

# **PORTFOLIO COMMITTEE NO. 4 - INDUSTRY**

**Monday 1 March 2021**

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

## **WATER, PROPERTY AND HOUSING**

<b>UNCORRECTED</b>
--------------------

**The Committee met at 9:30.**

### **MEMBERS**

The Hon. Mark Banasiak (Chair)

The Hon. Lou Amato

The Hon. Catherine Cusack

The Hon. Sam Farraway

Ms Cate Faehrmann

Mr Justin Field

The Hon. John Graham

The Hon. Emma Hurst (Deputy Chair)

The Hon. Tara Moriarty

The Hon. Penny Sharpe

Mr David Shoebridge

The Hon. Mick Veitch

### **PRESENT**

**The Hon. Melinda Pavey**, *Minister for Water, Property and Housing*



## **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 inquiry for inquiry into budget estimates 2020-21 initial hearings. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past, present and emerging of the Eora Nation and extend that respect. I welcome Minister Pavey and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Water, Property and Housing. Today's hearing is open to the public and is being broadcast live via the Parliament's website.

In accordance with the broadcasting guidelines, while members of the media may film or record committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I 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 these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Minister Pavey, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Any messages from advisers or members' staff seated in the public gallery should be delivered through the committee secretariat. We expect that transcripts of this hearing will be available on the web from tomorrow morning. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing?

**JIM BETTS**, Secretary, Department of Planning, Industry and Environment, affirmed and examined

**JIM BENTLEY** Deputy Secretary, Water, Department of Planning, Industry and Environment, sworn and examined

**MELANIE HAWYES**, Deputy Secretary, Crown Lands, Department of Planning, Industry and Environment, affirmed and examined

**ANDREW GEORGE**, Acting Chief Executive Officer, WaterNSW, affirmed and examined

**ROCH CHEROUX**, Managing Director, Sydney Water, affirmed and examined

**DARREN CLEARY**, Managing Director, Hunter Water, affirmed and examined

**GRANT BARNES**, Chief Regulatory Officer, Natural Resources Access Regulator, affirmed and examined

**MICHAEL WRIGHT**, Group Deputy Secretary, Housing and Property, Department of Planning, Industry and Environment, affirmed and examined

**AMANDA JONES**, Chief Strategy Officer, Department of Planning, Industry and Environment—Water, affirmed and examined

**MICHAEL CASSEL**, Chief Executive Officer, Land and Housing Corporation, Department of Planning, Industry and Environment, sworn and examined

**LEON WALKER**, Deputy Secretary, Property & Development NSW, Department of Planning, Industry and Environment, affirmed and examined

**RICHARD BUSH**, Crown Lands Commissioner, Department of Planning, Industry and Environment, sworn and examined

**ANISSA LEVY**, Chief Executive Officer, Water Infrastructure NSW, Department of Planning, Industry and Environment, affirmed and examined

**The CHAIR:** Given that there are no provisions for opening statements, we shall go straight to questions.

**The Hon. PENNY SHARPE:** Good morning, Minister. There was an article in the paper yesterday regarding an incident with a ministerial driver. Were you that Minister that was involved in that incident?

**Mrs MELINDA PAVEY:** That article referred to travel to Surry Hills. I have not been to Surry Hills in four months with my ministerial driver or relief driver.

**The Hon. PENNY SHARPE:** So you are denying that that article is about you.

**Mrs MELINDA PAVEY:** I have not travelled to Surry Hills and I have not been picked up or dropped off at Hosking Place, which is also referred to in the article. Last Tuesday I went home early and was having dinner where I stay in Sydney, so it was not referring to me from last Tuesday.

**The Hon. PENNY SHARPE:** So it is not you.

**Mrs MELINDA PAVEY:** Not that I can tell.

**The Hon. PENNY SHARPE:** Thank you. Minister, your former media adviser is a man named David Eccleston—is that correct?

**Mrs MELINDA PAVEY:** That is right.

**The Hon. PENNY SHARPE:** Is Mr Eccleston currently doing any work for any of your agencies?

**Mrs MELINDA PAVEY:** Mr Eccleston was a media adviser to me when I was roads Minister and he was very good at his job. I understand that agencies here have engaged and contracted his services. And I might point out that some of the very best people I have working in my agencies—even people behind me today—have been former advisers to people like Premier Morris Iemma. I think it is a difficult process when we try to make people inappropriate or try to suggest that they are not capable for a job because they have worked for one side of politics or another—

**The Hon. PENNY SHARPE:** Minister, I simply asked you whether he was your—

**Mrs MELINDA PAVEY:** I understand that—

**The Hon. PENNY SHARPE:** —former media adviser.

**Mrs MELINDA PAVEY:** I understand that.

**The Hon. PENNY SHARPE:** I have other questions but, honestly, that is—

**Mrs MELINDA PAVEY:** I understand that, but in terms of the—

**The Hon. PENNY SHARPE:** You are trying to allege that I am trying to cast aspersions on him. I am not. I am simply asking you: Has he done any work for your agencies?

**Mrs MELINDA PAVEY:** Yes, and I think he is doing some work at the moment in the Crown Lands space. So I might ask Melanie Hawyes if she has any information to add to that.

**The Hon. PENNY SHARPE:** I am just interested in how many agencies of yours he has done work for. If you do not know, you can provide it on notice.

**Mrs MELINDA PAVEY:** I will provide it on notice.

**The Hon. PENNY SHARPE:** But he is currently doing work in Crown Lands—is that correct?

**Ms HAWYES:** Not to my understanding at the present time but I will take that on notice.

**The Hon. PENNY SHARPE:** Where is he working then?

**Dr BENTLEY:** We will take that on notice.

**The Hon. PENNY SHARPE:** Minister, have you directed your department to hire your former staffer as a consultant?

**Mrs MELINDA PAVEY:** No.

**The Hon. PENNY SHARPE:** At any time?

**Mrs MELINDA PAVEY:** No.

**The Hon. PENNY SHARPE:** What was the process to engage Mr Eccleston?

**Mrs MELINDA PAVEY:** I will take that on notice.

**The Hon. PENNY SHARPE:** For each agency, please.

**Mrs MELINDA PAVEY:** I will take that on notice.

**The Hon. PENNY SHARPE:** Can you also confirm whether Mr Eccleston was on a pre-qualification panel prior to any of his appointments?

**Mrs MELINDA PAVEY:** I will take that on notice.

**The Hon. PENNY SHARPE:** Can you also provide information to the Committee in relation to how much each of his contracts have been and over what period of time?

**Mrs MELINDA PAVEY:** Certainly.

**The Hon. MICK VEITCH:** Good morning, Minister.

**Mrs MELINDA PAVEY:** Good morning, Mick.

**The Hon. MICK VEITCH:** And to all your staff. Minister, in an article in the *Weekend Australian* on Saturday 6 February this year the Deputy Premier, John Barilaro, was quoted as saying that WaterNSW "can't cost a dam, a water project or manage our water supplies." Do you agree with his comments?

**Mrs MELINDA PAVEY:** I believe that the Deputy Premier was referring to some of the challenges in relation to the costings for the dams that we are going through in terms of final business cases. We are challenged, as the Deputy Premier highlighted on Friday at budget estimates. We are looking at upwards of \$500 million in biodiversity offset costs for the dam construction. Yes, it is a tough job building infrastructure but we will go through those processes. That is why—

**The Hon. MICK VEITCH:** You are saying he is correct?

**Mrs MELINDA PAVEY:** —we do have an oversight process now. We have started our own water infrastructure group with Department of Primary Industries—Water being led—

**The Hon. MICK VEITCH:** You are saying he is correct, though? Is that what you are saying?

**Mrs MELINDA PAVEY:** —by Anissa Levy. I am answering the question the way that I want to answer the question.

**The Hon. MICK VEITCH:** That is okay. Is he correct?

**Mrs MELINDA PAVEY:** I will continue to do that. We have Anissa Levy heading up our critical infrastructure water group. But it is important that we use all expertise—whether it is in the private sector, WaterNSW, or Department of Primary Industries—Water—to ensure that our final business case on Wyangala, due by end of year, and Dungowan Dam, by first quarter of next year, has the best possible information, contingencies and appropriate information.

**The Hon. MICK VEITCH:** But that is one part of his quote. He also says they cannot "manage our water supplies."

**Mrs MELINDA PAVEY:** I would contend that our water supplies have been challenged very much over three years of drought. It has been a particularly challenging period. Whilst we have had good rains since February throughout most of the State—except for probably filling Pindari, Keepit and Copeton dams—we are going to continue to be challenged to get that balance right in relation to community expectations, environmental expectations and to ensure that we can have affordable food in our supermarkets—

**The Hon. MICK VEITCH:** Is it a matter of resources though, Minister? What the Deputy Premier says here is "can't cost a dam, a water project or manage our water supplies," but is it actually about resourcing within the agency? Do we actually have the resources to enable the hardworking public servants to do the job?

**Mrs MELINDA PAVEY:** I think the way we are realigning those resources to be appropriate—one of the challenges I faced in the agency was that the common call from people in regional New South Wales was they wanted more people in water bureaucracy and water management living and working within the regions. Currently I think we need to improve that mix, particularly in WaterNSW because a lot of the WaterNSW personnel out there on the ground do have a good relationship with our farmers in ensuring that we are making the right decisions. We are working through those challenges and ensuring that WaterNSW and Department of Primary Industries—Water work together better on better policy outcomes.

I think that realigning and better managing under our new Deputy Secretary of Water, Jim Bentley, we have come a long way. We are improving the way that we respond to and manage water. I think that despite what you might read from some of our New South Wales political opponents we are leading the way in Australia now—

**The Hon. MICK VEITCH:** You talk about political opponents; I am reading the Deputy Premier's comments, Minister, with all due respect. He says your department cannot cost a dam and cannot manage water supplies. Either he is right or he is wrong.

**Mrs MELINDA PAVEY:** I think the important thing is that we had 38 towns critically in short supply of water come February last year and we managed to ensure that none of those towns ran out of water. That included building a pipeline from Chaffey Dam in Tamworth to ensure that we had continuity of supply. It is a challenge. Drought has really put us all at the coalface of some pretty tough decisions and pretty tough moments—

**The Hon. MICK VEITCH:** I gather he is wrong, then, from your comments. I gather that the Deputy Premier is incorrect.

**Mrs MELINDA PAVEY:** I think it is important that we listen to people across the broad spectrum including the Deputy Premier, who is entitled to that opinion with the frustrations that he was having in terms of some perceived blowouts in the costings. Those perceived blowouts could actually be very real in terms of up towards \$500 million in biodiversity offset costs that we are facing with Wyangala. It is a challenge for us but I am proud of the work that our agencies are doing. It is tough, but it is good work—

**The Hon. MICK VEITCH:** But it is a pretty serious attack on the public servants though, Minister, would you not agree, to say that they cannot manage the water supplies? Coming from the Deputy Premier that must have hurt.

**Mrs MELINDA PAVEY:** I think we are just focused on getting on with the jobs that we need to do. The Deputy Premier's comments came out of frustration as well.

**The Hon. PENNY SHARPE:** Are you planning to look at a new agency to take over these projects?



**Mrs MELINDA PAVEY:** As I just pointed out, Department of Primary Industries—Water has established a water infrastructure unit that is overseeing the construction of the dams and the safe and secure water supplies. With our weirs—Wilcannia Weir, Gin Gin Weir—we are up to the final business case. There is a better overarching management of all those projects now led out of Department of Primary Industries—Water and WaterNSW will continue to work within that remit of providing advice and information.

**The Hon. MICK VEITCH:** You said the Deputy Premier's comments came out of frustration. What is his frustration with WaterNSW?

**Mrs MELINDA PAVEY:** I think one of the major frustrations that myself and the Deputy Premier face is that there are price pressures on Wyangala, in particular, with up to \$500 million in biodiversity costs that were not in the original costings, the original—

**The Hon. PENNY SHARPE:** Why were they not in the original costings? Biodiversity offsets are pretty normal, Minister.

**Mrs MELINDA PAVEY:** There had been some changes to the arrangements around biodiversity costings from when the first costings of the Wyangala project came out in about 2018. I think those are the frustrations that the Deputy Premier was responding to.

**The Hon. MICK VEITCH:** Are these projects delayed?

**Mrs MELINDA PAVEY:** No. These are big projects.

**The Hon. MICK VEITCH:** I am just trying to get to the bottom of why the Deputy Premier would make such scathing comments publicly about WaterNSW if the projects are not delayed.

**The Hon. CATHERINE CUSACK:** Sorry, can I just—to assist the Committee—

**The CHAIR:** Are you taking a point of order?

**The Hon. CATHERINE CUSACK:** I suppose I could do it as a point order. It is simply that I am not aware of the comments in the article and I just wondered if some more information could be given to follow what is going on.

**The Hon. MICK VEITCH:** I am happy to table it.

**The Hon. PENNY SHARPE:** *Weekend Australian* on 6 February. I am happy to give it to you.

**The Hon. CATHERINE CUSACK:** Thank you very much. I do appreciate that.

**The CHAIR:** We will get that copied.

**The Hon. MICK VEITCH:** You did not take a point of order did you, Ms Cusack?

**The Hon. CATHERINE CUSACK:** No. I appreciate your assistance.

**The Hon. MICK VEITCH:** Minister, I figure if I was one of the public servants working on these projects and I read those comments I would be pretty disheartened by an attack by a very senior member of the Government about this. The department has your support, does it not?

**Mrs MELINDA PAVEY:** The Deputy Premier has my support. My agencies have my support. I do not think you can take one sentence in the whole context of the debate that we are working around and read too much into it. We have set up an infrastructure unit within Department of Primary Industries—Water to oversee the construction and the development of major water infrastructure. We are talking around \$730 million in Safe and Secure funding to ensure that our towns have appropriate water and sewerage capacity. We are talking about the building and construction, and going through the final business cases and all the works associated with Dungowan and Wyangala, and the strategic business case on Mole River. We are doing a lot of work and we are doing that effectively. WaterNSW is involved with that. Now we have our own water infrastructure unit being led by Anissa Levy. I am proud of the work that everybody is doing. It is a big job and we are getting on with it.

**The Hon. MICK VEITCH:** The water infrastructure unit you have just mentioned, when was it established?

**Mrs MELINDA PAVEY:** In terms of the timing of that, Dr Bentley, it was—

**Dr BENTLEY:** Middle of last year.

**Mrs MELINDA PAVEY:** Towards the middle of last year. Dr Bentley, did you want to expand on it further?

**The Hon. MICK VEITCH:** That is the one. No, that is okay; we will explore that this afternoon thanks, Dr Bentley. Minister, after the comments by the Deputy Premier have you had a chance to talk to him about a constructive way forward?

**Mrs MELINDA PAVEY:** Certainly. The establishment of that critical infrastructure unit is very much in the thinking and the best interests to get the delivery of these projects done.

**The Hon. MICK VEITCH:** So, with regards to the comment about not being able to manage water supplies, again that must have been a pretty damning comment. What was the reaction within the department? Did you talk to senior management about that comment and how it impacted upon the morale of the staff?

**Mrs MELINDA PAVEY:** I think it is important to understand that it is easy to take one sentence and try to make something out of it that it is not.

**The Hon. PENNY SHARPE:** It is pretty unequivocal, Minister.

**Mrs MELINDA PAVEY:** Well, it is pretty clear that our teams are doing a good job. We have done a good job of ensuring that the 38 towns that were critically facing water shortages did not run out of water between Water NSW and the Department of Primary Industries—Water. One of the things I did see as soon as I became Minister was there needed to be a closer alignment and better relationship between the executives of those two organisations and the board of WaterNSW. We are coming to that position. I believe that there needs to be more WaterNSW people not in Sydney and certainly on the ground. Some of the best feedback I get for our public servants and bureaucrats are those that are living and operating in regional New South Wales.

**The Hon. MICK VEITCH:** Absolutely, and during the Regulation Committee we actually heard from a number of stakeholders that they wanted more people out on the ground that they can actually talk to, so rolling out further staff in this space, out into the field, I think makes a lot of sense. But can I just say: The projects are not delayed and you expect them to be delivered on time?

**Mrs MELINDA PAVEY:** Yes. We will have a better idea of that exact timing once we get the final business case and, you know, we still have the obligations and responsibilities to ensure best value for money for taxpayers and they will go through, as the Deputy Premier pointed out on Friday, the expenditure review process. This is a significant investment but the Deputy Premier has also ensured and guaranteed that we were able to keep the Snowy Hydro Legacy Fund to be spent on infrastructure in regional New South Wales. That infrastructure is important. I might highlight, if I can just take the moment, please, Mr Veitch—

**The Hon. MICK VEITCH:** It depends what you are going to say.

**Mrs MELINDA PAVEY:** Well, I just highlight the fact—and you know the Lachlan Valley well; we were both there on Monday at Ian Armstrong's memorial service—that this idea that a new dam would never fill, like Tim Flannery said Sydney was going to run out of water, I might point out that two times in the past 20 years—in the 2000 rains and the 2016-17 rains—Wyangala Dam filled and spilled to more than what it would if we had increased the storage to the 650 gegalitres, to what we are doing. Even at 1,800 gegalitres, which is where we are moving the dam towards, we would have spilled at least 350 gegalitres and we would not have had those heart-in-mouth moments that that community has had to suffer pre the rains when we got down to 10 per cent in Wyangala Dam. I respond and I respect 80 per cent of that community out there that is engaging and supporting building this important infrastructure, let alone the challenges we had at Dungowan.

**The Hon. MICK VEITCH:** Minister, does your department need more resources to deliver upon these projects?

**Mrs MELINDA PAVEY:** We have been supported well through this process and I will refer now to Dr Bentley to discuss some of that extra resourcing that we have been able to secure to ensure that we get these projects done.

**Dr BENTLEY:** Thank you, Minister. The formation of Water Infrastructure NSW provides us with quite a bit of additional resource that is working closely with WaterNSW on those projects so there is a net increase in resourcing. I do not have the numbers exactly to hand but if you want we can make them available later.

**The Hon. MICK VEITCH:** We might explore that this afternoon, Dr Bentley. I am not sure if you can have the numbers by this afternoon; if not, take it on notice.

**Dr BENTLEY:** I think we will be able to by this afternoon.

**The Hon. MICK VEITCH:** Okay. Righto. Take it on notice.

**Dr BENTLEY:** So, yes, we needed more resource. The resource is in place and not just extra resource but better cooperation between the department and WaterNSW. I think that is particularly important with these environmentally sensitive and socially important pieces of infrastructure, that we are joined up between the department and WaterNSW, and that is really what the formation of the new unit is all about.

**The Hon. MICK VEITCH:** Yes. Minister, with regard to the resourcing of the department, to get these projects delivered on time, I think you said earlier you are engaging some external assistance as well. Did I hear that correctly?

**Mrs MELINDA PAVEY:** Yes.

**The Hon. MICK VEITCH:** So what is the nature of that external assistance?

**Mrs MELINDA PAVEY:** I just think in terms of context that we actually have not built a major—a dam in this State for 30 or 40 years. We do not have staff sitting around doing nothing in that period so we have had to obviously go externally. We have a delivery partner appointed at the moment and I think doing a good job in that space. Dr Bentley might give some more details around that, but you would certainly expect us to go to market to help in delivery of a major project like this because, as I said, we have not got a skill base sitting around with that capacity, given this is a new project. In the development of the business case we have sought assistance from the private sector.

**The Hon. PENNY SHARPE:** Minister, can I come back to Mr Eccleston. I want to be very clear: Have you ever discussed with any of your officials the employment and/or appointment to positions of David Eccleston in any of your departments?

**Mrs MELINDA PAVEY:** I would have mentioned that, you know, in terms of capacity he brought an ability to interrogate and question and help in preparation and media strategy, but there was no way, in any way, would I have ordered or told my agencies to employ a person or a consultancy. It is important that we get good advice. I reiterate my point from before, Ms Sharpe, that skill sets do not belong to one political party or another and I am proud that we have people working within our agency that have worked for former members of a Labor administration and even former Premiers.

**The Hon. PENNY SHARPE:** Can you just to tell the Committee how many public servants you spoke to about employing Mr Eccleston?

**Mrs MELINDA PAVEY:** No. I remember having a conversation with the Deputy Secretary and that is all I can recall having a conversation with.

**The CHAIR:** Minister, last Friday, 26 February, your department published the Water Management (General) Amendment (Emergency Works Exemption) Regulation 2021. What public consultation did you do before, during and after drafting that regulation?

**Mrs MELINDA PAVEY:** That is a good question and thank you for it. I understand, because I sought some advice from my staff when I saw some of the stuff going up shrilly on Twitter and Facebook, what conversations we had had with the parties in the upper House.

**The CHAIR:** Well, just in general—public consultations. I am talking about farming groups, irrigator groups.

**Mrs MELINDA PAVEY:** Well, let us be clear: There was no need to be having conversations with farmer groups because it had nothing to do with floodplain harvesting, despite what members of your party are suggesting on social media. So I did check. We did brief, I understand, the Labor Party. We reached out, just out of courtesy, to the member for Barwon but for whatever reason a phone call did not take place. I also took it upon myself last night to see whether The Greens had been advised around it and they had not and I, out of respect to Cate Faehrmann, passed on that despite what was being said in the twittersphere and on Facebook and some really ugly awful words posted on my own Facebook page—to be clear, just very clear, if you read the last page of the regulation it specifically rules out using the exemption to floodplain harvesting as the rules prevent any secondary use—that is, commercial benefit, domestic consumption or for supplying it to another person or body.

So it has nothing to do with floodplain harvesting. What it does in fact do, Mr Banasiak, is provide for emergency works where there is an immediate significant risk to public health or safety, the environment or infrastructure. This means critical emergency work, such as Sydney Water or local councils digging a hole to fix a burst pipeline, can do so immediately without having to wait to obtain a water access licence and approval. Let

me give you an example: The train derailment at Nana Glen last week. The Australian Rail Track Corporation does not have an approvals exemption. If—I emphasise "if"—they need to dig up below the tracks in order to rebuild and put in new foundations, they will most likely have to remove groundwater or overland flow, especially at the moment given the amount of surface water around. We have had more, like a meter of rain there, in the past couple of weeks.

This exemption would allow them to do that without having to apply and wait for a works approval to be issued and a controlled activity approval, if it is a "near watercourse". Now this regulation was drafted in consultation with the Natural Resource Access Regulator and if you would like to ask any further questions around it, Grant Barnes is also a witness here today.

**The CHAIR:** Sure. Why is there no set time frame within the regulation to decide when emergency works are started or finished? It seems like it leaves a bit of an open window.

**The Hon. CATHERINE CUSACK:** What is an emergency?

**Dr BENTLEY:** I cannot answer the question why there is not something. Emergency situations are, by their very nature, unique. The purpose of this regulation is to deal with something that is out of the ordinary and it is quite hard to define up-front what the characterisation is that you would put around that. There is nothing else I can say as to how we define what is emergency and what is not emergency. That is the nature of it—to make provision for something that would be putting people at risk if you were not able to act immediately.

**The CHAIR:** How many times have council or rail corporations or any of the other examples Minister Pavey listed been fined for removing water from building sites because they did not have a water access licence but they just had to remove it anyway?

**Mrs MELINDA PAVEY:** We will take that on notice.

**The CHAIR:** If there has not been a substantial number of companies that have got into strife over this, why has it suddenly become a problem now? Is this a reaction to the Nana Glen incident?

**Mrs MELINDA PAVEY:** I will ask Grant Barnes to respond to this. That was an example I gave. The drafting of the regulation happened before that incident but I gave that to you as a modern example. I am also going to have Mr Barnes explain some of the issues that have come up to support a regulation like this.

**Mr BARNES:** The regulation is in consideration of matters that might be forthcoming. The example the Minister has just given is a great example of one where without this exemption the utility would be required to apply for a water access licence and then there would be a statutory process to go forth. The way that the regulations are constructed, that takes a considerable period of time to assess and then determine—often well past the emergency circumstances themselves. What this regulation provides for is a pathway by which certain users of water may access an exemption. They must do so by notification to the Natural Resources Access Regulator [NRAR] in advance of accessing the exemption and at its conclusion.

If the emergency works sought do not comply with the exemption then they are obliged to apply for a water access licence of which my agency would ensure appropriate conditions are forthcoming and that monitoring of adherence to those conditions and any sanctions that may be applicable should noncompliance arise is determined.

**The CHAIR:** Thank you. We might come back to that.

**The Hon. EMMA HURST:** Minister, in previous estimates hearings I have asked you about the wombat mange in Bendeela Recreation Area. I understand the planned research trial using Bravecto had to be pushed back because of COVID-19. Can you give me an update on the trial? Has it commenced and what work has been done?

**Mrs MELINDA PAVEY:** I might ask Andrew George from WaterNSW to give us an update on this, an issue that you have absolutely championed and I think resulted in better outcomes and better conversations and consultation. You are right, we have been challenged by COVID on a number of fronts and this is just one of those many fronts. Mr George?

**Mr GEORGE:** Obviously last year with the impacts of COVID we were delayed in starting fieldwork. We have engaged with Dr Scott Carver from the University of Tasmania. Work did start in December last year on site. We expect that starting around April or May this year that the trials will start in earnest. That will be a two-year program to identify and look at what treatment methods can be deployed sustainably into the long term.

**The Hon. EMMA HURST:** While the trial was delayed, were there any wombats still being treated for mange or given any other care by WaterNSW for their symptoms?

**Mr GEORGE:** There were no wombats identified in the previous year where we did find the evidence of mange.

**The Hon. EMMA HURST:** Sorry, there were no wombats with mange?

**Mr GEORGE:** No, we did not come across any in that year. That is not to say it is not there; of course it is there. In the wombats that we did observe last year, we did not find any suffering from mange.

**The Hon. EMMA HURST:** It says that only 5 to 10 per cent of the 200 to 250 wombats in Bendeela have mange. I am assuming that is an estimate. Are they the figures that you are going off?

**Mr GEORGE:** That is correct.

**The Hon. EMMA HURST:** But it is proposed in the research that 50 wombats will be treated for mange as part of the research trial. Can you explain that disparity? Fifty wombats would be about 20 to 50 per cent.

**Mr GEORGE:** That is an estimate based on the estimated number in the population that we think have mange. To give an example of the recent work that the University of Tasmania did, they found 71 wombats during that trial period, none of which were suffering from mange at that time. Over the course of the future program, given that it is estimated to have 5 to 10 per cent of that population impacted by mange, we are estimating we will come across 50 or so that will be able to be treated.

**The Hon. EMMA HURST:** So that disparity is because we are talking about a two-year trial. Your thinking is that you will come across roughly 25 a year.

**Mr GEORGE:** It is not that scientific at this stage. It is an estimate based on the number that we have identified previously that have mange and our estimate of the number in the population that have mange and that we come across. The idea is to come up with a sustainable treatment program, so irrespective of the number we come across we can treat them.

**The Hon. EMMA HURST:** Are you still working with rescue groups or are they still being stopped from providing any wombats care if they come in and come across an animal that is unwell?

**Mr GEORGE:** Because we have got the University of Tasmania involved in the treatment trials, we ask that they are not involved in this stage so that we can have the scientific trials being undertaken by Dr Scott Carver to occur without overcomplicating it by other treatment coming into play over the next little while. They will absolutely be asked to be involved in the ongoing sustainable treatment of mange into the future.

**The Hon. EMMA HURST:** Great. Over the two-year research trial, will the wombats be treated continuously throughout the program or is it more of a case of a one-off treatment dose and then a long observational period?

**Mr GEORGE:** I will have to take that level of detail on notice.

**The Hon. EMMA HURST:** Thank you. On the WaterNSW website it also says that no treatments will be undertaken during peak holiday periods. Is there anything in place to monitor or care for the wombats during those periods to ensure that there are no adverse effects on the wombats or in the trial?

**Mr GEORGE:** During those peak holiday periods, obviously it can be a very busy time down at the Bendeela Recreation Area. As is the case today, if there are wombats that are identified or found by the public in a distressed state, then following the advice on our website they should still make contact so that we can treat them.

**The Hon. EMMA HURST:** But is there any protocol in place if the treatment stops during that peak holiday period? Is the only protocol if somebody notices a wombat that that wombat would get treated but there is nothing else in place to monitor the wombats during the trial in those periods?

**Mr GEORGE:** That monitoring regime is something that the University of Tasmania is specifying so if you are after the details of that monitoring program, I will take that on notice.

**The Hon. EMMA HURST:** Thank you, that would be great. Will WaterNSW be making the results of the research trial public to ensure that any progress in treating wombat mange is able to be utilised by other volunteer rescue groups and other departments?

**Mr GEORGE:** The short answer is yes. We will obviously be involving the two lead rescue organisations in that area as part of the ongoing management of wombat mange. Obviously to assist them with that we will be making whatever we need to make available public, public.

**The Hon. EMMA HURST:** What is the proposed end date now that there has been a delay because of COVID-19?

**Mr GEORGE:** The study will be completed in 2023.

**The Hon. EMMA HURST:** Minister, I have some questions in relation to the fish kills in New South Wales. In February 2021 it was revealed that toxic blue-green algae has grown to dangerous levels in parts of the Murray-Darling. What is being done to ensure that we do not have any more mass fish deaths?

**Mrs MELINDA PAVEY:** The most important thing that happened was that we had rain. With our first flush rules in place for the first time in the northern Basin, we ensured that the maximum amount went into tributaries and creeks and replenished the tidal water, which found its way into the system. That was a really important policy shift to ensure that we had as much heading towards the Menindee Lakes as possible. In fact, with our first flush rules I think we got 450 gigalitres into the Menindee Lakes by the end of March. I was out there in March just before the COVID lockdown came in, and to see the water spilling into Menindee was really important.

In the past year we have had some really strong and wonderful falls up around Tibooburra, out at Broken Hill and in parts of north-west New South Wales, but it has been intermittent and it has not been constant. Quite honestly, it was not the big east coast lows that fall and then move to the west and create flooding, which is usual after a big event. And even though the La Niña rain patterns looked really promising, the predictions from the Bureau of Meteorology around those La Niña events have been reduced in their significance. But we have had good falls compared to what we had experienced over the past three years, remembering that in 2016 every dam and watercourse in New South Wales was spilling over and then we had three years of record lows. Given that we are in a summer period, there are some algal breakouts through that system because we do need some more rain. We are expecting some significant flows through Wilcannia in the next week or so and some more into Menindee.

It is a challenge; rain is the solution. But even if you go through the historical records, you will see that those types of algal breakouts happened in some of the data and the history recordings even before white man arrived. Let's not forget that during Federation in 1900 at Wentworth both the Darling and the Murray were dry. There are lots of challenges with rainfall. I contend and support that better weirs and better management of water in terms of storage during big events has a very good capacity to ensure that our rivers flow. As you would know, the Darling is unregulated and our capacity there is somewhat limited, but I am pleased that the first flush event in February this year ensured that as much as possible went down the system to support those communities.

**Mr JUSTIN FIELD:** I will continue with that line of questioning. After that first flush event, the northern Basin has actually had an above-average rainfall in the past 12 months—which is pretty unique for that part of the world—but we still have algal blooms around Menindee and the Lower Darling. What is your understanding of the cause of that, other than rain?

**Mrs MELINDA PAVEY:** I think rain has a lot to do with it. You might talk about more than average but I think there is a greater expectation that every drop of water that falls in the northern Basin miraculously finds its way to Menindee, and the data and science does not back that up. Our floodplain harvesting data modelling shows that it is but one element—and a smallish element, relatively. And if you have had three years of record low inflows in the northern Basin, you know that that basin is going to be thirsty. There is going to be a lot of groundwater to fill up. There are lots of creeks and tributaries that have water in them today that would be empty if we had not put on that floodplain harvesting embargo, and some did find its way down to Menindee. I think the connection between the northern Basin and the Lower Darling—stopping any harvesting in the northern Basin does not necessarily mean all the water will find its way to the bottom. I think that is an important conversation.

**Mr JUSTIN FIELD:** I am not sure that anyone is quite suggesting that.

**Mrs MELINDA PAVEY:** But it would be a fair assumption that a lot of people think that is solving that, don't you agree?

**Mr JUSTIN FIELD:** Let's just try to draw a connection—well, that is not what we are talking about today. I am not talking about what other people are saying. Let's talk about ICAC. When will the Government formally respond to the ICAC report?

**Mrs MELINDA PAVEY:** In terms of the ICAC report?

**Mr JUSTIN FIELD:** Yes.

**Mrs MELINDA PAVEY:** We have immediately adopted five of the recommendations that came through. I will go through those—

**Mr JUSTIN FIELD:** No, no. Sorry, I just asked: When will you formally reply to the ICAC report? I assume that there will be a formal Government response to the ICAC report?

**Mrs MELINDA PAVEY:** To be fair, Justin, I think it would be good if I acknowledge that of the 15 recommendations in the ICAC report, we have already adopted five. We are working on the other ones through to compliance. We sought a couple of weeks extension until the end of March to formally respond to ICAC, so we are going through those processes.

**Mr JUSTIN FIELD:** So the end of March?

**Mrs MELINDA PAVEY:** Yes.

**Mr JUSTIN FIELD:** I particularly want to talk about how recommendation one, which is "the need to ensure the water management principles in s 5"—which has to do with the application of the hierarchy of water needs in the Water Management Act—are complied with. Clearly ICAC thinks that systemically it has not been complied with or applied to water management decisions. How much do you think that failure has to do with why there is blue-green algae bloom in the Lower Darling and Menindee region at the moment?

**Mrs MELINDA PAVEY:** The most important failure for blue-green algae outbreaks to occur is lack of rain. If there was a continuous flow and rain, then we would not have any, but historically we have always had these outbreaks, even before white man arrived. We have a very strong focus in our water sharing plans to ensure the maximum benefit to the environment and—

**Mr JUSTIN FIELD:** That is not what ICAC says. ICAC says that systemically the decisions and actions by Water bureaucrats have been partial towards irrigator interests over the environment. There has been a lack of communication with the environment department and its responsibilities when it comes to water decisions and the Minister with regard to concurrence. Let's put it this way: How will you ensure that any floodplain harvesting policy and decisions made around first flush events or cease to pump orders will ensure compliance with the hierarchy principles set out in the Water Management Act? What have you done to give yourself confidence that that concern of ICAC is being addressed in your internal processes?

**Mrs MELINDA PAVEY:** I think even you could acknowledge that what we have done in terms of the cease to pump rules and changes to the Barwon-Darling management and water sharing plan accepts that. We are now leading the rest of the country in terms of water metering and telemetry work, and our NRAR officials are on the ground ensuring that people are complying. There is a responsibility on us all to ensure that we support our communities and the environment. It is happening. Water sharing plans have always been signed off by the environment Minister, as well—

**Mr JUSTIN FIELD:** A whole series of the regulated water sharing plans that have gone to the Murray-Darling Basin as part of the resource plans did not get concurrence before they got sent off for accreditation.

**Mrs MELINDA PAVEY:** They will come back to us and changes and suggestions will be made before they become the basis of management, which is a water sharing plan. The environment departments have already played a big part in the development of the water resource plans. They will come back and we will adopt water sharing plans, which are signed off by the environment Minister as well.

**Mr JUSTIN FIELD:** Why would you send them for accreditation if they do not yet have the support from the New South Wales environment Minister, which is a requirement under law in New South Wales?

