warmer. You are saying that you are now commissioning a report. Is this the first of its kind that the department has commissioned into this issue?

Ms O'MARA: I cannot comment on what was done before I was in the role, but we got the target in the middle of last year. We have commissioned work that we are expecting to get in July that will inform the advice we give to the Minister about how the planning should respond.

The CHAIR: What was the target, when you say the target? You said, "We got the target in the middle of last year."

Ms O'MARA: The million trees target. That target is a Premier's priority.

The CHAIR: Yes, but the dark roofs are part of that, an action underneath that. Is that what you are suggesting?

Ms O'MARA: What I am saying as part of the work on this Premier's priority we have commissioned some research that we are expecting in July, as part of broader work we are doing to understand how the planning system can drive better outcomes in respect of canopy and heat island effect.

The CHAIR: That is a broader thing than five million trees, hence my questioning. It is more than that and it is about how to make suburbs cooler.

Ms O'MARA: Yes. You would probably be aware there is another Premier's priority called greener public spaces and so the work we are doing is looking across both of those priorities. That priority is looking at how we drive improved greener public spaces across the State. As part of that, because we have those two priorities, we have the Government Architect, we have the planning team, and we are looking at the levers we have to deliver better outcomes in respect of canopy, in respect of public space. As you point out, black roofs is something that we could potentially address as part of this to deliver a cool city.

The CHAIR: The canopy target is a target. Does the Government have a target of reducing our suburbs by a particular percentage during hot days? A target in terms of heat island effect, does the Government have anything like that?

Ms O'MARA: Not that I am aware of, other than the broader targets around climate change. There is no specific target around black roofs that I am aware of.

The CHAIR: Mr Betts, has there been any discussion internally in relation to very hot suburbs in western Sydney? Has there been any discussion about setting targets to reduce the number of very hot days in Sydney via the planning system?

Mr BETTS: I am not aware that it is translated into discussions around the setting of specific targets, but a large body of work has been done around, as I said before, the South Creek catchment, which is basically 80 per cent of the Western Parkland City. In the heart of that is considerations we have talked around tree canopy, water in the landscape. It is not just about roofs either, it is about the whole typology of the urban form, the way in which car parking is configured, the design of houses generally, the amount of road infrastructure which is in place and the amount of land take that that consumes. That is very much a live conversation with the Government about how we build the housing estates of the future.

Ms O'MARA: If I may, can I just add to my earlier answer, which is my colleague Sarah Hill is pointing out that in the greener cities plan there is an objective around heat waves and extreme heat and how that is managed—in particular, referring to cooler building materials such as lighter coloured roofs and things like that. Obviously that plan sets a broad strategic framework to our work. But we are also very focused on meeting this.

Ms HILL: The broader objectives of council as well.

The Hon. PENNY SHARPE: Regarding Fernhill estate, I know there are currently discussion papers, who is in charge of that? Is that you, Ms O'Mara?

Ms O'MARA: I think it might be Ms Frame, but I am happy to try and answer your question and take it on notice.

The Hon. PENNY SHARPE: My understanding is that there is currently a discussion paper about the future options which went out late last year about the Fernhill estate. Obviously it was acquired and there is now a planning process going through. My question is to do with equestrian facilities that are currently there. You are aware that there are equestrian facilities currently there and my understanding is that there are horses currently on the site. I know these questions are very specific.

Mr WHITWORTH: The Office of Strategic Lands acquired Fernhill and the Office of Strategic Lands is running that process.

The Hon. PENNY SHARPE: So, it is not you?

Ms O'MARA: It is Alison Frame.

Mr WHITWORTH: But we are aware of the horses.

The Hon. PENNY SHARPE: I have a very specific question. My understanding is that essentially there might be confusion about who owns the site, if it is the Office of Strategic Lands, which does not sit within you?

Ms O'MARA: It sits with the department.

The Hon. PENNY SHARPE: There is a particular issue with Riding for the Disabled at Fernhill. The issue is that basically they can no longer operate. They were on land that was previously provided by planning—I do not know in what iteration or what particular name—which is at Samuel Marsden Road in Orchard Hills. Basically it is flooded and unusable, so Riding for the Disabled in western Sydney in that area is currently inoperable. They are aware that there was a discussion paper going on about Fernhill. My question is whether there has been or could be discussions about relocating Riding for the Disabled to Fernhill so they can continue to operate, given that they cannot at the moment.

Ms O'MARA: We might need to take that one on notice, but happy to try and get an answer today if we can.

The Hon. PENNY SHARPE: That would be great. The other issue is that they are not even mentioned in relation to future use options. With the talk about equestrian events, my understanding is that they are for profit. I know it is niche, but it is a very important issue for people in that area. If you could get back to me about that, that would be great.

Mr WHITWORTH: The discussion paper closes on 3 April. Obviously the department, through the Office of Strategic Lands, would be happy to receive submissions. The advice that I have is that there has been no discussions with us yet, but more than happy if they want to make contact, that we can arrange for conversations.

The Hon. PENNY SHARPE: I will encourage them to do that. I have a question about BASIX. Who is the best person? Is that you, Mr Ray?

Mr RAY: Yes.

The Hon. PENNY SHARPE: Have there have been discussions about ramping up the BASIX regime as part of all of this work?

Mr RAY: Yes.

The Hon. PENNY SHARPE: Can you just give us an update on where that is up to and how that would be considered?

Mr RAY: It is part of a broader Australia-wide update that is based through the National Construction Code. Really I think the focus is for 2022 for that to happen right across Australia. It would involve uniform standards for thermal and water efficiency. The department is working with other States on the development of that.

The Hon. PENNY SHARPE: How does New South Wales compare? We have had BASIX in place for a very long time. Would you say that our baseline is good or that other States have caught up or are ahead of us?

Mr RAY: What I would say is that certainly when BASIX came in we were ahead of the game. It has gradually been applied to more development types, including multi-unit housing. This is a great opportunity. As to exactly where we are, I do not have a table of rankings. As to exactly where we are, I cannot really say. But what this will do is lift again the standards and it will be across the country.

The Hon. PENNY SHARPE: For New South Wales there are multi-use dwellings. In terms of cranking it up in New South Wales, where would you be looking at doing that?

Mr RAY: I think at this stage we are broadly looking at the dwelling types that it applies to now. It would be bringing that into uniformity with a higher standard across the country. I would have to check to see whether we were going to look to extend it to other types of dwellings. I will try and get some information back to you—

The Hon. PENNY SHARPE: Can you take that on notice?

Mr BETTS: In terms of comparisons—and this is relevant to the questions from Ms Faehrmann earlier—BASIX supplies a savings target to all energy consumed in residential buildings, not just heating and cooling energy, which accounts for only about 25 per cent to 40 per cent of household carbon emissions. New South Wales is the only jurisdiction that is enforcing those standards.

Ms O'MARA: Can I just add on black roofs, BASIX apparently disincentivises black roofs in climate zones in western Sydney with the advice I have.

The Hon. PENNY SHARPE: Yes, but they are everywhere.

The Hon. ADAM SEARLE: That raises the question about the role of the planning system in terms of cutting emissions. The Government of New South Wales has got a net zero emissions target by 2050 and I understand that work is being done on interim targets for 2030, but obviously the built environment plays a fairly important role in generating carbon emissions. What thought is being given to how climate policy can be embedded in the planning system?

Mr BETTS: We can answer that from the point of view of mitigation and from the point of view of adaptation. In that latter context, the bushfire review that is being undertaken at the moment will have something relevant to say, I suspect, but in terms of mitigation and the way that is treated, for instance, through our stipulations around items to be covered off in environmental impact statements.

Mr RAY: Obviously with major projects it is an issue that we look at with every major project application. We have already talked about BASIX and we talked about the other measures that can be done. I suppose I would see it necessarily as a toolbox. There is a toolbox to deal with different aspects of the planning system as the planning system is so broad.

The Hon. ADAM SEARLE: But, for example, BASIX, by reducing energy consumption by households, must be making a contribution to cutting emissions. I just wanted to know to what degree was thought being given to mandating certain things in the planning system such as the use of certain materials, the banning of other materials, that sort of thing?

Mr RAY: BASIX encourages the use of materials that will save on carbon emissions and save on water. That has been in for quite a period of time. Obviously within major project approvals we are looking at the use of materials that are more effective from that point of view as well.

Ms HILL: I would also add from a strategic planning point of view there are some overarching objectives in the Greater Sydney Region Plan that very much point to net zero emissions by 2050, adapting to climate change and future shocks as well as natural and urban hazards, heatwaves and extreme heat—all of those issues.

