



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEES

**BUDGET ESTIMATES 2019-2020**  
**Questions Taken on Notice**

**Portfolio Committee No. 7 – Planning and Environment**

**LOCAL GOVERNMENT**

Hearing: Wednesday 4 March 2020

**Answers due by: 5.00 pm Wednesday 8 April 2020**

**Budget Estimates secretariat**  
Phone 9230 2303  
[BudgetEstimates@parliament.nsw.gov.au](mailto:BudgetEstimates@parliament.nsw.gov.au)

### **Question from PETER PRIMROSE, page 4 of the transcript**

The Hon. PETER PRIMROSE: So it is clear, I was wondering, Minister, if you could please take on notice to give us a specific breakdown of that \$2 million, just so that we have it in writing.

Mrs SHELLEY HANCOCK: I can take that on notice.

**Answer:**

**Since 2011, \$1,803,220 has been allocated to Newcastle City Council under the Coastal and Estuary grants program.**

**Details on these projects can be found at**

**<https://www.environment.nsw.gov.au/topics/water/coasts/coastal-and-estuary-grants/grants-awarded>**

### **Question from MARK PEARSON, page 7-8 of the transcript**

The ACTING CHAIR: Minister, in 2016 Liverpool council, along with several other local councils, took over the existing Liverpool pound. At the time it was run by the private contractor Renbury Farm. Is the Minister aware of the reason for council's decision to take over the running of the pound from Renbury Farm?

Mrs SHELLEY HANCOCK: These are matters for council. This is not a matter for the Minister for Local Government. It is a matter for council and the reason they made that decision is a matter for them to answer. I would suggest that you write to council and they will give you that information. I do not know.

The ACTING CHAIR: You do not know the answer?

Mrs SHELLEY HANCOCK: No.

The ACTING CHAIR: Could you take it on notice?

Mrs SHELLEY HANCOCK: Certainly. I can take it on notice.

The ACTING CHAIR: I have been advised that over \$20 million of public money was spent on the Renbury Farm site to upgrade the facilities for the impounded animals. Does the Minister know how much public money was spent on refurbishing the former Renbury Farm shelter for use as a local government pound?

Mrs SHELLEY HANCOCK: Again, that is a question for council. That is a question for council. Councils are independent bodies. They make their own decisions under law. I have no jurisdictions under the decisions they make about these matters. That is a question for council. Whether we like some of the decisions of council or not, they are decisions for them to make.

The ACTING CHAIR: But, Minister, you have to be aware that at the end of the day they are under your wing.

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: Therefore, the possible consequences of any decision that a council makes—you are also in a line of responsibility.

Mrs SHELLEY HANCOCK: Absolutely. That is why we have the Office of Local Government to monitor various activities in terms of—

The ACTING CHAIR: So you are saying you want to take that question on notice?

Mrs SHELLEY HANCOCK: Certainly. We can ascertain that information for you.

The ACTING CHAIR: Can you explain the reason for the decision of Liverpool council to close the pound on 19 March, with the transfer of animals to Blacktown pound?

Mrs SHELLEY HANCOCK: I think we will take all of those questions, because they are interrelated, on notice. We can find that information for you.

**Answer:**

**The Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst, provided a response to this question following the luncheon adjournment. Please refer to page 44 of the transcript.**

## **Question from JUSTIN FIELD, page 21 of the transcript**

Mr JUSTIN FIELD: I am happy to continue with Ms Gibbs. Ms Gibbs, can you confirm how the independent body that makes the grant decisions around coastal waterways grants is decided on? Who is on that panel?

Ms GIBBS: I would have to take the exact membership on notice.

**Answer:**

**The Department of Planning Industry and Environment established a State Assessment Panel to provide independent governance for the review and assessment of applications under the NSW Government's Coastal and Estuary Management Program.**

**The appointment of members is based on the need to have a group of technical experts that could assess the applications to the program, as well as broadly understand and represent the various interest groups, such as academia, local and state government and community.**

**Current State Assessment Panel members are:**

**Tina Bidese - Director Grants, Department of Planning, Industry and Environment - Chair**

**Denise Anderson - Local Government NSW**

**Dr Alice Howe - Bega Valley Council**

**Dr Peter Coad - Hornsby Shire Council**

**Dr Melanie Bishop - Macquarie University – Biological Sciences**

**Ian Turner - Water Research Laboratory – University of New South Wales**

**Kylie Russell - Department of Primary Industries**

**Cassie Price – Director, Habitat Programs – OzFish Unlimited.**

## **Question from MARK PEARSON, page 22 of the transcript**

The ACTING CHAIR: If the Minister was to request documentation even before it was a final assessment and conclusions were made, surely the Minister would have the power to compel you to provide those documents, correct?