**Mrs MELINDA PAVEY:** Under law, the water sharing plans need to be signed off by the environment Minister and the water Minister, and that will be done. We have implemented the Natural Resources Commission's changes to the Barwon-Darling water sharing plan.

**Mr JUSTIN FIELD:** Not all of them, though.

**Mrs MELINDA PAVEY:** We have instituted changes and improvements. I do not want to set one group up against another. We need to be able to operate in a society that protects the environment but also protects the ability, in a modern world, to be able to water crops and water stock. I think we have learnt. We have adopted five of the 15 recommendations from the ICAC report. We will work through the other ones. We are in a process with the Commonwealth on water resource plans. Water sharing plans will be signed off with the environment Minister. Those water resource plans have been developed in consultation with the department of the environment.



We have a responsibility to our communities to ensure that we get the balance right. I believe we are there and we have made substantial improvements.

**The Hon. MICK VEITCH:** Thank you, Minister. I will follow on from that line of questioning about the ICAC report. In a wordy contribution to the upper House, the Hon. Sam Faraway indicated—as you just said—that the Government has implemented five of the 15 recommendations.

**Mrs MELINDA PAVEY:** Sorry?

**The Hon. MICK VEITCH:** To date, the Government has implemented five of the 15 recommendations of the ICAC report. As you would have to appreciate, there is a degree of concern, particularly out west, around the management of water in New South Wales. As a measure of accountability and transparency, would you consider tabling in the upper House a progress report on the implementation of those recommendations from ICAC over the next couple of years?

**Mrs MELINDA PAVEY:** Yes.

**The Hon. MICK VEITCH:** Sort of like a quarterly report, so that people out and about understand what is going on.

**Mrs MELINDA PAVEY:** Absolutely.

**The Hon. MICK VEITCH:** Thank you. Some of these recommendations will take a bit of time to implement, I have no doubt. I am particularly keen on a couple of these. One is about formalising the communication processes or information sharing with Environment, Energy and Science [EES]. Has that happened, Minister? Is that one of the five recommendations that has been completed?

**Mrs MELINDA PAVEY:** I will say that we actually had done five of the recommendations that came down in the ICAC report before the ICAC report came down.

**The Hon. MICK VEITCH:** Which ones are those? Are you able to take it on notice?

**The Hon. PENNY SHARPE:** Are you saying you have not done any since the report came down, other than the ones you had already done?

**Mrs MELINDA PAVEY:** No, I never said that. I said we have done five already of the 15.

**The Hon. MICK VEITCH:** In the contribution from the Hon. Sam Faraway, he did not indicate which five. If you could let us know which five, that would be good.

**Mrs MELINDA PAVEY:** Okay.

**Mr BETTS:** I think recommendation 11 is the one you are referring to, Mr Veitch, and that is complete.

**Mrs MELINDA PAVEY:** "That the DPIE formalises communication, information-sharing and consultation protocols".

**Mr BETTS:** That is done.

**The Hon. MICK VEITCH:** That has been done? Okay.

**Mrs MELINDA PAVEY:** Recommendation 3:

That the DPIE implements all changes it has proposed to the BDWSP rules to ensure its consistency with the WMA, specifically:

- implementing IDELs and TDELs (including trade limits on IDELs)
- raising A-class cease-to-pump thresholds based on up-to-date environmental water requirements to better protect low-flow water from extraction
- removing imminent flow provisions to prevent extraction of low-flow water even when higher flows are anticipated
- introducing resumption of flow rules to protect the first flow of water after a dry (low or cease-to-flow) period from extraction—

as we did, as you all saw—

- establishing management provisions to protect upstream environmental water releases from being extracted when they reach the Barwon-Darling.

That is recommendation 3—all done. Number 4:

That the DPIE establishes a dedicated and adequately funded WSP implementation team to ensure all of the state's WSP rules are implemented effectively.



That is done. Recommendation 6:

That the DPIE prioritises and seeks to bring forward audits of any WSP that have not, to date, been audited under s 44 of the WMA.

...

That the DPIE publishes all stakeholder and community engagement plans concerning water management when they are complete.

**The Hon. MICK VEITCH:** That is number 8.

**Mrs MELINDA PAVEY:** Number 11:

That the DPIE formalises communication, information-sharing and consultation protocols with officers performing the functions of the Environment, Energy and Science Group ...

**The Hon. MICK VEITCH:** Minister, recommendation 14 talks about guaranteeing the funding for the NRAR to keep a level equivalent to the recommendations of the tribunal over the longer term. How is that progressing?

**Mrs MELINDA PAVEY:** It is substantially completed, that recommendation. But we are also waiting for the Independent Pricing and Regulatory Tribunal [IPART] price determination and, as part of normal government processes, the funding allocations or the funding request to Treasury.

**The Hon. MICK VEITCH:** There is a degree of support for the NRAR and the model that has been established around the "cop on the beat" type of process.

**Mrs MELINDA PAVEY:** I just wish the rest of Australia had it. I have even suggested to Minister Pitt that it is a model that the Murray-Darling Basin Authority might want to adopt and fund itself.

**The Hon. MICK VEITCH:** That arises from the Matthews report, I believe. So it is close to being implemented. Are you able to advise when we can expect a guarantee for funding for the NRAR?

**Mr BETTS:** The draft decision by IPART is due in March—the draft determination—and then it will be final in June. Between March and June, if there is a difference between what we have asked IPART to support and the funding that we know we require, then the Minister would take it back to the Natural Resources Commission [NRC] process.

**The Hon. MICK VEITCH:** So they would go through that process?

**Mr BETTS:** So sometime between March and June.

**The Hon. PENNY SHARPE:** I have a question for Mr Barnes. What is the current status of the floodplain harvesting team in relation to the NRAR?

**Mr BARNES:** The NRAR, upon establishment, agreed to support the Commonwealth-funded Healthy Floodplains project by way of the secondment of staff. Those staff worked with the Department of Planning, Industry, and Environment over the past 2½ years.

**The Hon. PENNY SHARPE:** Just to be clear, they were all Commonwealth funded?

**Mr BARNES:** The Healthy Floodplains project is Commonwealth funded. The cost of NRAR's staff that had been involved in that project was met by the Commonwealth.

**The Hon. PENNY SHARPE:** What is the current status of that?

**Mr BARNES:** The agreement for NRAR staff to contribute to the Healthy Floodplains program ended as scheduled in December 2020. A paper was brought by myself to the NRAR board that expressed to the board the planned expiry of that involvement. The board resolved to acknowledge that and instructed myself, as chief regulatory officer, to prepare for the imminent licensing of floodplain harvesting on 1 July 2021 and to therefore prepare and publish NRAR's compliance approach when it comes to ensuring that the rights and obligations conferred to water users through floodplain harvesting are understood and complied with.

**The Hon. PENNY SHARPE:** Just to be clear, that team no longer exists? Is that right?

**Mr BARNES:** Some of them are now within the department. Some of them are now in ongoing roles in our monitoring and auditing team and are very busy now preparing for the planned commencement of floodplain licensing from July 2021, where they will be involved in monitoring water users' adherence to these new obligations.

**The Hon. PENNY SHARPE:** Is any compliance and monitoring currently taking place?

**Mr BARNES:** Yes, we have extensive monitoring and audit campaigns underway in the Murray-Darling Basin and have had campaigns underway since our establishment almost three years ago.

**The Hon. PENNY SHARPE:** Yes, I know. I understand the campaigns. What I am trying to get at is that you had the floodplain harvesting team; it now no longer exists. Some of the work has been put out. Was that team doing any compliance work?

**Mr BARNES:** The nature of that team's work has shifted from the work that is completed—so all the on-farm assessments through the five valleys have been done. Most of the work to construct water supply work approvals has been completed. Most of the work of the review committee has been done. Now the final stages of the work rests exclusively with the department to construct water access licences ready for 1 July. Whilst that work the department is now doing, the team that was involved from NRAR are now preparing for its imminent go-live on 1 July and they are preparing for our compliance approach, which, as a transparent and independent regulator, we will be publishing in the months ahead of.

**The Hon. PENNY SHARPE:** Very pleased to hear that, Mr Barnes. Thank you. Minister, going back to some of the previous questions, this goes directly to the ICAC report. You would be aware that the upper House was very disappointed with the Government's response that was provided in relation to action being taken. The ICAC report was a scathing indictment on the way in which the Water Management Act had been undermined and the favouritism that had been shown over many years of some users rather than others. Minister, what have you done to change the nature of that?

**Mrs MELINDA PAVEY:** We have done a lot actually, Ms Sharpe—a hell of a lot. As I pointed out, five of the recommendations in the ICAC report we have already done.

**The Hon. PENNY SHARPE:** I am not actually asking about the recommendations specifically. To give you more context, there are a lot of issues around your dams projects. The Deputy Premier has said your agency cannot do the job. You have now moved it to a new agency. That is the very agency that was accused in the ICAC report of favouring some stakeholder groups over others, leaving out downstream user groups, environmental stakeholders and others. The inquiry into dams recently went to Wyangala, Broken Hill and Menindee and those criticisms are very strong from those communities. I want you to explain what has been done differently to ensure that those communities are being consulted, because I tell you: They will tell you that they are not.

**Mrs MELINDA PAVEY:** There are about 17 questions in that statement, Ms Sharpe.

**The Hon. PENNY SHARPE:** Not really.

**Mrs MELINDA PAVEY:** Let me start with the important work that the committee did at Menindee. I wrote to Minister Pitt about seven weeks ago informing him that the Menindee Lakes project cannot go ahead in its current form, as well as Yanco. We have failed in our ability to communicate and garner the respect of those communities. I accept that. I knew that on the first day in the job. I have been going to ministerial council meetings with the Murray-Darling Basin Authority on two occasions and said the time lines and the deadlines that have been set in stone need to be shifted. I point out that the Murray-Darling Basin Plan was never a plan that was set in stone. It was meant to be able to adjust and respect community—

**The Hon. PENNY SHARPE:** Sorry, Minister. Can I just interrupt you? I am asking a very specific question.

**Mrs MELINDA PAVEY:** No, you asked about 17 questions.

**The Hon. PENNY SHARPE:** I do not want the history lesson. I am wanting to know what you are doing differently, given that the ICAC said you have undermined the Water Management Act, that DPI Water particularly had favoured particular stakeholders over others. You have earlier in this hearing told us that you have now set up a whole new structure which is under DPI Water. I want to know what action has been taken to make sure that these stakeholder groups are not disfavoured over others?

**Mrs MELINDA PAVEY:** I was answering your question because the last part of your 17 or so questions related to Menindee Lakes and I am giving you an example—

**The Hon. PENNY SHARPE:** You do not get to pick the one.

**The Hon. CATHERINE CUSACK:** Point of order: I believe this is very relevant information. I am really interested in hearing the full answer from the Minister.

**The CHAIR:** Continue, Minister.

**Mrs MELINDA PAVEY:** Thank you, Chair. What I am saying is that is a perfect example of how we are listening, respecting and responding to our communities. I am taking the fight for them to the Commonwealth, to the Murray-Darling Basin Authority, because you clearly saw we have lost that community, every part of that community—the Indigenous groups, the community, the townspeople in Menindee, the farming groups. We have lost everybody on that project. We have a very firm deadline and significant financial obligations, and I have been having that conversation with the Commonwealth for some time, that we cannot meet those deadlines. That is an example how we have changed. You infer—

**The Hon. PENNY SHARPE:** Minister, the Menindee Lower Darling Stakeholder Group have walked away from the table because they are so frustrated. How are you getting them back to the table?

**Mrs MELINDA PAVEY:** That is why I am having the conversations with the Murray-Darling Basin Authority and Minister Pitt, and the Commonwealth, to ensure that we—

**The Hon. PENNY SHARPE:** What is your department doing? You are blaming the Commonwealth for this.

**Mrs MELINDA PAVEY:** I am not blaming the Commonwealth.

**The Hon. PENNY SHARPE:** Well, what is DPI Water doing to get these people back to the table?

**Mrs MELINDA PAVEY:** I think realising and acknowledging that the time frames and the project that was first put up is not going to be achieved is the most important thing we can do. Our agency and Anissa Levy, WaterNSW, have been in dialogue with those communities now for years and recently Anissa Levy in her new position—

**The Hon. PENNY SHARPE:** It has not been going very well, has it, Minister?

**Mrs MELINDA PAVEY:** No, it has not, because the community does not accept the proposition and the design of the work that has been put forward. They do not support it. I get that, and I am trying to make changes at a Commonwealth level. In relation to the ICAC recommendations, we have changed the Barwon-Darling water sharing plan to ensure that the take rules have changed to give more continuity and ensure the water has a greater chance to get down to the Lower Darling. We have made changes.

**The Hon. PENNY SHARPE:** Can you guarantee that all those changes will be consistent with the principles of the Water Management Act?

**Mrs MELINDA PAVEY:** Absolutely.

**The Hon. PENNY SHARPE:** We will wait and see.

**The Hon. MICK VEITCH:** Minister, have any other stakeholder groups walked away from those consultation forums that you are aware of?

**Mrs MELINDA PAVEY:** Yes, and Yanco as well. But I also might point out, while I have an opportunity, out of the sustainable diversion limit [SDL] projects, which is required to save 605 gigalitres of water across the Murray-Darling Basin, we have achieved 12 of the 20 projects. It is not as if we have not been doing good work. Our proposition to the Commonwealth is that there are better projects that we could be doing that will save water and will have better outcomes for the environment. No-one surely can be happy with the level of carp still in our waterways. Improving off-take levels of dams, improving connectivity—

**The Hon. MICK VEITCH:** But are there penalties involved from the Commonwealth if we do not progress or do not meet time lines for the SDL projects?

**Mrs MELINDA PAVEY:** There are some challenges of how that legislation is written in terms of compulsory buyback. We are working through with the Commonwealth on that. Believe it or not, I am in lock step with Victoria, a Labor government. We are supporting each other on this to ensure that we get the right outcomes for the environment and our communities. We did support, we have given 1,000 gigalitres of water to the environment. We had one of the worst droughts on record, yet we still had significant water going over the barrages in South Australia. We did ensure that that river, the Murray, continued to flow. The Darling is a much more challenged and unregulated river without major storages at either end. The good news is today we have got Murray general water security allocations going up to around 50 per cent, up 4 per cent. So there are some good signs.

**The Hon. MICK VEITCH:** Can I ask about the consultation. This comes up in a number of forums.

**Mrs MELINDA PAVEY:** It does.

**The Hon. MICK VEITCH:** And it is clearly broken.

**Mrs MELINDA PAVEY:** It is.

**The Hon. MICK VEITCH:** When these groups walk away from the consultation mechanisms, what does your department do to find out why they walked away and try to re-engage them? What is the process to try to mend the communication, the relationship management issues we are having with stakeholders out west?

**Mrs MELINDA PAVEY:** I think good faith. We met them last week, and they are at the table, and we said, "What do you want? How do you want this project to look?" We said that to them. We need to fix it. It is a mighty task because there are some significant Aboriginal artefacts and histories and some significant impacts, even in the national park area, that we are going to have to impact. Let us not forget that Menindee Lakes was a project built between the 1940s and the 1960s. It is a man-made issue.

**The Hon. PENNY SHARPE:** There are also ephemeral lakes there, Minister, that have been there for much longer than that. Do not pretend that they were magically created.

**Mrs MELINDA PAVEY:** No, but they were impacted by man-made interference between the forties and the sixties. The level of evaporation, everybody will agree on that point, is too high. It is the playground of Broken Hill. The people of Broken Hill deserve to go on a waterski boat or a fishing boat as much as those in the Adelaide lakes. There are some big challenges for us all to be able to give fairness and equity.

**The Hon. PENNY SHARPE:** What you are suggesting is going to make that very hard, Minister.

**Mrs MELINDA PAVEY:** Sorry, what was that?

**The Hon. PENNY SHARPE:** I go back to the ICAC report, which reinforced findings in the South Australian royal commission that the way in which you describe triple bottom line reporting to water is actually contrary to the law. Do you agree with that observation?

**Mrs MELINDA PAVEY:** I think the triple bottom line is important to our communities—

**The Hon. PENNY SHARPE:** But do you accept it is actually contrary to the law, as the ICAC and the South Australian royal commission said?

**Mrs MELINDA PAVEY:** I do not accept propositions in the South Australian royal commission because there was a lot of evidence that it did not—

**The Hon. PENNY SHARPE:** What about the ICAC? It is the same one. You can pick and choose but the ICAC said it. Are you saying you do not accept that?

**Mrs MELINDA PAVEY:** I think that it is important that we consider on behalf of our communities the environment, as well as community, as well as jobs and opportunities. They are all part of decisions that government needs to make.

**The Hon. PENNY SHARPE:** Sure, that is what you say all the time. The question is: Do you understand and do you accept that the way that you describe that and the way that that is applied is outside the law?

**Mrs MELINDA PAVEY:** It is important to understand that there is a triple bottom line that governments need to address when they are making decisions—

**The Hon. PENNY SHARPE:** Minister, do you understand your own legislation where that is not provided for under the law?

**Mrs MELINDA PAVEY:** —and the environment is important to that.

**The Hon. PENNY SHARPE:** Are you saying that you are going to change the law or put changes to Parliament to back in the way in which you are applying this? Because it is very clear—the ICAC said so—that this is not the way in which the legislation sets out the decision-making in relation to water.

**Mrs MELINDA PAVEY:** The decision-making—

**The Hon. PENNY SHARPE:** Are you happy to keep breaking the law?

**Mrs MELINDA PAVEY:** We are not breaking the law; we follow water sharing plans. We have a responsible approach to the management of water and the management and support of our communities.

**The Hon. PENNY SHARPE:** Minister, do you accept—yes or no—that the triple bottom line as you describe it is outside the law, as was found by the ICAC?

**Mrs MELINDA PAVEY:** Dr Bentley has something to add.

**Dr BENTLEY:** Just to say, I took advice on the subject about how those objectives and principles are to be applied. I think the language "triple bottom line" has been construed as trying to represent something the department has not been doing. I have been around for 20 months in the department now and this report, the ICAC report, has been years in the writing. And since I have been around, people are not applying this, saying, "We are treating all of these things completely equally," which is what has been inferred from a triple bottom line. It is clear that the environment is the more important of those aspects under the law, but you do not have to satisfy everything on the environment before you satisfy anything on the other factors. And so that is how we are applying it. That is consistent with the legal advice I have got.

**The Hon. PENNY SHARPE:** When did you get that legal advice, Dr Bentley?

**Dr BENTLEY:** From our general counsel.

**The Hon. PENNY SHARPE:** But when?

**Dr BENTLEY:** When? I got that advice from memory in the middle of last year. It is clear that you do not have to satisfy everything for the environment before you start to satisfy anything for the other considerations.

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

**Dr BENTLEY:** That is how we are applying it, that is how water sharing plan rules work and that is the approach the department follows.

**The Hon. PENNY SHARPE:** It has not always been the case because, as I said, that is not what the ICAC report—

**Dr BENTLEY:** I can only talk about the 20 months that I have been around.

**The CHAIR:** I will call Mr Barnes back because we were halfway through a conversation about our new regulation. Mr Barnes, the Minister referenced Nana Glen derailment as an example, but obviously, as she said, the regulation was drafted well before that. Can you give us some concrete examples of occurrences that have prompted the department to research and put forward this regulation?

**Mr BARNES:** I cannot speak to what has prompted the department; they are the policy-making agency. I can talk to what obligations now fall with NRAR as the independent regulator.

**The CHAIR:** Okay. Minister, can you pass to anyone who might be able to tell us what prompted this regulation being drafted?

**Mrs MELINDA PAVEY:** I think we had some representations from industry in Sydney about getting access in an emergency situation. I understand that Sydney Water had some issues with this. Mr Cheroux, do you recall representations on this issue of getting emergency access? So we were complying with the rules.

**The CHAIR:** Was that an acknowledgement from Mr Cheroux?

**Mr CHEROUX:** Yes.

**The CHAIR:** So that I can improve my own water literacy—as the Minister coined it at a previous inquiry—and to try to get my head around what this regulation does or does not do, say there is a flood event and there is an irrigator and he or she puts their hand up and says, "I need to do emergency works" and in the emergency works that water is captured. How would this regulation, and how would NRAR, enforce how they use that water captured during these emergency works? Is that even possible under this regulation? I am trying to get my head around it.

**Mrs MELINDA PAVEY:** To be clear, we will go to Mr Barnes.

**Mr BARNES:** Thank you, Minister. An emergency event is defined as a sudden natural event, including a storm, a flood, a tree fall, a bushfire, or landslide or coastal inundation, and it goes on. To access the exemption the agency must determine that there is a significant risk to infrastructure or an imminent risk to life. They are, in seeking the exemption, obliged to notify NRAR before starting the emergency works. In notifying NRAR they must provide the reasons for undertaking the emergency works, what the nature of the event was that resulted in them seeking the exemption, and the significant risks that will be reduced as a result of those works. That is known as the initial report.

Fourteen days after completion of the works they then must notify NRAR again and advise how that work was undertaken and any impacts or risks that arose as a consequence. There is no limit, Mr Chair, on the

volume of water that can be removed. It is expected, however, that the minimum volume possible will be removed so as to address the emergency situation. This acknowledges that there are emergencies where this occurs and dewatering activities are appropriate to remove the immediate risk. In most situations it is anticipated that the water will be removed back into the environment.

**The CHAIR:** So it is expected—

**Mrs MELINDA PAVEY:** You cannot use that water for commercial use.

**The CHAIR:** I understand that is what it says in the regulation. My concern is: How is that going to be enforced by NRAR? Are you going to physically inspect those properties to ensure that it has been returned?

**Mr BARNES:** Where the exemption is exercised, as I mentioned before, the utility in this instance is obliged to notify NRAR in advance, we will hold a record of those proposed works and upon completion will subject those works to potential audit by NRAR to ensure that the works were carried out in accordance with the regulation and that the laws were upheld.

**The CHAIR:** If we accept that this regulation has nothing to do with floodplain harvesting, Minister, when do you anticipate that your new floodplain harvesting regulation will be gazetted?

**Mrs MELINDA PAVEY:** On 1 July.

**Mr JUSTIN FIELD:** Chair, I think you mean the gazettement of the regulation as opposed to the implementation of policy.

**The CHAIR:** Yes. The gazettement of the regulation.

**Mrs MELINDA PAVEY:** So, I want the regulations to be in effect on 1 July and, as you know and probably appreciate, my office and our teams are in consultation and dialogue with all interested parties in the upper House. As Mick Veitch will know, in 2004, when the Labor Party was in government, this was a priority and a process started. This is a good process, a genuine process—the first time in Australia we will have a licensing regime around floodplain harvesting. I do genuinely hope for your support and seek your support in supporting those regulations and their gazettal so that the licensing regime takes effect on 1 July—the first time in Australia.

**The CHAIR:** I will quickly shift to Dungowan Dam. Can you confirm that the long-term average increased capacity of this project will just be six extra gigalitres?

**Mrs MELINDA PAVEY:** I can confirm that we would not have been potentially eight months away from water if we had had Dungowan Dam built as we were in February this year—

**The CHAIR:** That was not my question. Is all we are going to get out of this project six extra gigalitres?

**Mrs MELINDA PAVEY:** What you are going to get is certainty for that community for the Peel Valley—

**The CHAIR:** So that is a no.

**Mrs MELINDA PAVEY:** —for the town, for the industries, for the jobs. That dam will play a significant part in securing water supply for all parts of that community. And I suspect, Mr Banasiak, if you went to Tamworth and suggested we do not build a dam that you would not be very popular.

**The CHAIR:** I am not suggesting that we do not build it. It was a very simple question that I will have to repeat again later. Ms **Faehrmann?**

**Ms CATE FAEHRMANN:** Thank you, Chair. Minister, in relation to Wyangala Dam. Do you stand by your statement that appeared in *The Sydney Morning Herald* in February this year that:

This project was supported by the dam operators WaterNSW and the project will go a long way to securing the Lachlan Valley's water security.

**Mrs MELINDA PAVEY:** Yes.

**Ms CATE FAEHRMANN:** How much is Wyangala Dam estimated to cost?

**Mrs MELINDA PAVEY:** We will know that number definitively by end of year when we have our final business case.

**Ms CATE FAEHRMANN:** When The Nationals made an election commitment in relation to Wyangala Dam, you came forward with a \$650 million cost. So you had a cost estimate then. That was back in February

2019, so there have been updates to the costing. You said yourself that you have got \$500 million apparently in biodiversity offsets.

**Mrs MELINDA PAVEY:** Up to.

**Ms CATE FAEHRMANN:** What is the latest cost estimate that you have before you?

**Mrs MELINDA PAVEY:** As I said, we have biodiversity offset costs up to \$500 million, which was an increase on the original proposition of up to \$140 million. I think there was change in the legislation between the first costings in the 2018 water infrastructure documents that were released.

**Ms CATE FAEHRMANN:** Minister, are you aware of a capital delivery program summary, which is dated 6 November last year, from your department that estimates that the cost of Wyangala Dam was \$650 million, as you said, before 2019 election when you made that commitment with, goodness knows what in front of you, but the estimated cost now is forecast to be between \$1.2 billion and \$2.1 billion—not my words, your department's words. You have that information before you. Yes?

**Mrs MELINDA PAVEY:** That was information that was provided in a call to papers to the upper House. As you said, there is a range and in that range are contingency costs and we will have a much better idea by end of year when we have our final business case and we will be able to communicate that with the people. I might also point out that we did not have a commitment from the Federal Government to fund that project at the time that the Deputy Premier made the announcement in February 2019. We have secured support from the Federal Government for that project. We have the support of that community and, as I pointed out earlier in budget estimates, Ms Faehrmann, we got down to around 10 per cent in Wyangala during the drought. That was a heart-in—

**Ms CATE FAEHRMANN:** Yes, we will get to that in terms of water security.

**Mrs MELINDA PAVEY:** No, let me finish please. I know you and I are diametrically opposite in terms of dams and water storage. I do ask, very genuinely, that the figures and the information in support of this project are included in the committee's report that you are chairing, and the fact that we would have had a spilling event twice in the past 20 years if we had increased that dam's capacity to 1,800 gigalitres, which is what we are doing with the 650 gigalitres raising.

**Ms CATE FAEHRMANN:** Thank you, Minister. I am specifically talking about the costing, so I need to get back to that. You know the time is very short for crossbench members to ask you questions.

**The CHAIR:** Well, don't give it to Justin.

**Ms CATE FAEHRMANN:** At this point we have the capital delivery program summary. Within your department last year, the latest cost estimate is minimum \$1.2 billion. That is what you would be working off now?

**Mrs MELINDA PAVEY:** We will work off the cost that comes to us in the final business case.

**Ms CATE FAEHRMANN:** Let us say your department is suggesting \$1.2 billion. How is Wyangala Dam being funded at \$1.2 billion?

**Mrs MELINDA PAVEY:** The cost to communities of running out of water is pretty costly. We got down to 10 per cent in Wyangala after three years of record low inflows—

**Ms CATE FAEHRMANN:** Minister, you are avoiding the question. The question was how is it being funded?

**Mrs MELINDA PAVEY:** I am not avoiding the question.

**Ms CATE FAEHRMANN:** How is it being funding, \$1.2 billion?

**Mrs MELINDA PAVEY:** I am answering the question in a very genuine way to show that giving security to water to towns, to communities, to the environment—it is important to acknowledge that if we do not look at improving water security with climate change that we have—

**Ms CATE FAEHRMANN:** Okay, let us jump to water security because that was going to be my question later. On what basis are you suggesting that this dam will provide water security for Lachlan Valley water users? Let us go there. On what basis? What is the documentation?

**Mrs MELINDA PAVEY:** Let me give you an example.

**Ms CATE FAEHRMANN:** The evidence.

**Mrs MELINDA PAVEY:** If the dam had been at 1,800 gegalitres in 2016, as what the community had always wanted that dam raised, we would not have got to 10 per cent water in Wyangala Dam, which was a real threat to communities in February of this year. That is a fact. If you get more water, it gives more security. I would have thought it is an important conversation and we are doing that through our Regional Water Strategies. We have climate change. We need to be able to capture water in the big events for the extended drought periods that are predicted.

**Ms CATE FAEHRMANN:** Thank you, Minister. We will get to water security later. The question that you were avoiding at the beginning was: How is Wyangala Dam being funded at \$1.2 billion? Let us go back there.

**Mrs MELINDA PAVEY:** It is not a set and decided figure at \$1.2 billion.

**Ms CATE FAEHRMANN:** Your department has a capital delivery program, saying that that is the minimum.

**Mrs MELINDA PAVEY:** We have a 50 per cent commitment from the Commonwealth at the price of around of \$685 million. We will continue to work with the Commonwealth when we have the final business case to see if there is—

**Ms CATE FAEHRMANN:** Can I just ask for clarification on that figure? You just said \$685 million. Is that a complete loan by the Commonwealth for its 50 per cent share or is that based on the dam being \$685 million?

**Mrs MELINDA PAVEY:** Based on the dam being \$685 million.

**Ms CATE FAEHRMANN:** The amount that the Commonwealth is looking to give you—

**Mrs MELINDA PAVEY:** Is a 50 per cent grant.

**Ms CATE FAEHRMANN:** What is that figure?

**Mrs MELINDA PAVEY:** Fifty per cent of the original commitment price at around \$685 million. That is what the Commonwealth has committed to.

**Ms CATE FAEHRMANN:** Can I just check, in terms of the Commonwealth commitment—

**Mrs MELINDA PAVEY:** Can I finish because it is really important for your facts?

**Ms CATE FAEHRMANN:** Sure. I want to make sure I get the final question.

**Mrs MELINDA PAVEY:** The original commitment from the Commonwealth was a 25 per cent grant, 25 per cent loan. They are now offering us 50 per cent grant on the—sorry, it was \$567 million for the two dams. But it is important to acknowledge that there is support from the Snowy Hydro Legacy Fund and we will continue to work within government, with the Expenditure Review Committee [ERC] to ensure that the dam provides the benefits. That will be properly scrutinised through those processes. I know, from your public commentary, from you chairing the committee that you do not support that dam. But I know that that community supports the dam, the townspeople who work and have jobs off the back of that dam and the water security that it provides. Increased water security will play a very important part in climate change going forward. The raising of that dam has support. I know it is hard. We are up against a lot of very organised people, including yourself, who do not want this to happen. I am telling you, country people want it to happen, and we will continue—

**Ms CATE FAEHRMANN:** You don't talk to all country people.

**Mrs MELINDA PAVEY:** —to go through those processes and support it and do it in an economically responsible way.

**Mr JUSTIN FIELD:** Minister, I want to come back to the water sharing plans. It is interesting that the ICAC report focused a lot on the Barwon-Darling water sharing plan and the issues in that plan. But, of course, we had a report before that from the NRC and one of their key recommendations was to ensure that the amendment and remade plan rules, objectives and outcomes fully recognise and are consistent with the prioritisation specified in the Water Management Act. So we had a very similar recommendation from the NRC. The ICAC recommendation with regards to the Barwon-Darling water sharing plan, which you said you have fully implemented, has just a number of points there. Can I get clearly on the record: Has the Government implemented all of the NRC's Barwon-Darling water sharing plan recommendations?



**Dr BENTLEY:** I will just get the details.

**Mr JUSTIN FIELD:** I am happy for you to take that on notice, Dr Bentley.

**Dr BENTLEY:** I will look it up.

**Mr JUSTIN FIELD:** Before you do, I want to go back to this legal advice that you commissioned or at least sought in the middle of last year. What changes have been made since you received that advice as to how you actually implement the triple bottom line or how that fits in with the prioritisation required under the Water Management Act? How do you actually implement it?

**Dr BENTLEY:** That advice satisfied me that the approach that we are taking, including the changes we have made to the Barwon-Darling water sharing plan is appropriate. So it satisfied me that we are not following what people are assuming we were doing under a "triple bottom line approach" but that we were satisfying the environment as a priority but also addressing the other objectives and principles that we need to address. It did not change my approach. It satisfied me that the work the team are already doing to the changes to the water sharing plans was, in fact, in accordance with the requirements under the Act. I found that note.

**Mr JUSTIN FIELD:** Yes, please.

**Dr BENTLEY:** Could you repeat your question, Mr Field?

**Mr JUSTIN FIELD:** Just confirming whether you have implemented all the recommendations of the NRC's review of the Barwon-Darling water sharing plan.

**Dr BENTLEY:** We have not completed them all but in phase one we are implementing the actions to better manage environmental water and the health of fish populations by—

**Mr JUSTIN FIELD:** Actually, Dr Bentley, if we could—

**Dr BENTLEY:** I can give it to you on notice.

**Mr JUSTIN FIELD:** That would be useful.

**Dr BENTLEY:** The majority is in place; the rest is being progressed.

**Mr JUSTIN FIELD:** Thank you.

**Mrs MELINDA PAVEY:** Part of that in stage two of that is also looking at Menindee Lakes and the water saving project and how we can—

**Mr JUSTIN FIELD:** I would like to understand that phase one, phase two and the time line. That would be very useful.

**Mrs MELINDA PAVEY:** And stage three.

**Mr JUSTIN FIELD:** Have you gone back to the NRC and said, "This is what we are proposing to meet your recommendations; have you got any feedback?"

**Mrs MELINDA PAVEY:** In terms of the process I am—

**Mr JUSTIN FIELD:** And the adequacy of the work to implement.

**Dr BENTLEY:** I cannot confirm to you off the top of my head. We will have to take it on notice. But what I would say is the plan is due for being remade in 2023 as well. This is a very frequent review and improvement process.

**Mr JUSTIN FIELD:** Yes, but we know a lot of plans were just remade and the NRC did not have a say on them. We will get—

**Dr BENTLEY:** You can see that they are now, and we are responding to them and acting on them.

**Mr JUSTIN FIELD:** Yes, we will get to some of that.

**Mrs MELINDA PAVEY:** We did go back to the Barwon-Darling Stakeholder Advisory Panel in March 2020. It was able to give us some feedback and on 21 January the resumption of flow rule was activated after an extensive period of low flows at Wilcannia—

**Mr JUSTIN FIELD:** Yes, and that is—

**Mrs MELINDA PAVEY:** This rule prohibits pumping from the river when it flows—

**Mr JUSTIN FIELD:** I understand that. But as you well know, there are stakeholders out there that do not think that resumption of flow rule is working the way that it should or is intended to, and we will always have this dispute. I am trying to work out how you make a judgement about whether or not the active management decisions day to day actually comply with the legislation. There has been a lot of stock made—a lot from you, Minister, to be fair—that "the ICAC report is old hat and that it looked at things years ago; we have made changes". But it would not have issued a report just a couple of months ago really obliterating the Government's management of water if you had made those changes in the last couple of years.

It would have been watching what is going on. It is not going to make a report that is no longer relevant the day that it is published. You got that advice last year that made you confident that your approaches deal with the prioritisation issue, but a few months later ICAC says they do not. I am just trying to understand how it does that—

**Mrs MELINDA PAVEY:** ICAC was looking at a period in time, which we then have already introduced five of the recommendations before the ICAC report came out. I think that is an important acknowledgement, Mr Field.

**Mr JUSTIN FIELD:** You had that report months before it was made public, as far as I understand. There must have been some interaction between your agencies and ICAC as to—

**Mrs MELINDA PAVEY:** I will let Dr Bentley—

**Mr JUSTIN FIELD:** —the status of the implementation. It would not have just issued a report stating, "Do what you have already done."