The Hon. ADAM SEARLE: Extreme weather.

Ms HILL: At the moment, obviously the Greater Sydney Region Plan and district plans are being implemented through local strategic planning statements and LEPs, which are really a top-down approach that meets that BASIX and the development assessment side of planning in the middle.

The Hon. ADAM SEARLE: You may not know the answer to this or you may not be able to say, but is thought being given to what contribution to cutting carbon emissions the planning system might be expected to contribute towards meeting any interim targets by 2030? It sounds like 2030 is a long way away but it is not, really.

Ms HILL: Again, the Greater Sydney Region Plan very much advocates a low carbon city and the commission has been working with councils to identify better ways to cut carbon, whether it is in town centres through car parking in a variety of ways that the planning system can use. There is still a lot of work to be done in that space, though.

Mr BETTS: To be honest, the way in which we are approaching the net zero carbon planning is to look sector by sector. Obviously transport, stationary energy, agriculture et cetera as major contributors to emissions and then work out the toolbox of different regulatory mechanisms, including through the statutory planning system and what they can deliver in terms of material impacts on carbon emission levels.

The Hon. ADAM SEARLE: Is it fair to assume that at this stage we are doing that sort of mapping exercise about the different sectors and what levers exist?

Mr BETTS: Absolutely. Minister Kean talked a bit about that last week.

The Hon. ADAM SEARLE: He did. That brings us back to waste to energy. I do not know whether or not Mr Ray's elusive note has evaporated?

Mr RAY: No, I have it, Mr Searle.

Mr BETTS: He is ruthlessly efficient.

The Hon. ADAM SEARLE: I have no doubt. I think I was going to say that waste to energy plays an important part of energy generation in continental Europe. I am aware that you do have waste to energy facilities even in suburban Paris near the Seine, but of course here the types of proposals have been quite controversial. In large part that is because the planning system, it seems to me, is not properly geared up to deal with these applications, just like it struggled for many years with windfarm applications. This is not a criticism of the people here, but the Department of Planning as it then was took over five years to develop a framework by which it would consistently assess windfarm projects. It now seems to me that perhaps we are repeating the same errors when it comes to waste-to-energy. Can you tell us where that is up to?

Mr RAY: Sure. You are right. It is not only in continental Europe but in Japan. There are many, many energy from waste facilities. There are over 2,000, in fact, that are operating globally. There are four approved and I think one under construction in Western Australia and there is one approved in Victoria. The one in Victoria is for 650,000 tonnes of waste per annum and one at least in Western Australia is around 400,000 tonnes. There is a 2015 policy that was put out by the Environment Protection Authority [EPA] that is really quite detailed and looks to both encourage energy from waste development but also to ensure that that development can be done in a way that assures people about both the environmental and human health impacts of energy from waste. I think the issue with the first proposal, if I could go there—

The Hon. ADAM SEARLE: This is the Dial A Dump proposal?

Mr RAY: It is the Dial A Dump proposal.

The Hon. ADAM SEARLE: Catchy name.

The Hon. PENNY SHARPE: It was called Next Gen. It had a much fancier name than Dial A Dump.

Mr RAY: That matter is before the courts as on appeal, so I do not want to say too much about it. But the clear rationale for the department's recommendation of refusal of that proposal and, ultimately, the Planning Assessment Commission's refusal of that proposal was that in accordance with the Energy from Waste Policy Statement from the EPA there was not an appropriate reference facility where the same waste streams, the same mix of waste was being used. The idea of having that reference facility is simply that the technology is proven, you have got a facility that is actually operating with exactly the same waste streams and you know what the impacts are and you know that the technology that the company is proposing to use will in fact deliver the outcomes in relation to air quality and human health. So there is a policy there. What is also underway at the moment is that there has been a referral off to the office of the chief scientist to look at robustness of the assessment

processes for energy from waste and we are hoping that the chief scientist will issue that report in the next couple of months. That will also be a matter that the EPA, ourselves and NSW Health will all have and see how that should input into individual assessment proposals we assessed.

The Hon. ADAM SEARLE: Is that report likely to inform an overhaul by the EPA of its 2015 policy to update it for changes in technology and lived experience in other jurisdictions?

Mr RAY: Look, it could well be that that is the case. I am sure there will be lessons for all the agencies that will arise out of that and lessons that the department will apply in its assessment of the current proposals before it.

The Hon. ADAM SEARLE: Maybe we are getting a bit ahead of ourselves here, but do you think there is any prospect of any specific planning instruments being developed to specifically deal with waste to energy proposals?

Mr RAY: Well, it might well be the case. There could be something along the lines that are similar to the wind farm guideline or the solar farm guideline, but I think we really need to see the results of what the chief scientist's inquiry is and then we will no doubt have discussions with the EPA and other relevant interested agencies to see whether that would assist. I mean, the main benefit of the wind farm and solar farm guidelines is about site selection and is really sending a really key and direct message to industry to select the right sites. I could see that there could be some benefit here as well for that, particularly if that is the direction that the chief scientist picks.

But, in the meantime, what I can say is the department's assessment processes are robust, even though the EPA, ourselves and NSW Health followed the policy to the letter. In that particular case with that first proposal, we recommended that the proposal be refused. I do think that that actually shows that we actually have a relatively robust system in place.

The Hon. ADAM SEARLE: You say that but I guess part of the concern is that the system may not be properly geared to deal with those sort of proposals and the solutions, and we have seen in the past the wind farm guideline and the solar farm guideline. It does seem maybe by starting out where sites are not appropriate for these sorts of developments might be useful at least in terms of addressing community concerns.

Mr RAY: I absolutely accept that. Going back, though, to the Dial A Dump proposal, the critical thing there was not necessarily the site per se but it was in fact a technical issue in that they could not provide an appropriate refuse facility and therefore NSW Health in the EPA could not say, taking an appropriate risk-based approach, that there would not be impacts on human health or air quality generally.

The Hon. ADAM SEARLE: Given that those sorts of issues, in my view at least, are likely to recur, has any thought been given to perhaps a moratorium on accepting applications on waste to energy until all of this other work is done, embedded, so that people can have confidence that the system is properly geared? I know you say it is, but obviously there seems to be some structural issues.

Mr RAY: My understanding is that the chief scientist will report relatively soon. Obviously, that will be an opportunity for us to make an evaluation about broader things. But certainly what I would say is—and again I return to the approach of the department, the EPA and NSW Health on the original Dial A Dump proposal—that the recommendation was for refusal. I think that that actually does demonstrate a robust approach.

The Hon. ADAM SEARLE: Okay. Mr Betts, in terms of the review of the IPC that was done by the Productivity Commission, the Government has indicated that it has accepted all of the recommendations. What is the time frame for implementation? Should we expect that the revamping, if you like, of the IPC and its processes will be put in place before the IPC undertakes the Narrabri assessment, for example—or what is the time frame for implementation?

Mr BETTS: Generally speaking—and some of the measures necessary to implement the recommendations that the Government has accepted lie with other parts of government—our target is to have completed or enacted all of those recommendations by mid-year. So we are not proposing that the Narrabri proposal be put on hold pending the absolute completion of all those recommendations.

The Hon. ADAM SEARLE: Sure. One of the recommendations, No. 3, was that the Minister formally issue directions on an agreed set of outcomes, focused objectives, performance measures incorporating quality and time limits targets. I note that the Minister has confirmed that with the Narrabri reference he is setting an indicative time frame of 12 weeks. How is that reform or change going to be encapsulated? Is it going to be a written instrument from the Minister?

Mr BETTS: Yes. It is likely to take the form of a statement of expectations, which will identify—and this is fairly standard practice—the kind of benchmarks of performance in terms of timeliness that the Minister would like to see the IPC aspire to.

The CHAIR: Thank you. The Committee will take a short break.

(Short adjournment)

The CHAIR: I wanted to ask a question about the Dunmore sand extraction down at Minnamurra. Boral have a proposal to mine sand down there, the Dunmore Lakes Sand Extraction Project Modification 2. Is someone familiar with that?

Mr BETTS: I am sure that Mr Ray can shine a light on that.

The CHAIR: I am sure that Mr Ray can. Firstly I understand the planning Minister wrote to the Clerk of the Legislative Council in December last year in response to a petition that was tabled. In that response it said the proposal had received 149 objections from the local community and that the department would therefore be referring the application to the IPC for determination. Would anything have changed to that decision, that it is going to be referred to the IPC?