Ms GIBBS: The Minister generally would not compel us to provide documents.

The ACTING CHAIR: I understand that is not what she does. My question is: She has that power, does she not?

Mr HURST: I do not know that there is a legislative power that would allow for that. I think there would be some discussions about whether or not it was appropriate, because it is appropriate and it is here we are talking about, rather than necessarily whether people have the power to do so or not in legislation.

The ACTING CHAIR: Obviously it is a question that needs to be answered. Can you take that on notice, please?

Ms GIBBS: I think Mr Hurst has just answered it.

The ACTING CHAIR: The answer is that it is not clear. I am seeking clarification.

Mr HURST: About whether there is a legislative requirement for the Department to provide material to the Minister?

The ACTING CHAIR: Or a policy requirement.

**Answer:**

**There is no legislative requirement in the *Coastal Management Act 2016* to provide material to the Minister.**

### **Question from MARK PEARSON, page 23 of the transcript**

Mr JUSTIN FIELD: Ms Gibbs, I do understand that. I appreciate you taking me through it but essentially my question is: On what basis does this independent body consider a grant application to essentially change the opening arrangements for the lake and the management of the lake when it would be inconsistent with the interim management policy that is agreed by council and a coastal management program that council have been funded to develop has not been finalised or signed off by the Minister yet? On what policy basis are they going to make a decision?

The ACTING CHAIR: Ms Gibbs, if you could take that question on notice, we are now going to move to the Opposition for questioning.

**Answer:**

**All grant applications will be assessed in accordance with the grant guidelines for the Bushfire Affected Coastal Waterways Program and the approved assessment process.**

### **Question from DAVID SHOEBRIDGE, page 28 of the transcript**

Mr DAVID SHOEBRIDGE: Does the fact that there is a pending declaration for a reserve block under the Commonwealth Offshore Minerals Act have any impact on the capacity to seek dredging off Newcastle? You may want to take that on notice.

Mrs SHELLEY HANCOCK: I will take it on notice but I imagine that would be better directed to the Deputy Premier. It is his legislation in terms of offshore mining.

**Answer:**

**This question is a matter for the Deputy Premier, and Minister for Regional New South Wales, Industry and Trade.**

### **Question from PETER PRIMROSE, page 31 of the transcript**

The Hon. PETER PRIMROSE: To date, what is the total figure subsidised for rates or rate subsidies for those residents and small businesses in fire-affected communities?

Mrs SHELLEY HANCOCK: I would have to take that on notice.

The Hon. PETER PRIMROSE: I would ask you specifically not only for the figure but if every small business and resident accepted the offer of rates subsidies what would the total cost to Government be? Please take that on notice.

Mrs SHELLEY HANCOCK: Yes, thank you, I will take that on notice.

**Answer:**

**The total value of the rates and service charge payments on behalf of properties damaged and destroyed by the bushfires is estimated to be \$4.5 million. Payments will be made on behalf of all affected residents and business to local councils and will be made by Service NSW.**

### **Question from PETER PRIMROSE, Page 32 of the transcript**

The Hon. PETER PRIMROSE: Minister, given that I have about 10 seconds, can you please take on notice what LGAs have taken that up and how much has actually been issued to councils as part of that funding?

Mrs SHELLEY HANCOCK: I will take that on notice, thank you, Mr Primrose.

**Answer:**

**The Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst, provided a response to this question following the luncheon adjournment. Please refer to page 44 of the transcript.**

### **Question from PETER PRIMROSE, page 41 of the transcript**

The Hon. PETER PRIMROSE: My next question was actually going to be about correspondence. I presume there was a standard letter that OLG sent back to local councils?

Mr HURST: There were probably two versions, one before and one after the Government agreed to fund the increase attributable to the additional workers compensation costs for firefighters, which was the major component of the increase for the current financial year.

The Hon. PETER PRIMROSE: Can I ask that you take on notice and table both versions of those letters—not today, but would you take that on notice?

Mr HURST: Sure.