**Mrs MELINDA PAVEY:** That is a good question. It is true that consultation went on with Dr Bentley, as deputy secretary, and his team. There was much work that went on.

**Mr JUSTIN FIELD:** It is pretty curious though, right, that it—

**Mrs MELINDA PAVEY:** What is curious?

**Mr JUSTIN FIELD:** That it has issued a report that is scathing and it did not state, "But we recognise that these five things have been done." It does not think that they have been done, is my point.

**Mrs MELINDA PAVEY:** Have you got that in writing?

**Mr JUSTIN FIELD:** No, that is what budget estimates is for. I am trying to get to the bottom of how it came to issue a report that is so scathing when your secretary—

**Mrs MELINDA PAVEY:** We are just trying to calm you down. We are just trying to assure you that—

**Mr JUSTIN FIELD:** —says, "Well, it looks like it's okay to me."

**The CHAIR:** Good luck.

**Mrs MELINDA PAVEY:** We are just trying to assure you there is no conspiracy here. We responded—

**Mr JUSTIN FIELD:** You are the one talking about conspiracies.

**Mrs MELINDA PAVEY:** —and acted in an appropriate way and Dr Bentley and our teams were working with ICAC for some period. The fact that we have actually already done five of what they published as recommendations before the report came out is a good thing, Mr Field.

**Mr JUSTIN FIELD:** Yes, and normally in the introduction of the report it would state, "But we recognise and congratulate the Government for implementing these things." That is my point. To this team—

**Mrs MELINDA PAVEY:** I do not think there is any "normal" around ICAC and in way that it particularly operates.

**Mr JUSTIN FIELD:** To recommendation 4, then, which states:

That the DPIE establishes a dedicated and adequately funded water sharing plan [WSP] implementation team ...

Who is in that team?

**Dr BENTLEY:** I have appointed 10 additional staff to that team specifically for that purpose.

**Mr JUSTIN FIELD:** It is one particular team with new staff—we might get to what they actually do—

**Dr BENTLEY:** Ten new staff added to a team—it is the implementation team—but they are 10 new positions purely for that purpose.

**Mr JUSTIN FIELD:** We might get to the work that they do in the next round of questions.

**The Hon. TARA MORIARTY:** Minister, I will switch the conversation to cemeteries. The Government commissioned a review into cemeteries and space for burial. You tabled the report a week or so ago. When can we expect the Government's response?

**Mrs MELINDA PAVEY:** We are working through those recommendations. It was a pretty extensive report dealing with the oft-held and often talked about issues with land and tenure. I will pass to our group secretary, Mr Michael Wright, and to Ms Melanie Hawyes, Deputy Secretary of Crown Lands, to discuss the report and that response timing.

**Mr WRIGHT:** As you have noted, that report was tabled recently by the Government. There are quite a number of recommendations in that report that are under active consideration by the department. Obviously we are in discussions with the Minister's office on that as well with a range of interests in the cemeteries sector, both faith based and other interests.

**The Hon. TARA MORIARTY:** I am going to ask a series of questions about this, but the first question is just: When can we expect the Government's response? The report itself is even entitled *The 11th Hour: Solving Sydney's Cemetery Crisis*. We are running out of time; it is urgently needing to be dealt with. When can we expect the Government's response?

**Mr WRIGHT:** The report is, as I said, under active consideration. I do not have a date for a government response to the report—

**Mrs MELINDA PAVEY:** But I would say in the next few months.

**The Hon. TARA MORIARTY:** The report that has been tabled says that Sydney is going to run out of capacity for burial in some cases in three years, and in other cases up to 10 years. It is not very long. What are your plans to deal with that, given three years for running out of burial space is quite an urgent issue?

**Mrs MELINDA PAVEY:** That it is. One of the things the report has given us the opportunity to do is actually prosecute and highlight where we have some capacity that has not really been acknowledged to help in that time frame. Southern cemeteries has identified, as you know; Northern Cemeteries also participated in the purchase of land and we will work through those approval processes. The Catholic Cemeteries Trust also has significant landholdings around Varroville in the Crown land trust there. There are solutions on foot.

We are absolutely committed to ensuring that we manage those Crown land assets in the best way possible, with a very big focus not just on delivery of extra space but also extra pressure on a downward price trajectory and more visibility and accountability into pricing across the Crown lands sector. There is a strong private sector deliverer in Sydney, but I want the Crown lands assets to be managed in a way that gives best line of sight to consumers and a downward trajectory. As the report highlighted, one of the biggest challenges we have is the view that we are short around \$300 million in managing perpetual costs of the cemeteries that Crown Lands manages across Sydney. There is also going to have to be significant investment in new cemeteries, which is also a big capital-intensive project.

**The Hon. TARA MORIARTY:** I will come back to that. But just in terms of timing, even as recently as three years ago in 2018 the *Metropolitan Sydney Cemetery Capacity Report* modelled that cemeteries would in fact be full by 2051. This new report that your Government has commissioned is stating we are running out of space in three years. It is a big difference in the space of three years. What is happening—

**Mrs MELINDA PAVEY:** It is a range. It was three to 10 years.

**The Hon. TARA MORIARTY:** Sure, up to 10 years; that is still quite urgent.

**Mrs MELINDA PAVEY:** It is.

**The Hon. TARA MORIARTY:** It has become more urgent just in the space of three years: from 2051 to just three to 10 years. What are you doing about it?

**Mrs MELINDA PAVEY:** As I have indicated, since we have circulated that report with the five Crown land managers in the cemeteries space we are confident, as advised by Southern, that there are potentially some opportunities there. Ms Hawyes, would you like to progress that conversation?

**Ms HAWYES:** So we are engaging with the sector, with the operators, to look at burial space and its ability to be brought online. There is work underway in Rookwood and other cemeteries and, as the Minister spoke to, there is significant space and opportunity potentially with the Bowraville development. So we are looking at all the avenues to bring more space online.

**Mrs MELINDA PAVEY:** And I am also very keen to have further conversations with Aboriginal land councils, particularly around south-western Sydney, that I have identified and that have had conversations with us around the capacity of their opportunities and land, which we are more than happy to have conversations with because it would be a sensible proposition, I think.

**The Hon. TARA MORIARTY:** Absolutely. One of the things that this report is quite strong on, because this has not been dealt with and still is not being dealt with, but because of the sense of urgency is a recommendation for compulsory renewable interment. Essentially, that means digging people up out of the ground, putting them somewhere else, and re-using the plot because we have not dealt with, or your Government has not dealt with, the lack of space and the fact that we are running out. What is the Government's position on that?

**Mrs MELINDA PAVEY:** Absolutely no. That is off the table. There will be no compulsory renewable relocations; absolutely not. But the report does talk to a conversation with people around whether they may be interested at a later date at a later time in their own plots being up for discussion after a certain period of time. It is sort of like having a conversation to become an organ donor. It is about what if into the future and if you do not want it, you do not have to have that renewable option. But that might become an option, as it is in other jurisdictions around the world. But there will be no compulsion, absolutely not, and I thank the upper House committee for the work that they did on that in trying to allay community concerns.

It is a very emotional issue. It is something that no family really ever talks about in an appropriate way often until it is too late. I do know from other conversations with other trusts that there is potentially families that do not even know that they have a plot that is there available in their name. So there are lots of things that we can do to better utilise the space that is there. When I say in terms of they may have a space allocated to the family that is not used and they may not even know that that space is there. Death and dying is a conversation that we all try to avoid, let us be honest; but better conversations among community groups, among our faith groups that play a very, very important part in this whether it is the Jewish faith, the Catholic faith, the Muslim faith or other Christian faiths. We are going to find a pathway and a solution to give everybody certainty, accountability and also I want a downward trajectory on those costs for families.

**The Hon. TARA MORIARTY:** What kind of discussions are being had with some of those religious groups? Obviously they have strong beliefs about how this is dealt with. What kind of work is being done with them, given this report very strongly recommends compulsory renewable interment. There are religious groups that would be very opposed to that so what work is being done with them?

**Mrs MELINDA PAVEY:** In terms of compulsory renewable interment, that talks to that issue and engages only if somebody that wants a plot actually wants that conversation to be had into the future. There is no compulsion at all. There is a recommendation that talks to having a conversation at an appropriate time with someone that owns a plot, but not having retrospectivity around renewal.

**The Hon. TARA MORIARTY:** Sorry, Minister, I accept that it does not suggest retrospectivity, but it does suggest that it be compulsory in every cemetery. It is currently available now and none of the cemeteries in Sydney are using it or, as far as I am aware, are interested in using it. This report is suggesting that, going forward, it be compulsory.

**Mrs MELINDA PAVEY:** I think that we will encourage appropriate conversations at all times in a way that further expands the knowledge of consumers and those dealing with those issues at a time, but there will be absolutely no compulsion.

**The Hon. TARA MORIARTY:** So speaking of conversations, this is a very uncomfortable topic for a lot of people—for most people, probably. It is not something that people really think about or families really think about until they are at a moment in time where they need to deal with the death of a loved one, which actually leaves them quite exposed or potentially exposed to being ripped off. It does happen. Costs in New South Wales for a burial, interment plots, are the most expensive in the country. There is not really any regulation around it. The Independent Pricing and Regulatory Tribunal has been looking at this from a number of years. What are you doing about the ridiculous costs of interment in New South Wales?

**Mrs MELINDA PAVEY:** I think a more strategic approach and better communication across each of the Crown land cemeteries and understanding the opportunities to expand what is already there, managing those perpetual costs are a big part of it. But there are some examples where we are more expensive than that, say, Victoria and Queensland, but there are other examples where we have not been as expensive. But I think some consistency and some certainty for consumers is absolutely the right approach and that is how we will be taking the sector forward.

**The Hon. TARA MORIARTY:** One of the things that is referred to in this report—and I would be interested in hearing from you, essentially in terms of perpetual cost—is that the cemeteries cannot afford, nor are they really factoring in, how to manage perpetual costs into the future, which can be a burden on taxpayers. What is that exposure to taxpayers at the moment? What are your plans to have that managed?

**Mrs MELINDA PAVEY:** The exposure could be as much as \$300 million for maintaining cemeteries, but we are confident that with a more integrated approach—and there is one Crown model recommended in the report—I think that we can have a better line of sight with one board overseeing all the Crown lands cemeteries to ensure that we maximise the availability of land that is there as well as bringing on new land, which can help ensure that we pay those perpetual costs without having to lean on the taxpayers of New South Wales and also keep management of those prices and, what I would like to see, a downward trajectory.

**The Hon. TARA MORIARTY:** The report also calls for the Government to urgently acquire new land for a burial space. You have mentioned Bowraville. Is there any other land that the Government is considering?

**Mrs MELINDA PAVEY:** Well there is, as I pointed out, I think, some land in south-western Sydney that Crown Lands has had some conversations with the Aboriginal land council about. The northern trust purchased some land in recent years, which I think needs to be fully assessed. You know, it is a big planning pathway to change the zonings. Sometimes there is a bit of discomfort living next to cemeteries, but in fact my great aunt used to live next to one and we used to use it as a playground. So I think that it can create some incredible opportunities for green space, but as we have highlighted—and Ms Hawyes might like to further explain some of the work that southern is doing in identifying other land.

**Ms HAWYES:** Sure. So we are working with all of the operators, as I mentioned, to look at what can be brought online. As we have talked about there is Bowraville, which has significant capacity—more than 100,000 plots—Wallacia, Bombora and we are working with Rookwood too to see what they can bring online. In relation to your previous point about cost, the report identifies significant opportunity to develop efficiencies in the way the sector operates which will mitigate some of those costs to a great extent.

**The Hon. TARA MORIARTY:** So, what are those ways? One of the suggestions is one board, or one trust, sorry. How would that include some of the religious groups that currently operate cemeteries?

**Ms HAWYES:** So we are talking with those groups at the moment but the directions of that report are about opportunities for efficiency in the way the sector operates, which we will explore with the sector and with various stakeholders, including the faith groups.

**The Hon. TARA MORIARTY:** Will all of this be provided in the Government's response in a couple of months?

**Ms HAWYES:** Yes.

**The Hon. TARA MORIARTY:** Given that we are out of space in three to 10 years?

**Ms HAWYES:** Yes. We will respond to all those challenges within the report and the opportunities that are there to ensure that we do not run out.

**The Hon. TARA MORIARTY:** I am not sure how much time I have left.

**The CHAIR:** Five.

**The Hon. TARA MORIARTY:** I just want to turn to the strategic plan, the vision for Crown land. There is a report that has been circulated and has been open for public discussion. When can we expect the final report from Government?

**Mrs MELINDA PAVEY:** Not too far away.

**Ms HAWYES:** Not too far away at all. We have been working very closely with the Crown land commissioner's office in recent weeks to bring that to a close and to develop a final plan for Ministers to review.

**Mrs MELINDA PAVEY:** I might ask Professor Bush to come forward because he has led that work on the strategic plan and to talk about some of those opportunities out there. Minister Stokes is looking after Crown lands aside from cemeteries in the city areas and I am managing in the regional areas. I think it is important that we engage with those big stakeholders, whether it is your surf clubs, your golf clubs, your racing clubs to ensure that we are getting best value. Professor Bush and I share many of those aspirations.

**The Hon. TARA MORIARTY:** Professor, we will have a lot of time this afternoon and I am happy to hear from you, but before we do I note that the draft talks about improving existing things—racecourses, showgrounds et cetera—but it also is pretty clear that the Government has a plan for commercialisation of Crown land. You must have done some planning or modelling. Can you give us some examples on things that you are considering doing?

**Mrs MELINDA PAVEY:** I think it is really important that we always analyse the best use of property whether it is government owned or Crown owned, and I think for Sydney there is a huge shortage of green space and parks and I know Minister Stokes is working incredibly hard to improve that amenity. I will let you in on something; in the next couple of weeks we are going to be launching a website and a database that shows what government land is owned across all of New South Wales. The website will actually articulate 280,000 parcels of land. We need to ensure that any land is being used in the best interests of community—whether it is for parks. One of the big challenges we have very much at the moment in regional New South Wales is housing availability and land supply. If we have unused parcels of Crown land that we could continue to lease out and provide important infrastructure where services are already at that land, I think it would be wrong of us not to take up those conversations on behalf of a community.

**The Hon. TARA MORIARTY:** What about things like private beach clubs?

**Mrs MELINDA PAVEY:** No, that is not on our table. That is not part of—

**The Hon. TARA MORIARTY:** I know the Bondi Beach one was rejected, but that is an idea that would fit in with the commercialisation of public space.

**Ms HAWYES:** I might add to that, if I may. There is and always has been a history of commercial use of some Crown land assets, and that will continue. But in relation to your questions about changing uses, we have community engagement processes that make sure that the use of a particular site reflects what the community wants for that site.

**The Hon. TARA MORIARTY:** But have you done modelling on leasing out particular parts of Crown land that have not been to date?

**Ms HAWYES:** We have information about what is utilised in the portfolio now. Future use is a matter for ideas coming forward, innovation and what the community wants for a particular site.

**The Hon. TARA MORIARTY:** I am paraphrasing here, but is the list of things that are currently utilised publicly available? I know there is a website coming; the costs have blown out. It has taken a very long time for it to be ready. When can we expect—

**Mrs MELINDA PAVEY:** What is that? What has blown out?

**The Hon. TARA MORIARTY:** The website that maps out where these sites are.

**Mrs MELINDA PAVEY:** I do not think the costs have blown out on that. Why do you think that?

**The Hon. TARA MORIARTY:** The Auditor-General thinks so, along with the time line. It is quite late.

**Mrs MELINDA PAVEY:** I think that might be another project.

**The Hon. TARA MORIARTY:** I am asking about that site.

**Ms HAWYES:** I am confused about which project you are asking me about.

**The Hon. TARA MORIARTY:** There is a project happening in your department that will map out—

**Ms HAWYES:** The CrownTracker?

**The Hon. TARA MORIARTY:** Yes.

**Mrs MELINDA PAVEY:** Sorry, that is the CrownTracker; I was talking about another program for government property more generally.

**The Hon. TARA MORIARTY:** Alright.

**Ms HAWYES:** The CrownTracker is a complex IT project looking to modernise and digitise all of our spatial holdings. Part of it has been released and we are continuing to evolve and upgrade that system.

**The Hon. TARA MORIARTY:** So all current parcels of Crown land are available to see on that site?

**Ms HAWYES:** You can look at Crown lands, yes, but there are other parts of our information holdings that we are adding to that.

**The Hon. TARA MORIARTY:** What are the other parts?

**Ms HAWYES:** I can get you a full list, but there are different modules to it that assist our own staff. I will get you the full list of what is included in the later releases, but we can look and see what is in Crown land at the present, yes.

**The Hon. TARA MORIARTY:** Minister, your department has undertaken dredging activity at Swansea Channel for a number of years. Is that correct?

**Mrs MELINDA PAVEY:** Yes.

**The Hon. TARA MORIARTY:** While Roads and Maritime Services—

**Mrs MELINDA PAVEY:** Sorry, I think it was actually done by the maritime unit, and it is the Maritime Infrastructure Development Organisation [MIDO]. That responsibility has moved from Crown Lands to Transport for NSW unit.

**The Hon. TARA MORIARTY:** They deal with the licensing but your department deals with managing that in a sort of physical sense. Is that correct?

**Mrs MELINDA PAVEY:** The MIDO unit has been managing the Swansea Channel, as I understand.

**The Hon. TARA MORIARTY:** Are you aware of media reports about the frequency and severity of groundings at the Swansea Channel because of sandbars forming near the mouth of Lake Macquarie?

**Mrs MELINDA PAVEY:** I am aware, and that is an issue not just at Swansea but up and down the coast. When we have good rains, it sometimes has a good impact in pushing out that sand, but we will come back to that issue.

**The CHAIR:** Going back to the question about Dungowan Dam and how much it is going to increase, Dr Bentley, you looked like you wanted to add something at the end there.

**Dr BENTLEY:** The Dungowan Dam has the potential to make seven gigalitres per year of more water available to the town. But we need to be clear, it does not mean more water is available per year overall because we must stick within the cap. The real benefit is that in years when you are in drought, you would have more stored water so that you have got fewer years of low allocation when you are in drought, but the long-term average needs to remain within the cap.

**The CHAIR:** Is that potential seven gigalitres put aside purely for town?

**Mrs MELINDA PAVEY:** That is the thinking at the moment. It is not decided formally but we had a meeting with the mayor and the local member, Kevin Anderson—what was that, three weeks ago we were up there, Jim?—so the community could further understand those challenges. While we were there we also came up and supported some work the council is doing with the CSIRO on managing the recycling of Tamworth's supply. About half of Tamworth's town water is actually used in industry and if we can get a better system that is also going to add to water security in the town and in the city.

I have got to say, I was pretty offended at the Productivity Commission's reports suggesting that it would be a whole lot easier if we just took away water entitlements from farmers. I do not think the Productivity Commission fully understands the complex nature of the water cycle within that Peel Valley. It is the farmers that irrigate and provide the food and the crops for the abattoirs, whether it be for the chicken or the beef. It is an important whole-of-cycle economy and if you take from one, you are going to affect the other. There are thousands of jobs in food manufacturing in Tamworth.

We need to do better and give more water security, whether that is with recycling, into the future. We are happy to help council in those conversations and support the funding for CSIRO work on that issue. But the Dungowan Dam is a really important project to add security to the town and to supply, complementing Chaffey Dam. It is something that the community wants and that we are going to continue to work towards. We have

already started on replacing 18 kilometres of a 38-kilometre pipeline that needs to be done in any event. We announced that tenders for that would be released when we were up there three weeks ago. That will be a significant investment in Tamworth's water supply and security.

**The CHAIR:** I am hesitant to stop you, Minister, but I want to go back to the comment you made about the Productivity Commission suggesting that we take it away from farming allocation. You said that you were still undecided whether this seven gigalitres would be reserved for town water. If you decide that it is—

**Mrs MELINDA PAVEY:** No, it would be in that realm; that was what was said.

**The CHAIR:** Yes, so if you do decide that it will be reserved purely for town use, does that mean irrigators like Namoi Water will potentially lose out or have an increased loss of that seven gigalitres potentially? They will not have access to that.

**Mrs MELINDA PAVEY:** What it does is actually give more security for users for a greater length of period, and that is the way the calculation is worked out. But Dr Bentley is absolutely correct; there is not a greater allocation. We still have to operate within the Murray-Darling Basin cap, but if you have more water there more often that means those farmers and the town will be more secure for water for greater periods of time.

**Dr BENTLEY:** Could I add a brief point, Chair?

**The CHAIR:** Yes, sure.

**Dr BENTLEY:** The way the allocations are done is we reserve two years worth of supply for the town before allocating water to other licence holders on top of that. That is why there is uncertainty about the seven gigalitres because at the moment they are using 8.5 gigalitres per year. So even if the town grew to the 100,000 that is in its plans, there is nothing to say that they will need all of that seven. So we hold back two years of current use, as it were, and then allocate on top of that. There would be some uncertainty.

**The CHAIR:** Do we know what the annual cost recovery for the people of Tamworth will be or is that still subject to fluctuations, given that we do not know what the final cost will be?

**Mrs MELINDA PAVEY:** The cost burden will not be put on the town or farmers. There will be benefits that will come to farmers and they will be part of that process, but until we have the final business case I do not expect water bills for the community of Tamworth to change.

**The CHAIR:** Given that the business case seems to keep getting pushed back in its release, if at a Federal or State level you are not here when the project is due to turn over, how confident are you that your business case will be solid enough that whoever comes back into power will say, "Yes, this is a project that we are going to continue with?"

**Mrs MELINDA PAVEY:** I think the information will stack up for itself. It really will. There are costs that need to be conducted and that have already been identified by the Dams Safety Committee for Wyangala. They have suggested that we would be looking at having to do repairing and dam safety and maintenance work of up to the value of \$300 million, which would be incorporated in that work. Similarly for Dungowan, the decommissioning of the existing dam and repairs to that dam also need to take place. So those costings will be taken into account in the final business case. I do genuinely hope that all the information that we have available to us now before the final business case is done—but given that your committee, the upper House committee on the dams as chaired by Cate Faehrmann, will come out in the not-too-distant future I do hope that some of our modelling and some of that information will be presented in that report.

**The Hon. EMMA HURST:** I have got some questions about Warragamba Dam. In August 2020 the Federal environment department's assessment of the analysis that was carried out by WaterNSW on Warragamba Dam was leaked to media. It was revealed that WaterNSW had failed to properly assess the impact of the project on native animals. Do you have any response to these concerns that were in *The Guardian* article?

**Mrs MELINDA PAVEY:** Thank you, Ms Hurst. Whilst being water Minister, I am not responsible for the work that is going on in terms of raising the Warragamba Dam wall. But I will refer to Mr Betts and Mr George in relation to that, because their jurisdictions and responsibilities overlay. They do not overlay with me per se but this is your time to choose to do with what you wish, so I will let you ask.

**The Hon. EMMA HURST:** Thank you for that.

**Mr BETTS:** Just to frame up the answer to that, the work which is currently underway is the production of a final business case for the raising of the Warragamba Dam wall, which will consider a whole range of different options for addressing flood risk within the Hawkesbury-Nepean Valley, of which some are infrastructure-based



and others not. In parallel with that, WaterNSW—as the proponent for the project—is preparing an environmental impact statement. Some of the media coverage has related to the content of that environmental impact statement [EIS]. I will ask Andrew George to comment on your specific question.

**Mr GEORGE:** Thanks for the question. I refer in particular to the SEARs for the project—the secretary's environmental assessment requirements—which clearly lay out explicitly what we are required to do in undertaking that EIS. We have complied with all of those requirements in finalising, progressively, that work. So the comments you refer to are not accurate.

**The Hon. EMMA HURST:** The comments that were made in the article—have you seen the article? Do you need a copy of it?

**Mr GEORGE:** A copy would be of assistance, thank you.

**The Hon. EMMA HURST:** Sure. There were allegations that WaterNSW made a low effort to survey the area for koalas before concluding that they would not be significantly affected by the project. There were accusations made that the threatened regent honeyeater population would be reduced by up to 50 per cent. There were also accusations made within this article that a number of species were not surveyed at all, such as the swift parrot. Are you saying that those accusations are incorrect?

**Mr GEORGE:** I am not aware of the basis for those accusations but I note that the EIS will be made publicly available as part of the exhibition later this year, upon which time all of that information will be laid bare.

**The Hon. EMMA HURST:** Do you have a date of when the environmental assessment will go into public exhibition?

**Mr GEORGE:** No, not at this stage.

**The Hon. EMMA HURST:** Do you suspect it will be fairly soon, over the next few months?

**Mr GEORGE:** Answering that question is a matter for other processes under a separate Minister.

**The Hon. EMMA HURST:** Okay. That is alright. Thank you. On 18 February there was an announcement of the New South Wales 20-year water strategy, which is currently open for consultation. Minister, does this strategy take into account the water needs of wild animals, particularly those that have been affected by droughts or bushfires? Is that included at all?

**Mrs MELINDA PAVEY:** Yes, that would be a part of our thinking and our water that is allocated to the environment. It was 2014 that the Government announced that we would develop water strategies across New South Wales. When I became Minister, there had been some foundational work done and some consultation, particularly with the University of Newcastle and the University of Adelaide, in some water modelling and data, which has been incredibly interesting and at times scary, showing we had a 60-year dry period in the Hunter in around 200 AD based on some of the rock analysis that we did.

These regional water strategies are going to be really important to listening to community perspectives and their information and knowledge. But, yes, very much, Ms Hurst: We have seven out at consultation at the moment and another five to start consultation—that is in the regional water strategies—but we hope to have that work wrapped up by the end of the year. It has been important to get a variety of views and information and I thank everybody who has participated in it. Sometimes consultation in the water space has been very vociferous in recent times with water sharing plans, water resource plans and floodplain harvesting changes, but this has been something that has been appreciated, given the change in climate and some of the challenges that we have faced post-drought, ensuring that we do not forget, just because we have had some rain, that we need to make big decisions in terms of policy and investment to ensure that—

**The Hon. EMMA HURST:** Thank you, Minister. In the draft strategy it talks about integrated management programs that will "help to ensure the successful implementation of recovery plans and priority action statements for Threatened Species and Endangered Ecological Communities". Can you explain what that will involve?

**Mrs MELINDA PAVEY:** Amanda Jones, would you like to talk to that work that you have been leading?

**Ms JONES:** Thank you. Yes, the New South Wales water strategy that is out on exhibition at the moment indicates well how the objectives and principles of the Act come together with the seven priorities and 41 actions that are in the strategy. There is a figure 15 on pages 42 and 43 that maps out at a high level—if it is the only two pages you look at, it gives you a sense of what is required. I think you are referring to action 3.1,

which is to "implement NSW Long Term Water Plans to protect and enhance ecological systems". There are long-term water plans for every catchment in the State. They are very detailed and the species that are particularly important in all those catchments are identified. So there is not one fix; it is going to be a catchment-specific approach.

**The Hon. EMMA HURST:** Thank you.

**Ms CATE FAEHRMANN:** Minister, just so we are on the same page in terms of the costings of Wyangala Dam, I want to table the document that I referred to, which is the latest costing that you have before you as well, which is from 6 November last year, which says that the cost is a minimum of \$1.2 billion. I will just table that if I can. Minister, there is a value here that basically says the funding arrangement is \$276 million from Snowy Hydro Legacy Fund. Is that correct?

**Mrs MELINDA PAVEY:** If that is what the document says.

**Ms CATE FAEHRMANN:** Yes, and then WaterNSW—\$49 million debt funded. Is that correct?

**Mrs MELINDA PAVEY:** Yes.

**Ms CATE FAEHRMANN:** What is the \$49 million debt funding from WaterNSW to cover?

**Mrs MELINDA PAVEY:** The work in preparation of the final business case—the modelling, the engineering analysis, all that type of work.

**Ms CATE FAEHRMANN:** So WaterNSW is funding the business cases?

**Mrs MELINDA PAVEY:** Mm-hmm.

**Ms CATE FAEHRMANN:** That is \$49 million. I have an email in front of me dated 1 April 2020, which Maryanne Slattery got through Government Information (Public Access) Act documents. That is how I have it before me.

**Mrs MELINDA PAVEY:** Is that the lobbyist Maryanne Slattery?

**Ms CATE FAEHRMANN:** That is the water expert. It does not matter.

**Mrs MELINDA PAVEY:** It does matter. I think that it does actually matter.

**Ms CATE FAEHRMANN:** Nothing can deny the fact that this is an email from Treasury. Let us just stick to that, which says that—

**Mrs MELINDA PAVEY:** You brought in Maryanne Slattery, and she is still responding—

**Ms CATE FAEHRMANN:** It says that—

**Mrs MELINDA PAVEY:** Sorry, can I just say—

**Ms CATE FAEHRMANN:** No, excuse me. It says that the business cases, in fact, have increased from \$80 million to \$200 million for those three projects: Mole River, Dungowan and Wyangala. Are you aware of that? This was April last year. Your department has been aware for some time that it is \$200 million for those three cases.

**Mrs MELINDA PAVEY:** It is a significant investment when you are analysing—

**Ms CATE FAEHRMANN:** So that is correct?

**Mrs MELINDA PAVEY:** I am just giving the context of what goes into a final business case.

**Ms CATE FAEHRMANN:** That is fine, Minister. As you know, I have limited time. Is WaterNSW expected to debt fund for the \$200 million for those business cases?

**Mrs MELINDA PAVEY:** We will work through those processes. I might ask Dr Bentley to talk further to those arrangements. But through our new structure we will work through that and deliver and work to those commitments that have been made.

**Ms CATE FAEHRMANN:** At this stage, the costing is important. That is what I am talking about, because at the moment we have \$200 million for business cases when you have just said to me \$49 million. I happen to have the email in front of me and, therefore, I think that was incorrect.

**Dr BENTLEY:** I think I can clarify.

**Ms CATE FAEHRMANN:** The \$49 million you said to me was incorrect.

**Mrs MELINDA PAVEY:** In terms of a clarification—

**Ms CATE FAEHRMANN:** No. Excuse me, Minister. You know that it is \$200 million for the three business cases. Also, as I understand it, WaterNSW—

**Mrs MELINDA PAVEY:** Sorry, Cate. I took it that you were reading off the statements that were in this. You referred to the—

**Ms CATE FAEHRMANN:** Sorry, what statements?

**Mrs MELINDA PAVEY:** The \$49 million that you were quoting from here. I went along with you on that basis.

**Ms CATE FAEHRMANN:** At the moment it says that WaterNSW, in the capital works summary document from your department, has \$49 million debt funded. This document from Treasury that I have before me says \$200 million for the three business cases, including Dungowan and Mole River, and that the current proposal requires the Government to commit to paying the sum costs if those projects do not go ahead. That is what this says before me, plus some very interesting detail in terms of WaterNSW being extremely worried about its credit rating because it is going to have to debt fund—as I understand it—more than the business cases but potentially also the dams themselves. Have you heard about concerns from WaterNSW losing its investment credit rating as a result of the dams going ahead, if they do?

**Mrs MELINDA PAVEY:** We will work through those issues, remembering that we have a commitment from the Commonwealth for 50 per cent of funding on those financial business cases for those three projects.

**Ms CATE FAEHRMANN:** You have 50 per cent of the \$650 million?

**The Hon. SAM FARRAWAY:** Point of order: Ms Cate Faehrmann has asked a very long question. The Minister is trying to reply and the member is continuing to interject. Why not let the Minister answer the question?

**Ms CATE FAEHRMANN:** To the point of order: I am just after clarification, because the Minister said 50 per cent. I wanted to make sure if that was 50 per cent of the current estimated cost that DPIE has of \$1.2 billion or the election commitment of \$650 million, which is wrong.

**Mrs MELINDA PAVEY:** I was talking about the final business case funding.

**The CHAIR:** There is no point of order. The clarification is valid. Minister, can you clarify?

**Mrs MELINDA PAVEY:** I was referring to support from the Commonwealth on final business case funding.

**Ms CATE FAEHRMANN:** So the Commonwealth is going to loan New South Wales 50 per cent of whatever the cost of Wyangala is in terms of its final business case? If it comes up at \$2 billion, is the Commonwealth going to loan—

**Mrs MELINDA PAVEY:** Cate Faehrmann, I never said that. For you to suggest that in a question—

**The Hon. PENNY SHARPE:** That is what you just said then.

**Mrs MELINDA PAVEY:** No, I was talking about 50 per cent of the final business case funding.

**Ms CATE FAEHRMANN:** For the business case itself?

**Mrs MELINDA PAVEY:** For the final business case costings. That is what I was referring to, Cate.

**Ms CATE FAEHRMANN:** Exactly. So what I am suggesting here—

**Mrs MELINDA PAVEY:** Not the final cost; the cost in creating the final business cases. That is what they have committed to 50 per cent of funding for.

**Ms CATE FAEHRMANN:** That is not quite clear. When you say the cost of business cases, do you mean the development of the businesses cases—

**Mrs MELINDA PAVEY:** Yes.

**Ms CATE FAEHRMANN:** —or the project itself?

**Mrs MELINDA PAVEY:** Development of the business cases.

**Ms CATE FAEHRMANN:** But the Commonwealth has agreed to \$325 million. So is it going to give WaterNSW more for the development of the business cases?

**Mrs MELINDA PAVEY:** We have the funding for the development of business cases.

**Ms CATE FAEHRMANN:** Where does that come from?

**Mrs MELINDA PAVEY:** Debt funding through WaterNSW, as well as financial support from the Commonwealth on the development of those final business cases. In terms of extra costs that have been flagged for building the dams, as I pointed out, we have a \$567 million commitment grant funding from the Commonwealth for Wyangala and Dungowan.

**The Hon. PENNY SHARPE:** Minister, have you ever told a driver that they are lucky to have a job?

**Mrs MELINDA PAVEY:** I think that drivers—I think anybody in New South Wales and the public service—it is a good job to have and I say that very genuinely.

**The Hon. PENNY SHARPE:** So have you told drivers that they are lucky to have a job?

**Mrs MELINDA PAVEY:** I think that we are all lucky to have jobs.

**The Hon. PENNY SHARPE:** That is great. I am asking whether you, as a Minister entitled to a car, have ever said to a driver, "You are lucky to have a job"?

**Mrs MELINDA PAVEY:** I think we are all lucky to have jobs, and that is an opinion I have because I represent an electorate—

**The Hon. PENNY SHARPE:** But you have never said that to a driver? Or you have said it to a driver?

**Mrs MELINDA PAVEY:** I am saying it is a comment that I make, that we are lucky to have jobs.

**The Hon. PENNY SHARPE:** So you have said it? Minister, have you ever commented that ministerial drivers are a pack of whingers?

**Mrs MELINDA PAVEY:** I will continue to work hard on behalf of the people of New South Wales. I think that it is important that we all work hard—

**The Hon. PENNY SHARPE:** It is a yes or no question, Minister.

**Mrs MELINDA PAVEY:** No, I am not going to—

**The Hon. PENNY SHARPE:** Have you ever stated that ministerial drivers are a pack of whingers?

**Mrs MELINDA PAVEY:** I am not going to go into hypothetical conversations I may not or could have had.

**The Hon. PENNY SHARPE:** It is not hypothetical. I am asking you: Have you ever said that, or not? You either have or you have not.

