

BUDGET ESTIMATES 2021-2022

Portfolio Committee No. 7 - Environment and Heritage

Answers to Questions on Notice

Hearing: 1 March 2022



Environment and Heritage

No. Question

1 Koala Strategy inter-agency committee – Transcript page 4

The Hon. PENNY SHARPE: I will obviously be very happy to speak to the public servants this afternoon on some of the detail about this. My first question is where is the annual report that wrapped up the final reporting on the last koala strategy?

MICHELLE DUMAZEL: We are in the process of finalising that report, which will be the final report for the first three years of that investment of \$44.7 million. Out of the 24 actions that were identified, 18 have been completed and five are on track to be completed this year. It was always the intention that they would have a longer lead time—for example, some of them relate to research in relation to chlamydia—and then there is one action that will be completed in 2022-23.

The Hon. PENNY SHARPE: Right. So the annual report is coming. I noticed there is an interdepartmental committee that oversees the previous koala strategy. It appears to me that they only met in May last year. Why is that?

MICHELLE DUMAZEL: There are two committees that we have. One is the independent expert panel, which is chaired by the deputy chief scientist, and there are a number of scientists on that panel. So they—

The Hon. PENNY SHARPE: But that is not the committee that I am referring to.

MICHELLE DUMAZEL: I do not have on me the last date that the interdepartmental—

The Hon. PENNY SHARPE: The website tells me that it was May. They were responsible for producing the annual reports.

MICHELLE DUMAZEL: I will take that one on notice. I do not have the last date. I have obviously been in contact with all my colleagues across government in terms of the finalisation of the annual report and also in terms of the development of the work that we are doing now in relation to the 193.3.

Answer:

The NSW Koala Strategy inter-agency committee last met on 27 May 2021.

The Environment, Energy and Science Group also communicated with the committee as a whole and with individual committee members between September 2021 and February 2022.

Information on the NSW Koala Strategy inter-agency committee including its composition and meetings is available at: <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/programs-legislation-and-framework/nsw-koala-strategy/nsw-koala-strategy-inter-agency-committee>.

2 Koala Strategy – Transcript page 5

The Hon. PENNY SHARPE: We will talk about them this afternoon. Thank you. The budget was in June last year. The Government and your very loud predecessor decided to shout from the rooftops about your \$193 million-over-five-years replacement koala strategy, announced in the budget with the hook of doubling the koala numbers by 2050. Where is the new koala strategy?

Mr JAMES GRIFFIN: The new koala strategy is something that I am looking forward to releasing shortly. It is something that will provide immediate support to the koala population, whether it be through private land partnerships with the likes of the Biodiversity Conservation Trust, landscape-scale restoration of thousands of hectares of land or the other pillars of work that need to be done in addition to—

The Hon. PENNY SHARPE: Thank you, Minister. I am across the pillars of the previous strategy that we have not finally done. I am just concerned—in October last year your

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predecessor said that the release of the \$193 million strategy was imminent. Are you now telling me that it is still imminent?

Mr JAMES GRIFFIN: Yes. It is something that—

The Hon. PENNY SHARPE: Right. Months? Weeks?

Mr JAMES GRIFFIN: I look forward to releasing it soon. It is something that I have pressured—

The Hon. PENNY SHARPE: Soon?

Mr JAMES GRIFFIN: —and impressed upon the department that we must get it out. I look forward to doing that as soon as possible.

The Hon. PENNY SHARPE: As soon as possible. Again, ballpark? Weeks? Months?

Mr JAMES GRIFFIN: I am happy to take that on notice and come back to you.

Answer:

The new koala strategy is planned for release this financial year.

3 Koala Strategy – Transcript page 6

The Hon. PENNY SHARPE: Who is developing the strategy?

Mr JAMES GRIFFIN: It has been a strategy that has had input from various experts, both external and internal to the department. I am happy to have Ms Dumazel provide you with more insight.

The Hon. PENNY SHARPE: I will come to this because I am confused about this.

MICHELLE DUMAZEL: We are in the process of finalising the strategy. We have worked quite—

The Hon. PENNY SHARPE: Sorry, who is "we", Ms Dumazel?

MICHELLE DUMAZEL: Sorry, the department.

The Hon. PENNY SHARPE: Which part of the department?

MICHELLE DUMAZEL: The Environment, Energy and Science Group. I have the team responsible for the koala strategy and koala policy within the Environment, Energy and Science Group. We have been working very closely with—we worked very closely with the independent panel, which is chaired by Mr Chris Armstrong, and there are a number of experts on that. We have also worked quite closely with staff across different organisations within government and also with our national parks—

The Hon. PENNY SHARPE: Is that the interdepartmental committee?