The Hon. PETER PRIMROSE: Did the Office of Local Government contact every council to inform them that they would have to pay the increase in the levy in 2019-20?

Mr HURST: The arrangements were detailed in a circular that was provided to councils, from memory. I do not have the timing, but I can report back to you on that.

**Answer:**

**The Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst, tabled a letter and circular following the luncheon adjournment. Please refer to page 44 of the transcript. Only one letter was issued to Councils from the Office of Local Government.**

## Questions from PENNY SHARPE, page 44-48 of the transcript

The Hon. PENNY SHARPE: I want to ask you a range of questions about disability inclusion and the role of your office across government in relation to this. I recently put some questions on notice to the Minister for Local Government regarding disability inclusion, and essentially there was no answer provided except that it said that it should be referred to the Minister for Families, Communities and Disability Services. What role does your office have in relation to disability inclusion?

Mr HURST: My memory of this is that a couple of years ago, when the requirement was introduced for councils to have Disability Inclusion Action Plans, we worked with other parts of government to ensure that they were aware of those requirements.

The Hon. PENNY SHARPE: "We" being the Office of Local Government?

Mr HURST: The Office of Local Government worked with other New South Wales government agencies.

The Hon. PENNY SHARPE: Such as?

Mr HURST: I am trying to remember. It was a couple of years ago.

The Hon. PENNY SHARPE: My specific interest is that councils are required to do disability inclusion plans and access plans.

Mr HURST: That is correct.

The Hon. PENNY SHARPE: I want to know what role your office plays in relation to the development of those, the monitoring of those, and the implementation and the delivery of those.

Mr HURST: My understanding is that we assisted in promulgating the requirement to councils.

The Hon. PENNY SHARPE: So you sent them an email saying, "You've got to do one"?

Mr HURST: I think it was much more involved than that. I think we assisted in running some workshops or sessions for councils.

The Hon. PENNY SHARPE: When was that? The Act came in in 2014.

Mr HURST: My memory is about 2016 or 2017. I am happy to come back with the timing of when we worked with councils to do that. Here we go; here is the circular. We provided a circular to councils on 23 January 2015, so it was actually quite soon after the legislation.

The Hon. PENNY SHARPE: A circular, just to be clear, is pretty much an email to councils. Is that right?

Mr HURST: It also was the beginning of a process that I understand led to having some sessions that we ran for councils to assist them to understand their obligations.

The Hon. PENNY SHARPE: Would you be able to provide us, on notice, with how many and where those were held and how much they cost?

Mr HURST: I do not recall the details. It was some time ago.

The Hon. PENNY SHARPE: That is fine; I am not expecting you to. If you could provide that on notice, that would be great.

The Hon. PENNY SHARPE: Do councils provide you with a copy of their Disability Inclusion Action Plans?

Mr HURST: I am not aware that we have required them to provide them to us.

The Hon. PENNY SHARPE: If you do, could you confirm that on notice?

Mr HURST: Yes.

other than the initial amount of money, after the email and some sessions with councils about their obligations, has there been any funding provided to local governments to assist them with either that development of their Disability Inclusion Action Plans [DIAPs] or the implementation of them?

Mr HURST: I do think that there was some funding provided at the time but I would have to take that on notice.

The Hon. PENNY SHARPE: Could you tell me how much that would be and what that was for.

Mr HURST: Yes.

The Hon. PENNY SHARPE: But you are saying that was probably about 2015. Are you aware of anything since then?

Mr HURST: Not that I can recall but I will find out in responding.

The Hon. PENNY SHARPE: You cannot tell me how many local councils will have a Disability Inclusion Action Plan?

Mr HURST: I am happy to talk to the Department of Communities and Justice and see if together we can provide you with that information but the Office of Local Government does not hold that information.

question is: Within the cluster, given how important local government is—particularly around issues of public space, parks, footpaths, public facilities—what discussions, if any, and who is responsible for having a discussion about disability inclusion in the broader planning piece happening at State Government level?

Mr HURST: That is probably a question for the session with the Minister for Planning and Public Spaces rather than local government.

The Hon. PENNY SHARPE: But is that not part of your role?

Mr HURST: The Office of Local Government does not regulate councils. We do not do regional planning—

The Hon. PENNY SHARPE: Yes, I know. I understand that. I am asking about your role. If you are coming back again and I need to come and ask you in a different session, just say that. That is fine. We have got you here and the whole idea around clusters is that they work together. I thought that there might be the opportunity for me to ask you whether there is an opportunity and what is happening within government and policy development within the department to address the issues of disability inclusion across those two, regional and local government.