**Mrs MELINDA PAVEY:** I will—

**The Hon. CATHERINE CUSACK:** Point of order: For clarification, is the honourable member doing this research out of a newspaper article? Is that where this is coming from? I am not clear what she is referring to and what is the basis of this question.

**The Hon. PENNY SHARPE:** That is not a point of order.

**The Hon. CATHERINE CUSACK:** Can I ask the member—

**The Hon. PENNY SHARPE:** No.

**The Hon. CATHERINE CUSACK:** —to quote the source, because you are giving quotes to the Committee but I do not know what the source of that information is.

**The Hon. PENNY SHARPE:** I am asking questions and I do not have to reveal where I found out this information. I am asking a question.

**The Hon. CATHERINE CUSACK:** Are you making this up, or has this come out of the newspaper?

**The Hon. PENNY SHARPE:** I am not making anything up, and I do not have to tell you where it has come from. I am allowed to ask these questions; they are absolutely in order.

**The Hon. CATHERINE CUSACK:** You are giving quotes to the Minister—

**The Hon. PENNY SHARPE:** There is no point of order. You are just taking up my time.

**The Hon. CATHERINE CUSACK:** —but you are not sourcing the information that you are relying on.

**Mr JUSTIN FIELD:** Point of order: The Hon. Catherine Cusack has no point of order. Chair, I ask that you rule and move on.

**The CHAIR:** It is not a valid point of order to demand where a member may or may not have got information from. I will allow the questioning to continue for the moment.

**The Hon. PENNY SHARPE:** Minister, what do you understand your entitlements are regarding ministerial drivers?

**Mrs MELINDA PAVEY:** They are a matter of record, what our entitlements are in terms of that.

**The Hon. PENNY SHARPE:** Do you want to explain that to the Committee?

**Mrs MELINDA PAVEY:** I do not understand your question.

**The Hon. PENNY SHARPE:** I am asking you what is your understanding of your own entitlements.

**Mrs MELINDA PAVEY:** I could google right here and now the handbook on ministerial responsibilities and drivers, and I could read that out. Do you want me to do that?

**The Hon. PENNY SHARPE:** No. I am trying to understand what your understanding is and whether you can tell the Committee whether you have always followed that to the letter of the law.

**Mrs MELINDA PAVEY:** Yes, I have.

**The Hon. JOHN GRAHAM:** I want to ask about a matter that is relevant to your Housing portfolio. It is a significant housing development, and that is the proposed housing development by Country Garden at Cawdor, and your personal recollections in relation to this project. Were you lobbied at any point by Daryl Maguire in relation to Country Garden and its proposed housing development at Cawdor?

**Mrs MELINDA PAVEY:** Absolutely not.

**The Hon. JOHN GRAHAM:** Was your office at any point—

**Mrs MELINDA PAVEY:** I have not been lobbied on that project at all. Are you talking about land and housing, or are you talking about a housing development more generally?

**The Hon. JOHN GRAHAM:** It is a significant housing development, a specific project. It is one that—

**Mrs MELINDA PAVEY:** No. I have never had a conversation with Daryl Maguire about a housing development. It is a matter of record that Daryl Maguire did lobby my office extensively. I was interviewed by ICAC and my interview is a matter of public record.

**The Hon. JOHN GRAHAM:** I agree with that.

**Mrs MELINDA PAVEY:** My team did the right thing. I have always done the right thing.

**The Hon. JOHN GRAHAM:** Correct. And that was in relation to other developments in your former portfolio relating to the Waterhouse development primarily, and you have been upfront about that. My question is did Daryl Maguire ever lobby you—

**Mrs MELINDA PAVEY:** No.

**The Hon. JOHN GRAHAM:** —or your office in relation to the Country Garden development at Cawdor?

**Mrs MELINDA PAVEY:** You asked whether he lobbied me. I have said no to that, but I do not know whether he may have raised it with somebody in my office at some point. I am sure with all the conversations that we have been having it would have potentially come up, but I can answer on behalf of me.

**The Hon. JOHN GRAHAM:** He did not lobby you in relation to this development. You do not recall whether he has lobbied your office and to your recollection that has not been raised with you by your office?

**Mrs MELINDA PAVEY:** No.

**The Hon. JOHN GRAHAM:** Thank you. You did, however, attend a number of meetings in the Premier's office chaired by the Premier in relation to developments around this development, the Outer Sydney Orbital, during April 2018 and 22 June 2018; MPs Patterson and Rowell were there, Minister Constance was there. These meetings were attended at other times by other Ministers and MPs. Do you recall those meetings?

**Mrs MELINDA PAVEY:** I do have some recollection of some meetings at that time in relation to the corridor strategies that Transport for NSW was wanting to implement, led by Clare Gardiner-Barnes and Geoff Cahill, and they did create a lot of community concern at that time because it is a pretty blunt instrument seeing your house with a dark line over it. And I have got to say, there was some poor communication at the time, particularly in relation to the area around the Hawkesbury and the maps, and caused enormous community concern, which I forever regret that it was not what everybody expected within that community, being the UBD line, that it had actually changed from that line. There was poor communication upwards and to those community members and it was not—it was a very awkward time.

There were meetings, I do remember. It was very much pushed at the time by the member for Camden, being a very strong local member, as well as the member for Mulgoa, Tanya Davies. There was one particular property that was impacted. Significant work had just happened on it. One of her constituents had a child with disabilities. I remember that at the time. There was a lot of community pressure from local members to ensure that their communities were heard.

**The Hon. JOHN GRAHAM:** So Tanya Davies was present at certainly some of those meetings?

**Mrs MELINDA PAVEY:** I do not remember whether she was present but she was concerned about one, in particular. But it is quite a number of years ago now.

**The Hon. JOHN GRAHAM:** Understood. How many of those meetings do you recall?

**Mrs MELINDA PAVEY:** Two.

**The Hon. JOHN GRAHAM:** Perhaps two of those meetings—

**Mrs MELINDA PAVEY:** Yes.

**The Hon. JOHN GRAHAM:** —in the Premier's office, chaired by the Premier, is that correct?

**Mrs MELINDA PAVEY:** Attended by the Premier. It was not a chairing type of meeting; it was a general discussion to ensure that local members' views were being heard.

**The Hon. JOHN GRAHAM:** In relation to that Waterhouse matter, it is a matter of record that when he was unhappy with the discussions that might have occurred with your office, and because you had behaved appropriately, Daryl Maguire then went off and raised those issues with Minister Constance's office. Did that happen in relation to any other matter?

**Mrs MELINDA PAVEY:** Not that I recall.

**The Hon. JOHN GRAHAM:** And it did not happen, to your recollection, in relation to this matter—this Cawdor Country Garden development?

**Mrs MELINDA PAVEY:** No.

**The Hon. JOHN GRAHAM:** You were given your new ministerial commission on 2 April 2019, so you have your new responsibilities. You were removed from your former responsibilities as Minister for Roads. That decision was the result of an administrative decision by the Premier. That is correct, is it not, that is just a matter of record?

**Mrs MELINDA PAVEY:** I think it had more to do with the Deputy Premier, quite frankly, John.

**The Hon. JOHN GRAHAM:** Sure.

**Mrs MELINDA PAVEY:** Let us be up-front about it.

**The Hon. JOHN GRAHAM:** Very good. In terms of the administrative decision though, that is one made by the Premier?

**Mrs MELINDA PAVEY:** Ticked off by the Premier. I mean, John, really. It is a matter of record that, yes, Paul Toole became Deputy Leader of The Nationals and he got to have a good say in his portfolio. And I cannot tell you how thrilled I am to be in this space of Water, Property and Housing—and I mean it very genuinely. I think any sort of suggestion that this was some sort of way to get rid of me is ridiculous.

**The Hon. JOHN GRAHAM:** No, and I am certainly not making that suggestion here. In those meetings discussing the route of the Outer Sydney Orbital, or at any other time—

**The Hon. CATHERINE CUSACK:** Point of order—

**The Hon. JOHN GRAHAM:** —did the Premier at any point declare a conflict of interest in relation to her close personal relationship with Daryl Maguire?

**The Hon. CATHERINE CUSACK:** I ask that the member return to the portfolios that are the subject of this estimates hearing.

**The CHAIR:** Mr Graham, I heard a point of order. Sorry, what was that?

**The Hon. CATHERINE CUSACK:** The Minister is here to answer questions in relation to the portfolio she currently holds and I ask that the question be on those portfolios.

**The Hon. JOHN GRAHAM:** To the point of order—

**The Hon. CATHERINE CUSACK:** He is asking Transport questions.

**The CHAIR:** I did not actually catch the question because you jumped in. I did not catch the full question. Can you repeat the question and then we can ascertain whether it is what it is?

**The Hon. JOHN GRAHAM:** My question simply is: At any point you have been there has the Premier declared a conflict of interest in relation to her close personal relationship with Daryl Maguire?

**Mrs MELINDA PAVEY:** Daryl Maguire was not involved in any of those meetings with the Premier.

**The Hon. JOHN GRAHAM:** I am asking a separate question, Minister. In your presence—

**Mrs MELINDA PAVEY:** Look, I think that is a matter for record, John.

**The Hon. JOHN GRAHAM:** I am asking your personal recollection, that is all.

**The Hon. CATHERINE CUSACK:** Can the honourable member just clarify? Are you asking Transport questions now?

**The Hon. JOHN GRAHAM:** No, I am simply asking this Minister—and I am not ruling out asking it of other Ministers—has the Premier at any point declared a conflict of interest in relation to that relationship that you are aware of?

**The Hon. CATHERINE CUSACK:** You would agree that these do not relate to the portfolios that are the subject of this hearing?

**The Hon. JOHN GRAHAM:** I do not agree with that. I am asking about the Minister's personal recollection. It is a straightforward question.

**Mrs MELINDA PAVEY:** In terms of our handling of an issue in regard to my previous portfolio, it was handled in an appropriate and proper way at all times by all those involved.

**The Hon. JOHN GRAHAM:** Finally, do you have any explanation, because I have not been able to find elsewhere, for how it was that this company was able—

**The Hon. CATHERINE CUSACK:** Point of order: I request that the member nominate the portfolio responsibility on which this next question proceeds.

**The CHAIR:** Let us allow him to ask the question. He may nominate it.

**The Hon. CATHERINE CUSACK:** He is avoiding, that is the problem. He is a savvy man.

**The CHAIR:** He is.

**The Hon. JOHN GRAHAM:** I am simply asking this final question: Do you have any explanation as to how this company in December—

**Mrs MELINDA PAVEY:** Which company, sorry?

**The Hon. JOHN GRAHAM:** That is Country Gardens in relation to this Cawdor development in December 2017—that is three months ahead of when the Government announced the route of that Outer Sydney Orbital—knew where it was going to go?

**The Hon. CATHERINE CUSACK:** It is a Transport question.

**The Hon. JOHN GRAHAM:** As Housing Minister, is it of concern to you that—

**The Hon. CATHERINE CUSACK:** There are other forums in which this material can be pursued. This is budget estimates for the Minister's portfolio.

**The Hon. JOHN GRAHAM:** —housing developers might have access to that sort of government information? Was that something that was of concern to you?

**Mrs MELINDA PAVEY:** I see the link now—because I am housing Minister.

**The CHAIR:** Yes, he just related it to Housing.

**Mrs MELINDA PAVEY:** Mr Graham, I think it is important, you have put, I understand from reporting in the media, a lot of questions at the Transport budget estimates hearings on this and I do recall reading—I think on Friday—Tim Raimond, who was part of the Transport for NSW team, has highlighted there were many maps that had been printed by Transport for NSW that had shadings of alignment as far back as 2015 and even 2012. We can go for the conspiracy or we can actually go for the fact that we, as a government, are trying to have good planning and good process to ensure that we have those corridors that we need. It is at times, as experience as roads Minister, a very difficult conversation to be having with communities; it is really tough. But we failed it too many times in the past not to have a good go at it again.

**The Hon. JOHN GRAHAM:** Thank you, Minister.

**The Hon. MICK VEITCH:** Minister, I have a series of questions around land and housing corporations for regional New South Wales. There are a number of places across the State now where housing prices are going up and the capacity for people to get into the market in regional New South Wales has become quite difficult. I think up your way on the North Coast there are probably a number of communities like that. Minister, what does that mean for available rentals for people?

**Mrs MELINDA PAVEY:** They are tight. They are tight.

**The Hon. MICK VEITCH:** And so, with regard to your portfolio of Housing, what is the situation with our social housing stock?

**Mrs MELINDA PAVEY:** In terms of land and housing, only 22 per cent of our public housing stock is in the regions, but I am trying to remedy that by putting 40 per cent of our \$180 million boost into regional New South Wales. We are going through expressions of interest, for example, at the Tolland Estate in Wagga Wagga to work with community housing providers, the local council, land and housing to look at innovative ways that we can improve public housing stock and get rid of properties that can be as much as 30 to 60 years beyond their use-by date. We have a major responsibility as an organisation to work with communities and councils. There is nothing more frustrating than seeing an old fibro place on a quarter-acre block close to services. We have a new energy about us to see what opportunities not just in Sydney through the Communities Plus program but in regional New South Wales—and I mean in genuine partnership.

**The Hon. MICK VEITCH:** Minister, to the indicator on housing stress—which you would obviously be familiar with—in regional New South Wales there are a number of places where people are now paying upwards of 60 per cent of their income just in rental payments each week. This is clearly going to have an impact on people's capacity to rent in regional New South Wales, and it must be putting pressure on the waiting list for our public housing estate. How are we managing those public housing lists in regional New South Wales?

**Mrs MELINDA PAVEY:** One of the positive things through what we have done is our community housing providers have put an extra 13,000 properties into our asset base, whether that is Wollongong, Port Macquarie—we are about to do a new development at Tweed Heads and Wauchope—

**The Hon. MICK VEITCH:** Are those 13,000 all in regional New South Wales?

**Mrs MELINDA PAVEY:** Across the State, to be fair. We do have some really good opportunities to lead some discussion of renewal, which also can provide some more housing affordability issues. We have not seen growth in property and clearance rates at auctions in regional New South Wales like we have experienced in the past three or four months—

**The Hon. MICK VEITCH:** The Deputy Premier said it is a "champagne problem to have" last week on the far North Coast.

**Mrs MELINDA PAVEY:** But with every silver lining, there can be a cloud, and that cloud is housing stress. We are very cognisant of that issue.



**The Hon. MICK VEITCH:** So you would not agree with his comment?

**Mrs MELINDA PAVEY:** We are working through that and I understand the Deputy Premier's team is also looking at some fast-tracked land release proposals for some of our country communities so that we can have some more opportunity. Because it is not just in the social housing sphere that we have this stress, it is also in housing affordability with this extra pressure.

**The Hon. MICK VEITCH:** There is definite pressure in a lot of places.

**Mrs MELINDA PAVEY:** Yes.

**The Hon. MICK VEITCH:** In Yamba they were talking about the fact that people were sleeping on the beach, essentially, because they cannot find somewhere to stay.

**Mrs MELINDA PAVEY:** I would suggest that they could have a look at—Yamba is very beautiful, and then there is Coraki at the back, and there is also Casino, and there is Lismore, and there is Kempsey.

**The Hon. MICK VEITCH:** That was just an example. Yes, there are a whole heap of places.

**Mrs MELINDA PAVEY:** There are some opportunities, some big opportunities, for people and growth and economic investment in our regional communities at the moment. But I absolutely agree with you that there are some challenges that we need to confront and look at communities for solutions because land release and putting on properties take some time. The cost of putting services that land release adds significantly and where we have opportunities for a higher density or a medium density, for example—

**The Hon. MICK VEITCH:** Where are those land releases?

**Mrs MELINDA PAVEY:** Councils all over the State are looking at their own land releases.

**The Hon. PENNY SHARPE:** I just wanted to make the point, Minister, that to the issue of affordability, particularly for renters up and down the coast, our MPs and others are reporting this as not just tight but critical.

**Mrs MELINDA PAVEY:** And compounded on the South Coast by bushfires too.

**The Hon. PENNY SHARPE:** Yes, all of those things. People are now looking to sell their houses that have been long-term rentals for a long time and the rent is doubling. Your previous comments suggested that people just move further inland. That is not a solution for single mums with kids at three different schools, trying to move actually them—

**Mrs MELINDA PAVEY:** Mums with three kids at school—

**The Hon. PENNY SHARPE:** Surely you accept that a land release is not going to fix that either.

**Mrs MELINDA PAVEY:** I made that comment because if you are sleeping on a beach at Yamba you probably do not have kids at school there; that was the point I was making. For people who want to move to a place like Yamba, maybe your sights should be set on a community that is—

**The Hon. PENNY SHARPE:** In terms of the affordable housing strategy, what action is your agency undertaking to get a handle on the housing stress that is occurring up and down the coast? It is everywhere but there are very particular problems very close to large centres—so North Coast, up close to Brisbane and around Sydney as well—where people have traditionally had long-term, stable rentals that are just disappearing through competition from people from Sydney moving there or from booming sales. What monitoring is your agency doing in relation to your own planning and the reshaping of any housing programs that you have to acknowledge and understand that?

**Mrs MELINDA PAVEY:** In terms of monitoring, we had a forum late last year in both Coffs Harbour and Urunga. At that forum were social housing providers, community housing providers, Mission Australia, real estate agents, builders and developers. We had the mix of everyone because it is a solution that can only be met by all parties working together. It was very clear—the developers were saying they were having trouble with financials release from the banks supporting their developments. That was a major issue. The real estate agents, to the question of whether people were turning their rental properties into a higher return for Airbnb, they said that that was not happening; that was more apocryphal.

I do agree that in areas like Byron Bay that has happened for a significant period of time, but it was not happening on the lower North Coast and mid North Coast so much. The land release issue was one that came up. Having some better capacity is required for both more rental properties and to keep housing affordability happening, which is why our agency is now reaching out to councils that have high density of land and housing,

old assets that are not fit for purpose near services, that we can improve the amenities by increasing to a medium density, say, better fit for housing. One of the challenges we have is we have a lot of—

**The Hon. PENNY SHARPE:** Do you have a targeted list, Minister? Can you tell us how many extra beds and how many extra units you are looking to do outside of Sydney?

**Mrs MELINDA PAVEY:** I can, and I will take that on notice. With what we have planned, and there is a lot that is underway, but we are going to need to do more than that. That was the conversation. We need some in the short and we need some in the medium, but we all need to be engaged as a community in those conversations. The biggest bang for buck and the quickest way we can get to some solutions is the reconfiguring and designing of our land and housing concentration. We also know it is not about taking away social housing; it is about putting more fit-for-purpose housing in as well as giving opportunities to the building and first-time buyers.

**Mr WRIGHT:** If I might add to what the Minister said as well, in terms of monitoring what is happening across regional New South Wales, we have within the department been collecting information on rental vacancies, rental levels and housing prices, and we have done a bit of a heat map of local government areas to identify the regional LGAs where we think there is housing stress. We want to triangulate that with information about land available for housing development as well to get a better picture. We are moving to get a better handle on where we give our attention in terms of dealing with those housing supply issues.

**The CHAIR:** Minister, moving on to sedimentation—particularly in the Murray River—have you travelled there and to Barham and seen the loss of embankment?

**Mrs MELINDA PAVEY:** Yes, I have been to Barham. I spent a day down there. I actually grew up on that river and used to go fishing with my grandmother. So I am very well aware of it and the pressure the Barham Choke is on and you mentioned Barham. There is a lot of pressure on that area and especially as 85 per cent of new development has happened in Victoria and involves almonds, and below the choke. Yes, there are some big challenges for us all to address.

**The CHAIR:** You would be aware that some landholders have lost up to five metres off their embankment in the past couple of years because we are running the river at a constant height for possibly too long?

**Mrs MELINDA PAVEY:** Yes.

**The CHAIR:** Are you also aware that the Murray-Darling Basin Authority [MDBA] has actually sought to take landholders on the river to court if they try to put structures in place to save that embankment. So if they put up rock retaining walls to try to stop the river washing away their property?

**The Hon. MICK VEITCH:** Bank slumping.

**The CHAIR:** Bank slumping, yes.

**Mrs MELINDA PAVEY:** Yes. I am not aware of the details of any particular cases, but I do understand that Minister Pitt is very engaged in ensuring the authoritarian nature of some officials within the Murray-Darling Basin Authority is improved and that communication is more genuine. There is now an office of the MDBA in Albury. I think having local people on the ground understanding and communicating with local people is the best way to deal with some of those issues and have resolution and better conversations.

**The CHAIR:** Are we prepared to take a look at how we time those water levels running down the river in terms of alternating those levels? If an individual private landholder did this, would we agree that they would have the book thrown at them? It seems like because it is a Federal department, and a State department is involved, they are getting a leave pass on, essentially, environmental vandalism?

**Mrs MELINDA PAVEY:** It is a really good question, Mr Banasiak. I think this drives a lot of the concerns. I think we should always be open to conversations and changes to the river ops to ensure that we better share responsibilities between environmental releases, and productivity releases, and rain and all of those things. The Slattery and Johnson report does deal with a lot of that work. It is a conversation that must continue and, again, I am happy to be having and supporting my Victorian colleagues on this. For all intents and purposes we have met the obligations of the original Murray-Darling Basin Plan. We have given over 1,000 gigalitres of water back to the environment, as we should, to deal with some of those issues that we saw in the millennium drought that bore out in South Australia.

We should be looking at how the river is running, operating, bank degradation. I do not think we should be in any way happy with the amount of carp left in the system. We need to improve the natural habitats where

we can and have creeks and estuaries running, which is why I have offered up other suggestions to Minister Pitt in addition and in lieu of, until we come to a better decision on Menindee and Yanco. There are other small wins we could be doing around Balranald and other projects that the communities want out there to improve environmental outcomes.

**The CHAIR:** Has your department done any research into the impact of sedimentation in the Murray, particularly the impact on cod, Murray crays, or anything like that, or are you leaving that up to the fisheries department?

**Mrs MELINDA PAVEY:** I think there are conversations that are ongoing between the two. But I think the most important message we could get from the Murray-Darling Basin Authority is that it is open for better outcomes and better consultation. Whilst we might not know implicitly exactly how much water we might save, we expect to save water, but we could also have these benefits for river quality and native fish breeding habitat, then that is a great outcome. I encourage those types of conversations because we have to improve both the environment and the amenity and the capacity for us all to run that river system at its optimum. Knowing that we have got something like \$4.3 billion sitting there in the authority to be able to expend, I want to put some of that money into lowering the water off-take areas so that we do not put really cold water in and have an impact on native fish.

**The CHAIR:** I want to ask a question on Crown lands. I wrote to you and the agriculture Minister about Talmalmo Road, expressing concerns from the South West Anglers Association. There has been a long-running dispute with the access of the landholder, who is being particularly unhelpful.

**Mrs MELINDA PAVEY:** This is around Albury, is it not?

**The CHAIR:** Yes. He is often refusing to meet with the anglers and often cutting off access, not putting in the correct stiles to allow access. Have you arranged a meeting with the landholder and fisheries and Crown Lands as per the request of South West Anglers? They are not getting any dialogue with the landholder by themselves and they have requested your assistance.

**Mrs MELINDA PAVEY:** Ms Hawyes has an update for you.

**Ms HAWYES:** As you know, we have been looking into the issue of access. Vehicle access has been stopped because of the detrimental impacts on the local environment, but there is another access point only four kilometres away.

**The CHAIR:** That has all been explained. Has the department looked at the proposed land swap, which would move the access 150 metres to the west and would essentially solve the problem. You would not have the conflict between the anglers association and the landholder.

**Ms HAWYES:** We are working with them but there are issues about landholders' different access and tenures, and consent is an issue. In relation to your question about the stiles, those stiles are being installed this month. So the work is continuing and we are working with not only fisheries but with the anglers and other stakeholders in the area.

**The CHAIR:** Have you considered the land swap?

**Ms HAWYES:** We are considering different options but there are issues there about landholder consents.

**Mr JUSTIN FIELD:** I would like to turn to floodplain harvesting. There was a recent report and, yes, before you pointed out it was Slattery and Johnson report, but it had a look at the change—

**Mrs MELINDA PAVEY:** Sorry, when was the Slattery Johnson report?

**Mr JUSTIN FIELD:** Just last week. There has been quite a bit of media on it. I am sure some people in the room are aware of it. It looked at the increase in on-farm storages in the five northern valleys between the cap year in 1994 and 2000. It found there has been a 2½ times increase in the capacity of dams and a quadrupling in the number of dams since the 1990s. I know it is your intention—you have stated this before—for the floodplain harvesting policy to reduce the amount of water that is ultimately taken in that way. How can you possibly guarantee the community that there will be a reduction in floodplain harvesting take when there has been such a significant increase in capacity?

**Mrs MELINDA PAVEY:** If you can't measure it, you can't manage it, Mr Field. We are absolutely confident we are now leading Australia in our telemetric work, our water metering work at great cost to both taxpayer and to irrigators and farmers. We expect that the amount that can be captured in events that will be

licensed will be in the order of around 300 gigalitres. We can measure that. That is the difference now. We have got NRAR able to oversee that. I know that there is an obsession—no-one want to believe it and no-one wants to look at the facts as we are presenting them. They are not just based on what I think, it is based on science and it is based on a hell of a lot of work by some very fine people in my agency. To have a report released by a lobbyist undermining that is sort of disappointing, because the work that we are doing is very genuine and very real. I might refer now to Dr Bentley to further discuss the findings in our floodplain harvesting work and what we expect under the licensing regime and how much will be licensed.

**Mr JUSTIN FIELD:** Before you do, Minister—my apologies to Dr Bentley—there is criticism of your assessment.

**Mrs MELINDA PAVEY:** There is always criticism.

**Mr JUSTIN FIELD:** Yes, I understand. I am a critic of yours as well for that reason, but there is criticism. There is alternative data out there. I am not talking about alternative facts, I am talking about data—

**Mrs MELINDA PAVEY:** The SRI have a lot of alternatives.

**Mr JUSTIN FIELD:** I am talking about people who understand how these rivers have flowed over time and storages have been constructed using satellite imagery. Putting aside that, do you agree there should be some sort of independent process before we get to 1 July where there could be an analysis of the models, the satellite imagery and cap compliance before such time as we lock in a volume of licensing? I think you or a spokesperson were quoted in the estimates last week that the New South Wales Government is in the process of releasing peer review figures on floodplain harvesting. I am just wondering, what is that? Who is it? What is the extent of that review?

Putting aside that, do you agree there should be some sort of independent process before we get to 1 July where there can be analysis of the models, the satellite imagery and the cap compliance before such time as we lock in a volume of licensing? I think you were quoted—it might have been your spokesperson—in *The Sydney Morning Herald* last week stating:

The NSW government is in the process of releasing peer-reviewed figures on floodplain harvesting.

I am just wondering what that is, who it is and what is the extent of that review.

**Mrs MELINDA PAVEY:** I might get Dr Bentley to talk to that review and the estimations and the scientific data. In terms of an independent review, we did an independent peer review work of our first flush event, which I think by all accounts—

**Mr JUSTIN FIELD:** The exact quote was:

The NSW government is in the process of releasing peer-reviewed figures on floodplain harvesting.

Perhaps we could just start with what that is.

**Dr BENTLEY:** In the last two weeks—I think it was two weeks ago—we did a webinar on the data that we had from the Gwydir. That was attended—I looked at the—

**Mr JUSTIN FIELD:** Is that the peer-reviewed information that has been released—that webinar?

**Dr BENTLEY:** That webinar was part of the process. We also have made available through consultation more information. I can get more detail later—

**Mr JUSTIN FIELD:** Let's assume there is no—perhaps you can come back to me on notice whether there are peer-reviewed figures on floodplain harvesting being released in the near future.

**Dr BENTLEY:** The data we released was peer reviewed. We did a—

**Mr JUSTIN FIELD:** But this is from last week. I am just trying to confirm what that was.

**Mrs MELINDA PAVEY:** What was from last week—Maryanne Slattery and Johnson?

**Mr JUSTIN FIELD:** No, the quote in the article from last week was from a spokesperson from your office. I do not want to get stuck on that; perhaps we could confirm what you are referring to in that article. I will provide more information so we know what we are talking about. There is a lot of criticism of the 500 per cent carryover. These are obviously periodic events. I know that your assumptions are based on long-term averages but what happens in a climate-affected future where we get a big event, 500 per cent is taken and we do not get anything for years and years? The environment has lost out but the irrigators get a drink. This is another one of the big criticisms in this type of take.

**Mrs MELINDA PAVEY:** Again, we are consulting with the Border Rivers on that particular issue about the first take or averaging it out. Our intention at this time is to just ensure in the first year that it is not an annualised take in that first period. This is a really complicated issue and we are very genuine in our approach going forward. I know that some of our opponents down south still are crying that we are going to take 2,000 to 3,000 gigalitres of water—

**Mr JUSTIN FIELD:** I am not one of them. I am not talking about that, Minister.

**Mrs MELINDA PAVEY:** There are people that are very loud and noisy about our intent. As I think Dr Bentley just highlighted, the work we do is peer reviewed and is analysed at all times. If we need to do that again further—as we did with the review of the floodplain harvesting embargo this time last year—we will do that. We need to restore faith and confidence in water management.

**Mr JUSTIN FIELD:** That independent assessment was actually very critical of the availability of data around floodplain harvesting. It was very critical. I guess my point, Minister, is there is a simple answer that a lot of groups are starting to talk about—including some irrigator groups—which is having clear end-of-tributary and end-of-system targets that sort of determine your day-to-day management around all types of take, including floodplain harvesting. Why would we not be looking at something like that so we do not have arguments over models and figures? It fits in with the Water Management Act's prioritisation. That would seem to be a better strategy. What is the opposition to that?

**Mrs MELINDA PAVEY:** We will continue to work within the rules—and I highlight again that we are going to be the first jurisdiction in Australia to actually have a licensing regime around floodplain harvesting and management. We are always happy to have our data reviewed, peer reviewed and analysed to make sure that we are behaving and acting, and it restores faith in this important sector.

**Ms CATE FAEHRMANN:** Minister, has the Government agreed to pay any sunk costs to WaterNSW of the three dam projects if they do not go ahead—those projects being Dungowan, Wyangala and Mole River? Have you provided that assurance to WaterNSW that you will fund all sunk costs?

**Mrs MELINDA PAVEY:** We will have a process to ensure, as I have said, the final business case development is being 50-50 supported by the Commonwealth—

**Ms CATE FAEHRMANN:** You are answering a different question. Have you provided an assurance to WaterNSW that the Government will reimburse all sunk costs if the project does not go ahead—yes or no? I table email correspondence that I have from a Treasury—

**Mrs MELINDA PAVEY:** Cate, can we take that one on notice?

**Ms CATE FAEHRMANN:** I will still table these documents if I can—

**Mrs MELINDA PAVEY:** In terms of the information that we have formally—

**Ms CATE FAEHRMANN:** An email from Treasury indicates that in fact there is an updated proposed letter from you regarding direction in relation to that. That email is dated 1 April 2020. Lastly, before I throw to my colleague, is an email from the WaterNSW chief financial officer in October 2019, which states that "WaterNSW cannot fund the following possible works because WaterNSW does not have funding available" and it would need additional equity from the New South Wales Government. Those works include the Warragamba Dam wall raising at a cost of \$1.6 billion—it cannot fund that—plus a range of other projects. Minister, is this a case of your Government putting at risk the investment credit rating of WaterNSW, a statutorily owned corporation, as a result of National Party election promises in relation to a range of different expensive dams that the Government just cannot fund and does not want on its books?

**Mrs MELINDA PAVEY:** I can assure you that the Warragamba Dam wall raising was not a commitment from the National Party at the last election. But we will continue to work with WaterNSW to ensure that its independent standing as a corporatised entity is secured and that we do not impact on its ability to do business. I think I have got an addition to that coming from Dr Bentley.

**Dr BENTLEY:** I will be really brief. WaterNSW undertakes work of a commercial nature, if you like, that it can cost recover. That is what it does in terms of its services to customers like Sydney Water. Also, a big part of its portfolio is to do work directed by government. You would not expect WaterNSW's balance sheet to be structured to enable it to fund the work directed by government that is not of its normal cost recovery, commercial recovery basis. Absolutely it is true that WaterNSW would not have a balance sheet capacity to be able to fund every job that government wishes it to do that is not within its normal commercial business. That would just be normal.

To structure it to have balance sheet capacity to do those things would not be compatible with government funding that work. Whether it is through the Commonwealth grant or whether it is through moneys made available by other means through the State, we will structure things for WaterNSW so that its credit rating is not put at risk. That will all be considered in the investment case that will be part of the business case process this year.

**Mr DAVID SHOEBRIDGE:** Minister, it is nice to see you.

**Mrs MELINDA PAVEY:** It is nice to see you too, David—at the moment.

**Mr DAVID SHOEBRIDGE:** Minister, you know that there have been 52,550 land claims made under the Aboriginal Land Rights Act since 1983 and only 3,348 claims have been granted to date. We heard from estimates last year that there are 38,539 claims outstanding. If they continue to be determined at the rate to date, even those that are currently on record will not be determined for another 110 years. How many staff do you have allocated to this? Do you accept that it is not enough and will you resource it properly?

**Mrs MELINDA PAVEY:** I accept that it is not a figure that we should be proud of, but I do also highlight that we had the highest number of land claims awarded last year than we have had in many years. That is because I have put an energy and a commitment to it and had a review by an expert lawyer in this field. I think the most important thing we can do on this front is actually develop the relationships with the NSW Aboriginal Land Council [NSWALC] and land councils all across the State.

**Mr DAVID SHOEBRIDGE:** But you know NSWALC came out and said you are not resourcing it enough—that you need to put the staff in. How many staff are currently working on Aboriginal land claims under the 1983 Act?

**Mrs MELINDA PAVEY:** I am going to pass to Ms Hawyes. But it is also important that we take out of the system claims that would not be there if we had better relationships and trust amongst each other. That would substantially bring down the numbers. There is a better way of us managing this process. It is not just about putting more staff on, but we have put extra staff on—four, as I understand it. But that is not going to solve—an extra four is not going to bring it down from your 110 years. It might be 100 years.

**Mr DAVID SHOEBRIDGE:** Instead of being 110 years, it might be, you know, 92.

**Mrs MELINDA PAVEY:** Neither of those options is ideal. I look at the Hon. Sam Faraway and I look at the work that we are doing with Aboriginal Land Agreements in Orange in a major land claim, we sorted through that.

**Mr DAVID SHOEBRIDGE:** But Minister there have been only two Aboriginal Land Agreements [ALAs]—only two in the what? Four years, five years they have been doing it. They have not proven to be the answer.

**Mrs MELINDA PAVEY:** Well, when I became Minister it was very clear there was an absolute disconnect between Crown Lands and NSWALC. I am trying to fix that and trying to correct that. We need to do better but in terms of the staffing and arrangements you can continue Ms Hawyes those questions. But I do see a better process, a more efficient process and a more honour-based process on this as a very big way of improving outcomes.