Mr RAY: I might have to seek further information on that one because one of the recommendations to be implemented from the Productivity Commissioner's review of the Independent Planning Commission was to change the basis on which matters were sent to the IPC. In this particular case, on reflection, as it is a modification, I think the Productivity Commissioner in fact recommended that modifications no longer be remitted to the Independent Planning Commission on the basis that the modification power in the Environmental Planning and Assessment Act is very circumscribed. There is substantially the same development test that has to be applied to any assessment of any modification. Consequently, where the original application has already been tested and there has been a decision on the original application, those applications no longer necessarily go to the Independent Planning Commission once the Productivity Commissioner's review was implemented by the Government.

The CHAIR: So the time frame between when the Minister wrote to the Legislative Council and the Productivity Commission's review—and modifications being a part of that—was that it was deemed to apply retrospectively?

Mr RAY: My understanding is that the Productivity Commissioner's report was released earlier this year and the Government accepted all the recommendations, including those about the types of proposals which should be submitted to the IPC, including modification proposals. What I think the situation is, once the new thresholds that have been recommended by the Productivity Commissioner are given legal effect, proposals that have not already been submitted to the IPC will not then be submitted to the IPC. So it may well be that on that particular proposal, that matter might now—or in future once the assessment is complete—be a matter for the department to deal with under delegation.

The CHAIR: I understand that the application to modify the Dunmore sandmining quarry was put in nine months ago. Within that time I have been told by the local community that there has been four different planning officers with carriage of that proposal. Is that quite common for there to be that many changes with a project in terms of planning officers having carriage of it and liaising with the community on a project?

Mr RAY: I would say that four does seem a large number in that time frame. That would not be a usual occurrence. There might be one or two because there are often personnel changes. People leave, people go to different parts of the department. It may well be that there are a number of people that are working together on the proposal. It might not mean that there have been four separate people. There might have been a more senior person involved. People might have been not there, on holiday for a period and someone else has stepped in to make the inquiry. I just do not know the particular circumstances of a case. I will look into that for you in more detail. Normally four separate people in nine months would be quite unusual.

The CHAIR: It would be good if that could be looked into. There is a lot of disquiet and distress in the local community in relation to this proposed project. There has also been a fair bit of discrepancy in the reports that have taken place in relation to that site. I have seen the site myself. It is by no means a modification in terms of a simple expansion. It is a completely new site, a very environmentally sensitive site right next to the Minnamurra River, and it will destroy quite a number of habitat trees in an endangered ecological community on that site. There have also been dissenting reports in relation to the Aboriginal heritage on that site. I understand someone has suggested that an Aboriginal massacre has occurred on that site and they are concerned now that without this going to the Independent Planning Commission it is not going to receive the thorough independent assessment that it ordinarily would have. What assurances can you provide to the community?

Mr RAY: What I can say is that all the matters you have raised in the question, I will undertake to look at all those particular issues you have raised. We are currently, as part of the implementation of the Productivity Commissioner's review, looking at how those matters that would formerly have gone to the commission and will not go to the commission in future, how we will treat them and how we will make sure that people are aware that there has been a change in decision-maker and what other more opportunities might be available for communities to have a clear and transparent opportunity to make further comments.

There are a number of proposals that this applies to, as with any change in the thresholds and we will be working our way through as to what we think is an appropriate mechanism in each individual case. Certainly I can say that the department will look into all those issues you have mentioned and we will do a robust independent assessment. We will also look at what other measures—if the proposal is no longer going to the Independent Planning Commission—we can take to ensure that the community feels that they have an opportunity to be heard before any decision is made. The department's assessment report will be made available before any decision is made but we are actively looking at each individual case as to what we might do to deal with some of the issues that you are raising.

The CHAIR: Have there been other cases that the department is looking at retrospectively, clawing back from what were referrals to the IPC?

Mr RAY: I would not characterise them as retrospective because the assessment reports have not been finalised. One of the questions that arises from the implementation of the Productivity Commissioner's review is there are matters that are in the system which, because of the change in thresholds he proposes, would no longer go to the Independent Planning Commission. So the department is looking at what those matters entail and will develop a range of solutions dependent on the issues of the individual cases.

The CHAIR: Surely, though, when the Minister writes to the Clerk of the Legislative Council in response to a petition objecting to the proposal, saying that the proposal will be referred to the Independent Planning Commission, the department would allow that to continue its course?

Mr RAY: What I would say in relation to that is that clearly that would be an important factor in the department's decision-making in relation to that, and that would be a matter that we would have to look at in the individual case.

The CHAIR: What is the important factor?

Mr RAY: That the Minister has already written to the Clerk of the Parliaments.

The CHAIR: You mean it is an important factor in how you make a decision now as to whether to approve—

Mr RAY: No.

The CHAIR: So it is an important factor in whether to refer it?

Mr RAY: Whether it would continue to be referred.

The CHAIR: To the IPC?

Mr RAY: Yes.

The CHAIR: Are you saying that you have not made a decision yet as to whether to approve that with delegated authority or, sorry, to have delegated authority to consider it? Are you saying the decision has not been made?

Mr RAY: What I am saying is that we are in the process of implementing the Productivity Commissioner's recommendations and the Productivity Commissioner's recommendations were that there would be changes to the thresholds of the matters going to the Independent Planning Commission. What we are doing, but have not completed, is a review of those matters that would be affected by the change in those thresholds.

The CHAIR: So you have the Clerk of the Legislative Council being told one thing and, by that, members of the Legislative Council being told that it would be referred to the Independent Planning Commission; however, we have locals on the ground saying that they have spoken to planning officers with carriage of the application who have told them it will now be considered by delegated authority. Within the department, Mr Ray, word has got around or a decision has already been made or people have got their wires crossed—what is it—that your mind has been made up on this proposal and it will be considered by delegated authority?

Mr RAY: What I would say is we are implementing the Productivity Commissioner's review and the initial advice would be that the proposal would no longer go to the IPC because it is a modification, but what I have asked the relevant executive directors to do is to come back to me with what they think is the appropriate course of action in each individual case for the department to take as part of the implementation of those matters.

Mr BETTS: As I understand it, the letter to the Clerk was issued last year. The process of reviewing the IPC was a very public process. It was announced at the time, terms of reference were understood, the Minister might well take the view that the advice from the independent Productivity Commissioner now means that we should activate those new arrangements immediately and that would override the situation as it was communicated to the Clerk last year, but that will be a call for the Minister.

The CHAIR: The Productivity Commissioner's review of the IPC—remind me of the date that it was released?

Mr RAY: It was in either late January or early February. It was certainly after the Minister wrote to the—

The CHAIR: Yes, so how many decisions to refer projects to the IPC do you think will be changed as a result of that Productivity Commissioner's report?

Mr RAY: I would have to take that on notice, I do not have the exact numbers, but there will be a number of them.

Mr BETTS: I think you asked earlier about whether there would be retrospectivity about things which had already been referred to the IPC. I think the guiding principle would be that, if it has been referred to the IPC, the IPC remains the relevant decision-making authority. If last year it was contemplated that it might be referred to the IPC then I think the working assumption would be that the Productivity Commissioner's recommendations, which are now being activated as new delegations are executed, will apply.

The CHAIR: In other words, if the Minister wrote to the Clerk of the Legislative Council and said that the department will be referring the proposal to the IPC then it will be referred to the IPC, because that was in December last year and the Productivity Commission did not hand down its findings into the IPC until late January or early February. The Clerk was told that the department "will be referring", so are you suggesting that the Minister's letter to the Clerk in December last year is going to be changed because, as I think you just said, Mr Betts, it will still be referred?

Mr BETTS: My understanding is that it will not be referred to the IPC, but I do not want to mislead the Committee, so I should take that offline and check that.

The CHAIR: This particular project?

Mr BETTS: Correct. If the recommendations of the Productivity Commissioner have been accepted, if that has now been crystallised through the implementation of new delegations, those delegations will apply unless the Minister chooses otherwise. But let us take it offline so that I do not mislead the Committee inadvertently and I will clarify the position for you in relation to that specific development application.

The CHAIR: Is there something specific about this development application that is different from others?

Mr BETTS: No.

Mr RAY: No. The letter of the Minister—

The CHAIR: You can understand my concern here.

Mr RAY: Sure.

The CHAIR: I have been approached by members of the public who are rather alarmed at what they heard from the planning officer in charge of this who said it is now being considered by delegated authority, yet the Clerk was told something different in December.

Mr BETTS: It is delegated authority regardless. It is whether it is delegated to the IPC or delegated to the department to manage. It will be managed in accordance with the standard protocols which exist at the time, and post the Productivity Commissioner's review that would involve being handled by the department. But if you want crystal clarity on that, I am happy to take it offline and confirm that separately on notice.