Mr HURST: I would have to take that on notice and report back to you on that.

## **Answer**

**Each local council in NSW has a Disability Inclusion Action Plan (DIAP), and the *Disability Inclusion Act 2014* requires each council to include in its annual report, progress towards implementing its DIAP. DIAPs are living document that are updated by councils according to their needs and changing circumstances.**



### **Question from PETER PRIMROSE, page 41 of the transcript**

The Hon. PETER PRIMROSE: The Minister promised the people of Stockton, as I outlined this morning, that by the end of 2019 a long-term solution to the problem of erosion would be found in the community, as reported in the media.

Ms GIBBS: I think the Minister addressed this question this morning. That was one of the reasons that she wanted to issue the direction as well. It is not actually a matter for the Minister to determine the long-term solutions for Stockton.

The Hon. PETER PRIMROSE: I understand that. I am not asking the Minister, I am asking you what advice you provide to the Minister in relation to that?

Ms GIBBS: We provided advice to the Minister on how the coastal management framework works and that the proper place for these issues to be examined is through the development of a coastal management program.

The Hon. PETER PRIMROSE: Did you provide that advice in writing?

Ms GIBBS: I cannot recall, I may have.

The Hon. PETER PRIMROSE: Can you please find out? Can you take that question on notice and indicate, if you would, what advice was provided to the Minister about those undertakings?

Ms GIBBS: Specifically in the lead-up to 2 October 2019?

The Hon. PETER PRIMROSE: The Minister visited Stockton and made a number of undertakings particularly in relation to the fact that the long-term solution to erosion would be found by the end of 2019. You have indicated that the department provided written advice to the Minister and her office in relation to that undertaking. I am asking when did you provide that advice and essentially what was it?

Ms GIBBS: Just to clarify, you actually asked me what advice we had provided and whether that was in writing or not.

The Hon. PETER PRIMROSE: Yes.

Ms GIBBS: And I said I could not clearly recall whether the advice was in writing or not.

The Hon. PETER PRIMROSE: Yes.

Ms GIBBS: So I attended the public meeting with the Minister. Obviously we were discussing the issues that had come up verbally as well.

The Hon. PETER PRIMROSE: If you provided written advice, can you please confirm that? I would request that a copy of that advice be made available to the Committee.

Ms GIBBS: Okay, so I will take that on notice.

#### **Answer**

**No separate written advice about long-term solutions was provided to the Minister prior to 2 October 2019.**

### **Question from DAVID SHOEBRIDGE, page 56-58 of the transcript**

Mr DAVID SHOEBRIDGE: Have you used the preliminary investigation powers given to you under the Act this financial year?

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: In relation to which councils?

Mr HURST: The powers have definitely been used. I am not sure, because some of them may lead to a formal investigation, that I would be prepared to name the councils where we had commenced preliminary inquiries.

Mr DAVID SHOEBRIDGE: I am going to ask you again. You are here under oath. You are obliged to answer the questions so far as they relate to budget estimates. You are, of course, entitled to take questions on notice if you wish to. I am going to ask you again: In respect of which councils have you exercised the preliminary investigation powers this financial year?

Mr DAVID SHOEBRIDGE: Mr Hurst, I note your objection. I am going to press the question on the basis that I do not believe councils have privacy rights. I am asking not about individual officers but about councils. I press my question and again invite you to answer it.

Mr DAVID SHOEBRIDGE: Mr Hurst, I ask the same question.

Mr HURST: I will take the question on notice.

## **Answer**

**The Deputy Secretary, Local Government, Planning and Policy generally exercise powers under section 734A of the *Local Government Act 1993* (the Act), which are part of the broad investigative powers conferred on the Chief Executive under the Act, in relation to particular allegations, conduct or complaints – not generally in relation to a council.**

**If OLG is required to release information of this kind then it would be expected that fewer people would contact the Office to provide confidential information informally. This is because the effective use of the Office's complaint handling and investigation functions relies upon the receipt of such information as it uses it in the following ways:**

- a. as part of its preliminary enquiry function, that is, in order to inform a decision about whether or not particular investigations should be conducted;**
- b. in providing advice about how certain complaints might be resolved;**
- c. in determining whether to investigate a matter, as part of the investigation itself;**
- d. where relevant, as evidence in support of a determination in relation to a complaint, whether through a determination by the Deputy Secretary pursuant to s440I of the Act or following proceedings in the Tribunal pursuant to s440J of the Act; and**
- e. to determine that no further action should be taken in relation to the matter.**

## **Question from DAVID SHOEBRIDGE, page 58 of the transcript**

Mr DAVID SHOEBRIDGE: Mr Hurst, are you aware that the Snowy Valleys Council is currently projecting a year-end deficit of \$4 million?