MICHELLE DUMAZEL: Yes.

The Hon. PENNY SHARPE: But that has not met since May last year?

MICHELLE DUMAZEL: I will get back to you with the last date that they have met. But they have been aware of the work that we have been doing to develop the strategy. Certainly the strategy that we are developing builds on the existing strategy. It does take into account those four elements and looks at the threats as well. While the new strategy will take into account the existing pillars of work, we will build on that because there is still a lot of work we need to do, for example, in the building of our knowledge in relation to koalas. There is a very extensive monitoring program that was finalised during the first strategy, and we actually need to continue the work on that. Mr Fleming outlined the work that is happening under the acquisition—

Answer:

Please refer to the response to question on notice 1 on page 2 of this document.

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4 Koala funding – Transcript page 6

The Hon. PENNY SHARPE: Okay. Given the Federal Government during this period—do not forget, the last koala plan was supposed to be the biggest investment we have ever had that was turning around the dire situation for koalas. Yet things have gone backwards, as you have acknowledged, Minister, with the upgrading of the threatened status of koalas in New South Wales to "endangered". How much of the \$50 million federally will be allocated to New South Wales?

Mr JAMES GRIFFIN: That is a question I will have to take on notice. I have taken the opportunity to meet with the Federal environment Minister and express my view on the uplisting. I welcome any of that \$50 million into New South Wales. But I do not think we have any further detail on that at this stage.

Answer:

Funding allocations for each jurisdiction have not yet been determined.

5 Tyre waste – Transcript page 19

The CHAIR: We will come back to this, no doubt, in the months ahead, Minister. I did want to turn to a different issue, and it will be a question as well that I think the EPA can respond to if you are not across this issue. I wanted to turn to some concerning incidents that Whitehaven Coal has been doing around its Maules Creek Mine in the north-west of the State. I am not sure if you are aware of this, but Whitehaven Coal has been essentially burying large mining tyres on site at their six open-cut coalmines in the north-west of the State. They were doing this between 2014 to 2020, so for six years, but without the appropriate licence conditions.

The EPA was only alerted to this, by the way, from locals on the ground—the Leard Forest Research Node is one of the groups that alerted it to this. The EPA office issued official cautions to Whitehaven but nothing else happened. Then in January 2022 the EPA just issued Whitehaven with a modification to their licence to allow them to continue burying those tyres. Do you think that is appropriate action by the EPA to have allowed a coal company to get away for six years with an illegal activity, burying huge amounts of tyre waste, and then say, "Oh well, slap them on the wrist with a caution," and then issue them with a modification and let them get away with it?

Mr JAMES GRIFFIN: I am not aware of the specifics of the Maules Creek-Whitehaven issue, but I am sure Ms Moore can provide some further comment.

The CHAIR: Sure.

JACQUELEINE MOORE: As you would appreciate, dealing with huge mining tyres is a complex issue, and there are a lot of logistical complexities around treating of those materials. We took what we thought was the appropriate regulatory response in relation to the matters that you have raised, and we have been meeting with and working with I think it is the tyre stewardship council to look at what options there are in the future for dealing with this type of waste.

The CHAIR: Was the EPA aware of any of this for the six years that Whitehaven had been doing this?

JACQUELEINE MOORE: I am not sure when we first became aware of this. I would have to check that.

The CHAIR: What have been the discussions with the national Tyre Product Stewardship Scheme that you mentioned, and why did it take so long? Surely that should be what Whitehaven are doing straightaway, rather than their licence being modified to allow them to continue doing this. Have you been across the discussions that they are having and what that looks like in terms of a solution?

No. Question

JACQUELEINE MOORE: Only in general terms. As I said, it is a complex issue. In fact, I think under the Waste and Sustainable Materials Strategy 2041 there is a recognised need for future recycling capacity to deal with tyre waste.

The CHAIR: What discussions have you been having with the Minerals Council about this in terms of tyre waste in mines generally across New South Wales?

JACQUELEINE MOORE: We have discussed it as an issue that we need to be working on to address.

The CHAIR: That does not sound like there is a solution too close—it does not sound like there is something that is able to be agreed to quickly on this.

JACQUELEINE MOORE: No, I think that is right. I do not think there is an immediate solution to recycling of mining tyres.

The CHAIR: Are you concerned about what this means for mine rehabilitation? For example, at Maules Creek Whitehaven is required to rehabilitate 752 hectares of that native forest woodland in the disturbance area of Maules Creek Mine—and good luck with actually rehabilitating back to anything like a native forest woodland, in terms of what it was. But are you concerned about what that means for rehabilitation more broadly?