**Mr DAVID SHOEBRIDGE:** Ms Hawyes?

**Ms HAWYES:** Thank you. It is an incredibly challenging area and we have embraced the Ronald's review and made substantial changes to the way that land claims are being dealt with. The primary change is re-engagement and better engagement with the Aboriginal land councils. We have a project underway currently through which we have approached each of the 120 land councils to work with them to identify their 20 priority claims, so that we can expedite those claims on the basis that they are the most significant to those councils and local communities. In terms of staffing, we have changed the way that that area is staffed. There are approximately 60 staff in various roles working in that space. That includes dedicated staff to the land claims process so I can provide you a breakdown of some of that stuff.

**Mr DAVID SHOEBRIDGE:** Would it be possible on notice to get the full-time equivalent staff that have been allocated to this over the last three years so we can get a sense of what, if any, changes have been made and the number of staff we have, Minister?

**Mrs MELINDA PAVEY:** Yes.

**Mr DAVID SHOEBRIDGE:** Do we have a target date now? We all accept that 2131 is the wrong target date to resolve the backlog. Do you have a target date?



**Mrs MELINDA PAVEY:** Not yet, Mr Shoebridge, because I think it would be disingenuous to put a target date out there with the amount of work that we need to do and the relationship build that we need to have.

**Ms HAWYES:** I just note to that that the claims can be multiple claims over the same pockets of land and the process requires that they are all looked at, so it is not quite that simple as a metric.

**Mrs MELINDA PAVEY:** Which is why I think some streamlining of processes and data needs to happen as—yeah.

**Mr DAVID SHOEBRIDGE:** "Yeah". I think that sort of exasperation sums it up, Minister, does it not?

**Mrs MELINDA PAVEY:** Well, it is a—

**Mr DAVID SHOEBRIDGE:** I know you inherited the problem. I am not putting it all at your door but it is exasperating.

**Mrs MELINDA PAVEY:** No, but there were very genuine goals by two: Minister Blair with Aboriginal Land Agreements. We thought that that was going to be a positive way forward but there were different expectations from different parties. We need to do better. We need to get rid of the duplication, as Ms Hawyes has just pointed out. Multiple land claims over one block of land is not clever.

**Mr DAVID SHOEBRIDGE:** Just my final question—

**The CHAIR:** Mr Shoebridge, I am going to have to—

**Mrs MELINDA PAVEY:** But let us celebrate; let us just acknowledge the 1,700 claims that we got out the door last year and some significant work we have done with the two ALAs that are working.

**Mr DAVID SHOEBRIDGE:** Two.

**Mrs MELINDA PAVEY:** But there is more to do.

**Mr DAVID SHOEBRIDGE:** All right.

**The CHAIR:** That concludes our time with the Minister. You have taken some questions on notice so you will have 21 days to respond to those and we will return at two o'clock with the rest of you.

**Mrs MELINDA PAVEY:** I think Dr Bentley wants to add something.

**The CHAIR:** Yes, sure.

**Dr BENTLEY:** If I could clear up a couple of those things so that they are not questions on notice.

**The CHAIR:** Sure. I am assuming the Government members have no questions. Dr Bentley, do you want to do that when we come back after lunch? We are already running a little bit late. I am conscious of you eating into your own break, given you will be stuck here for four hours.

**The Hon. CATHERINE CUSACK:** So I cannot ask any questions?

**The CHAIR:** We will pick up straightaway with you, Dr Bentley, when we resume.

**(The Minister withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** Welcome back to the afternoon session. While we were away the Opposition and the rest of the crossbench conspired against me and we resolved—they resolved—that the first round of questioning will be around Crown Lands and the Crown, the second round will be on Property and Housing and then the remainder will be on Water. In that way some advisers can get an early mark. Apologies if you are not getting an early mark!

**The Hon. CATHERINE CUSACK:** We never give one for Water, though. That would be so wrong.

**The CHAIR:** No. That is how we will work it. I will pass questioning straight to the Opposition, if they are right to go.

**The Hon. TARA MORIARTY:** Thank you. I might just start where we left off before the break and ask some questions around Aboriginal land claims. We had an estimates meeting last week, I think, with the Minister for Aboriginal affairs and the Registrar of the Aboriginal Land Rights Act. The registrar was there who manages the register for these things. She indicated that there were 38,579 outstanding claims, so it has grown substantially even since last year. I know we heard from the Minister this morning that it is about relationships. I think that is part of it but it is really about resourcing. What is the department doing in terms of properly resourcing this as an issue? To whoever is the appropriate person to answer this, what are we doing to deal with this from a resourcing perspective?

**Mr BETTS:** Okay. It is very good question. I might start and then hand over to Melanie Hawyes, who has only recently been appointed as the new Deputy Secretary for Crown Lands. You are right to say, and as the Minister acknowledged this morning, that this is an area in which the department has to do significantly more work before any of us are proud of our track record in terms of settling land claims. The focus on the land claims which remain outstanding—36,000, as you rightly point out—is understandable. We have significantly reorganised and put additional resources in to addressing that. Ms Hawyes can give you the detail.

The one point I want to make is that there is a kind of asymmetry within the legislation, which is that it is quite a labour-intensive process to determine a land claim but it is a relatively straightforward process to lodge one. I make no complaint about that. That is the way the legislation operates, but there will always be a supply side and a demand side to this equation and we do find, as we analyse the data around land claims, that the number of claims lodged in any given year outstrips our capacity to determine them and there is a very extensive degree of duplication.

We need to work through that but I think if we focus on the elimination of the backlog of land claims as being the only metric, or the most important metric, we run the risk of becoming lost in administrative process and statistics and lose sight of what I think is the real objective, which is the realisation of the objectives of the Aboriginal Land Rights Act—to provide economic, social, environmental and cultural empowerment for Aboriginal people. That is the point Ms Hawyes made earlier around enabling and working with land councils so that they can specify those claims which have the highest priority for them, so that we can focus our effort on those as a very important part of the equation.

**The Hon. TARA MORIARTY:** I understand that. I think that it is perfectly reasonable to work with the councils and local groups to do that, but ultimately this is a matter for government and it is a matter of resourcing, as I have said. So what is the Government doing specifically about your end and your responsibility?

**Mr BETTS:** I will hand over to Mel to take you through that.

**Ms HAWYES:** To be specific, to respond to your query about how many people are working on land claims, the number of full-time staff has more than doubled in the past year from eight to 19 at present. As I spoke to earlier, we have reorganised the way that Aboriginal land strategy work is done within the department; that is ongoing. Those are the numbers of staff specifically working on land claims, but in total there is around 60 staff in a number of roles who are working with land councils to try to achieve some cut through on some of the more complex claims but more importantly to refresh the way we work with each other and to prioritise the claims that are of the most importance to land councils.

**The Hon. TARA MORIARTY:** Over the past couple of years the management of Crown land has been handed to local government and part of that responsibility is that local government now has some responsibility for dealing with local native title claims but really without any resources. How do you work with local government to help them move these things along rather than have them be shifted?

**Ms HAWYES:** I assume that you are talking about plans of management and working with councils in developing plans of management. That is a requirement of the new legislation that we brought in but there has



been some resourcing and continues to be ongoing support to councils. It takes a variety of formats including web-based education, forums with myself, ways of meeting to resolve issues and tools and resources to assist in the process of developing plans of management. Most recently we launched a template to make it easier for councils to develop plans of management. Those sorts of resourcing and tools continue to be developed in consultation with the councils to make sure that we all know what the things are that they need and that we provide them.

**The Hon. TARA MORIARTY:** I hear from local councils on a regular basis and they say that they just do not have enough support on this from government. In terms of local councils being given responsibility for managing their local Crown land, there is a big disconnect between their resourcing in terms of being able to properly manage land and things that are in their remit since it has been handed over. If I am hearing from them on a regular basis, you must be to; I am sure the Minister is. What is being done more broadly to support local councils in terms of their ability to manage their local Crown land?

**Ms HAWYES:** Those decisions in part reflect the fact that councils are often best placed to manage land in local context. When the plans of management requirements came in, \$7 million was distributed to support councils through a grants program that we ran with the Office of Local Government; so that is some direct funding. As I said, since then we have worked together on significant resourcing to support the process of developing plans of management. They take many forms—tools, guidelines, webcasts, presentations and face-to-face training, including awareness raising and training around native title considerations. That is an ongoing process.

**The Hon. TARA MORIARTY:** It is not a lot of money though. A couple of years ago all local governments were handed responsibility for managing Crown land. I understand the reasoning behind that; they can make local decisions. But there are a lot of things that need maintenance that they have not been provided funds to deal with. We saw a bit of that in the bushfires in relation to fencing. I know there was a grant provided for fencing but there is not really proper allocation of resources to councils to be able to properly manage these things into the future. Is there any work being done with them in terms of increasing the budget? That \$7 million is not really going to cut it. Is that just where it is at the moment?

**Mr BETTS:** That is where it is at the moment, but we are alive to the kinds of issues that you are raising within our cluster, as we call it. Within the DPIE cluster we also have the Office of Local Government, which is very sensitive to some of the cost pressures that councils are facing, and we understand the costs associated with plans of management. The budget is what it is at the moment but the issues are understood.

**Ms HAWYES:** In relation to the fencing, that was money set aside—stimulus funding—that was allocated for fencing which is administered by a local land service.

**The Hon. TARA MORIARTY:** But it is not just fencing. Some things are quite expensive to maintain; there are wharves. I assume from that that the answer is "that is it", in terms of local government?

**Ms HAWYES:** No, I might add to that in respect to some of the funding programs that we administer. This year in particular there has been substantial increase through stimulus funding for a lot of on-ground local works, some of which council have been able to access. They can apply to our Crown Reserves Improvement Fund and that has had record funding this year—it has had \$40 million in stimulus funding—with over \$50 million across 705 grants and loans that all go into maintaining and improving Crown reserves. That is a significant investment in the on-ground types of improvements and works that you are talking about.

**The Hon. TARA MORIARTY:** Let's pivot to that because I have got a series of questions on that fund. The amounts of money change each year. I understand there was some stimulus funding this year, but the amounts budgeted for that changes each year. What are the types of projects that you are looking at in terms of funding?

**Ms HAWYES:** It funds a range of different works ranging from safety, fencing, works to complete upgrades to grounds, facilities, viewing platforms. It is very much locally driven and people are able to apply and it is merits selected in terms of what is funded but it is a very wide remit of different types of on-ground works that is able to be funded through that program.

**The Hon. TARA MORIARTY:** Who can apply and how do people know to apply?

**Ms HAWYES:** We call for expressions of interest; we advertise the fund.

**The Hon. TARA MORIARTY:** How and where?

**Ms HAWYES:** I will have to get you the details of exactly where but it is on our website for example, but there are other channels as well. I can provide that on notice.

**The Hon. TARA MORIARTY:** Is there a selection criteria? Who makes the decisions about who gets funding and who does not?

**Ms HAWYES:** The department has an assessment committee and it is also represented with a probity adviser and an external independent for substantial funding allocations. It is compliant with the department's procurement policies. I can provide you the exact details on notice.

**The Hon. TARA MORIARTY:** Throughout that process—and you can touch a bit more on what the selection criteria is—does that panel decide whether a project or an application is viable in the interests of the local community? Or do you just accept that if a local application has been made and it is decided that it is funded, that is the extent of the probity about the decisions?

**Ms HAWYES:** No, we would have a look at the nature of the works as well as the ability of the organisation to deliver those works.

**The Hon. TARA MORIARTY:** But coming back to the criteria for doing this, the applications have to be made at a time when the projects are ready to use the money. Is that right?

**Mr DAVID SHOEBRIDGE:** Shovel-ready.

**The Hon. TARA MORIARTY:** Shovel-ready. Thank you.

**Ms HAWYES:** We make an assessment that the project has merit, stacks up and can be delivered in the manner in which is described. So yes, to your point, shovel-ready.

**The Hon. TARA MORIARTY:** Could you apply now for something that you want to do in five years?

**Ms HAWYES:** You can plan ahead as much as you wish to but when the funding round is open, you can apply and put forward the works that you want to do and then it is assessed on merit and in compliance with our procurement policy.

**The Hon. TARA MORIARTY:** Sure, but what I am trying to understand is what the process is for the selection. What is the basis for merit? What is the basis for making a decision? Could you be approved if you applied for something five years down the track? Or does it have to be things that are ready to go now? Given that the amount of money that is allocated for these changes—

**Ms HAWYES:** Yes, so with the stimulus funding, shovel-ready projects were obviously priority and that was to stimulate local economies and jobs and keep tradespeople employed in the context of the pandemic. That was prioritised.

**The Hon. TARA MORIARTY:** But what was the decision-making, or was there any, in relation to where that might be needed? For the stimulus money, for example, a lot of the showground stimulus money went to the Coffs Harbour electorate and the showground in that seat and it also got money out of the improvement fund. Was that based on the need for local jobs? In fact, it got 10 per cent of the entire budget for the year. What was the thinking behind that?

**Ms HAWYES:** I would be interested to see your stats on that. Examples of projects that have been funded—upgrades to surf lifesaving clubs, accessible bathroom facilities at showgrounds, community facilities, replacement boathouses and glasshouses in botanic gardens, so a range of—

**The Hon. TARA MORIARTY:** I do not want to interrupt but I am very limited with time. I understand what types of projects there are. I am interested in what the decision-making process is.

**Ms HAWYES:** As I said, a panel assesses the projects that come through and makes the call.

**The Hon. TARA MORIARTY:** But what do they base their assessment on?

**Ms HAWYES:** I can get you the guidelines. They are on our website. They are publicly available and they look at the merits of the work, the relevance to local communities and the ability to deliver the project.

**The Hon. TARA MORIARTY:** I have got them but they do not have to stick to what is available on the website, so that is why I am wondering if they are suggested.

**Ms HAWYES:** They follow those guidelines when they make the decisions.

**The Hon. TARA MORIARTY:** The panel follows those guidelines every time?

**Ms HAWYES:** And our staff within Crown Lands follow those guidelines.

**The Hon. TARA MORIARTY:** So in terms of merit for a project—okay, so Coffs Harbour Showground is getting a lot of money to upgrade the showground but there is a toilet block up on the North Coast that is going to cost over \$400,000 to knock down and rebuild. How can something like that get through?

**Ms HAWYES:** I cannot comment on the specifics of the project that you are talking about—I would be happy to have a look at that if you want to send that in—but a number of showgrounds have significant investment in the works. We did an assessment of safety at a number of the showgrounds we manage, and that informed a suite of works.

**The Hon. TARA MORIARTY:** But what about a \$400,000 toilet block?

**Ms HAWYES:** Well, as I say—

**The Hon. CATHERINE CUSACK:** Toilet blocks are very important. Believe me, they are very important.

**The Hon. TARA MORIARTY:** You could build a few houses for that in the area that this funding has been allocated to.

**Mr BETTS:** We have explained that there is a process overseen by a probity auditor with published selection criteria—

**Ms HAWYES:** Guidelines.

**Mr BETTS:** —and it is applied by public servants with a panel that advises on that. That is the process. So rather than second-guessing individual decisions about particular projects, I think you can rely on the fact that there is a robust process in place overseen by impartial public servants.

**The Hon. TARA MORIARTY:** I am actually not suggesting that it is robust or not robust; I am not making an allegation. I want to understand, I guess, on behalf of the people of New South Wales, what the process is.

**Mr BETTS:** For a \$400,000 toilet block.

**The Hon. TARA MORIARTY:** It should be documented and how these decisions are made should be available for people to look at, not only for the people who get the money but for the people who miss out—a number of whom have contacted me.

**Mr BETTS:** They are.

**Ms HAWYES:** Those guidelines are available and if you have a query about a particular decision, I would be happy to have a look at that on notice. But the decisions are made through an assessment process that is robust and with a panel and a probity adviser for significant investment.

**The Hon. TARA MORIARTY:** Alright. I will pursue that further at another point. While we have the Crown Lands Commissioner here, I want to follow up on some questions that I was asking the Minister earlier in relation to the draft strategic plan.

**Professor BUSH:** Yes.

**The Hon. TARA MORIARTY:** When should we expect the final plan?

**Professor BUSH:** I think the final plan will be ready within a month; it is very close. I can say the department has worked very diligently in trying to incorporate the feedback that external stakeholders and the community have provided through the engagement last year. I have had a look at some of the information that is coming together and I am really quite excited about the level of aspiration and the priorities that are being put forward in this plan.

**The Hon. TARA MORIARTY:** I am interested in the priorities that have been put forward and the level of aspiration in terms of—there is quite a strong theme, as I raised with the Minister this morning, about commercialisation of Crown land. I do not raise that with any kind of opinion other than that I am interested to know what that means. If this is part of a draft plan that has been in circulation for some time and we should see a final report in a month then there must have been some thought given to the types of projects and the types of Crown land that will be better commercialised. Can you give us some examples?

**Professor BUSH:** The detail in terms of the business cases and the analysis will be developed over the first two years of this plan. The State Strategic Plan really is a monumental shift in the way the estate is going to be managed. But in considering some of the commercial opportunities, it is really looking quite far and also

intergenerational. So it is taking into consideration the new economy to do with carbon capture, carbon credits, biodiversity conservation, enhancing the visitor economy—particularly where there is interaction with the Indigenous cultural management of the land. So it is a very broad reach.

It is also considering the role of Crown land in terms of activation of precincts. So it is taking into consideration how Crown land will contribute to the State's priorities under the local activation precincts, the special activation precincts and even things that are much more practical in terms of consideration of the energy road map and how Crown Lands could contribute to the economic transition towards renewables under that plan. So it is going to have quite a broad reach but the intent of the plan is to come up with some pilot projects over the first 12 months that will demonstrate that.

**The Hon. TARA MORIARTY:** What are some examples of some of the things that you and the department are looking at?

**Professor BUSH:** I would be happy to hand to Ms Hawyes to go into some of the detail, but the types of things that we are considering are improvements to accessibility of State nature reserves in terms of activity and opportunity for people to camp, participate or recreate on State reserves, particularly those that are nearby national parks, so considering those as opportunities for better camping facilities or other land use activities. It will give people that nature conservation and nature tourism experience. Other areas of opportunity are to broaden and improve some of the economic activities that already take place on the Crown estate.

**The Hon. TARA MORIARTY:** Camping is great but I am more interested in what the economic activity would be. Are you looking at leasing private space on Sydney Harbour to restaurants? I flippantly talked about the beach club idea at Bondi this morning, but actually I do not mean it so flippantly. These are the kinds of suggestions that could come to fruition as a result of this plan. What are you thinking in terms of that? And the follow-up is: What are the protections are in place for broader community use?

**Professor BUSH:** I guess it is important for this Committee to understand that I am a statutory office bearer and independent to the department. One of the core principles that will underpin the State Strategic Plan is public accessibility to the Crown estate. The types of activities that would involve private benefit and public benefit would be things like, for example, at the Norah Head Lighthouse on the Central Coast—an iconic site and very important for our history. It is an important place for people to recreate. They will be looking as a management board at putting food and catering services there to enhance the public experience at that location. It will also generate some revenue.

There will be opportunities to change the leasing arrangements to ensure that appropriate rents are paid by those activities, but we will be looking for a balance. It is really important to understand that the State Strategic Plan will be considering the triple bottom line thoroughly and genuinely in any decision. So public accessibility is a very foundational principle that is put forward in this plan.

**The Hon. TARA MORIARTY:** What about public availability for applying for these things? Will there be private processes for applying to run some of these businesses or to get leases?

**Professor BUSH:** No. To get this plan working well—and I would be happy to hand to Ms Hawyes for detail on the commercial arrangements, as this might be something you want to dig into—the commercial and operational arrangements of the department will need to change over a period of time to ensure that this plan can be implemented.

**Mr DAVID SHOEBRIDGE:** Can we revert back to that in Opposition time?

**The CHAIR:** Before I throw to you, Mr Shoebridge, Dr Bentley was going to offer up some answers that he had gone away and come back on. So I am going to give him the opportunity that I promised.

**Dr BENTLEY:** Yes, we do underwrite any sunk costs that WaterNSW would incur if projects do not go ahead. That is normal standard; you have to do that. That flows from the issuing of a direction under the State Owned Corporations [SOC] Act. And, as I said before, some work that WaterNSW does it does as its commercial activity, some it does on a, shall we say, non-commercial basis through instruction by government. So that is a necessary flow-on from that. Email exchanges were being referred to by Ms Faehrmann earlier, where there was speculation about the level of work that should be funded under those business cases. Ms Levy has all the detail of that. If you wanted to pursue that later, we can reconcile all those numbers.

The two floodplain harvesting peer-review reports that I was requested information about have been released in the last couple of weeks and they will be available on our website. End-of-system flows, why don't we use those to set targets? Each of the regional water strategies lists this as one of the options to be considered as a

non-infrastructure option under the regional water strategy, so they are absolutely in our planning. But, to be clear, when trying to use end-of-system flows to control floodplain harvesting, the modelling shows very clearly that bringing floodplain harvesting down to within legal limits, the delta between what it has been and what it will be within legal limits makes hardly any difference to the flows that you would get at the end of the system down south. So it is very difficult to use that as a control measure for floodplain harvesting.

Our response to the NRC Barwon-Darling review is available on the department's website. I have got the team working on more detail of where we are on each of the 42 sub-recommendations. Basically, the initial response is there and the sub-responses are supposed to be divided into those things that you should do now and those things that you should do in the 2023 remake. It is about half and half. So we will provide a more detailed response of the roughly 20 recommendations that should have been responded to now, a good chunk of which have been done. The most important ones about the resumption of flow and all those kind of things, indeed, have already been done. We do have monthly meetings with the NRC, and in those meetings we talk about progress on the actions that they recommended for that review. I have nearly finished, Chair, you will be pleased to hear.

On the ICAC response, I think it is important to note that ICAC makes it clear that they are, in the main, referring to the period up to 2017. So this is a review of a department prior to the secretary or me being around. A new department has been formed, and a new water group within that department. We sit alongside our colleagues from the Environment in Environment, Energy and Science, and work very closely with them. So I think a lot of change has happened since that report, period. Further to that, we said five actions were complete, four are substantially complete, five are in progress and one is under review. So, actually, the vast majority are well underway. On the point about the Barmah Choke, there is a Murray-Darling Basin proposed project which is being considered at the moment for feasibility study funding to understand flows through and around that choke better, infrastructure and other options. I am hoping before the end of the afternoon there is another piece of work that is being done from a fisheries point of view in that same area. I do not have the detail but I will get it by the end.

**The CHAIR:** That is fine. I will probably quiz Adam Marshall on that on Wednesday.

**Mr DAVID SHOEBRIDGE:** I ask, firstly, about the Amalfi beach reserve proposal. I note the Minister, in answers earlier today, said that it was not to go ahead. This is the Amalfi Beach Club on Bondi Beach. What, if any, protections are there on Crown land to prevent that coming back again like some sort of fungal infection on our beaches? How do we stop that coming back?

**Ms HAWYES:** Crown reserves have a purpose. If you seek to change that purpose, that must meet community consultation requirements. That is designed to ensure that Crown land remains a public asset and is utilised in concert with what communities want for that reserve.

**Mr DAVID SHOEBRIDGE:** Clearly, the proponents thought they had a chance of getting this up. They looked at the purpose and said, "Well, if we have an incidental commercial use of a beach then that is arguably consistent with the public purpose." Clearly, the proponents thought that they could get something up. What seems to have stopped it in this case was public outrage, rather than any clear guideline saying, "You can't privatise our beaches." Is that an unfair reading of it?

**Ms HAWYES:** I cannot comment on what was in the proponents' minds when they came forward with that.

**Mr DAVID SHOEBRIDGE:** Is there anything under Crown land management rules that says the basic premise is you cannot privatise beaches? Is it written in black and white? If not, why not?

**Ms HAWYES:** There is our Act and reserve purposes, and they are designed to sustain assets—landscapes—in the public interest.

**Mr DAVID SHOEBRIDGE:** So since that proposal was floated, there has not been any work done in Crown Lands to prevent those kinds of proposals coming back on other beaches? Is that what I am led to understand? Mr Betts, are you aware of any work being done?

**Mr BETTS:** This is a proposal that did not get up under the current system.

**Ms HAWYES:** That is right.

**Mr DAVID SHOEBRIDGE:** Correct.

**Mr BETTS:** So the current system has, in that sense, worked. If you are asking us to amend Crown lands legislation to prohibit in perpetuity the possibility of proposals like that getting up in other circumstances, I imagine that would be a matter for the Parliament and the legislation.

**Mr DAVID SHOEBRIDGE:** I suppose what I am asking is what protections are in place. I am not clear if I have understood what protections are in place.

**Mr BETTS:** I will ask Ms Hawyes to step again through the processes of consultation and decision making.

**Ms HAWYES:** I can provide those to the Committee on notice in more detail. There are detailed community engagement processes that must be followed if you wish to change reserve purposes.

**Mr DAVID SHOEBRIDGE:** But the proponent here said it was consistent with the purpose and was seeking a development application [DA] approval. They got rejected at the DA stage, so it really did not get to the Crown land management stage.

**Ms HAWYES:** The Crown lands legislation works in concert with the planning legislation for large proposals of that nature.

**Mr DAVID SHOEBRIDGE:** If there is nothing you can point to, that is okay. We can just answer it there: There is nothing you can point to specifically that has been done.

**Ms HAWYES:** I think the two systems were working together. As the secretary noted, it was knocked back.

**Mr DAVID SHOEBRIDGE:** The Government announced \$50 million of grants for the Crown Reserves Improvement Fund [CRIF]. I think my colleague was asking you questions about the guidelines for that. First of all, how much of the \$50 million has been allocated?

**Mr BETTS:** We will try to source that information for you, if you wanted to go on and ask her some questions.

**Ms HAWYES:** I wanted to step you through the assessment process in a bit more detail.

**Mr DAVID SHOEBRIDGE:** Perhaps, rather than go through that individual assessment process, the question I would be interested in is this: On the assumption it was oversubscribed—and it may have been—how do you determine the respective merits between two projects that both meet the guidelines? In fact, if you get a whole lot of projects that meet the guidelines and go over the \$50 million, how do you determine that public toilet will get approval and that showground will not or vice versa? How do you determine the relative merits of complying grants?

**Ms HAWYES:** I will talk you through the assessment process, which is designed to mitigate that to the extent you can. The initial vetting for application eligibility is done by the department. The relevant local Crown Lands officers do an initial assessment, review those assessments and score them, essentially, following guidelines that are consistent with the *Good Practice Guide to Grants Administration* published by the Department of Premier and Cabinet. We had specialist panels and have specialist panels in place to assess weed applications. For significant applications in excess of \$500,000, there are specialist panels in place. The recommended applications are ranked and then presented to the Crown reserve assessment committee, which includes an external chair, an external probity officer and two Crown Lands directors. That process and infrastructure is designed to achieve merit-based assessment.

**Mr DAVID SHOEBRIDGE:** How do you rank A against B if they both comply?

**Ms HAWYES:** There would be an element of assessment—well, there are guidelines and there is also the judgement of people who work in the business to do that, plus external experts to provide their review.

**Mr BETTS:** There is a detailed scoring guide, which guides the officers in their assessment.

**Mr DAVID SHOEBRIDGE:** On notice, could you provide us with the list of the projects that were funded and how much they received and, if it is available, the list of the projects that did not succeed.

**Ms HAWYES:** Yes.

**Mr DAVID SHOEBRIDGE:** Could I ask the same about the \$20 million showground upgrades funding proposal that was announced in November last year?

**Ms HAWYES:** The breakdown of successful projects? Yes.



**Mr DAVID SHOEBRIDGE:** There was a further \$31 million for so-called shovel-ready projects. What were the criteria for that?

**Ms HAWYES:** I will take that on notice to get you the specific criteria, but it would have followed the similar process.

**Mr DAVID SHOEBRIDGE:** For the shovel-ready projects, could you give us a breakdown of what projects were funded, where they were and what, if any, publicly available criteria were identified for those?

**Ms HAWYES:** Yes.

**Mr DAVID SHOEBRIDGE:** Were the criteria for the shovel-ready projects publicly available?

**Ms HAWYES:** I will need to take that on notice. I was not in the role at the time, but all of our assessment guidelines for the CRIF process are online.

**Mr DAVID SHOEBRIDGE:** Before the break I asked some questions about full-time equivalent staffing numbers for assessing Aboriginal land claims under the 1983 Act. Did you get anywhere with those numbers?

**Mr BETTS:** We answered that when you were out of the room.

**Ms HAWYES:** Yes, we answered that one.

**Mr DAVID SHOEBRIDGE:** I am sorry, I missed that. Clearly I did not hear it if I was not here.

**Ms HAWYES:** In terms of the staff dedicated to assessing land claims, it has more than doubled in the past year, from eight to 19.

**Mr DAVID SHOEBRIDGE:** Have you benchmarked the number of staff in New South Wales against comparable Aboriginal land claims processing units in, say, Queensland and Victoria?

**Ms HAWYES:** I will need to take on notice if that work has been done in the past.

**Mr DAVID SHOEBRIDGE:** Could you take on notice whether it is true that the full-time equivalent numbers in New South Wales is a fraction of the numbers that do the same or comparable jobs in Queensland?

**Ms HAWYES:** I will take that on notice, because I am not across the numbers in Queensland.

**Mr BETTS:** Obviously, the legislative frameworks between the jurisdictions are very different. But we will take that on notice.

**Mr DAVID SHOEBRIDGE:** Is there a target for the number of lands claims that will be determined in the next 12 months, or 24 months, or 36 months, and if so what is the target?

**Ms HAWYES:** Our focus, as I said in this morning's session, is really to re-engage with land councils and to ensure that we prioritise the land claims that are of the most importance to land councils. So with that in mind we have really focused our energy and efforts in working with land councils to bring forward their top 20 claims so that we can work those through. That is, I guess, a target. Beyond that, we are working to enhance the resourcing and the claims processes generally to speed up land claims. But our focus is on prioritising the claims that are the most significant to Aboriginal land councils.

**Mr DAVID SHOEBRIDGE:** How many land claims were granted last year?

**Ms HAWYES:** Last year we resolved 1,500 claims and we granted 280.

**Mr DAVID SHOEBRIDGE:** Did you say 120-odd land councils? How many are there?

**Ms HAWYES:** There are 120.

**Mr DAVID SHOEBRIDGE:** Each have 20 priority projects, that is 2,400 priority claims. Do you have an estimate for when those 2,400 priority claims will be resolved?

**Ms HAWYES:** No. That it will depend on the complexity of the claim, and at the moment we are working with land councils to bring forward their priority claims.

**Mr DAVID SHOEBRIDGE:** Last year and the year before and the year before, when these questions were put to the Government and to your department, we were told that the Aboriginal land agreements would be the resolution pathway—"Don't worry about the backlog in land claims, because we have this magic new ALA process and that will resolve the backlog." It is true, is it not, that to date the ALA has only resolved two claims?

**Ms HAWYES:** Yes, that is correct.

**Mr DAVID SHOEBRIDGE:** Do you accept that is not going to be the solution for dealing with a backlog? Is that accepted at a bureaucratic level?

**Ms HAWYES:** I think that the solutions are really a little bit nuanced than that in the sense of that trust. Rebuilding trust and engaging with land councils I am hopeful will invigorate the ALA process. We do have other ALAs in train. We have negotiations underway with Eden land council at the moment, and I am hopeful that an ALA will be determined with that land council. But the trust with the land councils is what is going to drive the uptake in better use of that tool.

**Mr DAVID SHOEBRIDGE:** Do you have a joint task force or joint committee where you sit down with the NSW Aboriginal Land Council or any of the regional land council representatives?

**Ms HAWYES:** Yes, we do.

**Mr DAVID SHOEBRIDGE:** Can you tell me who is on it and how often it has met in the last 12 months?

**Ms HAWYES:** We have a land negotiation task force that is chaired by Jody Broun. I can provide you the full list of membership but NSWALC is represented on that governance.

**Mr DAVID SHOEBRIDGE:** And the number of times it has met in the last 12 months?

**Ms HAWYES:** From memory twice or three times, but I will confirm that.

**The CHAIR:** Before I go to questions, Ms Cusack wanted to ask for clarification of something taken on notice.

**The Hon. CATHERINE CUSACK:** Mr Shoebridge has asked for information in relation to grants programs and the criteria that apply. Can you also supply the objectives of the program, because I think technical compliance is one thing but the members seem to be trying to work out the ranking of it and I thought that the objectives of the program might assist them to better understand how priority is determined.

**Mr DAVID SHOEBRIDGE:** If there is any other useful information to give context, I am happy for that to come in an answer.

**Ms HAWYES:** We took on notice to get you the—

**The Hon. CATHERINE CUSACK:** A more holistic picture.

**The CHAIR:** Yarrie Lake Flora and Fauna Trust, can you confirm that they have not presented financials for the last 10 years or longer?

**Ms HAWYES:** I will need to take that one on notice.

**The CHAIR:** While you are taking that on notice, if that is the case, whether it is longer or shorter, have any warnings been issued to that trust regarding the lack of financial information presented, and have any restrictions been placed on committee members' roles because of those delays? Also, if you can confirm the reports that we have received that during the recent filling of the lake and the easing of COVID restrictions that the caretaker collected \$60,000 in cash from around five days?

**Ms HAWYES:** I will need to take those on notice, and if you have information to support that claim, I would be happy to receive that.

**The CHAIR:** Can you advise us when the committee is up for renewal of positions and how will they be advertised?

**Ms HAWYES:** Again, I will take it on notice. We have many, many different community trusts operating.

**The CHAIR:** Who is the leaseholder for 12 Dane Drive, Gosford, currently?

**Ms HAWYES:** I think you are talking about Iguana Joe's, is that correct?

**The CHAIR:** That is potentially one of the ones I have in front of me. There is also a Gosford Holdings.

**Ms HAWYES:** I will take it on notice.

**The CHAIR:** When was that lease entered into and when was it renewed?



**Ms HAWYES:** I will take it on notice but the lease is currently under consideration.

**The CHAIR:** It has not been renewed?

**Ms HAWYES:** If it is the one that I am thinking of, there is an application to look at that, but we will take it on notice.

**The CHAIR:** Can you take it on notice how long that lease will be renewed for?

**Ms HAWYES:** That is yet to be determined.

**The CHAIR:** Is there an average time of lease?

**Ms HAWYES:** It depends on the proposal and the application. Depends what is being proposed. We balance tenure, certainty of access against investment, depending on the type of lease.

**The CHAIR:** Whether it is the Iguana Group or Gosford Holdings, looking at both of them, they seem to be one and the same company. If you look at ASIC and the Australian business website, and from information being provided to me, one of those groups, Gosford Holdings, was subject to a deregistration order in 2016 and I think has since been listed as a strike off, or strike off in progress. Would that be taken into consideration when you determine whether this association or entity is a fit and proper person for that lease?

**Ms HAWYES:** The short answer is yes and that site is under lease, which is due to expire in 2023. We are considering the future lease arrangements, and any issues to do with the nature of the applicant will be considered in that process.

**The CHAIR:** Have you received reports that they have been repeatedly in default for water rates and council rates?

**Ms HAWYES:** I am aware that we have received complaints informally that we are looking into as a compliance matter.

**The CHAIR:** And they will obviously be considered if you received them formally, or if your investigations find out or confirm them, they will be considered in your determining whether they go through to the lease?

**Ms HAWYES:** We would look into that as part of the compliance process, yes.

**The CHAIR:** Unless you come back to me within 10 minutes with some of that information, that is my questioning done. We have about five minutes, so if there are any follow-up questions?