Mr HURST: I am not aware of the last quarterly business review numbers from the council, no.

Mr DAVID SHOEBRIDGE: Are you aware that it has got a projected deficit in the order of \$4 million which, given the budget of that council, is an extraordinarily large deficit?

Mr HURST: I have just said that I am not aware of that number, no.

The ACTING CHAIR: One more question, Mr Shoebridge, and then we break for 10 minutes.

Mr DAVID SHOEBRIDGE: Will you undertake to make some inquiries about the financial situation of the Snowy Valleys Council in order to see whether or not some intervention is required if they do have a deficit in the order of \$4 million?

Mr HURST: I am happy to undertake some inquiries. Whether or not intervention is required is a separate question.

### **Answer**

**Each council publishes their financial reports on their website. Snowy Valleys Council website can be found at this link: <https://www.snowyvalleys.nsw.gov.au/Home>**

### **Question from MARK BUTTIGIEG, page 59 of the transcript**

The Hon. MARK BUTTIGIEG: Up to the point in time when the Minister was in receipt of all the submissions, be they council submissions or submissions about residents in affected LGAs, was the Minister aware or was the OLG aware of complaints or feedback on the process itself? For example, there may have been some sort of impediment to submissions being made and receipted in a timely manner. I do not know, I am giving you an example. My understanding is that there has been some feedback, but I do not know the qualitative nature of it. That is why I am asking you to tell me if you are aware of any feedback?

Mr HURST: I cannot speak for the Minister, but I am aware that one of the residents, who I think was involved with the group that made the proposal in the case of Snowy Valleys, did have questions about what that process would look like, the nature of the submissions that were sought and also the timeframe for making submissions. I am sorry, I do not have the exact details with me, but the Act provides a statutory time frame—I think it is 28 days—for the Minister to have those submissions. The Minister, because of the Christmas and new year period, extended it well in excess of that right through to the end of January. So I think that was a consideration for the Minister, whether people had had sufficient time, and clearly she must have formed that view in deciding to proceed with the referral to the Boundaries Commission and, as I might have mentioned, was overwhelmingly supported in the submissions that were made by members of the community in that process.

The Hon. MARK BUTTIGIEG: To paraphrase that answer, there was feedback and the main sort of negative feedback pertained to the nature of the deadline, if I could put it that way.

Mr HURST: I do not know that it was negative feedback. I think people were, from my recollection, seeking to clarify the process, whether this process was about engaging with the actual proposal itself, i.e. should the former council be reinstated, or was the engagement about the question of referral to the Boundaries Commission as the next step in the process laid down under the legislation, and also about the time frame for submissions. That is my understanding.

The Hon. MARK BUTTIGIEG: I am sorry, I missed the detail. Did you say you were aware of one such complaint or were there several over both local government areas?

Mr HURST: There may have been, I am only aware of one that came from a person who was connected with the group that made the proposal in the first place in Snowy Valleys.

The Hon. MARK BUTTIGIEG: Would you be able to provide us on notice more detail of that sort of feedback?

Mr HURST: I am happy to provide perhaps not a copy of the correspondence, bearing in mind that it came from a private individual, but certainly the contents of it, yes.

The Hon. MARK BUTTIGIEG: Any other similar sort of feedback regarding the process would be good.

Mr HURST: That came to OLG, yes.

## **Answer**

**Both the Council and an overwhelming number of members of the community supported referral to the Local Government Boundaries Commission. A decision was made to refer the proposal rather than prolong the process given the nature of submissions received.**

## **Question from PETER PRIMROSE, page 60-61 of the transcript**

The Hon. PETER PRIMROSE: To clarify, will the Boundaries Commission be responsible for advising on, say, the disbursement of assets, the allocation of responsibility for any council debt and similar matters?