The CHAIR: All right, let us do that then. That winds up my questions.

The Hon. ADAM SEARLE: Mr Betts, I think we were discussing the implementation of the Productivity Commissioner's reports on the IPC.

Mr BETTS: Yes.

The Hon. ADAM SEARLE: A number of them relate to re-establishing the IPC as a separate government agency and making sure it has separate staffing and is seen to have operational independence from the department.

Mr BETTS: Yes.

The Hon. ADAM SEARLE: Is the time frame for implementation of that also this year?

Mr BETTS: Yes, it is. Not just this year, but the first half of this year. That finds its expression through the making of administration orders for the relevant legislation or subsets of the legislation, which will be handled by the Department of Premier and Cabinet, and that will give effect to the structural separation and independence of the IPC in terms of its agency status.

The Hon. ADAM SEARLE: During the last budget estimates hearings the issue of the budget of the IPC was discussed. My recollection is that the budget papers said it had a \$4.7 billion budget—

Mr BETTS: Million.

The Hon. ADAM SEARLE: But I think you were able to clarify that it has been increased to \$5.8 million.

Mr BETTS: That is correct, yes.

The Hon. ADAM SEARLE: That was confirmed I think as recently as 30 October.

Mr BETTS: Yes.

The Hon. ADAM SEARLE: Is that the latest state of play for the budget of the IPC for this financial year, or have there been other variations?

Mr BETTS: It is the latest state of play, so that is accurate as we speak. However, you had the opportunity to meet Mr Peter Duncan, who is the acting chair, this morning and I have asked him, given the number of moving parts associated with the implementation of the Productivity Commissioner's recommendation, to identify whether his budget needs to be adjusted—and my assumption is that it will be adjusted up rather than down—

The Hon. ADAM SEARLE: I would suspect that will be the case.

Mr BETTS: That is always the case in Government—to reflect the new functions of the IPC and, in particular, any performance indicators that the Minister might want to set around timing and determinations and so on.

The Hon. ADAM SEARLE: There are a couple of recommendations that I have a particular interest in. Recommendation 10 talks about revising the memorandum of understanding between the department and the IPC to set out how they would both procedurally go about their respective roles, and from about page 47 of the IPC review there is a desire expressed by the Productivity Commission that the department and the IPC should strive, where appropriate, to have common understandings of the law, while recognising of course that the IPC is independent. Does that not proceed on a fundamentally difficult proposition? The IPC might technically be a government agency, now and into the future, but really it is more analogous—it is a consent authority—to a tribunal, not a court, but it is certainly more independent than the public service of the Government as a whole.

Mr BETTS: Yes.

The Hon. ADAM SEARLE: Any sort of attempt to have the IPC and the department proceed—yes, if there is a common understanding of the law that is a great thing. But is there not a fundamental difficulty in trying to push the department and the IPC together to jointly commission advices and stuff like that?

Mr BETTS: My first answer would be in many ways that is a question legitimately asked of the productivity commissioner, who made that recommendation.

The Hon. ADAM SEARLE: Yes.

Mr BETTS: But I would also say that the IPC—the "I" stands for "independent" as I said before. Where it is possible to avoid duplicative or confusing reliance on multiple sources of legal advice, that seems like a

sensible, pragmatic way of proceeding. But it must always be the independence of the IPC that overrides all other considerations if in doubt. Therefore, I think that is the basis on which the IPC would proceed and that is the basis on which we would frame the memorandum of understanding. So if it is relatively uncontroversial, technical questions which could readily be answered through advice which has already been commissioned by the department or is available, it would seem to make sense for the IPC to rely on our advice. But if in doubt it would be entirely entitled to brief that out.

The Hon. ADAM SEARLE: Okay. I might pause my questions on the IPC for discussion with the commissioner. During the last budget estimates there was discussion I think involving Mr Brogden about the Menangle Park matter—the voluntary planning agreement [VPA] and also the special infrastructure contribution [SIC]. I think, Ms O'Mara, you were informing the Committee about where that was up to. I think there was a proposal to have a \$39,000 to \$49,000 per lot contribution. That had been on exhibition. The exhibition had completed. I just wanted to get an update on where that process was up to. Has that been finalised?

Mr WHITWORTH: I am happy to take that question. Thank you, Mr Searle. The voluntary planning agreement had been I think exhibited at the time and it has now been executed and is effectively a requirement now. The SICs for the Greater Macarthur area have not yet been finalised. They have not yet been finalised on the basis that we are still working to finalise the Greater Macarthur plan itself, Greater Macarthur 2040, and we have been in conversations and discussions about that plan in terms of broader environmental management, koala issues, development issues and so on. I cannot go much further than the VPA has been notified and executed and finalised, and the draft SICs are still being considered.

The Hon. ADAM SEARLE: What is the time horizon to complete the SIC?

Mr WHITWORTH: We would not want to complete the SIC until we have completed the broader planning work for the Greater Macarthur area.

The Hon. ADAM SEARLE: Right. And what is the time frame on that?

Mr WHITWORTH: The time frame for the Greater Macarthur area—I suppose this is an opportunity to talk about the broader piece of work that we are doing. Last year we identified it as a growth area under the growth centres State environmental planning policy and the Minister wrote to both Wollondilly and Campbelltown councils identifying the opportunity for them to participate in a planning panel to help make determinations about the finalisation of the plan and the individual precinct planning within. We obviously have the chief scientist report being undertaken for the Gilead stage two. We still have the Cumberland Plain Conservation Plan on foot as well. So all of those measures—we would like to see those fold out before completing the Greater Macarthur 2040 plan.

The Hon. ADAM SEARLE: Okay. Can you update the Committee as to the key features of the VPA and how that might differ from where it had been in draft form?

Mr WHITWORTH: The VPA was executed as per the exhibited draft.

The Hon. ADAM SEARLE: There are no changes?

Mr WHITWORTH: There were no changes. My understanding based on the advice that I have is that it was a \$133 million voluntary planning agreement and it had a number of different components. There was the dedication of land for the school site. There was dedication of land for the extension of the Spring Farm Parkway. There was also a cash contribution that was coming in at an earlier point.

The Hon. ADAM SEARLE: How much?

Mr WHITWORTH: I would have to take the element of the cash contribution on notice.

The Hon. ADAM SEARLE: Please.

Mr WHITWORTH: But that was going to come in at an earlier point in time so that would then enable us to mobilise other pieces of work in and around the Greater Macarthur area, particularly around the Spring Farm extension.

The Hon. ADAM SEARLE: Mr Brogden, does that have any financial implications for Landcom?

Mr BROGDEN: So the VPA has been endorsed in line with the transport of infrastructure contribution deed and that sees Landcom paying \$90 million in contributions comprising land, provision of infrastructure and cash. When all the stages are completed the Spring Farm Parkway will provide an alternate east-west connection from Elderslie and Spring Farm to Menangle Park to alleviate the congestion on Narellan Road.

The Hon. ADAM SEARLE: And of course with the SIC not finalised the 4,000 Dahua lots—the impact of that on the finances of Landcom is also not yet totally understood?

Mr BROGDEN: Our contribution through the VPA are SIC contributions. Effectively \$90 million is the total and final amount we will be paying for SIC contributions and we are doing that through the VPA.

The Hon. ADAM SEARLE: And does that limit your liability? Is that the end of the Landcom liability?

Mr BROGDEN: Yes. Should Dahua seek a rezoning to increase their development above the 3,600 then they will be liable for the SIC, not Landcom.

The Hon. ADAM SEARLE: Just refresh my memory—what is the total Landcom liability now?

Mr BROGDEN: They were paid some \$300 million for the site and the \$90 million that will be contributed as the SIC for that overall project is \$90 million. Landcom is still net ahead of any of the other bids made for the lease of land back in 2015.

The Hon. ADAM SEARLE: Since we were last in this forum I think there is a new Landcom annual report now.

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: I have just noticed that the net profit for this year is significantly down on the previous year. The previous year was about \$185 million. Now it is down to \$33 million. Can you update the Committee as to the key drivers of that reduction?

Mr BROGDEN: It is a timing matter. The first thing I would say is that the Government tasked Landcom to release in the first four years of its term—2011 to 2015—10,000 new home sites.

The Hon. ADAM SEARLE: It is 20,000.

Mr BROGDEN: No, 10,000. Sorry—

The Hon. ADAM SEARLE: I think it is 20,009.