**The Hon. MICK VEITCH:** Quickly, to Professor Bush.

**The CHAIR:** Yes.

**The Hon. MICK VEITCH:** Your role is quite an important role to the Crown Lands framework these days. What is the support staff that you have?

**Professor BUSH:** I do not have any direct staff, but I have within Housing and Property a staff of six people who can assist with my work.

**The Hon. MICK VEITCH:** But, correct me if I am wrong, my understanding is they are not actually directly attributable to you; they work within Land and Housing and do a number of other roles as well.

**Professor BUSH:** The support staff are dedicated to supporting my work, so they do not work on other priorities at all. But there are six staff and they report to the group Deputy Secretary of Housing and Property. So they are separate also to the Crown Lands Department, which helps maintain a good level of independence.

**The Hon. MICK VEITCH:** Have you ever sought supplementation to increase that number of staff? I ask this because Crown Lands is a very big area.

**Professor BUSH:** As the inaugural Crown Lands Commissioner, I started with just one support person. The new staff were provided to this group last September in recognition that we are definitely going to take a much more serious role in terms of the implementation of the State Strategic Plan.

**The Hon. MICK VEITCH:** Thank you.

**The Hon. TARA MORIARTY:** I have one question to follow up from that. What is the total staffing number of the department of Crown land?

**Ms HAWYES:** If you could give me one moment, I do have it.

**The Hon. TARA MORIARTY:** It would be great if we could get a structure. You could take that on notice.

**Ms HAWYES:** You would like the structure on notice?

**The Hon. TARA MORIARTY:** Yes.

**Ms HAWYES:** I can give you the number of staff.

**The Hon. CATHERINE CUSACK:** You can get that in the annual report.

**Ms HAWYES:** It is 398 full-time equivalent roles.

**The CHAIR:** If there are no further questions we will dismiss Crown lands and move to property and housing. Thank you.

**The Hon. MICK VEITCH:** I will ask questions through Mr Betts and he can be the five-eighth or halfback of the team. I will ask some questions now around the maintenance of community infrastructure within housing estates across New South Wales. Does Land and Housing Corporation [LAHC] have a budget for that sort of work?

**Mr BETTS:** I will hand over to Mick Cassel, who is the Chief Executive of Land and Housing Corporation.

**Mr CASSEL:** We have an ongoing budget for all community areas to be maintained where we own the estate, yes.

**The Hon. MICK VEITCH:** So something like playgrounds would obviously be included as infrastructure?

**Mr CASSEL:** It depends if they are our playgrounds or if they are council's playgrounds.

**The Hon. MICK VEITCH:** No, I am talking about within housing estates that are the responsibility of—

**Mr CASSEL:** If it is our land then, yes, we would be maintaining it.

**The Hon. MICK VEITCH:** So the mowing and whatever else, that is contracted out?

**Mr CASSEL:** Yes. It is not direct employees who go and mow the lawns, no.

**The Hon. MICK VEITCH:** Have you received representations regarding the playground located in Hamilton South in Newcastle?

**Mr CASSEL:** I do not recall seeing any correspondence, but I am happy to take that on notice.

**The Hon. MICK VEITCH:** If you could, please. So the department told the local member and the community that they plan to demolish them. I am just wondering if that is actually what has happened, or are they progressing? What is the timeframe for that to occur?

**Mr CASSEL:** I am not sure of the details. I will just take it on notice.

**The Hon. MICK VEITCH:** Thank you. If you are taking it on notice, I am interested if there are other playgrounds like this because I was not aware—I am from regional New South Wales and I had made the terrible assumption that most playgrounds are council-owned. So how many other playgrounds do you have that are on housing estates? With regard to social housing, Mr Betts, in the budget last year there was an additional \$812 million, as I understand it, for social housing. I am keen to see what form this funding takes. Is it in the form of a grant? Is it a loan from Treasury? What is the arrangement for that \$812 million?

**Mr BETTS:** So there are a number of different sub-components of the \$812 million. I will ask Mick to take you through that.

**Mr CASSEL:** Thanks, Jim. Yes, you are right. We were granted some significant money last year, which will hopefully contribute to about 3,000 jobs. The first program was a \$250 million grant over two years for programs of new supply both in metropolitan areas and in the regions. We are hoping that will deliver around 600 new dwellings. There was a \$150 million grant over three years with accelerated place-based redevelopment and completion of social housing at Claymore and Airds Bradbury, which will deliver construction and acquisition of around 277 new social dwellings and construction of 240 new social homes funded by LAHC. We are hoping

to achieve around 1,000 affordable vacant land lots in that location as well for private sale. We also received \$200 million in grants over two years, which will deliver capital upgrades to social housing; \$160 million to maintain LAHC homes managed by both Department of Communities and Justice and community housing providers—that will help us enhance their life; and \$40 million for capital maintenance to improve CHP social housing and affordable housing properties, so that was a grant that flows through to the community housing sector.

**The Hon. MICK VEITCH:** Thank you for that. So all those programs are grant programs? There are no loans involved in those from Treasury?

**Mr CASSEL:** There are a variety of mechanisms within those grants. Part of the \$150 million that we received for Airds Bradbury includes a NHIFC loan and a grant component.

**The Hon. MICK VEITCH:** Sorry, a—?

**Mr CASSEL:** A National Housing Finance and Investment Corporation loan, so a Commonwealth Government loan.

**Mr BETTS:** A concessionary loan from the Feds.

**The Hon. PENNY SHARPE:** Is that the only—

**Mr WRIGHT:** In addition to stimulus funding going into the Land and Housing Corporation, the Government has provided the Aboriginal Housing Office with \$212 million in grant money to deliver 194 new homes across New South Wales over the four-year period from 2021 to 2023-24. I can step through the details if you wish.

**The Hon. PENNY SHARPE:** If we can go back to Mr Cassel, we are trying to understand which components of these—you say they are all grants but it does not sound like they are all grants. What component of each part of it is a loan to be repaid to Treasury or to others? Can you further break that down?

**Mr CASSEL:** Yes. So the \$150 million for Airds Bradbury—

**The Hon. PENNY SHARPE:** Is that the only one?

**Mr CASSEL:** —\$75 million of that is coming from the NHIFC, the Commonwealth provider.

**The Hon. PENNY SHARPE:** And will that be repaid by the sale of the affordable land lots?

**Mr CASSEL:** A portion of that will be repaid. A portion of that is grant funding as well—around 20 per cent from memory.

**The Hon. PENNY SHARPE:** And that is the only loan in that whole \$812 million?

**Mr CASSEL:** Yes.

**The Hon. MICK VEITCH:** This question has to do with the Prince's Trust at 17-31 Cowper Street in Glebe. What is the actual role of the Prince's Trust there? What do they have in building or administering public housing in Australia?

**Mr CASSEL:** The Prince's Trust project was started a number of years ago now. The Prince's Trust is to basically add an advisory role on helping us define what that project would be and its layout and working with council to provide their level of experience in other places around the world in doing similar projects.

**The Hon. MICK VEITCH:** What is their experience then in administering public housing?

**Mr CASSEL:** They were not administering public housing. They were providing advice on a design in the project.

**The Hon. MICK VEITCH:** That is the advisory role, okay. What is happening at the Franklyn Street complex at Glebe?

**Mr CASSEL:** At this point in time we have a proposal before the City of Sydney to redevelop two blocks. One will be maintained as social housing and the other will be market housing. The market housing pays for the social housing to be developed.

**The Hon. MICK VEITCH:** Is it hypothecated for that particular site or is it taken into revenue to be spent elsewhere?

**Mr CASSEL:** We have not done that deal yet. We would use a private market to deliver those. From the feasibility that we have got, we will break even so there will be no access money from that. So all of the funds from the sale would be retained.

**The Hon. MICK VEITCH:** If I looked a bit confused it was because I thought in your previous answer you said it would not be sold to fund further works or maintenance there?

**Mr CASSEL:** No, so both of the sites will be redeveloped. The funds from the sale of the private development will pay for new social housing to be built there.

**The Hon. MICK VEITCH:** I thought you said there would be no funds left over. So it will go into that other fund?

**Mr CASSEL:** Correct.

**Mr BETTS:** And it is a break even proposition.

**The Hon. MICK VEITCH:** That makes a bit more sense.

**The Hon. CATHERINE CUSACK:** Hypothecated, which is your question.

**The Hon. MICK VEITCH:** Yes.

**The Hon. CATHERINE CUSACK:** I think it was just a yes.

**The Hon. MICK VEITCH:** We explored a little bit with the Minister the issue around the indicator of housing stress, particularly in regional New South Wales. I do not want the policy detail, but I want to know what are we doing to manage the applications for social housing in regional New South Wales at this point in time?

**Mr CASSEL:** Applications are managed by the Department of Communities and Justice. We do not manage tenants.

**The Hon. MICK VEITCH:** I will have to reword that. I am thinking about the available stock. Land and Housing is not responsible for providing the available stock?

**Mr CASSEL:** The way the system works, the Department of Communities and Justice run what they call the waiting list—

**The Hon. MICK VEITCH:** We all hear about the waiting list.

**Mr CASSEL:** They will provide to us forecasts in what area they will need more housing, less housing or what the configuration of that housing will be. Then we will go about doing local government area studies to understand what that demand looks like, how we could possibly deliver it, whether we renew our stock, whether we hold the stock we have got or whether we move on from that location.

**Mr WRIGHT:** Can I say, there is a number of social housing projects the Government is rolling out in regional New South Wales as part of the stimulus funding. So LAHC has 24 regional projects that will deliver 296 new social dwellings in regional New South Wales to address some of that waiting list issue.

**The Hon. PENNY SHARPE:** You can do it on notice, I do not need you to do it now, but are you able to provide to the Committee a breakdown of those?

**Mr WRIGHT:** I certainly can.

**The Hon. MICK VEITCH:** Would you do the breakdown by LGA as opposed to, say, regions? Are you able to get down to that detail?

**Mr CASSEL:** Sorry, are you talking about the new stock that we are building?

**The Hon. MICK VEITCH:** Yes, the 296.

**Mr CASSEL:** I can go through those now, if you like.

**The Hon. MICK VEITCH:** No, you can take that on notice. I am asking when you provide the detail, is it able to get down into local government area numbers?

**Mr WRIGHT:** Yes.

**The Hon. MICK VEITCH:** That would be very good too. You were talking about managing the estate involves selling some of the properties. According to the Government Property Register, we have sold \$151 million worth of property in Parramatta, \$82 million worth of property in Liverpool, and \$36 million worth

of property in Canterbury-Bankstown, as well as a whole range of others. Specifically in relation to those suburbs, the proceeds are reinvested across the State, not back into those suburbs? Is that correct?

**Mr CASSEL:** It is a variety. It may be reinvested back into the suburbs. The sales revenue goes to two programs. It goes to new product and it goes to capital maintenance on existing product.

**The Hon. MICK VEITCH:** It does not go to consolidate revenue?

**Mr CASSEL:** No. We are a public trading entity. We do not remit any money back to government.

**The Hon. MICK VEITCH:** I am told the waiting list for a studio apartment or even up to a four-bedroom house in Liverpool is about 10 years. We have been working on the requirements in that particular area. Selling \$82 million worth of property in Liverpool, could we assume that the majority of that would go back into stock in Liverpool, with a waiting list like that?

**Mr CASSEL:** It would depend at what period of time. As I explained before, the Department of Communities and Justice manage the waiting list. They provide us with information about where they would like to see more properties.

**The Hon. PENNY SHARPE:** I want to follow up on Franklin Street. How many units are currently in Franklin Street, Glebe?

**Mr CASSEL:** The site currently contains 108 dwellings in the form of two- and three-storey townhouses and walk-up apartments and dwellings that were built in the 1980s.

**The Hon. PENNY SHARPE:** Afterwards how many social housing buildings will there be?

**Mr CASSEL:** There is a proposal for 426 new dwellings—

**The Hon. PENNY SHARPE:** Yes, but that is not all social housing.

**Mr CASSEL:** No. And there will be around 200, depending on what the planning outcome is for that.

**The Hon. PENNY SHARPE:** The information you have on your website says there are 130.

**Mr CASSEL:** Sorry, I misread this. It is 1.19, so, yes, 130 would be right.

**The Hon. PENNY SHARPE:** Are you able to provide a breakdown to the Committee? How many of your developments require the 70-30 mix, the private-public mix, and how many do not? I assume from some of the numbers you gave the Committee around regional development that that is not a 70-30 mix. I do not expect you to go through it now, but will you provide to the Committee the breakdown of each of the developments whether that 70-30 mix is being factored in as part of the development?

**Mr CASSEL:** I can. That 70-30 mix really only applies to larger projects where we will deliver a mixture of product type. If you are doing four townhouses in a regional area, we do not break that down to 70-30.

**The Hon. PENNY SHARPE:** That is what I expect. Are they all in metropolitan Sydney?

**Mr CASSEL:** All the current live ones are. Other ones, I think, as we work our way through—I think there has been an announcement on Wagga, we are looking at an estate down there, that will look to break the concentration of social housing down.

**Mr WRIGHT:** And Bellambi, Corrimal as well, also down the Wollongong LGA we are looking at potentially a mix as well.

**The Hon. PENNY SHARPE:** As I said, I am happy for you to take it on notice. I am just trying to get a handle on where that is being applied and where it is not. We have talked about this earlier and I am quite concerned, there is a lot of pressure with Redfern-Waterloo, Glebe and South Eveleigh in relation to a very high density currently of people in social housing and the redevelopment plans for those. What plans is the department making in relation to where these people will be housed as those developments happen, because a lot of them will come on board at about the same time?

**Mr CASSEL:** We continually review the relocation strategies for all of the tenants. Part of that process is we have a team that work with the individual tenants determining whether they would like to try and stay locally or whether they would rather move to other locations. But the under-arching commitment we give is they can always return.

**The Hon. PENNY SHARPE:** Yes, but that could be a decade away.

**Mr CASSEL:** Possibly, possibly not. What I would say is we do these projects in stages. We do not go in and demolish every house in one hit typically. And that is the way, say, Waterloo is programmed out. I think one of the first things to be delivered there would be the park, if we were able to obtain support for the project.

**The Hon. PENNY SHARPE:** My concern is obviously that it is very tight in terms of housing, particularly in those locations where there is such a large number. I understand that you are doing them staged. How many people are going to have to move out of area while this is occurring, when it could take five to 10 years before they could return to the community that they know?

**Mr CASSEL:** I would only be guessing if I were to give you a figure, and I would not know where to start.

**The Hon. PENNY SHARPE:** Sure. I am not really trying to hold you to a number. I am trying to understand the planning that you do for that. I just cannot see how you can have that many people, if they want to stay locally. I am particularly thinking about Waterloo. I know there are a lot of very elderly residents there—a lot—who have been there for a very long time. Some of them have been there for 40 years. What is the priority around keeping people in the community that they know?

**Mr CASSEL:** The priority will work with doing the best we can with what we have, obviously. I do not know the individual tenants' circumstances so I do not want to comment on that. What I am trying to work my way through is saying, "How do I have the most minimal impact on the existing residents as I work my way through that development?" But I am sure you can appreciate that to this point in time we have spent over \$20 million on this proposal, it still sits before council and I have stopped a lot of work moving forward on those types of detailed things until we can get some type of clarity on what the project will look like.

**The Hon. PENNY SHARPE:** Do you have modelling around what percentage of tenants you think will stay locally? Surely that goes into the planning of how you manage those stages? I do not expect you to understand the needs of each tenant and I do understand that it has been stop-start—all of those things. I am interested in what the system is internally to make decisions about that because there is just not enough housing stock for people to move.

**Mr CASSEL:** If we look at some of the redevelopments that we have done—and none of them have been as large or look at being as long a duration as what Waterloo looks like it will be—typically we find there is a percentage of people who want to stay locally, which is understandable. There are those who want to move away when we have finished or we have new properties available back in that development. Not everybody takes that up.

**The Hon. PENNY SHARPE:** Sure. No, I know that.

**Mr CASSEL:** Everyone says, "Yeah, I want to come back" but when we actually get to that point they are not—but this program is still in its infancy. We have not completed any of the large major projects that we have undertaken since they were announced in 2016.

**The CHAIR:** That concludes our session with Property and Housing. The witnesses are now dismissed.

**(The witnesses withdrew.)**

**The CHAIR:** I welcome to the table representatives of Water.

**The Hon. MICK VEITCH:** This morning the Minister was talking about Water Infrastructure NSW—I think it was a new unit. I am just struggling as to where that sits within the organisation. Mr Betts or Dr Bentley, I was wondering if you could explain.

**Mr BETTS:** Jim Bentley, who is sitting on my left, is the CEO of the water sector for New South Wales and a direct report to me; Anissa Levy, who is on his left, is the CEO of Water Infrastructure NSW and reports to Jim Bentley.

**The Hon. MICK VEITCH:** Okay, got you—it fits in there. Last week—I think it was at the Forestry Corporation of NSW budget estimates—I got to ask a very quick question about the western foreshore of Blowering Dam, which was damaged in the fires and I think is Forestry Corp land. But it begs a broader question about foreshore management on our dams in New South Wales. Do we work to plans to manage those foreshores around things like erosion and weed control and that sort of stuff?

**Mr GEORGE:** Thanks for the question. Land around the foreshores is typically owned and looked after by WaterNSW. We do have land management plans that we are required to operate to and that does go very much to weed management as much as anything else.

**The Hon. MICK VEITCH:** Lots of people are going to roll their eyes now, but how much do we spend on weed management in—

**The Hon. PENNY SHARPE:** I am rolling my eyes.

**The Hon. MICK VEITCH:** I have an issue about weeds, and woody weeds in particular. They are a significant contributor to fuel load. People sort of underestimate them but in fact there are some pretty serious issues. How much did we spend last year on weed management on land that is within your control?

**Mr GEORGE:** I will take that on notice and aim to get back to you.

**The Hon. MICK VEITCH:** Also, how do you undertake that weed management? Do we engage contractors or are we using local staff?

**Mr GEORGE:** It is typically a combination of either local staff who undertake that work or in some cases we lease out the land to others who also have obligations as part of that lease to undertake weed management.

**The Hon. MICK VEITCH:** Thank you.

**The Hon. PENNY SHARPE:** My question is for DPIE Water, which I think is Ms Levy.

**Mr BETTS:** It is Water within the Department of Planning, Industry and Environment. DPI Water no longer exists.

**The Hon. PENNY SHARPE:** That is not the way the Minister described it this morning.

**Mr BETTS:** That is the way I am helpfully clarifying it for you.

**The Hon. PENNY SHARPE:** I am glad that I am confused because that is not the way the Minister described it. She was very clear that it was DPI Water. Anyway, we will ask—

**Mr BETTS:** It is a blizzard of acronyms. I can understand why you are confused.

**The Hon. CATHERINE CUSACK:** We need a handbook, I think.

**The Hon. PENNY SHARPE:** Ms Levy, what is the legal limit under the water sharing plan for extraction in the Gwydir? Are you able to provide that for us?

**Ms LEVY:** I might have to ask one of my colleagues to address that one.

**Dr BENTLEY:** The legal limit for extraction in the Gwydir?

**The Hon. PENNY SHARPE:** Under the water sharing plan, yes.

**Dr BENTLEY:** I do not have that detail on hand.

**The Hon. PENNY SHARPE:** That is fine. If you agree to take it on notice that would be terrific. I want to go back to this issue around the triple bottom line. ICAC had a lot to say about that. Dr Bentley, I noted your answers this morning that you got legal advice that suggests that that is not the way that you are doing it. I think there is some concern that, while you may be satisfied by the legal advice, the ICAC was not in relation to it as a

reasonable outcome. Do you concede that the position of DPIE has to change, and how does it in more detail fall into step with the ICAC position?

**Dr BENTLEY:** Thank you for the question. I think what I was trying to say this morning was that in the 20 months I have been in the department what I see is not what ICAC has reported in its report. As I said in my comments half an hour or so ago, ICAC is clear in its report that it is primarily referring to the period up to 2017. When I received advice from our general counsel the question I asked him was, "How should we be operating in terms of those objectives and principles? Do we need to satisfy all parts of the environment thing before we take anything else into account or should we be looking at them all equally?" The answer was very clearly more priority to the environment but you do not—

**The Hon. PENNY SHARPE:** The well-established principle across all of our legislation is ecologically sustainable development. This wording of "triple bottom line" has sort of leaked into the discourse around this for a long time, about which ICAC has been rightly concerned. Do you believe that we need to make any changes to legislation to ensure that is the case, or do you believe it is just that you have basically applied triple bottom line to what should be ecologically sustainable development?

**Dr BENTLEY:** Do you mean have we used that terminology to mean that?

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

**Dr BENTLEY:** I think the terminology is unhelpful. I do not use that terminology.

**The Hon. PENNY SHARPE:** You do not use "triple bottom line"?

**Dr BENTLEY:** No, I do not. What I do, based on how I was advised, is check how we are applying things—how we are developing our regional water strategies, our water sharing plans and so on. Can I see that priority is being given in the order that it is stated in the Act? I am satisfied when I look at the responses—by "responses" I do not mean what we have written in response to what we have done—

**The Hon. PENNY SHARPE:** No, what you are actually doing. Yes.

**Dr BENTLEY:** As I said before, not only were there five of the ICAC recommendations already in place by the time the report came out but also another four are substantially complete already and another five are in progress. When I look at the NRC Barwon-Darling recommendations, those were separated into 42 sub-recommendations, with some split into "What you should do now" and some split into "What you should do in 2023 when you remake the water sharing plan". Of the ones that were for acting on immediately, the good chunk of those, particularly the most important ones from an environmental point of view in terms of protecting flows—we talked in this room earlier in my time around the cease to pump limits.

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

**Dr BENTLEY:** Those things are in place. We talked about the resumption of flow arrangements. Those things are in place. In that resumption of flow arrangement, it is great. Our—I should say WaterNSW's—modelling forecasts that very soon we will have 19 gigalitres entering Menindee Lakes, partly contributed to by the fact that those resumption of flow rules were put in place. When I look at floodplain harvesting where we are deliberately reducing the amount of take that irrigators can have from floodplain harvesting by bringing it back within legal limits, I was satisfied, by looking at all those things, that in priority order, if you like, we are acting on those things—not from an "all these things are equal triple bottom line approach". I realise that Hansard cannot pick up me using my fingers, but you know what I am saying.

**The Hon. PENNY SHARPE:** They will put it in.

**Dr BENTLEY:** I was satisfied that we are not underplaying the significance as the Act describes in terms of the environment. I would say as well I sit, under the Secretary, alongside my colleagues in environment and science. We are working very closely together. And environment and science get to comment on everything I put through the leadership team of the DPIE. We discuss it around the table together. The report as written and why I made my comments this morning does not reflect the department I joined.

**The Hon. PENNY SHARPE:** So you do not think we will be hearing "triple bottom line" anymore in relation to the way that we talk about these projects?

**Dr BENTLEY:** I would be disappointed if we do. In case I have not made it clear to my staff, I will tell them again, "Stop using that phrase. It is not a helpful phrase".

**Mr JUSTIN FIELD:** Will you suggest that to the Minister?



**The Hon. PENNY SHARPE:** Yes. That was my next question. Have you had discussions with the Minister's office around the unhelpfulness of the use of this term?

**Dr BENTLEY:** I briefed the Minister and her office with our general counsel on how those principles are to apply. I used to run corporations that did triple bottom line reporting. It did not mean that we meant all three columns in that report were equally important. I think it has just been misconstrued label so it is kind of unhelpful, but I do not believe it represented, certainly in the time that I have been in the department, how the department was approaching those things.

**The Hon. MICK VEITCH:** Dr Bentley and Mr Betts, can I just ask this: The ICAC report, which was scathing—and I accept your version that it is prior to your time—was it an instructive document to assist in developing a framework for going forward for you?

**Dr BENTLEY:** Was it instructive?

**The Hon. MICK VEITCH:** Yes.

**Dr BENTLEY:** Yes.

**The Hon. MICK VEITCH:** The implementation of those recommendations is pretty important to a lot of stakeholders. I think the Minister was talking this morning about relationship management and relationship rebuilding and that exercise, particularly out in the Far West. I would suggest implementing those recommendations from the ICAC report will go some way—not the whole way but will go some way—to repairing those relationships.

**Dr BENTLEY:** And we have not pushed back on those recommendations. As I said, of the 15, five are already complete, five are underway and four very substantially complete, one that we are just reviewing kind of what it means and how to do it, as it were. So we accept those things—those recommendations—need to be put in place. Accepting those recommendations is a different thing to agreeing how they describe the part of the department that I run is matched by the words that they use. I do not recognise that from what I see since I have arrived. I cannot comment before that.

**The Hon. MICK VEITCH:** Yes, but it is an important differentiation you are making there and I accept that.

**Dr BENTLEY:** Yes. We accept the recommendations and they are going to be really important in improving things going forward.

**The Hon. MICK VEITCH:** Okay. ICAC though—I think it was the first recommendation—is pretty scathing of this concept of the triple bottom line that had up until then been used. I acknowledge the change that you are trying to implement in the use or otherwise of the phrase "triple bottom line". How far do you think this is entrenched within the department? How far down?

**Dr BENTLEY:** I think the use of the phrase and the behaviour that it implies are different things. I do not believe that behaviour is there. I think the phrase is unhelpful. That is the distinction I would make. My staff will read this transcript and they will be listening to this. If I have not made it clear to them that I do not want them to use that phrase, then they will get it from today. But it will not change their behaviour in that that report does not describe the behaviour that I see in the department. But we accept the recommendations and they will be an important improvement.

**Mr BETTS:** Dr Bentley has described in some detail the various work streams where this principle has had to be embedded, including things like the development of regional water strategies where there would be no running away from the need to give priority to those environmental considerations. So this has been practically worked through on multiple workstreams within the department. It is now inculcated in the culture of the organisation far more than it was, apparently, in the past.

**The Hon. PENNY SHARPE:** So, Mr Betts, you can say with all assurance then that the principles of the Water Management Act have also flowed through all of the actions of the department.

**Mr BETTS:** Yes.

**The Hon. PENNY SHARPE:** From when?

**Mr BETTS:** Well, I can only give evidence from a period when I joined the department, which was April last year.

**The Hon. PENNY SHARPE:** Yes. Look, I completely accept that—

**Mr BETTS:** The year before last, sorry.

**The Hon. PENNY SHARPE:** The point is that the ICAC report is extremely damning. Having spent some time in the communities out in western New South Wales as well, their very strong view is that the favouritism towards some stakeholders rather than others will be extremely hard to shake. I am interested in what is happening to try—well, I am glad that you are giving us that assurance. It worries me that we have been ignoring the Act for 10 years but, secondly, how that is going to be embedded in the work that you do.

**Dr BENTLEY:** Since you ask what are we doing, just some things that we are doing: We are setting up a peak bodies stakeholder group that will include First Nation, that will include the range of stakeholders—

**The Hon. PENNY SHARPE:** So there is not going to be irrigator-only secret meetings anymore?

**Dr BENTLEY:** I do not have secret meetings.

**The Hon. PENNY SHARPE:** Well, you may not but people in your department previously have.

**Dr BENTLEY:** I cannot comment on what they did, but—

**The Hon. PENNY SHARPE:** No, but if that occurs in your department, what are you doing to ensure that that does not occur?

**Dr BENTLEY:** I am telling my staff what I do and I do meet with the irrigators, of course. I would be irresponsible not to.

**The Hon. PENNY SHARPE:** No-one is suggesting you should.

**Dr BENTLEY:** But I also meet with towns and I also meet with First Nation groups and I also meet with the conservation groups. I meet with my colleague the Environmental Water Holder for New South Wales, who of course sits in our department.

**The Hon. PENNY SHARPE:** Will the irrigators be treated as a separate group to the other user groups?

**Dr BENTLEY:** They will not be treated in any better or worse way than any other group.

**The Hon. PENNY SHARPE:** But will their consultation happen together or will their consultation be separated?

**Dr BENTLEY:** Both. So we meet individually with individual stakeholders, with stakeholder groupings, and we will meet collectively with this peak body. I think that is the appropriate way of making sure that everyone gets fair representation.

**The Hon. PENNY SHARPE:** I am sorry, just to be clear—I might have missed it—the peak body has, obviously, First Nations towns and the irrigators are on that too. So everyone is in together for that.

**Dr BENTLEY:** Yes, and that is being compiled at the moment. So it has not actually started its work but it is being put together at the moment.

**The Hon. PENNY SHARPE:** Right. There has not been an announcement of who that is going to be?

**Dr BENTLEY:** We are working through that at the moment.

**The Hon. MICK VEITCH:** I want to go now to some questions around the Water Management (General) Amendment (Emergency Works Exemption) Regulation 2021, which was published on 26 February 2021. My first question relates to the Explanatory Notes, which state:

It is a condition of each exemption that the person claiming the exemption gives specified information to the Natural Resources Access Regulator in relation to the relevant emergency works.

Mr Betts or Dr Bentley, can I just ask what is the nature or what does the information look like that a person claiming an exemption would provide to the NRAR?

**Mr BARNES:** Firstly, to gain access to the exemption, it must be for emergency works. It must adhere to the definition of emergency works, and I explained this morning that that includes all manner of natural events. In order to claim the exemption, there must be actual or imminent failure of infrastructure that has been anticipated or demonstrated. There must be risk of life that is also anticipated and so forth. That would be the criteria. The agency seeking the exemption needs to notify formally NRAR of their intention either before or soon thereafter. They need to state what works are being undertaken and then the exemption is allowed for.

The works are then undertaken, concluded, and within 14 days of conclusion they must then notify, again formally, NRAR what were the works that were undertaken and how were the risks that were being addressed mitigated. I made a commitment this morning that we, as the independent regulator, would be auditing those applications or those notifications to make sure that what was intended at the point the exemption was sought was what was actually carried out at the end.

**The Hon. MICK VEITCH:** That same regulation goes on to talk about secondary purposes. The definition says:

(3) In this clause—

*secondary purpose* means—

(a) domestic consumption, or

(b) supply to another person or body, or

(c) any other use from which a commercial benefit is or may be obtained.

If water is sent to storage and there is evaporation, how will that be accounted for? Is it included as part of the secondary purpose for the purposes of this regulation? How does evaporation be brought to account?

**Mr BARNES:** The exemption does not cover the use of water removed for a secondary purpose such as domestic consumption, supply into another personal body or for storage in a storage area. It is to dewater a site to enable emergency works to be undertaken. It would be expected to be of relatively short duration to mitigate the risk and then the water itself, one would expect, would be returned back to the environment at the conclusion of those actions. My notes also make reference to the holding of water access licences and the requirement to ensure that there is sufficient entitlement in the water account. There is quite a lot of detail that I could take on notice to come back to you about how that works.

**The Hon. MICK VEITCH:** Could you please do that?

**Mr BARNES:** In actuality, this was announced on Wednesday and I had my notes to me a couple of hours ago this morning.

**The Hon. MICK VEITCH:** I am happy for you to take it on notice and come back. This is not about tripping you up; this is just about us getting a better understanding of how this regulation is meant to work and meant to be applied.

**Mr BARNES:** I understand. Thank you.

**The Hon. MICK VEITCH:** While I have got NRAR—not on the regulation—there has been some recent prosecutions that NRAR has had successfully upheld in court. Without stepping into policy, what were the lessons from that process? Does NRAR undertake a post-mortem process after one of these prosecutions go through a court? If it has been tested and challenge somewhere, do you then sit back down and have a look at it to learn lessons or work out how you could better go through the process?

**Mr BARNES:** With your indulgence I will just first outline the prosecution activity to date.

**The Hon. MICK VEITCH:** That would be great.

**Mr BARNES:** We have commenced 25 cases since we came to be almost three years ago. There have been 11 matters completed resulting in convictions and penalties totalling \$561,000. There were two prosecutions discharged and found to not meet the test of beyond reasonable doubt; that was one matter in the Land and Environment Court and one matter in the Local Court. The board certainly does not take the decision to prosecute lightly and it must meet very high evidential standards before it is commenced. We do so with the support of the Crown Solicitor's Office. The Water Management Act is a complex piece of legislation; the subservient documents themselves are highly complex. It is difficult, often, for water users to understand their obligations and to comply with the law. It is difficult to monitor, it is difficult to enforce and it is difficult and costly to prosecute what we learn. When we debrief each of those cases, there is the nature of the evidence that was tabled, the remarks made by the magistrate and from those remarks we feed that back into our own internal processes, but we also make sure that we advise the department as to how the policy intent is working in practice.

**Dr BENTLEY:** Chair, could I answer the question about the Gwydir sustainable diversion limit?

**The CHAIR:** Yes.

**Dr BENTLEY:** It is 451 gigalitres per year.

**The Hon. PENNY SHARPE:** Thank you. I appreciate that.

**Ms CATE FAEHRMANN:** Who is the best person to direct questions to in relation to the making of the emergency works exemption regulation? Is that you, Dr Bentley?

**Dr BENTLEY:** No, it is not, but depending on the nature of your question, Grant may be able to help you.

**Ms CATE FAEHRMANN:** I would like to be talked through in terms of the process—that is, when the need for it first came to light and the consultation. When was it first brought up? How long has it been floating around the department for?

**Dr BENTLEY:** I do not have that information to hand. I will take it on notice.

**Mr BARNES:** We would need to take that on notice.

**Ms CATE FAEHRMANN:** Mr Barnes, you said you were just given briefing notes a few hours before this meeting, and I saw it pop up on my computer, I think, on Friday. Was this morning the first time that you knew of this regulation?

**Mr BARNES:** I received formal advice from the department on Wednesday. And then this morning, when we were preparing for budget estimates, I made some inquiries with my staff because we were aware that there was some commentary in the media about it. From that inquiry, I have received some draft briefing notes this morning that I have quoted from.

**Ms CATE FAEHRMANN:** You said you received formal advice on Wednesday. Are you essentially saying that is the first that NRAR had been approached in relation to this regulation?

**Mr BARNES:** No, I am saying that was when I received advice. My staff would have been provided advice into the department about the enforceability of the regulation and how it would be practically applied. We work on the basis that the department makes the rules. My colleague Andrew George implements the rules and we have the exclusive function of enforcing those rules. When we get involved in these matters, it is from a practical standpoint: Can this be enforced?

**Ms CATE FAEHRMANN:** How long has NRAR been working with the department on the regulation?

**Mr BARNES:** I will take that on notice.

**Ms CATE FAEHRMANN:** Has it been several weeks? Have you been involved in meetings with the department in relation to this regulation?

**Mr BARNES:** Ordinarily—I can speak in general terms—when we provide advice to the department it does transact over matters of months.

**Ms CATE FAEHRMANN:** Yes, ordinarily. I am trying to get to the bottom of this regulation and whether it was made in haste and did not go through the usual consultation processes that such a regulation would. In terms of you being the Chief Regulatory Officer of NRAR and given how controversial floodplain harvesting has been in New South Wales, when was the first time you became aware of this regulation?

**Mr BARNES:** I was formally advised by my colleagues on Wednesday.

**Ms CATE FAEHRMANN:** Is "formally advised" a phrase for "first became aware"?

**Mr BARNES:** That is when in my email box came an email.

**Ms CATE FAEHRMANN:** So you had not heard or had been advised or discussed with your colleagues this regulation before Wednesday?