Mr HURST: I would imagine that, given the functions of the Boundaries Commission in the legislation, they are going to need to comment on some of those matters and to take them into consideration in arriving at a view of the criteria under section 263.

The Hon. PETER PRIMROSE: I am not heartened by your suggestion that you imagine and they may.

Mr HURST: Because it is in—

The Hon. PETER PRIMROSE: Could I ask you to take on notice—and I am not playing games because it is a very important issue—who will make the determination in relation to the disbursement of assets, who is responsible for any debts that might be ongoing, and all the other financial, staffing and other issues, and how will that process take place?

Mr HURST: I think I can answer that.

## **Answer**

**The Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst, provided an answer to this question in the hearing. Please refer to page 61 of the transcript.**

## **Questions from DAVID SHOEBRIDGE, page 64-66 of the transcript**

Mr DAVID SHOEBRIDGE: Mr Hurst, members of the community from Hunters Hill have been trying to seek some clarity about the \$1 million received by Hunter's Hill Council from the Stronger Communities Fund in August 2018. Can you advise what the funding round and process through which Hunter's Hill Council received that money was?

Mr HURST: In 2018, you say?

Mr DAVID SHOEBRIDGE: Yes, August 2018 is the date that they have. It might be to do with Boronia Park.

Mr HURST: I can confirm that Hunter's Hill Council received \$1 million in the tied grant round of the Stronger Communities Fund.

Mr DAVID SHOEBRIDGE: What was it for?

Mr HURST: The funding agreement would detail the specific projects which that money was granted to the council for. I do not have a copy of each funding agreement with me.

Mr DAVID SHOEBRIDGE: Where do residents find these funding agreements? The residents have raised the issue about transparency. How does a resident find out about these funding agreements?

Mr HURST: They could ask the council or ask the Office of Local Government. It is not a secret document. It is just a funding agreement.

Mr DAVID SHOEBRIDGE: Can you provide a copy of that funding agreement to the Committee?

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: Could you on notice provide us a list of all the councils that were eligible for funding?

Mr HURST: All of the councils who were eligible for funding were councils who were created in the 2016 mergers or affected by one of the merger proposals made during that period.

Mr DAVID SHOEBRIDGE: Yes. Because the term "affected" is a fairly general term and I may interpret it differently to how you interpret it. Mr Hurst, can you provide me with a list of all of the councils that were considered to be eligible?

Mr HURST: Yes. I am sure we can put together a list of councils who were the subject of a merger proposal during that period.

Mr DAVID SHOEBRIDGE: Mr Hurst, I am not asking you to put together a list.

The Hon. BEN FRANKLIN: You sort of are.

Mr DAVID SHOEBRIDGE: I am asking whether or not there was—

The Hon. BEN FRANKLIN: That is literally what you are asking.

Mr DAVID SHOEBRIDGE: Let me be clear. I want to know whether there was a list at the time of the councils that were considered to be eligible. Was there a list at the time of the councils that were considered to be eligible?

Mr HURST: No. The guidelines instead talked of the councils who were eligible in terms of that more broad description about councils who were merged or subject to a merger proposal during that period.

Mr DAVID SHOEBRIDGE: Having established that, can you provide us with a list of those councils that you consider would have been eligible?

Mr HURST: Yes. I am happy to do that.

Mr DAVID SHOEBRIDGE: And then can you provide us with a list of those councils that received funding?

Mr HURST: The list of the councils who received funding has been published. I am happy to provide that information.

Mr DAVID SHOEBRIDGE: And can you provide us with a list of the amount that each council received?

Mr HURST: Yes. I can provide that information as well.

Mr DAVID SHOEBRIDGE: Were you aware of any concerns about the manner in which the Stronger Communities Fund funding is allocated to councils?

Mr HURST: No-one raised any concerns with me.

Mr DAVID SHOEBRIDGE: In terms of the funding agreements that different councils have, you have said that you will provide a copy of the Hunters Hill agreement. Could you provide us with a copy of each of the funding agreements?

Mr HURST: Yes, I am happy to do so.

## **Answer**

**A copy of each of the funding agreements is attached.**

### **Question from DAVID SHOEBRIDGE, page 66 of the transcript**

Mr DAVID SHOEBRIDGE: On what basis were eligible councils not provided with funding?

Mr HURST: I cannot answer why some councils did not get funding. I cannot answer that question.