Mr BROGDEN: Correct, so a total of 30,000 over an eight-year period. Most of that was done during that period. As a consequence we have not been selling as much land once we have met that requirement, so that has slowed down the profit of the organisation. That would be the main driver, I would say, and also timing issues with respect to other developments that are coming through now.

The Hon. ADAM SEARLE: So obviously receipts from customers is down from \$855 million to \$304 million.

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: That is the same reason?

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: You indicated that the first term of the Government—it was 10,000 home sites and it was 20,000.

Mr BROGDEN: Correct.

The Hon. ADAM SEARLE: What is your next horizon? Is it 30,000?

Mr BROGDEN: We have not been given a target by the Government with respect to supply for this term.

The Hon. ADAM SEARLE: Do you expect to be? Would that be a reasonable expectation?

Mr BROGDEN: It is plausible. I think it would depend largely on where the economy and land supply goes in the next couple of years. What I would say is that, like most other players in the sector, we anticipated that the market would be slow this year and take off late this year. Indeed what happened is the market took off in December 2019 and we are seeing increased land sales. So what we are finding—Landcom along with many other players will need to dig deep to provide supply.

The Hon. ADAM SEARLE: In the previous year's annual report there was a line item for total current liabilities. I think we had some discussion about what had explained the increase from 294 to 655, I think.

Mr BROGDEN: I think we replied to you in—

The Hon. ADAM SEARLE: You did.

Mr BROGDEN: We did.

The Hon. ADAM SEARLE: I could not find a single line item in the current annual report that crystallised total current liabilities in a single line item.

Mr BROGDEN: I will come back to you.

The Hon. ADAM SEARLE: If you could do that on notice, that would be good. Landcom is still going to be returning \$200 million to the Government in tax equivalent payments this year. Is that correct?

Mr BROGDEN: The annual report refers to the dividend for FY19 and it—

The Hon. ADAM SEARLE: There are two things, are there? There is the tax equivalent payment and then there is the dividend.

Mr BROGDEN: Correct—to a total of \$214 million.

The Hon. ADAM SEARLE: So they are totalling \$214 million.

Mr BROGDEN: Correct, yes. Yes, I can see how you might read that.

The Hon. ADAM SEARLE: Yes, I just wanted to see that it is 200-odd; it is not 400.

Mr BROGDEN: Yes, sorry. It is a fair point. It is 200 plus 14 to equal 214. Correct.

The Hon. ADAM SEARLE: Okay. Are you able to tell the Committee what is Landcom's current total assets at the present time, then in the current financial year, roughly?

Mr BROGDEN: We talk more in terms of projects. I will get you that number in the next little while, but we are running at the moment with 30 projects across, mostly, metropolitan Sydney.

The Hon. ADAM SEARLE: The cost of sales in the annual report show that the cost of sales is a proportion of sales revenue.

Mr BROGDEN: What page are you referring to, Mr Searle?

The Hon. ADAM SEARLE: In 2018. I think it was page 70.

Mr BROGDEN: Okay, 2018.

The Hon. ADAM SEARLE: But the cost of sales this year has jumped. Can you indicate why? I am happy for you to take that on notice.

Mr BROGDEN: Sure, I will take it on notice.

The Hon. ADAM SEARLE: Employee and related expenses—again, they seem to have increased considerably in the current annual report. I think it has gone up from \$16 million to \$24 million.

Mr BROGDEN: I will take that on notice.

The Hon. ADAM SEARLE: One of the new drivers seems to be an increase in termination payments.

Mr BROGDEN: Correct. There was a significant restructure, as you may be aware.

The Hon. ADAM SEARLE: Yes, there have been a number of restructures. We have discussed those.

Mr BROGDEN: Sure, but the most significant one with respect to redundancies, which would have been a driver of that figure, was in April 2019—so within that financial year.

The Hon. ADAM SEARLE: Okay, I understand that. We have discussed the dividend. How many projects do you still have current?

Mr BROGDEN: Thirty.

The Hon. ADAM SEARLE: What is the time frame for delivering those?

Mr BROGDEN: They vary enormously, Mr Searle. Yes, they vary enormously. I can go through them one by one, if you like.

The Hon. ADAM SEARLE: I am happy for you to give a list on notice, if that would be preferable.

Mr BROGDEN: Yes, that would save time.

The Hon. ADAM SEARLE: Yes, that is good.

Mr BROGDEN: But to give you a range, some will be completing in the next year or two; others will go out for another 10 to 15 years. So there is a great range.

The Hon. ADAM SEARLE: So you are not about to run out of work.

Mr BROGDEN: No.

The Hon. ADAM SEARLE: In terms of the annual report, in terms of the—I think it is at page 89—"Other provisions - non-current", what do they relate to?

Mr BROGDEN: Page 89 of the 2019 report?

The Hon. ADAM SEARLE: Yes.

Mr BROGDEN: Note 18, "Provisions"?

The Hon. ADAM SEARLE: Yes.

Mr BROGDEN: And down to (c) "Other provisions - current"?

The Hon. ADAM SEARLE: Yes.

Mr BROGDEN: I will need to come back to you on the details of those.

The Hon. ADAM SEARLE: That is fine. How many employees does Landcom currently have?

Mr BROGDEN: As of yesterday, in anticipation I would be asked this question, 150. Sorry, let me be clear. We have—yes, we have 150.

The Hon. ADAM SEARLE: Mr Betts, how many employees does your organisation have—Department of Planning, Industry and Environment?

Mr BETTS: About 11,500.

The Hon. ADAM SEARLE: That is quite a lot.

Mr BETTS: You're telling me.

The Hon. ADAM SEARLE: Mr Betts, how many direct reports do you have?

Mr BETTS: I think about 12.

The Hon. ADAM SEARLE: How many band 1s does DPIE have?

Mr BETTS: I can take that on notice or I can source it and let you know in a few minutes.

The Hon. ADAM SEARLE: Okay. I am happy for you to take this on notice.

Mr BETTS: Sure.

The Hon. ADAM SEARLE: How many band 1s do you have, band 2s and band 3s? I think you are the only band 4 in DPIE. Is that correct?

Mr BETTS: I hope so, yes—unless there is something they have not told me.

The Hon. ADAM SEARLE: Indeed. Mr Brogden, in terms of the same questions for your organisation—I am not just talking about the executive; I am talking about the whole organisation—you are the only band 4? Is that right?

Mr BROGDEN: Correct.

The Hon. ADAM SEARLE: How many band 3s exist in the whole organisation?

Mr BROGDEN: Six.

The Hon. ADAM SEARLE: How many band 2s?

Mr BROGDEN: One.

The Hon. ADAM SEARLE: How many band 1s?

Mr BROGDEN: One.

The Hon. ADAM SEARLE: Just one? Is that the one referred to in the annual report?

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: That is in the executive positions, but what about outside the executive positions?

Mr BROGDEN: No, outside the executive positions—

The Hon. ADAM SEARLE: What about equivalents?

Mr BROGDEN: To the best of my knowledge, that deals with all the staff in bands. But I will clarify that for you.

The Hon. ADAM SEARLE: Yes, if you could take that on notice that would be good.

Mr BROGDEN: Yes, happy to.

Mr BETTS: Mr Searle, I can just tell you that if we exclude contingent labour and casuals, then the headcount within the department measured as full-time equivalent was 10,373.8 as at 31 December. In terms of the senior executive grades, 382 at band 1; 80 at band 2; 23 at band 3; and, as you said, one at band 4.

The Hon. ADAM SEARLE: That is a pretty comprehensive answer. In relation to the efficiency dividends across the cluster, I think you gave some evidence on the last occasion that it was \$85 million.

Mr BETTS: I think 81.4.

Mr SMITH: Yes, it is 81.

The Hon. ADAM SEARLE: How has that been achieved? Do you have a figure for the forward estimates, or is that still to come?

Mr BETTS: There are some efficiency dividends which are quite hardwired into the forward estimates. In terms of the savings that we have achieved this year—and I talked a bit to you about this the other day—the intention in the strategy was to try to find savings as far as possible through reducing corporate overheads and avoiding impacts on staff headcount, which we have achieved substantially through cutting consulting expenditure, through reducing expenditure on travel and through more efficient approaches to procurement. We have gone harder and faster than we anticipated.

There was a bulletin that I put round to my staff, which members of the Committee may have seen; it went to 10,300 and something people the other day. We are confident that we will be able to achieve our efficiency dividend for this year without significant or widespread reductions in staff numbers. Part of it will be judiciously managing and constraining backfilling positions, but we will be able to do it without significant numbers of compulsory redundancies or, indeed, voluntary redundancies. As far as the savings that we are required to achieve in future years, some assumptions were made last year but those will no doubt be revisited in the current budget discussions, which are ongoing.