**Mr BARNES:** No, I had not.

**Dr BENTLEY:** I have a little bit of information that has come through. Sorry to interrupt you. It is at least 12 months and it came about as a representation from the building industry. It has been worked on for at least 12 months. The reason that it is not fresh in my memory is that I have not had any recent meetings or discussions around it because this was something that would have been in the development some time ago. It is not very recent; it has been 12 months that it has been worked on. It is not related to floodplain harvesting. You mentioned it as floodplain harvesting just now; there is no relation to it.

**Ms CATE FAEHRMANN:** There is a lot of confusion, I think, in relation to the fact that there has not been any consultation around this to begin with, but it does obviously talk about including landholders to

undertake emergency works in relation to floodwater. Given the political environment and the controversy around floodplain harvesting, you can possibly understand people's concerns as to whether this will allow irrigators to take floodwater when floods arrive.

**Mr BETTS:** We are clarifying that that is not the case.

**Dr BENTLEY:** Mr Barnes has explained to you the circumstances of what is an emergency, and the fact sheet that I am quoting now is available on our website so that information is out there. If there is confusion, I apologise for that and will clarify that confusion, but this is not about floodplain harvesting. This is about emergency dewatering.

**Ms CATE FAEHRMANN:** Could there be a situation, for example, where a flood arrives and an irrigator is worried that the floodwaters are going to impact on their infrastructure on their property? That is part of what this potentially could allow. Is that right? It does not exclude irrigators, for a start. You said you have had approaches by the building industry 12 months ago. Is that correct?

**Dr BENTLEY:** Yes, it came about from the building industry 12 months ago.

**Ms CATE FAEHRMANN:** When you say "the building industry", which stakeholder exactly?

**Dr BENTLEY:** As I have said to you, I have not reviewed this recently. Any detailed question I will have to take on notice.

**Ms CATE FAEHRMANN:** If you could do that.

**Dr BENTLEY:** I will do that, gladly, and will clarify how this is not related to floodplain harvesting in providing that further information.

**Ms CATE FAEHRMANN:** I want to go back to the funding situation with WaterNSW in relation to some of these dam projects. Firstly, I wanted to get clarification around a particular phrase. When someone in Treasury suggests that the debt funding of WaterNSW becomes a near impossibility given its "headroom", what does "headroom" refer to?

**Dr BENTLEY:** Treasury are 100 per cent correct, which is why we would never expect—and nor would Treasury—WaterNSW to fund such major infrastructure. WaterNSW was only being asked to debt fund the business case and early works component, and that is what the email exchange that you tabled earlier is talking about—the 80 and the 200 that was speculated on in those emails.

**The Hon. PENNY SHARPE:** It is still \$200 million.

**Dr BENTLEY:** Yes, indeed.

**Ms CATE FAEHRMANN:** Which is now \$200 million—sorry, just to clarify: The direction issued by the Minister, which I do not think she quite clarified earlier, states that the New South Wales Government will have to reimburse WaterNSW for every single sunk cost as a result of that directive, should the—

**Dr BENTLEY:** Correct. I clarified that earlier this afternoon. That is a normal thing under a ministerial direction.

**Ms CATE FAEHRMANN:** Could that be more than \$200 million now?

**Dr BENTLEY:** The funding for those projects comes partly from the Commonwealth and partly from the New South Wales Government. The Commonwealth component is a grant, and the way those funding agreements work for this first phase of the work is if the project did not go ahead—which is the hypothetical that we are discussing—actually more than half of the underwrite, if you like, comes from the Commonwealth instead of the State. So it is perfectly normal that when WaterNSW is directed to do something that is not within its normal SOC activity, with that direction comes that they would be repaid if the project did not go ahead, otherwise you would be putting at risk their credit ratings and those sorts of things. It is for those reasons that we do not do that.

**The CHAIR:** I will pick up on Ms Faehrmann's questions about the emergency regulation. Mr Barnes, you have stated, in terms of how it applies in practice, that the applicant is basically applying for the exemption on a volunteer basis. So they volunteer the fact that they need to do these emergency works; you do not necessarily pick this up. Dr Bentley, I appreciate your commentary around the fact that you are going to seek clarity, but I put it to you that there is actually nothing in this regulation that would exclude an irrigator from taking advantage of this regulation. I would say that the clarity needs to be put back into the regulation, not necessarily to us as a Committee or on your website but within the regulations.

It is essentially based on an honour system. From what you were saying, Mr Barnes, you could potentially come in 14 days later with an application but a flood event could have been and gone in two to three days. It seems to me that this regulation, no matter who applies for this exemption, is going to be hard to enforce for you as a regulator.

**Mr BARNES:** I do not agree with that at all. The enforcement of water laws is a matter that we are charged with as the independent regulator. We have sophisticated surveillance techniques available across the State, which we deploy on a regular basis to track how water flows down the watercourse and how it is accessed, diverted, stored and used. Recently we have been working with the Murray-Darling Basin Authority and Geoscience Australia accessing NASA and European Space Agency technology. That meant that we were able to cover a territory of over 300,000 square kilometres, which is nearly the size of Germany. We did that with two staff members surveilling 3,500 on-farm storages.

From that we were able to detect five instances that warranted further follow-up, and from that we have one investigation underway. We can be anywhere, anytime when it comes to surveilling water use in this State. There is no way that this exemption could be used for any nefarious purpose without us detecting it and without there being a consequence for such.

**The CHAIR:** Can we move on to Toorale National Park? I have raised this issue in estimates before—the fact that they were not metering despite the regulation and the Act saying that they had to. I understand that metering is a gradual step-out process, but as a government agency they should be leading by example. From that and other concerns that you have received, you have investigated Toorale National Park and what is happening there with the western flood plain. In a media release you said:

Our investigation found no wrong-doing on the part of Toorale National Park ... However, more can be done to improve the accountability and transparency of water measurement ...

That is equal to what one of your staff members rang up my colleague Roy Butler to say. They said that you found nothing wrong but you have told them basically what they have done wrong. Could you enlighten us in terms of—okay, they have not found any wrongdoing but what advice did you give them in terms of improving this accountability and transparency?

**Mr BARNES:** In November last year we concluded an investigation into Toorale National Park. We received allegations from this Committee this time last year that the operations at the park were in breach of the Water Management Act. We undertook an extensive investigation and concluded that no breaches of the Act had occurred. However—and we stated this publicly via the media release that you note—NRAR did find issues with the enforceability of the combined approvals and water access licences on the site, and that we require those to be addressed. We also determined that at no stage had any requirement to meter water on the site been imposed. We think that was anomalous.

We therefore issued a draft direction, a formal instrument under the Act, to the holder requiring the installation and maintenance of metering equipment in the vicinity of the Boera Dam. The holder is responding to that draft direction at the moment. As a result of that we would expect a form direction to be applied or, if not, an exemption to be sought from the New South Wales Government.

**The CHAIR:** Dr Bentley, has consideration been given to revise the water sharing plan around this area, given that the portfolio agency in charge has essentially backflipped on what they said they would do in terms of removing those semi-permanent structures that they have now made permanent by turning them into concrete structures? Has consideration been given around how that would impact the water sharing plan?

**Dr BENTLEY:** Can I take that on notice and hopefully get back to you in this session? I do have the status of the individual water sharing plans, but we will get a response to you.

**The CHAIR:** Also, potentially on notice, could you advise us whether these concrete structures allow full flow through to downstream communities or do they have the ability to restrict flow?

**Dr BENTLEY:** Could I answer the earlier question about the stakeholders in the building industry that I was talking about?

**The CHAIR:** Yes, sure.

**Dr BENTLEY:** It is the Hire and Rental Industry Association Australia. They represent the building industry in particular, as well as excavation services. The reason they ask the question is because we need to address the fact that we need to get rid of groundwater in an emergency sense, and the regulation states that it cannot then be used for some other purpose. So you cannot supply it to people without having a licence.

**Mr JUSTIN FIELD:** Mr Betts, are you a member of the Warragamba Dam wall raising coordinating group?

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** What is your role in that group?

**Mr BETTS:** It is chaired by the CEO of Infrastructure NSW in his capacity as the head of the coordinating group within government across flood risk in the Hawkesbury-Nepean Valley. My role is to make sure that the secretary's environmental assessment requirements for the Warragamba Dam project—which is an important component of the Hawkesbury-Nepean Valley flood mitigation strategy—are adequately addressed in the business case, which is being prepared by WaterNSW, and the related environmental impact statement.

**Mr JUSTIN FIELD:** When was the coordinating group formed?

**Mr BETTS:** A few months ago. I would have to take that on notice as to when precisely it was formed.

**Mr JUSTIN FIELD:** Was it after the significant criticism of the draft EIS—effectively the adequacy review—that went out to all the government departments and agencies?

**Mr BETTS:** To be honest, I cannot locate in my own memory when the criticism of the project began, so I could not answer that question.

**Mr JUSTIN FIELD:** Not long after it was proposed, I suspect. How often does it meet?

**Mr BETTS:** I think it is about monthly. Mr George, is that right?

**Mr GEORGE:** Thereabouts.

**Mr JUSTIN FIELD:** Who is on it? Are agencies represented by whoever they want to send that week?

**Mr BETTS:** Yes. There was a group which was, for a period of time, supporting the preparation of the EIS, which had represented on it Infrastructure NSW [INSW]. I have mentioned Mr George was on there as the CEO of WaterNSW, which is the proponent, and representatives from a biodiversity conservation group within Environment, Energy and Science. Aboriginal Cultural Heritage were on that group. As I said, the aim was to make sure that the EIS that was put on exhibition and WaterNSW, as the proponent for that, was given the best advice around government about what our expectations were. National Parks and Wildlife were on there to make sure that all the issues of community concern that were being ventilated in the media and the Parliament and elsewhere were as thoroughly addressed as they could be in the EIS.

**Mr JUSTIN FIELD:** You sit on it personally?

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** Are there any other major project coordinating or steering group meetings that you actually attend?

**Mr BETTS:** No, there are not any that I personally attend. But my department has regular meetings with project proponents where they are major government infrastructure projects. I would have to qualify that by saying I am also on the board of Infrastructure NSW, which is a proponent for quite significant and, in some cases, controversial projects.

**Mr JUSTIN FIELD:** And you were the former CEO?

**Mr BETTS:** I am the former CEO, as you well know. I left Infrastructure NSW about two years ago. The role of INSW in the process around the Hawkesbury-Nepean Valley was to assimilate and present options to government around the mitigation of flood risk in the valley, and the raising of the dam wall was one of the options there. The Government has not taken an investment decision on that to this day. That is something which we expect to happen in Q2. Within the Department of Planning, Industry, and Environment, because we have various entities that are project proponents—including Land and Housing Corporation and WaterNSW—we have a system of formal delegations which means that I would not be signing off on an assessment report for any project and I certainly would not be the determining authority for any such project.

**Mr JUSTIN FIELD:** I might try and unpick that for a second. You are not representing Infrastructure NSW as a member of the board in this steering group?

**Mr BETTS:** No.

**Mr JUSTIN FIELD:** You are there as the secretary of the department. Correct?



**Mr BETTS:** Correct. I am representing myself as the secretary of the department to make sure that the secretary's environmental assessment requirements are adequately addressed by the—

**Mr JUSTIN FIELD:** Sure, but you issue other secretary's environmental requirements for other projects. Correct?

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** So that is not why you are on it. You do that, but that is not the reason you are on it. I am wondering why you are personally attending meetings of the coordinating group around an individual project, given that this started when you were the CEO of Infrastructure NSW.

**Mr BETTS:** The group did not start, but the project certainly had its genesis at that time.

**Mr JUSTIN FIELD:** No, the project did. So you are very close to this and you have a role, ultimately—

**Mr BETTS:** Correct.

**Mr JUSTIN FIELD:** —in considering the EIS when it comes out—

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** —and in advising the Minister, who will make a decision on this. So you are in a very powerful position, but you are not the proponent.

**Mr BETTS:** No. In terms of the formal decision-making under the statutory planning process, I will not have any participation in that decision-making for precisely the reasons that you are driving at, which is that it would present a potential conflict of interest if I were seen to be, on the one hand, the line manager for various groups in that department and was also the determining authority. This first line of defence is the separation of powers within the planning department. WaterNSW—a State-owned corporation—is the proponent. The task of that steering committee has been to make sure that it presents the best EIS for exhibition when that goes on exhibition in Q2 this year.

**Mr JUSTIN FIELD:** You would be aware there are a lot of applications under the Government Information (Public Access) Act flying around your office and Infrastructure NSW—some from me, some from the Colong Foundation?

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** I have just seen some emails. You are getting emailed directly biodiversity reports and presentations. Is it normal for the secretary of the department to be receiving that sort of detailed information about the preparation of an EIS? That seems strange to me.

**Mr BETTS:** I get a lot of representations and a lot of emails from a lot of places, with people sharing information. As I have said before—

**Mr JUSTIN FIELD:** But the EIS has not even been finalised.

**Mr BETTS:** I know; that is the whole point.

**Mr JUSTIN FIELD:** When we asked questions in the inquiry and in previous budget estimates hearings, we kept getting, "It will be dealt with in the EIS."

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** It just seems strange to me that you are getting individual briefings about different components of a very controversial project.

**Mr BETTS:** The different components, as you describe them, for instance, relate to impacts on national parks and wildlife flora and fauna upstream of Warragamba Dam. That is a policy responsibility of the department of which I am head. I cannot get away from that. It is important to me that WaterNSW, as the proponent, puts on exhibition an EIS which adequately addresses those issues. We also know that the impact of the bushfires has been significant in that upstream catchment, and that has revealed, for instance, additional Aboriginal artefacts and items of Aboriginal cultural heritage. It is incredibly important to me personally and professionally that those are adequately addressed in the EIS, so I want to make sure that—

**Mr JUSTIN FIELD:** I am sure that it is, but there are surely other people in your department who are equally concerned. It seems strange that the secretary is. I wanted to go to Mr George, but I might have to come back to that.



**The Hon. PENNY SHARPE:** New South Wales is a signatory to the National Water Initiative [NWI], is it not?

**Dr BENTLEY:** I imagine we are. We are certainly a part of it. That probably means we are a signatory.

**The Hon. PENNY SHARPE:** I am not trying to be smart about it. What is the status of the National Water Initiative?

**Dr BENTLEY:** Nor am I in my answer. Let's say yes. I am on the committee and we go to all these meetings, so we must be.

**The Hon. PENNY SHARPE:** Sure. Having a look at your submission that you provided to the Productivity Commission, you indicated that New South Wales remains committed to the principles of the National Water Initiative. If New South Wales was no longer to be signed up to the principles of the National Water Initiative—I am not asking you what you think about that—what is the extraction that New South Wales would have to do in relation to that?

**Dr BENTLEY:** I would have to take that on notice because it has never been a conversation we have ever had.

**The Hon. PENNY SHARPE:** So you do not believe that that is going to be an issue. Obviously, the National Water Initiative has a bunch of principles around that, one of them being full cost recovery in relation to new and refurbished water infrastructure projects. Is that the case?

**Dr BENTLEY:** I would have to take that on notice. I do not have the principles in front of me.

**The Hon. PENNY SHARPE:** Right.

**Dr BENTLEY:** Sorry, I do not.

**The Hon. PENNY SHARPE:** Is New South Wales committed to full cost recovery in relation to water projects or not? Is it the current government policy?

**Dr BENTLEY:** It depends what you mean by "full cost recovery". If you mean that the user should pay for every drop of water that is produced by every piece of infrastructure, clearly the fact that we are talking about a partial grant funding by the Commonwealth for the major infrastructure that we have been talking about today means no, we do not believe that the user should pay for all of those components. Let me just confirm that we are a signatory. We are, 100 per cent. But, no, we do not believe the user should pay for every cent of the cost of providing infrastructure; otherwise, we would not be requesting grants.

**The Hon. PENNY SHARPE:** Sure, but you are aware that the NWI pricing principles provide that new or replacement assets should be set—that full cost recovery is not just about the water at the end, but also includes capital expenditure?

**Dr BENTLEY:** Yes.

**The Hon. PENNY SHARPE:** But you accept that that is not going to be the case in New South Wales?

**Dr BENTLEY:** That directly flows from saying there is partial grant funding, as happens all over Australia.

**The Hon. PENNY SHARPE:** I am just making sure I understand where we are at, whether we are signatories and what that means. My understanding is that the most recent productivity report said that before committing funding or financing for water-related projects, compliance with the NWI should be assured. How do the caveats work for New South Wales, given what you have just said to the Committee?

**Dr BENTLEY:** Could you repeat the question, please?

**The Hon. PENNY SHARPE:** The most recent Productivity Commission report, of which there has been substantial coverage, makes the point—I am sorry I do not know at which page—that before committing funding or financing for water-related projects, compliance with the National Water Initiative should be assured. I am trying to understand what are the carve-outs for New South Wales, if we accept that a significant amount of money yet to be determined will be provided as either grants or loans. What is the process for New South Wales going to the Commonwealth as part of the National Water Initiative?

**Dr BENTLEY:** What is the process for us going there as part of the NWI?

**The Hon. PENNY SHARPE:** Yes. So we have these principles, we have signed up to it. New South Wales says, "Yes, we support all of these things." You have just now told us—which is, again, not a surprise—to put all of these projects that are coming down the pipeline, if I understand correctly, you expect that the water charging for that will be for the water but not necessarily for the infrastructure. That, to me, as I read the principles, is outside the principles. I am understanding how that is reported and whether that is reported to the Commonwealth and what is the process for that?

**Dr BENTLEY:** We have not made any decision—in fact, it is not solely our decision as to what will be passed on to customers. So there are regulatory processes. We still have to go through the business case to understand the financing arrangements as well as the repayment arrangements but we have been very clear. As a minimum, there is the—what was it we said this morning?—\$567 million of Commonwealth contribution as grant. So, clearly, that is the sort of minimum case that will not be recovered through those water charges.

**The Hon. PENNY SHARPE:** Do you think that is only just the minimum? Given some of the costings that have come out, do you believe that is the minimum?

**Dr BENTLEY:** No.

**The Hon. PENNY SHARPE:** What sort of range are you looking at?

**Dr BENTLEY:** I do not have a range, but it would be very surprising if it would be deemed appropriate to pass on full cost recovery of construction and operating costs for everything minus the Commonwealth grant.

**The Hon. PENNY SHARPE:** There are very small numbers of users at the end of some of these projects. I assume there is no way that they would be able to pay for them, is that right?

**Dr BENTLEY:** We are speculating, but I would not be surprised if you are right.

**The Hon. PENNY SHARPE:** I am interested in the cost-benefit ratios of some of these projects. My understanding is that for several of them it is less than one. Is that the case?

**Dr BENTLEY:** For several—which are the projects?

**The Hon. PENNY SHARPE:** Wyangala and/or Mole River.

**Mr BETTS:** We do not have a final business case for those projects yet.

**The Hon. PENNY SHARPE:** We have to wait to see what those are?

**Mr BETTS:** I would highly recommended that, yes.

**The Hon. PENNY SHARPE:** In relation to the Snowy, I am interested how it works for Treasury. You have a guarantee of some money and you are going to do a business case. I am not going to ask you to pick a number, assuming it will cost more than what has currently been budgeted for in relation to those projects. You will have to go to Treasury for that. Is that the case?

**Dr BENTLEY:** We would have to put up an investment case, yes.

**Mr BETTS:** The purpose of a final business case is to inform final Government investment decisions, yes.

**The Hon. PENNY SHARPE:** Do you expect that Treasury will require at least a cost benefit of one before they would look at additional money?

**Mr BETTS:** That is not an absolute requirement, but Treasury clearly looks to ensure that projects which are subject to public investment have benefits which exceed their costs. But there have been exceptions to that where judgement calls have been made in the past, particularly where projects may have intangible benefits. But we are speculating at this stage because those are discussions which will not begin to take place until the final business case is completed.

**The Hon. PENNY SHARPE:** Thank you, Mr Betts. The Snowy Hydro Fund, the total amount is \$4.2 billion, is that correct? Who holds the purse strings for that?

**Mr BETTS:** The portfolio responsibility for the Snowy Hydro Fund sits, as I understand it, with the Deputy Premier, but clearly it is a large amount of public money and decisions in relation to the use of that money are taken through the Expenditure Review Committee.

**The Hon. PENNY SHARPE:** The role for your department is just through your general rule, you put up submissions to—

**Mr BETTS:** We might be a recipient from time to time of funding from that fund, yes.

**The Hon. PENNY SHARPE:** Right. But as proponents of these projects, if there is excess money that needs to be taken out of that, you would have to provide that and, again, that would form part of the process through the business case, is that right?

**Mr BETTS:** We have described the process that we get to by which government will take an investment decision and as to the source of any funding we require that be a matter for Treasury or a matter for the Expenditure Review Committee. Snowy Hydro would be one potential source, Consolidated Fund would be another.

**The Hon. PENNY SHARPE:** You may not be the right person to ask, but I am sure you will tell me if you are not: Do we have a total figure for how much is being committed against the \$4.2 billion Snowy fund to date?

**Mr BETTS:** I do not have that figure. That will be something to ask either the Secretary of Treasury or the Secretary of the Department of Regional NSW.

**The Hon. PENNY SHARPE:** I might well do that, thank you. In your submission to the New South Wales Productivity Commission you have talked about your further water sector reform and, as I said, it has all been a bit of a surprise to us this morning that you have a new water infrastructure body that is not DPI Water, which no longer exists, but is now Ms Levy's. You have talked in the Productivity Commission about clarifying the roles and responsibilities between government departments and State-owned corporations. Is there a memorandum of understanding [MOU] in place or what action has been taken to make that clear?

**Mr BETTS:** That is a good question, so I might ask Dr Bentley to talk about that.

**Dr BENTLEY:** We have put in place an arrangement between ourselves, Treasury, WaterNSW—in fact all the State-owned corporations—and the Department of Regional NSW where we have formed a joint leadership team. And that leadership team looks at coordinating issues across the sector. It meets monthly. It is co-chaired by me and the relevant deputy secretary in Treasury. So it is through the regular meeting of that forum that we deal with these coordinating issues across the sector.

**The Hon. PENNY SHARPE:** There is not an MOU between each of these entities?

**Dr BENTLEY:** I do not believe we have an MOU to govern it. We have the agendas and minutes of our regular meetings where we agree—

**The Hon. PENNY SHARPE:** The terms of reference for that committee?

**Dr BENTLEY:** I have to take that on notice. It is very clear through the minutes and agendas of those meetings what our agenda is and what are the items that we are cooperating on.

**The Hon. PENNY SHARPE:** With respect, Dr Bentley, Water is one of the most complicated policy areas I have ever been involved in in the 15 years I have been in Parliament. You may understand where the different roles and responsibilities are but trying to get the public to understand that is where I am trying to get to. As I said, it was a shock to us this morning to hear that there is a whole new section. We had not really been—

**Mr BETTS:** It has been on our website for a long time.

**The Hon. PENNY SHARPE:** Some of us do not have a lot of time to spend trawling through your website, is the only reason that we would know about that. I am not trying to be rude to you about that but just sticking something up on a website, which is such a fundamental change, is a bit of a problem, do you not think?

**Mr BETTS:** If you want to give us some guidance as to how we should communicate departmental structures and restructures, I am happy to take it.

**The Hon. PENNY SHARPE:** I would like to see an MOU, and I would like us to be informed when there has been such a significant change to a new infrastructure part of the department.

**Dr BENTLEY:** Could I clarify one point? I was not keeping up with the trail of your questions. It is probably my fault; it has been a long day. There is a draft agreement between Water Infrastructure NSW and WaterNSW on the work they need to do together in the delivery of major projects.

**The Hon. PENNY SHARPE:** When was that done? Is this part of the creation?

**Dr BENTLEY:** There was sort of agreement in principle to the draft just before Christmas, and I have had correspondence with the Chair of WaterNSW, where she and I have each pointed to that drafting, and we

have also been very clear that before any project gets progressed in a way that is different to what would have been the old business as usual, as it were, there needs to be a deed for each particular project.

**The Hon. PENNY SHARPE:** Each project you expect might have quite different arrangements around who does what?

**Dr BENTLEY:** Absolutely. That is right. And these are very big projects, as we have been discussing today. They are high cost and complex and they are all different. So we are making decisions on a case-by-case basis as to how each should be addressed, but under the umbrella, I think the term is a framework agreement or partnership agreement.

**The Hon. PENNY SHARPE:** Not an MOU, a framework agreement—is that right?

**Ms LEVY:** There are some guiding principles and an MOU.

**Dr BENTLEY:** Top level is the guiding principles, the next level is the MOU and the next level is project by project, the deed.

**The Hon. PENNY SHARPE:** The deeds of agreement that nut all of that out.

**Dr BENTLEY:** Indeed.

**The Hon. PENNY SHARPE:** And are any of those public? Are they on the website, Mr Betts?

**Mr BETTS:** I do not know. I spend as much time on my website as you do, apparently.

**The Hon. PENNY SHARPE:** Clearly.

**Dr BENTLEY:** No, they are not.

**The Hon. PENNY SHARPE:** They are not public documents.

**Dr BENTLEY:** As I said, we have agreed the principles and we are working through the details, so there is nothing to be made available at this stage.

**The Hon. MICK VEITCH:** I want to ask some questions around Indigenous water holders. There have been a lot of conversations and public dialogue around the need to increase the amount of water in the hands of our Indigenous communities in New South Wales. I was wondering whether or not the department is working to a plan to increase the amount of water that is licensed or in the hands of our Indigenous people?

**Mr BETTS:** I might ask Amada Jones to speak to that. Amanda has been leading our work in terms of the development of strategies for all the various regional catchments for the metropolitan area and for the whole State and the water rights of Indigenous peoples have been a very important component of that.

**Ms JONES:** Thank you, Jim. The second priority in the draft NSW Water Strategy that is out for public consultation at the moment is actually about recognition of Aboriginal water rights and values. One of the key commitments, one of the key actions, in the strategy is to develop an Aboriginal water strategy. There is an Aboriginal Water Coalition that has been established and our commitment is to co-design that strategy with that group. The group is overarching and represents many groups across the State. Also, the regional water strategies at every catchment level work with local Aboriginal people to develop the list of options that are developed within each regional water strategy. As we go forward refining those lists of options, they will continue to be consulted. That is the top-down, bottom-up approach.

**The Hon. PENNY SHARPE:** I have a follow-up question. There has been an ongoing issue with the Barkindji people on the Darling which is that as native title holders they were allocated—or supposedly allocated—water for cultural flow. They basically receive air at the moment. How are native title—I think Barkindji might be the only group that actually has that. How is that issue going to be resolved?

**Ms JONES:** I think the Barkindji water commission's first meeting is in the next couple of weeks.

**Ms LEVY:** This week.

**Ms JONES:** Yes. A number of representatives from WaterNSW will be attending the meeting.

**The Hon. MICK VEITCH:** So there is a plan. Is there a time frame around that? If there is not, that is fine. I was just wondering, if people are talking at this—

**Ms JONES:** I can take on notice the time frame. The Barkindji water commission meeting is happening next week, so that is to progress discussions.

**The Hon. MICK VEITCH:** Thank you. Earlier on in discussion with my colleague you were talking about the cost of construction and full cost recovery principles. When we talk about that, do we look at the cost of depreciation as well? How do we bring that to account in these models where people may be required to full cost recovery?

**Dr BENTLEY:** You are talking about the repayment cost?

**The Hon. MICK VEITCH:** Yes.

**Dr BENTLEY:** The National Water Initiative, in setting out those principles—and we directionally support those principles—but the water infrastructure is there to do more things potentially than just provide water for the productive sector or for towns or whatever; it might be there for flood mitigation or whatever. That would be one reason why you might not agree that all of that cost should be passed on, but another reason—which IPART would look at very closely—is what is affordable to that community. IPART has a really strong role in this. We cannot just say, "These are all our costs, we need to recover those from you." Like with our water management costs, we make a submission to IPART to request their consideration of allowing us to recover certain costs from customers and certain costs from government, but IPART ultimately makes a determination. And in the case of major infrastructure for regional communities, an affordability factor would be a part of that.

**The Hon. MICK VEITCH:** Correct me if I am wrong, this is the process that was followed for the Broken Hill-Wentworth pipeline, where IPART made a determination and the Minister intervened—I think Minister Blair might have intervened—to essentially say, for a period of time, some of the costs will not be apportioned to the individual recipients of the water. So this is a similar process that you are talking about where IPART would then assess all of that and then there is a determination to be made.

**Dr BENTLEY:** Yes, we in government could not just say, in a particular valley or region, "We are building this piece of infrastructure and you are going to repay all of the costs of that." That is not within our gift.

**The Hon. MICK VEITCH:** If you did that, some of the irrigators downstream would look at the opportunity cost of that and think that maybe they do not want to buy the water, it might be too much. So that would then put the project—this is the business case that Mr Betts keeps talking about that you have to go back to.

**Dr BENTLEY:** The business case has to consider financing. It is not just a physical business case about what it is going to cost; it has to look at the investment model as well.

**The Hon. MICK VEITCH:** Mr Betts, you spoke about the benefit-cost ratio [BCR] of one. Apparently there have been some cases on major projects where Treasury have backed a project even though it did not get to a BCR of one. Are you able to talk us through what some of the factors were that convinced Treasury of the merit of the project even though it did not get to a BCR of one? Is it the number of people who have been serviced or could access the project? I am trying to figure out why because in regional New South Wales a lot of projects get knocked over because they do not get to BCR of one and some of them are actually quite worthy.

**Mr BETTS:** As a matter of general principle, the Government seeks to invest in projects which have a BCR of greater than one. Obviously, it would be quite challenging to say that you are going to invest in a project where the costs actually exceed the benefits of that, but there may be occasions where the cost-benefit methodology which underpins all of this simply does not reflect an overwhelming community need. For instance, if it was a critical town water supply and you wanted to invest in the treatment plant to enable it to happen or some work on boreholes and the alternative was to see that town unable to provide water to its population, that is the point at which cost-benefit analysis has arguably reached the limit of its usefulness and you would make a public policy judgement based on other more qualitative criteria.

**Mr JUSTIN FIELD:** Mr Betts, we might come back to that previous line of questioning. Do you still speak with any Infrastructure NSW staff other than the CEO about the Warragamba Dam wall raising project?

**Mr BETTS:** Yes.

**Mr JUSTIN FIELD:** Why?

**Mr BETTS:** Why wouldn't I?

**Mr JUSTIN FIELD:** In what capacity? In your role as secretary or because you know them as the former CEO? You are very engaged in this one project. I am just trying to understand exactly why the secretary of the department is that involved in the process of developing an EIS.

**Mr BETTS:** To clarify some comments that I made earlier, I am involved in discussions around a large number of State significant infrastructure projects which are working their way into the planning system and through the planning system.

**Mr JUSTIN FIELD:** But you are not attending individual coordinating group meetings?

**Mr BETTS:** I want to clarify this: I actually am. For instance, I have monthly meetings with Sydney Metro, who are taking a whole bunch of decisions through the planning system. The role of those meetings is to make sure that decisions are being taken in a timely fashion and issues around rezoning or around development applications are adequately understood. I have monthly meetings with Transport for NSW more generally to look at and discuss projects which are working their way through the system. So it is pretty commonplace for senior officials within the department, including the secretary, to engage with other government agencies which are also working for the Premier and paid for by the taxpayer to make sure that the planning system is operating efficiently, on the one hand, and that those agencies as proponents are complying with their obligations, including through Secretary's Environmental Assessment Requirements. WaterNSW as the proponent for Warragamba Dam is no exception to that.

**Mr JUSTIN FIELD:** Understood. Has it been a point of discussion at the coordinating group for the elevation of the project status to critical State significant infrastructure?

**Mr BETTS:** Not that I recall.

**Mr JUSTIN FIELD:** So there has not been an application or you are not aware of an application coming to designate that project as critical State significant infrastructure?

**Mr BETTS:** I am not, Andrew?

**Mr GEORGE:** No, not in that forum.

**Mr JUSTIN FIELD:** Not in that forum?

**Mr GEORGE:** No.

**Mr JUSTIN FIELD:** So has it been discussed in other forums?

**Mr GEORGE:** It is certainly a discussion between WaterNSW and Infrastructure NSW from time to time.

**Mr JUSTIN FIELD:** Okay, but that will be a decision for WaterNSW or Infrastructure NSW to make such an application?

**Mr GEORGE:** Infrastructure NSW, correct.

**Mr JUSTIN FIELD:** Is it usual to the secretary for a project designation to change midway through the process of developing an EIS?

**Mr BETTS:** Midway through the process of developing an EIS it would be open for WaterNSW to make representations to the planning Minister if they wanted it to be designated as critical State significant infrastructure, yes.

**Mr JUSTIN FIELD:** What would have changed since the original application for it to now be deemed critical? Or that decision has not been taken yet?

**Mr GEORGE:** That decision has not been taken yet.

**Mr JUSTIN FIELD:** With regard to the questions asked earlier today by Ms Hurst about *The Guardian* report, and in particular the adequacy of some of the assessment, the suggestion seemed to be—I am not sure if we got a bit lost in translation that it was allegations, but it was through the adequacy review process from the Commonwealth environment department; they were the ones who were critical of the substance in the draft EIS. Were you aware that there was that level of concern about the adequacy of the EIS when it came to biodiversity assessments?

**Mr GEORGE:** Yes, I was.

**Mr JUSTIN FIELD:** It might have just been a language thing and we got confused. There is the State environment department, the Commonwealth environment department, and from both an environment and heritage perspective—you are aware of all of those legitimate adequacy concerns that have been raised.

**Mr GEORGE:** It was clear in getting the feedback from various agencies which, at the time we, as part of normal consultation—and it was not an adequacy review at the time, I should add—getting feedback on the —

**Mr JUSTIN FIELD:** We are drawing strange, tight distinctions there, are we not?

**Mr GEORGE:** It is important because we undertake consultation with all of those agencies over the life of the development of the EIS. The structuring of the documents, as provided, was perhaps not helpful in understanding the full scope of work that we had undertaken.

**Mr JUSTIN FIELD:** Have any additional assessments—biodiversity assessments—been undertaken since those comments were received by the State and Commonwealth environment agencies?

**Mr GEORGE:** I will have to take that on notice, but certainly additional work has been undertaken in the last 12 months.

**Mr JUSTIN FIELD:** My particular interest is about biodiversity surveys and the like. I will put those on notice. Dr Bentley, I want to ask about the water sharing plans in particular. On notice, or if you have them available, a substantial number of water sharing plans went to the MDBA for accreditation last year. I am interested in the status of them. Have any been returned from the MDBA with "try again" or "please explain"? Have any been accredited at this point?

**Dr BENTLEY:** Let me take it on notice for now. I hope we are able to answer it before the end of the session.

**Mr JUSTIN FIELD:** If you could, and I will follow up with it on notice. I would not mind a bit more information: if they have been returned, which elements were there concerns about?

**Dr BENTLEY:** Yes.

**Mr JUSTIN FIELD:** This new team that we talked about before—

**Dr BENTLEY:** Which new team? The implementation team?

**Mr JUSTIN FIELD:** The implementation team. Did that team exist before these 10 people were allocated to it or brought on?

**Dr BENTLEY:** There was a team called "Implementation".

**Mr JUSTIN FIELD:** Okay, so this is 10 new people added to that team?

**Dr BENTLEY:** Ten new people added into that team.

**Mr JUSTIN FIELD:** Are they new FTE capacity or did they come across from a different part of the organisation?

**Dr BENTLEY:** They are additional FTE capacity. Off the top of my head, I do not know who applied for what job out of those 10, but they are 10 new persons.