Mr DAVID SHOEBRIDGE: Who made the decision, if not you—you were just administering a decision that came from another place—as to which councils were and which councils were not eligible councils to receive funding?

Mr HURST: I cannot answer that question. I can only advise that we were told the councils to pay and the projects, and the Office of Local Government prepared the agreements, sent them to the councils, executed them and paid the funds.

Mr DAVID SHOEBRIDGE: Who told you?

Mr HURST: I am sorry, I agreed to take that on notice and find out where that advice came from.

### **Answer**

**OLG allocated funds based on the Stronger Communities Fund grants guidelines, approved by the former Minister for Local Government in 2018.**

### **Question from DAVID SHOEBRIDGE, page 66 of the transcript**

Mr DAVID SHOEBRIDGE: Who made the decision about how much a council would receive?

Mr HURST: I do not have that information. It was advised alongside the projects.

Mr DAVID SHOEBRIDGE: Did any councils raise concerns with you about either the quantum that they received—and when I say "you" I mean the Office of Local Government—or the fact that they did not receive funding?

Mr HURST: Not that I am aware of.

Mr DAVID SHOEBRIDGE: I think you may have said that there was a policy in place at the time.

Mr HURST: There were guidelines surrounding the funding.

Mr DAVID SHOEBRIDGE: Who drafted the guidelines?

Mr HURST: The Office of Local Government drafted the guidelines.

Mr DAVID SHOEBRIDGE: Were they signed off by yourself or were they signed off by another entity?

Mr HURST: They were signed off by respective Ministers.

Mr DAVID SHOEBRIDGE: Who were those Ministers?

Mr HURST: I will take that on notice; I cannot remember exactly which Ministers they were.

Mr DAVID SHOEBRIDGE: When were they signed off?

Mr HURST: Before the program was initiated. The date would be on the guidelines.

### **Answer**

**The Stronger Communities Fund tied grants round guidelines were approved by the former Minister for Local Government on 27 June 2018.**

### **Question from MARK PEARSON, page 67 of the transcript**

The ACTING CHAIR: Just to clarify, Mr Hurst, you are not aware that there have been concerns or complaints communicated to your department about this sort of activity, of digging up these spaces and footpaths for whatever reason?

Mr HURST: I am happy to take on notice whether the Office of Local Government [OLG] has had councils write to us with concerns about that. It is not a Local Government Act matter, which is why I cannot understand why it would be raised with us.

The ACTING CHAIR: I think it might be becoming clearer to you that one of the things we are actually needing to grapple with and clarify is who is responsible for what, because somebody has to be. At the end of the day, if we go across the road or you end up across the road and you are having to answer questions, we need to find out who, with whom and under whose watch these issues lay. That is extremely important. You are probably a little bit bewildered as to why we are going down certain paths and I think it is because there is not a lot of clarification in some areas as to who is the Minister or who is the secretary that is responsible for certain things. That is why some of the questions are of that nature.

Mr HURST: Mr Chair, I am not seeking to not answer that. I do not know who is responsible for that, if it is governed by legislation.

The ACTING CHAIR: That is helpful.

Mr HURST: I am happy to undertake on notice to find out what legislation governs that—it is not the Local Government Act—and to provide an indication of who the appropriate Minister at the State or Federal level is who has responsibility for it.

### **Answer**

**These questions are more appropriately directed to the Minister for Transport and Roads.**

### **Question from PETER PRIMROSE, page 67-68 of the transcript**

The Hon. PETER PRIMROSE: Going back to elections, my understanding is that if you are a candidate for a local government position, and the Minister outlined this this morning, you are required to complete a statutory declaration under the Local Government Act answering a number of things, so it is under the Oaths Act, but it is a requirement made by the Local Government Act, for example, that you are not a property developer or a close associate of a property developer. That is correct, is it not?

Mr HURST: Yes, so the statutory declaration is an oath under the Oaths Act but it is a requirement of the Local Government Act that that be provided by candidates.

The Hon. PETER PRIMROSE: Under the Oaths Act, if you give a false declaration, what would the penalty be?

Mr HURST: I am not an expert in the Oaths Act but, getting to your next question, my understanding is that the NSW Police Force investigates a breach of the Oaths Act as a criminal matter.

The Hon. PETER PRIMROSE: If something that was a criminal matter was brought to your attention, as the director of the Office of Local Government—and please forgive me in terms of your official title—would you be obliged to refer that to the police?