The Hon. ADAM SEARLE: You are endeavouring to not cut staff too much. I think last time we discussed the issue about rural and regional staff, and I think you have got a particular exposure there in your agency. How is that being managed?

Mr BETTS: Broadly speaking, 48 per cent of our staff are based in regional areas, which is defined as outside of Greater Sydney and the LGAs of Wollongong and Newcastle. When we are apportioning efficiency dividends and handing people their budgets, we allow for the regional composition of the workforces of, for instance, National Parks or Local Land Services, which tend to be heavily regionally based, so that the efficiency dividend that those sub-units of the department are required to find allow for the regional make-up of their workforce. Therefore, they are asked to take, proportionally, a lesser reduction.

The Hon. ADAM SEARLE: These continuous efficiency dividends must be, given all the different things your agency is doing, really straining the capacity of your workforce to a significant degree.

Mr BETTS: I am very keen to make sure that in achieving the efficiency dividends—as I have said before—we try to attack those areas of our cost base which are capable of delivering efficiencies without affecting people's employment, but also to make sure that, where we are making reductions in headcount, we do not do so at the expense of the health and wellbeing of our staff by asking them to work unreasonable hours to compensate

for any reductions we might make in future. Those are the kinds of dilemmas that we need to manage. That is the job of running a big department.

The Hon. ADAM SEARLE: It is. How many current or planned projects have had to be postponed or slowed down as a result of these resourcing constraints?

Mr BETTS: As I indicated—or I cannot remember if I indicated the other day—the focus has been on projects which are capable of being rephased, deferred or cancelled without impacting frontline service delivery to the community or impacting the Government's capacity to fulfil its election commitments. It is mostly back-office systems, which Mr Smith can give you some more detail on, if you like, or a couple of examples, if you are interested.

Mr SMITH: The practice of balancing the budget across a year is the same that happens in the department as it would in private practice. So what we do is we look at the various things that we may or may not have been planning to do. By way of example, there was a procurement system which existed in one of the former departments. They were planning to look at rolling that out more broadly. We have now stopped that rollout because we have got the same capability from one of the departments that have been inherited. There are a range of different projects like that that we have slowed down or just decided that once we have brought the two departments together we no longer need to do.

The Hon. ADAM SEARLE: I know you have tried to minimise job losses but how many jobs have had to be let go or deleted from the organisation?

Mr BETTS: The majority of the jobs that have gone have been senior executive jobs. I might even say over 50 senior executive positions have been cut so far. In terms of award staff the number is pretty minimal in the scheme of things. I could take that on notice if you want.

The Hon. ADAM SEARLE: If you could take on notice how many jobs have gone, where they have gone from and how many are to go in the current financial year in total?

Mr BETTS: It will be a pretty small number. I meet on a regular basis with the unions, the Australian Workers Union and the Public Service Association of NSW, and we share this information pretty openly with them. I am very committed to making sure that they are consulted before any changes in structure are instigated, period, but also where there might be any impact on jobs.

The Hon. ADAM SEARLE: You talked about rephasing projects. How many projects have had to be cancelled?

Mr BETTS: Mr Smith may have some specifics on that.

Mr SMITH: We would have to take that on notice.

The Hon. ADAM SEARLE: I would like to know, and I am happy if you do take this on notice, how many have been put on hold, how many have been cancelled and how many have been, I think your term was rephased. The time frame has changed, is that what that means?

Mr BETTS: That sounds like bureaucratic terminology. Obviously in the current financial year our priority has been bushfire response, drought response, flood response. So if we are attempting to take pressure off our out-turn for this year, we will push stuff into next year where it is feasible to do so. I know that sounded like bureaucratic language but it is in a good cause.

The Hon. ADAM SEARLE: No, that is okay.

Mr BROGDEN: If you do not mind, can I answer a question you asked earlier, Mr Searle. You asked me about the total assets. They are on page 71 of the 2019 annual report. Total assets at 2019 were \$1.05 billion and net assets are \$622.8 million. They are further down. I draw your attention to the total assets and net assets, which I think was my instructive.

The Hon. ADAM SEARLE: That is good.

The Hon. JOHN GRAHAM: I was intending to resume some questions about the Campbell's Stores property at The Rocks. Firstly, since the last estimates your officials have briefed me after that meeting. I just wanted to place on record my thanks for that briefing. I had some additional questions and also wanted to have some of that information on the public record. That was the purpose of my questions. The head lease has now been lodged. It commenced in March 2019. When we spoke last time it should have been lodged in mid-November. I think it was only lodged this month. Can you tell us what the reason for the delay was?

Mr BETTS: The head lease could not be registered until the subdivision plan had been finalised and registered with the City of Sydney and that in turn required an agreement to be reached with Ausgrid regarding an existing caveat and future easements across the site for the provision of services. Ausgrid provided the letter of consent to Place Management NSW, the former Sydney Harbour Foreshore Authority, on 31 January this year. The Land Registry Service [LRS] was provided with that letter on 3 February, so just three days later. Place Management NSW agents lodged the leases with LRS on 21 February 2020. Place Management NSW is now working with LRS to finalise the registration of the lease on the title imminently.

The Hon. JOHN GRAHAM: So it still has not been registered?

Mr BETTS: We are still working on it but that is expected to be imminent.

The Hon. JOHN GRAHAM: I am only asking this because it has been so delayed. When you say imminent, what do you—

Mr BETTS: I might come back to you on notice on that one.

The Hon. JOHN GRAHAM: The lease commenced on 8 March 2019. Has the rent been paid over that period?

Mr BETTS: Yes. Tallawoladah, who is the tenant, has been paying the rent monthly on time as required under the lease. The annual rent is \$1.6 million per annum, broadly speaking, with an annual increase of 2.7 per cent.

The Hon. JOHN GRAHAM: They have been paying on time? At no time have they been outside the 10 days required by the lease?

Mr BETTS: That is correct.

The Hon. JOHN GRAHAM: There has been a number of subleases I understand. One of those was to Matt Williams, which was to operate a venue at Campbell Stores. There was some publicity about the fact that one of his restaurants was in administration over at Bondi. Can you give us any background on this sublease given that the subleases are notified to Property NSW.

Mr BETTS: No, I can take that on notice as to the specifics of that sublease. I can also talk to you if you are interested about the way in which the lease operates in terms of the sanctions available to Place Management NSW.

The Hon. JOHN GRAHAM: I think that would be useful.

Mr BETTS: Under the lease there are various defined events of default: non-payment of rent and other financial things like capital contributions and outgoings; altering the building without the landlords consent would be an event of default; breach of essential terms of the lease like payment of rent; complying with permitted uses; maintaining the building; stuff in relation to bank guarantees and insurances; any material breach of the lease repudiation of the lease or an insolvency event. If the tenant commits an event of default, then there is an escalating program of sanctions which would commence with Place Management NSW serving a breach notice requiring it to be remedied, which is fairly standard practice. If it cannot be remedied, Place Management NSW could require compensation and if it is not remedied as required after a notice of breach was issued, that ultimately leads to a right to terminate.

The Hon. JOHN GRAHAM: Thank you, that is very helpful. We talked previously about the number of existing complaints. Could you update the Committee about the status of those?

Mr BETTS: Which complaints are you talking about specifically?

The Hon. JOHN GRAHAM: I asked last time and in the subsequent meeting about some complaints that have been referred to publicly about the negotiations in the lead-up to the lease. I understand that those now have been lodged as formal complaints following the discussion we had last time where the department was aware of those issues but was of the view they had not been put as formal complaints.

Mr BETTS: I might take that on notice, if I may. I do not have that information at my fingertips.

The Hon. JOHN GRAHAM: If it is helpful. One of those was in relation to the issues raised by Nino Zoccali. There were a number but—

Mr BETTS: I am afraid I am not across that detail but I promise to come back to you.

The Hon. JOHN GRAHAM: No worries. Have there been any new complaints lodged formally with the department?

Mr BETTS: I will have to take that on notice if I may.

The Hon. JOHN GRAHAM: You have spelt out a range of the potential things that will constitute a breach of the terms of the lease. One of the possibilities if there is a significant breach and you work through those steps is to actually have this lease handed back to the Government. That is an option?

Mr BETTS: Ultimately termination is an option.

The Hon. JOHN GRAHAM: Understood. Given the complaints that have been made, given some of the issues which have been raised down there, some of which are probably yet to reach complaint status, is the agency comfortable that the operator is solvent? They have certainly been paying their rent on time. Do you have any concerns given that is a term of the lease?