**Mr JUSTIN FIELD:** Fair enough, but it was not a group got renamed and put over there?

**Dr BENTLEY:** No.

**Mr JUSTIN FIELD:** They are new people.

**Dr BENTLEY:** Mr Betts and I made that decision a year or 18 months ago.

**Mr JUSTIN FIELD:** A good decision, I suspect. I am still interested in this fundamental question about the legal advice and how you are making decisions. A lot of this beds down in the water sharing plans. Back to the legal advice, what triggered you to seek legal advice from your General Counsel about this question?

**Dr BENTLEY:** As you well know from asking us questions about it, the question gets asked of us on a number of occasions. I would be very foolish to not go to my colleague who is the General Counsel in the department and say, "What is this about? Are we doing something wrong?"

**Mr JUSTIN FIELD:** Was it the draft ICAC report that you got that was the trigger for it?

**Dr BENTLEY:** No, it was before that—long before.

**Mr JUSTIN FIELD:** I will try to come back to that question, if I can.



**Ms CATE FAEHRMANN:** Just going back to the issue of the business cases that are yet to be released, despite the Government seeming to be going full-steam ahead with the dams, will the business cases look at both the benefits and the costs of the dams, particularly let us think about the downstream costs? For example, Wyangala Dam, I am assuming the costs are acquisition of land that will be inundated and biodiversity offsets in terms of the costs there. What about the environmental impacts further down in the lower Lachlan? Mr George, you are probably quite aware of what those business cases will be looking into?

**Mr GEORGE:** Sure. I will offer some comments and pass it to Ms Levy to add to. Absolutely, those business cases are looking at both upstream and downstream benefits and impacts. That is primarily the role of EIS, to identify what those impacts are and to the extent that they will be able to be monetised and that will be for the purpose of a business case to inform the benefit-cost analysis.

**Ms CATE FAEHRMANN:** Just to be clear, because sometimes the externalities from some of these projects are not included other than, for example, the direct impact, like I said, of dam inundation. For example, if the raising of the Wyangala Dam wall sees half the flooding that would normally go to the great Cumbung Swamp, for example, and we lose wetlands of international significance, will that be costed in as a cost in the business case? Mr Betts, do you know?

**Mr BETTS:** I will ask Ms Levy to comment.

**Ms LEVY:** We are working through those issues. We have only just appointed the advisers to work with us on the economic evaluation of the final business case. We have got a steering committee that consists of members of Treasury, EES—the Environment, Energy and Science Group—who represent the environmental impacts. They will all be providing a governance role in ensuring that the economic evaluation takes into account all of the relevant issues. As to whether those particular issues will be monetised, we are still working through those issues. But the intent is that it will be a full business case analysis that considers all of the relevant costs and benefits for the project.

**Ms CATE FAEHRMANN:** Thank you. That will be good. For example, there are situations such as the floodplain graziers and their loss of income that they have talked about if the Wyangala Dam wall is raised. Let us go back to the funding situation for these dams. Is it correct to say that Treasury has indicated that the dams are to be built with no impact on the State budget?

**Dr BENTLEY:** No, hence the funding that has been provided.

**Ms CATE FAEHRMANN:** Hence the funding that has been provided?

**Dr BENTLEY:** Yes. I have an email in front of me from Treasury saying specifically—from a Treasury departmental official Peter Miller that basically says that the difficulty is that these dams are proposed to be built with no impact on the State budget. What is that referring to?

**Dr BENTLEY:** We do not have that email in front of us as far as I am aware.

**Ms CATE FAEHRMANN:** I can certainly table it if you want one.

**Ms LEVY:** I think that is referring to the asset ownership issue of the State budget.

**Mr BETTS:** As a balance sheet issue.

**Ms LEVY:** The balance sheet issue as opposed to the cash issue.

**Mr BETTS:** Clearly the Government has provided funding for these dams. So there is already a budget impact but I am not going to speculate what a junior Treasury official has said in an email I have not seen.

**Ms CATE FAEHRMANN:** Let us talk about the document I was referring to before, which was the DPIE capital works summary that indicates that the cost just for Wyangala Dam is, at a minimum, \$1.2 billion, potentially \$2.1 billion. If that is the situation, clearly DPIE has done some work to indicate that it is, at a minimum, \$1.2 billion. Is WaterNSW expected to debt-fund that dam? Is that the expectation?

**Ms LEVY:** That will be worked through as part of the final business case. As indicated earlier, the final business case looks at the cost-benefit analysis but also the funding strategies for the project which will be part of that process and, once we move beyond that, if there is an investment decision taken to fund the project as to how the costs are borne by customers, that would be a matter for the IPART consideration.

**Ms CATE FAEHRMANN:** The business case that you are getting external consultants for—who are they, by the way?



**Ms LEVY:** I will take that on notice but I can get that shortly.

**Ms CATE FAEHRMANN:** External consultants within that business case, they bring forward, "Here is how to fund it", in terms of government?

**Ms LEVY:** Those advisers are helping us do components of the final business case. There are a number of consultants engaged to do various elements of the final business case. Some are there to provide documentations, some to do economic analysis. We have a range of support consultants that work with us on the final business case.

**Ms CATE FAEHRMANN:** Dungowan Dam costs have potentially blown out as well. Let us just put a figure on it of \$1.5 billion in addition to what the Ministers have said these dams were going to cost before the election. We do know that a lot of these projects tend to double or triple in size actually from the time they are announced to when they are starting to be constructed and, indeed, by their finish date. For example, with WaterNSW basically not having the ability to debt-fund these projects, it is \$1.5 billion. Who pays ultimately for that? Will it be a user-pay principle behind these dams or is it just something that the State Government is expecting to contribute without actually getting reimbursed down the track?

**Dr BENTLEY:** I think it is really important to state that if it was \$650 million or a bigger number, it was never assumed that WaterNSW would be debt-funding these projects. And to suggest so—I am not saying you have, but some have—is just a misrepresentation of the facts. That was not the intention. The intention was that WaterNSW and the Commonwealth would debt-fund the business cases and the early works. While we were progressing those business cases, we would then understand the long-term funding arrangements for the construction of the job.

It was never on the cards that WaterNSW would be able to do that. I agree 100 per cent that it does not have the headroom to do that. Nor should it have, and nor were we ever looking for that to be the case—although actual details of how the funding and financing would be managed are really matters that have to be worked through with Treasury and are ultimately decisions for the Expenditure Review Committee. But it is not a matter of WaterNSW suddenly not having the balance sheet capacity. We never expected it to have. It was never designed on that basis. But they are decisions to be worked through with Treasury and ultimately put to ERC.

**The CHAIR:** My next line of questioning is for Mr George. WaterNSW put in a supplementary submission to the Independent Pricing and Regulatory Tribunal on 30 November where it proposed significant price increases—upwards from 70 per cent to 240 per cent rises for water users. The reasoning that you propose is partly for metering reforms. How did you arrive at those figures of between 70 per cent and 240 per cent price rises for water users?

**Mr GEORGE:** That supplementary submission that we provided was for the cost to implement the New South Wales Government's metering reforms. Those cost rises were if all of our costs estimated to implement those reforms were passed on in full. That is not necessarily the decision that IPART will make later this year. Those cost estimates were derived with the support of an independent accounting firm to calculate what we would need to do to physically meet our obligations under the regulations.

**The CHAIR:** Are you aware that when the Government made these announcements about metering reforms that it gave a commitment that it would bear the total cost of initiating this reform? Your submission proposing that potentially users may have to pay upwards of 70 per cent to 240 per cent is going against a government commitment that the end user would not pay for the Government's failure to install these metering reforms and meters for many, many years.

**Mr GEORGE:** Sorry, so your particular question?

**The CHAIR:** Why has WaterNSW contradicted a State Government commitment to not pass on the cost of metering reforms to the end user?

**Mr GEORGE:** Sir, I have not contradicted anything. We are responding to a direction from the Minister to pay for the cost to bring the New South Wales government-owned meters into compliance.

**The CHAIR:** It is the Minister that is proposing the contradiction of the Government's commitment?

**Mr GEORGE:** That is a question you will have to ask the Minister.

**The CHAIR:** Can you take it on notice and ask the Minister?

**Mr BETTS:** You had the chance to ask the Minister this morning.

**The CHAIR:** How is this submission—the 70 per cent to 240 per cent increase—different to your previous submission where you have stated that you have included \$4.1 million to deal with customer support, metering and compliance? It seems like you are trying to grab it twice. If you have already got funding there and now you are potentially proposing a price rise to put these meters in it seems like you are having two bites of the cherry—or two bites at the customer's wallet.

**Mr GEORGE:** No, to clarify: We stated in our first submission for our regulated rural valleys pricing submission that it excluded the cost to comply with the New South Wales Government metering policy, and that that submission would be coming later. If you are referring to the metering service charge in our first submission, that relates to the existing obligations that we have to maintain those meters, not the new charge under the new regulations.

**Dr BENTLEY:** Chair, could I add something on general metering things? For customers whose meter is currently owned by WaterNSW, if they would prefer they can acquire their own meter rather than pay the charges that WaterNSW was referring to—not the charge of the general meter service but those other charges related to compliance. It is a choice that customers have. They do not have to pay those charges if they do not want to pay those charges. They can acquire their own meter in the same time lines that all other users have to be compliant with the metering standards.

**The CHAIR:** Just going back to the emergency work regulation, Mr Barnes, is it not true that NRAR has an option as to whether it prosecutes or not, or whether it pursues a prosecution? Is that correct? Essentially it gets to pick and choose whether it prosecutes or not.

**Mr BARNES:** We are mandated to enforce water laws for the State of New South Wales and we have done so and will continue to do so. How laws are enforced is how any regulator will exercise its discretion. We deploy a range of techniques. Some water users will find themselves in noncompliance through no fault of their own and can quickly get back into compliance through the provision of advice and guidance. Some water users require a bit of a nudge. They will be the recipients of a direction or a caution. Some—

**The CHAIR:** Given what you are saying there, and given the fact that most construction companies when pumping out water pump directly into the gutter or back into the system anyway, and DPI's argument for putting forward this regulation is to cut red tape but in doing so you are creating more red tape because you have to manage the exemption process in terms of how it is enforced and prosecuted, I put it to the panel here that you have not put forward a compelling argument as to why this regulation is actually needed. When you are coming back to clarify I would be thinking about the strength of the argument you are putting forward. I do not think you have convinced the upper House that this regulation is actually needed, but that is my opinion and I will not put it on other members. That is the end of my questioning.

**Mr BARNES:** Mr Chair, if I might clarify, you did make some comments about how we would be exercising our discretion with respect to prosecution of the law. I do not feel like I gave you a fulsome answer and I feel like it might be left to some to assume that we do not enforce the law. I want to be really clear that, as the independent regulator, that is what we do. We use multiple tools—from advice to guidance to directions to prosecutions—depending on the individual circumstances that are before us.

**The CHAIR:** Thank you. Ms Sharpe?

**The Hon. PENNY SHARPE:** I think these questions are for you, Mr Betts. I wanted to understand what the threshold is for your agencies being able to put contractors on without an expression of interest or a public process.

**Mr BETTS:** There are thresholds that are specified by the NSW Procurement Board and adopted by the department. As to exactly what those are, I do not want to mislead you so I will take that on notice.

**The Hon. PENNY SHARPE:** I appreciate that. I am wanting to understand the process to engage consultants, what the trigger is for you before you actually have to go to full tender, and then the process for contractors as well—understanding the two separate arrangements.

**Mr BETTS:** It will be a tiered approach. There will be full tender, beneath that there may be a requirement for three quotes and there may be a threshold below which you can engage—

**The Hon. PENNY SHARPE:** But you will provide all of those?

**Mr BETTS:** I will, yes.

**The Hon. PENNY SHARPE:** Thank you. In relation to Mr Eccleston, whom I was asking upon earlier—and, again, I do not expect you to be able to answer this now—I have asked for the different contracts and across which agencies. Would you also be able to provide us with information about under which tier those were made?

**Mr BETTS:** Sure.

**The Hon. PENNY SHARPE:** Thank you very much.

**The Hon. MICK VEITCH:** I have a series of questions about town water supply. In Tamworth, in particular, Tamworth Regional Council has had some commentary in the last 12 months about the water sharing plan for the Peel River. It has been my understanding—if I am wrong, please tell me so I do not make public comment about this—that the Minister has the capacity to hold water back for town water supply because of the hierarchy. Is that correct?

**Dr BENTLEY:** Yes. When the team is doing allocations it holds back two years of current annual use for the town. As I said this morning, on average over the last 10 years that has been 8.5 gegalitres per year. We allocate on top of that, as it were, so it would be two years worth of that.

**The Hon. MICK VEITCH:** Then the requests are to amend the water sharing plan for the Peel. I gather from that statement, Dr Bentley, that they really do not need to amend it because the Minister has the capacity to really do what they are asking the Minister to do, or am I misunderstanding the request?

**Dr BENTLEY:** I am not sure. Maybe we are both misunderstanding their request but it is certainly the case that that two years of security is provided for them in the way that we manage allocations. The Minister and I, as she mentioned this morning, were up in Tamworth a few weeks ago and we met with the people up there to talk about a range of issues, including what the potential for the new Dungowan Dam was and so on and we talked through the town growth requirements and that seven gegalitres per year that we have talked about and so on. In that conversation, that is what I explain to them: That we are holding back, and always hold back, two years worth of water supply for the town before making allocations on top of that.

**The Hon. MICK VEITCH:** Okay. And that is the same for all the water sharing plans? For instance, I am plucking Cowra out of the air. Cowra could do the same thing? It could have the same arrangement on the Lachlan, for instance? You could hold water back?

**Dr BENTLEY:** I am not sure it is exactly the same, but the water sharing plan would explain how that is addressed.

**The Hon. MICK VEITCH:** Yes. Well, they are pretty extensive documents. I am just trying to get my head around why requests are coming in from some of the communities. I think one of the communities said that the water sharing plan was broken. I am trying to get my head around, after an extensive amount of work to create the water sharing plan that includes consultation and all of that, including consultation with the local councils around their requirements, why someone would say it is broken.

**Dr BENTLEY:** Let me be brutally honest with you, Mr Veitch. I think our communication and our engagement around a number of these things has not been good enough. That will not be a surprise to Committee members. The changes that Mr Betts and I have made to the department that included the establishing of water infrastructure but not limited to that are in no small part to address the fact that we need to radically improve the way we explain these things. Was it you, Ms Sharpe, who said water policy is a complex and confusing area? I do not think we have necessarily made that as easy as we could do for our stakeholders, including councils and including community members.

We have a lot of work underway now. We have appointed a chief knowledge officer whose role it is to pull together the science, the modelling, the analytics, the data to work with WaterNSW and others to ensure that we have got information products that are available to people. We have started to do a lot better with our "What We Heard" and "Have Your Say" reports around water sharing plans and things like that and we have started to get some quite positive feedback about that. But I think there is a history of a very complex object not being explained in as helpful a way as it could be. In the 20 months that I have been here I have been amazed at how hard our people work and how passionate they are about the subject.

You will know that, particularly people out there in the regions, whether they are WaterNSW or our own department staff, they have a genuine passion for this subject. But what we are trying to do now is convert that into language, explanations and models that are much easier to understand. That would be my response to why it

is that we sometimes get questions about some of these plans that it seems to us that the premise of the question is not quite right.

**The Hon. MICK VEITCH:** Yes.

**Dr BENTLEY:** Sorry, just quickly on the two-year thing, it cannot be applied in all places across the State because the security of different regions is different. But mechanisms exist for us, saying, "This is how we prioritise town water," and that is the case up in Tamworth.

**The Hon. MICK VEITCH:** So to hold that water back, the Minister does not need to amend the water sharing plan?

**Dr BENTLEY:** No.

**The Hon. MICK VEITCH:** Because that is already a provision of the water sharing plan?

**Dr BENTLEY:** No. That is what we do. That is what my team do on a regular basis when they are reviewing the allocations.

**The Hon. MICK VEITCH:** Thank you. I want to go back to the cultural water, if I could. I understand that the Barkindji or we heard that the Barkindji Water Corporation is meeting very soon—next week or next fortnight. For other Indigenous corporations across the State, what is the timetable for those?

**Ms JONES:** Sorry, just to clarify, is your question: What is the timetable for all native title?

**The Hon. MICK VEITCH:** Other than the Barkindji because you have answered the Barkindji.

**Ms JONES:** I would have to take that on notice.

**The Hon. MICK VEITCH:** Thank you. That would be good. My question is for NRAR. I am not attacking NRAR. I actually support NRAR. I think it was quite a good initiative to take place.

**The Hon. CATHERINE CUSACK:** A velvet glove.

**The Hon. MICK VEITCH:** Yes. The issue that I have, or that I am trying to explore here, is as the years are going by now, you have got a couple of years in operation and staffing requirements. Do you have staff and compliance officers located across regional and New South Wales, or are they operating out of the base offices in Dubbo, Wagga Wagga or Tamworth, for instance?

**Mr BARNES:** We are distributed throughout the State in eastern operations and western operations. We started with about 70 staff in April of 2018. At the end of the last financial year we had 154 staff, of which 112 are frontline—boots on the ground—distributors in Tamworth, Dubbo and Deniliquin and all parts in between. More recently we have recruited another 30 staff who are now in Dubbo, Tamworth and Deniliquin, so we have added considerably to frontline resources there. Of those new recruits, of those 30, 25 per cent identify as Aboriginal or Torres Strait Islander. We feel very strongly that as a regulator we should represent the community that we serve and we do that through active steps in our recruitment of staff both on the front line but also into leadership roles and to the executive as well.

**The Hon. MICK VEITCH:** Thank you, Mr Barnes. So the creation of NRAR occurred arising from the Matthews report and the *Pumped* program on the ABC. It was a pretty heightened and stressful time, no doubt. Compliance work is often not always or it can often be quite stressful. What other support mechanisms for the staff who are out on the front line talking to individuals?

**Mr BETTS:** Thank you for asking that question.

**Mr BARNES:** So ensuring the safety and wellbeing of staff is the single and most important focus of my role. Sometimes I might not be across the most recent policy change of the department but I will never let insight into the safety of our staff go anywhere from my attention. We drive long, long distances. We work in remote locations and we go onto site where often we do not have any private knowledge of the individual that we are encountering. On occasion, albeit on limited occasions, we do encounter aggressive stakeholders. There is an immediate physical risk that that presents but more so is the emotional impact that being exposed to aggressive people, whether in situ or over the phone or through emails.

We monitor that quite closely. We encourage staff to self-report those instances and we have been very clear both internally and externally that we will not tolerate any individual who makes a threat to staff. And I am very grateful for the support of the two Jims on my left, who are strongly encouraging of us to put safety first and to ensure that our people get home every day, safe and well. And I thank you, too, for your interest.

**The Hon. MICK VEITCH:** Yes, those long distances out in far-western New South Wales can be quite lonely and quite difficult. Also the circumstances from time to time would be quite stressful. Do the compliance officers work on their own or do they work in pairs?

**Mr BARNES:** No. We require double crewing so you must be accompanied by another officer. We have the use of technology, which means that staff are always in contact with an agency that is watching out. Our staff have satellite phones. They have emergency position indicating radio beacons [EPIRBs]. They have panic alarms and all sorts. So if something goes wrong we are able to respond quickly. Staff of course are also trained in first aid. They must be trained in driving four-wheel drive vehicles and also trained in how to deal with aggressive stakeholders. So we do our very best to equip our staff the best that we can so they are able to deal with a range of risks that come with the job.

**The Hon. MICK VEITCH:** Thank you.

**Mr BETTS:** We have also, following on from Mr Barnes' leadership in this space, other entities within the cluster which face similar challenges. The Environment Protection Authority [EPA] sits within our cluster. We have compliance staff within our Environment, Energy and Science group. So it is something where we share a lot of information and we share systems to try to keep our staff safe.

**The Hon. PENNY SHARPE:** There is the terrible land clearing case, which has focused all of our minds on this over the past few years. I am very pleased to hear what you are doing; I am so glad to hear that people are not going out on their own. As an MP, I have experienced very aggressive arrangements around these matters. Are the policies and procedures basically the same across all of your front-facing staff doing that kind of work? I know the nature of the work is slightly different. Is there double crewing? Is there that sort of support across the board for all of those front-facing officers?

**Mr BETTS:** I cannot attest that it is actually uniform across all of the different entities—Parks and Wildlife, EPA and so on—but there is a degree of knowledge sharing and a degree of collaboration and sharing of good practice, which has been a major feature of our work in the past 12 months to raise our own standard in terms of the occupational health and safety of our staff.

**The Hon. PENNY SHARPE:** You can take this next question on notice. In relation to incidents, are you seeing a reduction in them as a result of that work or has the number of them increased? I do not know how you collect that data.

**Dr BENTLEY:** Are you talking about incidences of staff being threatened or feeling threatened?

**The Hon. PENNY SHARPE:** Yes. How many incidents have been reported and are they increasing? I do not think they are in annual reports. If you could provide it to the Committee on notice, I would really appreciate it.

**Mr BETTS:** We collect and we discuss that data within the department's leadership team. This is an anecdotal observation, but I think the data would support that our staff were particularly exposed to risk and threat at the height of the drought when there were significant stress issues, and mental health and wellbeing issues within the communities with which they were interacting.

**The Hon. PENNY SHARPE:** Yes, that makes sense.

**Mr BARNES:** If I may speak the name of Glen Turner who was murdered, it will be seven years in July since that tragic event and Glen is missed dearly by his children and his wife. He is forever in the hearts of officers throughout the department. We say never again.

**The Hon. EMMA HURST:** Mr George, how often are you briefed by the Warragamba Dam raising team?

**Mr GEORGE:** My team?

**The Hon. EMMA HURST:** Yes. How often are you briefed?

**Mr GEORGE:** Monthly. At least monthly.

**The Hon. EMMA HURST:** In regard to the EIS for Warragamba Dam, has the time frame blown out? If there have been any changes, what was the reason?

**Mr GEORGE:** Do you mean the time frame for completing the EIS?

**The Hon. EMMA HURST:** Yes.

**Mr GEORGE:** Certainly it has taken longer than we had anticipated when we started. There has been a range of reasons for that, but predominantly a lot of the additional investigations that we have undertaken. I hope it is obvious that it is quite a large catchment area and it is a very complex EIS that we are undertaking. To Mr Bett's comments before, we are undertaking the necessary studies to make sure we put on the table a very robust EIS document and that is why we continue to consult, and we continue to undertake studies and investigations.

**The Hon. EMMA HURST:** How much time has been spent on assessing the animal and plant life in the region? I am particularly interested in the platypus and whether there has been some consideration there.

**Mr GEORGE:** If you are after exact times, I would have to take that on notice.

**The Hon. EMMA HURST:** It does not have to be an exact time, but has there been consideration and is there substantial consideration?

**Mr GEORGE:** It would help to clarify. But for the purpose of the EIS, we are taking a very conservative approach. That is, if we identify that there is a species in the area, we are assuming that it exists to a degree larger than what we may even find if we were to survey the whole catchment, so it is more conservative than perhaps spending a lot of time and money trying to actually locate species. To the extent of your question, the time of the studies or investigations is not as relevant as identifying that the species may exist and then including it in a conservative manner for the assessment in the EIS.

**The Hon. EMMA HURST:** Has WaterNSW instructed the contractor, SMEC engineering, to undertake any ground truthing after the fire assessments, as has been requested by the Commonwealth Environment department?

**Mr GEORGE:** We have undertaken additional desktop studies after the fires. It is worth noting however that the BAM methodology—the biodiversity assessment methodology that is now used—does caution against undertaking such surveys so soon after large fires, but that has not stopped us from undertaking further desktop analysis to inform the EIS.

**The Hon. EMMA HURST:** You said that there was a recommendation that undertaking a survey so soon after the fires is not good. How soon after the fires is a good time and will that fit in with the other recommendations?

**Mr GEORGE:** Clearly that is subjective, but it is in everybody's interest that we try to finalise this EIS sooner rather than later. It is not our intention to undertake further work at this point in time, but rather to finalise the EIS so it is ready for public exhibition.

**The CHAIR:** On your submission, did the Minister directly ask you to put forward this proposal of the price rise or was it someone in her office? How did it come? For example, in the form of a written direction or email.

**Mr GEORGE:** To clarify, we are required to put our expenditure as a price-regulated entity to the IPART, so we have included all of our costs to meet the obligation in our submission to IPART. Whether or not the Minister makes a decisions in the future around how much or how little of that is recovered from government is a matter for the Minister in the future.

**The CHAIR:** I just wanted to clarify because you made out as though the Minister had asked you to put this price rise in your secondary submission.

**Ms CATE FAEHRMANN:** Dr Bentley, you said earlier that it is not true that the State Government is not keen to have these dam projects on its books. Was that you who said that or Mr Betts?

**Mr BETTS:** I think you had asked me the question of whether it was a parameter of Treasury or anybody else that there should be no budget impacts for the Government from these dams. I was explaining that there is already budget impact from those dams and the only thing that I could speculate in terms of what a junior Treasury official was implying in an email that I had not seen was that they managed to be off the balance sheet.

**Ms CATE FAEHRMANN:** What about the Regional Investment Corporation? I have another document in front of me—that again came out of a GIPAA—dated 26 February 2020, which is a key issue brief in relation to those three dam projects. It says, "Work is now being done to examine the legal and operational practicalities of lending directly to WaterNSW. With a guarantee from the New South Wales Treasurer, the New South Wales Government favours this approach to fund the projects off the State Government's balance sheet." That is the Regional Investment Corporation. Dr Bentley, are you aware of that document?



**Dr BENTLEY:** I do not recall it. It is not the answer you want to hear, but we have not resolved those issues. All we know is—

**Ms CATE FAEHRMANN:** Why would the Regional Investment Corporation say in its key issue brief on this issue that "the New South Wales Government favours this approach to fund the projects off the State Government's balance sheet"?

**Dr BENTLEY:** I do not know; you would have to ask them. I do not recall that report, but I know that we are doing the business casework and we will put an investment case to government when the business case is completed. You would expect that all options would be considered and thought through—like, what are the various options for funding major infrastructure. I think that would be normal to do that, but I cannot comment why one organisation wrote that comment in their report.

**Ms CATE FAEHRMANN:** The Regional Investment Corporation, Mr Betts or Dr Bentley, have either of you had dealings with documents or had conversations with the Regional Investment Corporation saying that it is preferred that this is not on the State Government's balance sheet?

**Dr BENTLEY:** I do not believe so. I cannot recall that statement. What you are saying, that is not ringing any bells for me at all.

**Mr BETTS:** I do not even know who they are.

**Dr BENTLEY:** The secretary has just said what I was thinking; I don't know who they are.

**Mr BETTS:** I am happy to say that *The Guardian* is currently running a story that is entitled "Wyangala and Dungowan dam upgrades put WaterNSW's credit rating at risk". The whole thrust of your questioning has been around the steps that the Government has taken to make sure that WaterNSW is not put in that position. In other words, that headline is precisely misleading. At various points along the way where WaterNSW has been asked to debt fund things, it has legitimately asked for supporting guarantees. This is its board doing its job to make sure that its credit rating is not put at risk. I want to make that doubly clear.

**Ms CATE FAEHRMANN:** Can I just check: Are the dams proposed to be owned by WaterNSW?

**Dr BENTLEY:** Well, actually that also—

**Ms CATE FAEHRMANN:** Mr George just nodded. Can I just go straight to him first, from WaterNSW? I directed that question to WaterNSW.

**Dr BENTLEY:** But it is not their question to answer, with respect, because Government has to make some of these decisions. The Dungowan Dam does not exist yet, so no-one can say that as of today that it is by rights going to belong to WaterNSW. That again has to be worked out in the business case. So it could well do.

**The Hon. PENNY SHARPE:** Trying to palm it off on Tamworth Council.

**Ms CATE FAEHRMANN:** It is extraordinary.

**Dr BENTLEY:** No, this is normal, Ms Faehrmann.

**Ms CATE FAEHRMANN:** The Government has essentially come out and committed \$1 billion, saying that these three projects are going ahead. You are the senior bureaucrats who have a lot of knowledge of this. We are in budget estimates in Parliament trying to get any kind of answer on these dams. You are all talking about these business cases as though you have not made any decisions in relation to these three dams, but there have been decisions made. There have been decisions made, for example—there have been numerous decisions made in relation to this dam and, of course, I have documents to suggest that Dungowan Dam will be owned and operated by WaterNSW.

**Mr BETTS:** That may well be the case but those decisions have not finally been taken. The announcements that have been made around these projects are contingent on a number of steps that have yet to be taken. The Government has yet to complete a final business case. I think I have bored the Committee by explaining that that then supports an investment decision.

**Ms CATE FAEHRMANN:** Gosh, imagine when those final business cases come out.

**Mr BETTS:** There would also need to be environmental and planning approvals before these dams could proceed. One of the things that gets canvassed in final business cases is the precise sources of funding for projects and where the assets ultimately end up in terms of whose balance sheet they sit on—decisions yet to be taken by Government.

**Mr JUSTIN FIELD:** Dr Bentley, the ICAC report from November says of the triple bottom line:

Despite submissions made to the contrary on behalf of the NSW Department of Planning, Industry and Environment (DPIE), the Commission is satisfied that this approach does not adhere to the legislated mandatory principles for water sharing ...

It also says:

Contrary to the submissions on behalf of the department, that s 5 of the WMA sets out principles, not mandated outcomes ... the Commission considers that the water management principles in relation to water sharing are expressed in mandatory terms.

Did you commission that legal advice to make submissions to ICAC?

**Dr BENTLEY:** No.

**Mr JUSTIN FIELD:** Will you table the legal advice?

**Dr BENTLEY:** No, I asked advice of my colleague. My colleague gave me that advice as to how—that was a verbal conversation. Not everything I would ask of my colleague in that way would be a—

**Mr JUSTIN FIELD:** So it was not formal legal advice. Was it put in an email or was it just in a conversation?

**Dr BENTLEY:** It was a meeting I had, a conversation I had.

**Mr JUSTIN FIELD:** So you have spent most of today telling this Committee how things have changed since you have come on board. You have made yourself confident that the way that your department operates now will be able to address the concerns raised by ICAC with regard to meeting the principles of the Water Management Act on the basis of a conversation with your general counsel.

**Dr BENTLEY:** Well, it would not have changed his advice if he had said it to me verbally or written it to me.

**Mr JUSTIN FIELD:** Two months ago ICAC said they disagree with that legal opinion—just disagree with it. That is what it says in the November report. They disagree with your department's submissions that make the exact legal argument that you have sat here all day making.

**Dr BENTLEY:** Well, to be fair, I have talked about a lot of other things as well.

**Mr JUSTIN FIELD:** But that is the core principle.

**Dr BENTLEY:** I have responded consistently in that way to when you have asked me those questions because of the truth of the situation, but we are accepting and acting on the recommendations of the ICAC report. So whether ICAC believes that in the past things were not done in that way or whether they believe our interpretation, we are accepting their recommendations.

**Mr JUSTIN FIELD:** They have responded to your submissions, not their investigation over the past seven years. Will you table the submissions that you made to ICAC that go to these points?

**Dr BENTLEY:** I do not see why we wouldn't.

**Mr JUSTIN FIELD:** If you could take that on notice, I would appreciate it.

**Mr BETTS:** Yes, we will take it on notice.

**Mr JUSTIN FIELD:** My point comes back to this new team. What regulatory tools, what principles of operation, what protocols within your department are they using to decide whether the implementation of water sharing plans are consistent with the Water Management Act?

**Dr BENTLEY:** They work very closely with our legal department. They work very—

**Mr JUSTIN FIELD:** The same legal department that gave you this advice that ICAC completely disagrees with?

**Mr BETTS:** ICAC is entitled to disagree with that advice.

**Mr JUSTIN FIELD:** I am hoping you take ICAC's report a little more seriously.

**Dr BENTLEY:** We do, and we are acting on all 17 of their—

**The Hon. MICK VEITCH:** Fifteen.



**Dr BENTLEY:** —15 of their recommendations, 14 of which are either complete, substantially complete or well underway because we take it so seriously. When we look at how we are making water sharing plans, and when we look at how we are doing the regional water strategies and the climate modelling that has been lauded elsewhere—I have been asked to go to speak to my Murray-Darling Basin colleagues around the climate modelling we are doing—and because we are putting the environment and climate change at the heart of our strategies, these are things that give me very high confidence that the environment is taking a very high priority in our work.

**Mr JUSTIN FIELD:** There were a number of water sharing plans that were changed after exhibition that have gone to the Murray-Darling Basin Authority for accreditation where environment stakeholders raised significant concerns that post-exhibition changes that benefited irrigators were added in. That only happened since you started. What guidance were your officials working off in adding those changes at the post-exhibition stage that made more vulnerable planned environmental water and that specifically gave the Minister powers to change water sharing plans to offer more water to irrigators? I am trying to work it out. Is it just a subjective call within that team on a case-by-case basis about whether or not they are meeting the requirements of the Water Management Act?

**Dr BENTLEY:** With respect, it cannot be formulaic because of the very nature of what we are talking about. There will be a degree of judgement to be applied to those things. But those water sharing plans are being reviewed as part of the water resource plans. There are 33 water sharing plans attached to 20 water resource plans that are with the MDBA. We have had formal advice back on two of them.

**Mr JUSTIN FIELD:** What was that advice?

**Dr BENTLEY:** I can tell you which they were, and I would have to take notice what the advice was—the Lachlan surface plan and the Namoi alluvial plan, which is groundwater. Those are the only two that we have had formal advice back on. But if it cannot get through that process, then it will not get through. Then, as we said before, there is concurrence required from the Minister for the environment, so there are a lot of checks and balances in these things. But when you look at what has been applied in terms of all those things that we have implemented from not only this ICAC report but also the NRC report, where all those major things about reducing the amount of water that irrigators are taking and making more water available to the environment, the balance of those things gives me high confidence that we are operating in line with those principles. Others may disagree with that view.

**Mr JUSTIN FIELD:** Thanks, Dr Bentley.

**The CHAIR:** I am now looking at Government members for 15 minutes of questions. Lou Amato, you have your folder open. Are you ready to go?

**The Hon. CATHERINE CUSACK:** We asked Mick Veitch for 8.15 p.m. and he said no.

**The CHAIR:** That concludes our time today. Thank you very much spending your time with us. Many of you have taken questions on notice. The Committee secretariat will be in touch. You will have 21 days to answer them.

**Dr BENTLEY:** Can I correct one figure, Chair?

**The CHAIR:** You can correct one figure.

**Dr BENTLEY:** I said 451, I think it was, for that SDL.

**The Hon. LOU AMATO:** For Gwydir.

**The Hon. CATHERINE CUSACK:** For Gwydir, yes.

**Dr BENTLEY:** I was quoting the wrong one because one is a water resource plan SDL and one is a water sharing plan SDL. The water resource plan SDL is 401—or 400.6—not 450-something, which is the number I gave you.

**The Hon. PENNY SHARPE:** I am interested in that. I am still on the number I thought you were going to give me, so thank you.

**The CHAIR:** That concludes our session.

(The witnesses withdrew.)

**The Committee proceeded to deliberate.**