Mr HURST: It has happened in the past and we have referred those matters to the NSW Police Force.

The Hon. MARK BUTTIGIEG: The question was quite specific: Would you be obliged to, or is it optional?

Mr HURST: I do not know whether the Act obliges me to take the action which I think any person in society should, which is, when they become aware of a criminal act to report it to the appropriate authorities. I do not know that that is an obligation on me under legislation but I would do it anyway.

The ACTING CHAIR: Could you take that on notice and find out if you are obliged—and if not you as an officer, which officer would be?

Mr HURST: Yes.

## **Answer**

**The Deputy Secretary, Local Government, Planning and Policy, Mr Tim Hurst, provided a response to this question in the hearing. Please refer to page 67 and 68 of the transcript. To clarify the position, the Deputy Secretary is under the same obligation as are all persons in NSW pursuant to section 316 of the *Crimes Act 1900*.**

## **Question from PETER PRIMROSE, page 67-68 of the transcript**

The Hon. PETER PRIMROSE: I have a few questions, one that hopefully will be quite quick in relation to the Companion Animals Act. I am aware that there are only four offences that result in possible jail time in the Act relating to dog attacks. I was wondering if you could tell us, in the last five years, how many people have been imprisoned as a result of any of those offences?

Mr HURST: I am presuming that the enforcement would be undertaken by councils. I am certainly happy to take that on notice. I do not have that number, I am sorry, Mr Primrose.

The Hon. PETER PRIMROSE: Can you please take that on notice?

Mr HURST: Yes, I will.

The Hon. PETER PRIMROSE: Clearly, if there were offences that led to jail time then that is appropriate, but if there have been none, that is an issue that we would need to look at because these are serious matters, and I know you would agree with that.

The ACTING CHAIR: Can you take on notice to also include all of the reports, irrespective of whether they attracted a fine or imprisonment, so that we can get the percentage difference?

Mr HURST: Mr Chair, we do publish the details of councils' dog attacks. All of the dog attack data that is recorded by the Office of Local Government is published on our website. It is a good resource that shapes that policy development.

The ACTING CHAIR: Does it describe the outcome, whether there has been a fine or a term of imprisonment, or it was dismissed?

Mr HURST: I am not sure. It certainly provides data on dog attacks. I am not sure whether it also provides data on the enforcement action.

The ACTING CHAIR: If it does not, would you be willing to take that on notice?

Mr HURST: We can certainly look at where we have that.

The ACTING CHAIR: See if you have that data.

Mr HURST: On the question of dog attacks and whether or not people have been imprisoned, I am not sure that it is actually a good thing. I would much rather that there were not serious dog attacks and that people did not have to go to jail for them. Hopefully it means that the framework under the legislation is working.



The Hon. PETER PRIMROSE: I am simply looking at the fact that it is a potential threat and I am curious as to whether that penalty is actually applied to anyone, because we are not only talking about dog attacks. For instance, one of the offences is encouraging a restricted dog to attack, bite or harass. Another is a reckless act of an owner that results in a dog attacking, biting or harassing a person or other animal, and so on, and often involving children. There is a whole range of issues. I accept that it is a matter for the courts, but the penalties are matters for us, and I was just curious as to whether there have been any. In relation to the website, when I last looked, the latest available statistics on your website were for the three-month period beginning in July 2019. I accept that that is relatively up to date in terms of information gathering. Back in 2015 there was information by local government area. Is that still available on the site, the information for each LGA as opposed to consolidated, all council areas?

Mr HURST: This is the dog attack data, information on dog attacks?

The Hon. PETER PRIMROSE: Yes.

Mr HURST: I am happy to respond as part of what I have taken on notice about local government area data.

The Hon. PETER PRIMROSE: It is not a trick question, I just cannot find information by local government area. Maybe it is because I am not particularly skilled at using websites. If you can please indicate where the data is by local government area, that is fine.

Mr HURST: I do not know. I will take that on notice.

## **Answer**

**The Office of Local Government does not maintain data related to prison sentences under the *Companion Animals Act 1998*. The Department of Communities and Justice would be the most appropriate agency from which to seek this information.**

**Dog attack incidents reported by all councils are available on a quarterly basis on the Office of Local Government website at <https://www.olg.nsw.gov.au/content/dog-attack-incidents-reported>.**