Mr BETTS: I should certainly take that on notice. I am not aware of any concerns.

The Hon. JOHN GRAHAM: That is all my questions in relation to that. I turn to one other matter briefly. In Transport estimates we were questioning the Minister and the agency about the plans for Parramatta Road. In particular it was about the fact that the department had indicated it had written to Transport about the planning condition that relates to Parramatta Road which requires public transport on the corridor. Planning was on the public record saying it had written in August 2018 asking for this to be put in place. Nothing has happened. There is no time line. Can you give us any update on this from a Planning point of view having received an unsatisfactory update from a Transport point of view?

Mr BETTS: That relates to some of the consent conditions associated with the WestConnex development approval.

The Hon. JOHN GRAHAM: Correct.

Mr BETTS: Mr Ray, are you able to provide any further detail on that?

Mr RAY: You are right. The department wrote to that but transport has advised us in broad terms that the condition would be met through a combination of short- and long-term transport measures for the corridor. To some extent those relate to bus routes and other measures that were foreshadowed. Ultimately I think that relates in the longest term to Metro West being up and running. But obviously there is quite a process for that to occur. But I have no further details from transport as to a program of implementation of those short- and long-term measures.

The Hon. JOHN GRAHAM: This was the public justification for the WestConnex project. These improvements of Parramatta were fundamental to that. The EIS for the M4 tunnels, the first stage of WestConnex, assumes that those public transport improvements are in place. That is fundamental to the modelling on air emissions. Does planning have concerns that those tunnels are now operating under that EIS but that public transport is not in place and those air emissions will not be what was modelled?

Mr RAY: I could not necessarily say. I cannot necessarily accept that in the modelling there was an exact causal link between the air emissions and the provision of the public transport that was envisaged by the condition. But obviously this is a matter that we have been dealing with with transport for some time. We continue to deal with transport and continue to press them on a program of measures that would address the condition.

The Hon. JOHN GRAHAM: I will return to the evidence you have just given but, firstly, is there any time line?

Mr RAY: I do not have a time line.

The Hon. JOHN GRAHAM: You are not seriously saying that the EIS did not assume public transport improvements.

Mr RAY: No, I am not saying that. I think that the EIS did assume public transport improvements but I am not entirely sure that the EIS foreshadowed the particular nature of the improvements.

The Hon. JOHN GRAHAM: I agree with that. But you agree there are no public transport improvements in place?

Mr RAY: What I would say to that is that there have been some changes to the provision of buses along the corridor. The advice to me is that that would contribute in some way—perhaps not a very big way but would contribute in some way to meeting that condition. But broadly, no, there have not been major changes.

The Hon. JOHN GRAHAM: Yes. And the condition is clearly not being met. You would agree with that.

Mr RAY: Not at the moment, no.

The Hon. JOHN GRAHAM: Yes.

Mr BETTS: Any material changes to the configuration of public transport services in that corridor are likely to be a long-term proposition and frankly an expensive proposition, whether it is bus rapid transit or whatever it might be. The Metro West is the thing which has fundamentally changed the conversation since the consent conditions were put in place. That is a project which is at an advanced stage of planning.

The Hon. ADAM SEARLE: Mr Brogden, I think you were taking me to the net asset position on page 72 of the annual report.

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: So that is cash and land. Is that the combined value?

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: In relation to page 89 of the annual report under "(c) Other provisions—current" provision to complete projects is \$113.314 million and then the next one, (d), is \$37.243 million. Could you take on notice which projects they relate to?

Mr BROGDEN: Yes, of course.

The Hon. ADAM SEARLE: I assume there is provision for the current financial year?

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: Looking back, was this money expended? If so, was the budget met or were there some variations?

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: This is the 2019 financial report so I assume it is reporting backwards.

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: This is what happened, I assume. Were there any variations?

Mr BROGDEN: We will come back to you.

The Hon. ADAM SEARLE: That would be appreciated. In relation to the People Matter Employee Survey, in the 2019 survey a question was, "7c. I feel change is managed well in my organisation". Landcom scored 29 per cent, which was up from 21 per cent the year before but still down on 42 per cent across the public sector. In response to this question, "6b. I feel senior managers effectively lead and manage change", 43 per cent of respondents agreed compared to 47 per cent of the public sector, although it was up from 38 per cent the year before. Can you comment on those findings and what your leadership is doing to address them?

Mr BROGDEN: You note they are improvements.

The Hon. ADAM SEARLE: Yes.

Mr BROGDEN: And I am grateful for you noting that.

The Hon. ADAM SEARLE: I am trying to be objective here.

Mr BROGDEN: The numbers are still disappointing for us. It is always a challenge to bring an organisation with you through change processes and it is always a challenge when you are doing a significant restructure and one in particular that includes a number of redundancies. So in that sense we identify that as one of the three or four biggest areas for us to improve on following this survey and then in this financial year. So we have a number of programs in place that better deal with change. One of the most significant of those is just continued better communication with our staff.

The Hon. ADAM SEARLE: Employees at Landcom also indicated concern over career mobility. I think it was question 3i:

Q3i. Are there barriers preventing you from moving to another role? If so, what are they?

Thirty-nine per cent of people selected "Lack of promotion opportunities" compared to the public sector's response of 28 per cent. Landcom had scored 50 per cent in the year before, so that is a significant decline. Can you address that one as well and say how you are dealing with that?

Mr BROGDEN: Yes, I can. One of the challenges of an organisation of our size is that we are limited in capacity for promotion. We do handle that in a variety of ways, not the least of which is we presently have a staff member who is seconded to the Greater Sydney Commission to try to provide that individual with some broadening of her career opportunities. We would look for those opportunities with local government bodies and other departments and other agencies in government. The reason for the increase in the number to the extent that I can determine it would be that following the restructure we took out a number of positions and in doing so reduced the structure, which reduced the capacity for promotions. I am confident that is a commentary on the fact that we have taken more roles out; therefore, there are fewer roles to which people can aspire.

The Hon. ADAM SEARLE: On the last occasion we discussed at some great detail the investigation into allegations made against the former chair.

Mr BROGDEN: Yes.

The Hon. ADAM SEARLE: I will just park that to one side. Maybe Mr Betts can comment. Where is the process up to in terms of appointing a substantive new chair? Has that been done?

Mr BROGDEN: It is a matter for the shareholding Minister.

Mr BETTS: Yes. That is my answer too.

The Hon. ADAM SEARLE: Since we last discussed this issue—and I am not going to get into the nitty-gritty; that was done last year—the Legislative Council carried a number of Standing Order 52 applications. There was a struggle over privilege. That privilege was waived.

Mr BROGDEN: Correct.

The Hon. ADAM SEARLE: Subsequent to that the draft reports were obtained by the Legislative Council and of course privilege was again lifted from that. I have an excerpt of the draft report which I am happy to provide to you. I was hoping Ms Lee would be here but I accept it was late notice. Your evidence was that you did not see the draft reports?

Mr BROGDEN: Correct.

The Hon. ADAM SEARLE: And you did not see the final report?

Mr BROGDEN: Not until you made it public.

The Hon. ADAM SEARLE: I understand that. I am very careful.

Mr BROGDEN: Yes. Correct.

The Hon. ADAM SEARLE: Notwithstanding you will return to the Legislative Council where you have certified, you still were not provided with a copy at that point in time?

Mr BROGDEN: That is correct.

The Hon. ADAM SEARLE: It was also the case that you were not briefed on the content of the report, was it?

Mr BROGDEN: Correct.

The Hon. ADAM SEARLE: Ms Lee's evidence was that although Treasury took over ownership of the process and the Treasury secretary, if you like, was the client, she still continued to receive the draft reports; is that the case?

Mr BROGDEN: I understand so, and in doing so maintained privilege over them.

The Hon. ADAM SEARLE: Yes, indeed. The Treasury secretary indicated that he did not see the drafts himself. It is just a matter of record that the draft is quite different to the final report. There was some media commentary subsequent to budget estimates last year. A comment was provided by a spokesperson for Landcom

who indicated that the changes were made in line with legal advice. Was that information Landcom obtained from Treasury or is that something that Landcom itself was aware of?

Mr BROGDEN: I was not a party to either of the reports so I cannot answer that.

The Hon. ADAM SEARLE: That is okay. Can you take that on notice and come back as to whether this is Landcom information or whether it was derived from Treasury?

Mr BROGDEN: Yes, we can.

The Hon. ADAM SEARLE: I will, through the Committee, provide a copy of the draft report to you but I would like to direct a question to Ms Lee as to whether or not she received the drafts.

Mr BROGDEN: Are you happy for that to be answered—

The Hon. ADAM SEARLE: On notice.

Mr BROGDEN: And through the Landcom answer?

The Hon. ADAM SEARLE: Of course.

Mr BROGDEN: Okay. Thank you.

The Hon. ADAM SEARLE: And if I have some other questions in this field I will reduce them to writing and we can continue to have that discussion. Mr Betts, last time, at the hearing on 31 October 2019, I think it was at about pages 6 or 7 of the transcript, we were discussing Pymont and some work that the department was doing subsequent to the Greater Sydney Commission review. I think you or maybe somebody else—maybe Ms O'Mara—indicated that Charles Moore had been tasked to do that work. I understand he is no longer with the organisation so has that work been completed or who is undertaking that work and what is the time frame for its delivery?

Mr BETTS: You are correct to say that Mr Moore has departed the Sydney Olympic Park Authority and is not running that work. The work is, however, progressing at pace and I can ask Ms O'Mara to give you a bit of an update on where things are at.

Ms O'MARA: We are working on a place strategy that will be informed by an economic strategy, both of which are being developed at the moment and are due to government in October. Both I and Mr Whitworth are working on that with a team.

The Hon. ADAM SEARLE: What is the time frame?

Mr BETTS: The place strategy is due to government in October.

The Hon. ADAM SEARLE: I did not mean to ask this when Mr Brogden was out of the room but I will just ask you, Mr Betts. Is there any proposal to move the functions of Landcom out of Landcom and into DPIE, either the assets or the roles and functions, and to effectively abolish it or leave it as a shell?

Mr BETTS: No. The Government has not taken any decisions on a reform of that kind. It would be quite a significant change in the sense that it would bring a whole bunch of assets and other—

The Hon. ADAM SEARLE: Liabilities.

Mr BETTS: Yes, exactly—into the general government sector. The main area of thought at the moment is more generic than that, which is a review which Treasury is undertaking of State-owned corporations and their governance generally. But that is not specific to Landcom. It would also address other State-owned corporations like Forestry Corporation, WaterNSW and Sydney Water.

The Hon. ADAM SEARLE: Is there any scoping or consideration of the roles of Landcom within the DPIE cluster and the functions vis-a-vis other parts of the cluster?

Mr BETTS: The main focus has been the State-owned corporation [SOC] review that Treasury is running. We have brought together a group, housing and property, under Deputy Secretary Alison Frame, which is doing some streamlining and some restructuring particularly of back office systems and attempting to reduce the multiplicity of agencies. But as I have said before, the issues associated with bringing Landcom into the department will be very material from a budget point of view and the Government has taken no decisions along those lines.

The Hon. ADAM SEARLE: Okay. So the Government has taken no decisions but has any consideration been given to those style of issues?

Mr BETTS: Those style of issues being how we can perform the transactions and developments in the property sector as efficiently as possible then that is something we are always thinking about but, as I said, nothing specific about Landcom.

The Hon. ADAM SEARLE: On the last occasion there was some conversation I think I had with the Minister around the legislation around the Landcom board. I think the legislation says, "There shall be a board of seven." The Act also provides for a constitution. I think the constitution indicates that a smaller number is okay. And I think the answer through supplementary questions was the constitution is not inconsistent with the Act and therefore Landcom never having had seven directors it seems was okay. Is this something on which you have received advice from your counsel, Mr Hebron?

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

The Hon. ADAM SEARLE: I am happy for you to do so.

Mr BETTS: I may have done, although governance questions of that kind fall more naturally to the portfolio Ministers and therefore to the Secretary of Treasury than to me.

Mr BROGDEN: The shareholding Ministers.

Mr BETTS: Shareholding Ministers—I apologise.

The Hon. ADAM SEARLE: Again this is not in the SOC Act; this is in the Landcom Act itself. I think Minister Stokes is the Minister with carriage of that legislation. And again I am not trying to be difficult about this but the Act says very clearly, "There shall be a board of seven," not "up to" seven. And it appears to never have been seven and so the constitution that provides for a lower number does seem to me to legally be inconsistent with the governing Act. I would just like to have some assurance that you have actually received specific advice from your legal counsel on that matter. I am happy for you to take it on notice.

Mr BETTS: Okay. Sure. No problem.

The Hon. ADAM SEARLE: Mr Betts, you are probably the right person to ask this of. The koala habitat protection SEPP replaced SEPP 44. The SEPP comes with a draft guideline. The SEPP itself seems to have become operational from 1 March but many key parts are driven by the guidelines, which, as I understand it from the website, are still on public exhibition until 30 March. How can it be that we have a new legislative instrument, albeit a very important and worthy one, where the key driving parts that help people understand what it is supposed to do are not operative?

Mr BETTS: Although I am very flattered that you think I am the right person to answer that I will ask—

The Hon. ADAM SEARLE: Only in the sense that you are the secretary of the department.

Mr BETTS: Correct. I have my koala person next to me so I will ask him to fill you in.

The Hon. ADAM SEARLE: That would be Mr Ray.

Mr BETTS: It would be Mr Ray. All roads lead to Mr Ray.

Mr RAY: Mr Searle, the situation is obviously that the new SEPP has come into force on 1 March and a decision was taken to publicly consult on the guidelines. There are two components that the guidelines deal with, which are the development application process and also the preparation of koala plans of management. Obviously the preparation of broad scale koala plans of management is a significant undertaking for councils. As I think we have already said in evidence today, the provisions of the SEPP allow for those five draft koala plans of management that are already in existence to be made as new koala plans of management. So there are specific provisions that allow in a transitional sense for those five koala plans of management that could not be made under SEPP 44 to be made, if you like, in a simplified way with the current SEPP. Those provisions mean that those koala plans of management do not rely on the guideline that is out for public comment. That is the first thing to be said about that.

The second thing is in relation to broad development applications the advice to me is that historically there have only been around about 80 individual development application processes during the life of SEPP 44. My understanding is that that translates roughly to three or four a year. So obviously people that are in the process of preparing development applications have the draft guideline now available to them to start the preparation of that development application process. And obviously once we have the results of the consultation we will move as quickly as possible to finalise the guidelines to enable councils to progress those.

The Hon. ADAM SEARLE: Leaving the guidelines to one side, the department website also indicates that there was a consultation with stakeholders around the development of the new SEPP.

Mr RAY: Yes.

The Hon. ADAM SEARLE: Are you able to indicate whether the Richmond River Beef Producers Association was one of those stakeholders or have you received any representations from them about the SEPP?

Mr RAY: I do not have that information with me. I am happy to take that on notice.

The Hon. ADAM SEARLE: Okay. Have there been any representations made to Minister Stokes about the SEPP from the agriculture Minister, Mr Marshall, that you are aware of?

Mr RAY: I may have to take that on notice.

The Hon. ADAM SEARLE: Again, this is not a gotcha moment—just a question.

Mr RAY: There could well have been.

The Hon. ADAM SEARLE: Okay. That is fine. If so, could you tell us when it was received and the nature of what it was about?

Mr RAY: Yes.

The Hon. ADAM SEARLE: In terms of consultation before the SEPP was made, what consideration was given to any impact on farm water infrastructure that might be occasioned by the SEPP? Is that something you can answer today or do you want to take that on notice?

Mr RAY: I would have to take that on notice. I am not aware of that particular aspect or that particular issue but it could well have been considered in either the consultation that was carried out when the original proposal was exhibited for public comment or it could even be raised more recently in the consultation on the guidelines.

Mr BETTS: It was a warts-and-all consultation. There were 114 submissions received, 12 consultation sessions and lots of engagement with Local Land Services and Environment, Energy and Science. And we hosted an industry brief and an environmental organisation briefing in late 2019, so lots of opportunities for people to make representations.

The Hon. ADAM SEARLE: Was there significant consultation with the agricultural sector and representatives from that space?

Mr RAY: That is my understanding. I was not involved in that original consultation but that is my understanding and there has certainly been lots of consultation with—there is currently consultation with NSW Farmers and other groups.

Mr BETTS: And through agencies like Local Land Services, who may have taken their own soundings just as the agriculture Minister may have done so as the Minister responsible for that agency.

The Hon. ADAM SEARLE: Okay. I might leave it there. If I have some further questions I might put them through as supplementary questions.

The CHAIR: Thank you very much, government officers, for your attendance today and for the work you do. The Committee secretariat will be in touch in the near future regarding any questions taken on notice and any supplementary questions.

(The witnesses withdrew.)

The Committee proceeded to deliberate.