JACQUELEINE MOORE: We are obviously concerned when there are any issues that impact on the environment and where there is pollution. We will take whatever measures are appropriate if we become aware of any pollution that is associated with that action.

The CHAIR: Minister, is it of concern to you that there does not seem to be a solution, if you like? Is it a concern to you that mining companies have been, it sounds like, getting away with this for a long time now?

Mr JAMES GRIFFIN: It would be my expectation, as with many people out there—and this was borne out, I think, in the legislation that we passed through only the other week—that where pollution or activity takes place that adversely impacts the environment that people are appropriately held to account. I think the issue that you have raised with respect to Maules Creek presents a challenge in terms of ongoing rehabilitation for mining sites. I will take it on notice to go and explore how our waste strategy might look at that.

The CHAIR: There is a national tyre stewardship scheme, though. It is a whole national scheme. How is New South Wales and the NSW EPA not working extremely closely with this scheme, and why has a solution not been identified years before now?

Mr JAMES GRIFFIN: As I said, I will take it on notice and go and have a discussion about that.

Answer:

The NSW Environment Protection Authority (EPA) became aware on 15 June 2020 that 229 waste tyres from mining vehicles were buried in the waste emplacement area on the Maules Creek Coal Mine premises.

The EPA continues to collaborate with Australian Tyre Recyclers Association and Tyre Stewardship Australia to progress recycling options for oversize mining tyres.

6 Koalas – Transcript page 20

The CHAIR: Okay. We will come back to that later. I turn now to the very unacceptable situation that came to light in January this year when The Sydney Morning Herald reported that the Australian Reptile Park was in fact renting out koalas for people to have in their homes and hotels for \$2,000 an hour. What action have you and your department taken to stop this horrendous practice?

Mr JAMES GRIFFIN: That is obviously not okay. I understand that Taronga Zoo, which I have responsibility for, has ruled out and does not participate in those particular practices.

The CHAIR: This was the Australian Reptile Park.

No. Question

Mr JAMES GRIFFIN: I understand that. They have been spoken to and I understand that they will not be proceeding to undertake that action or provide that service anymore.

The CHAIR: What about legislative change to ensure that no other park and no other zoo does that? Koalas get very stressed at the best of times, let alone in someone's hotel room.

Mr JAMES GRIFFIN: Yes, they do. I can speak for Taronga Zoo; I have been there a number of times in the past eight weeks. Their level of care and the way in which they support koalas—and all animals there—is of the highest level, as you would expect. But we will take that on notice with respect to any legislative change that we could deliver for that.

Answer:

The Department of Primary Industries (DPI) regulates the exhibition of captive animals, including koalas, under the *Exhibited Animals Protection Act 1986*. DPI is responsible for setting and monitoring standards for the welfare of animals in captivity for exhibition and education purposes.

Wild animals in NSW, including koalas, are protected under the *Biodiversity Conservation Act 2016*. It is an offence to harm or possess them without authorisation from the National Parks and Wildlife Service. The animals in question are held for exhibition purposes and are not wild animals, and therefore the question should be referred to the Minister for Agriculture, the Hon Dugald Saunders MP.

7 Waverley War Memorial Hospital – Transcript page 21

The Hon. WALT SECORD: Right. Are you also familiar with the proposal to put \$340 million of luxury apartments on this historic site that was built in the 1860s? Are you familiar with that?

SAM KIDMAN: No, I am not aware of that development application.

The Hon. WALT SECORD: You are not aware? There has been correspondence to you from the mayor about the need to protect buildings that were built in the 1860s and which became a hospital after 1919. Is there anyone among the witnesses who would be familiar with the application or concerns to protect this site or extend the protection?

SAM KIDMAN: I can certainly get details on that and come back to you this afternoon.

The Hon. WALT SECORD: The council has said that in correspondence with Heritage NSW it said the site "meets the threshold for heritage significance but is not considered a priority for heritage nomination." Is it because there is a \$340 million proposal for that site in the only green patch in Bondi Junction?

SAM KIDMAN: No, that would not be the reason. There are different levels of heritage significance, as I am sure you are aware. There is local significance and items contained in local environment plans, and there are items of State heritage significance that meet a certain threshold and get prioritised for listing. But certainly a development application would not have any impact on the assessment of the heritage significance of the item.

The Hon. WALT SECORD: The project is worth \$340 million and there will be buildings up to 21 metres high, there will be luxury residential living, and there will be the removal of 51 older residents at the site. Are you aware of that?

SAM KIDMAN: I just said before that I am not aware of that development application and the size of it. I can come back to you with the details.

The Hon. WALT SECORD: Can you take it on notice—

SAM KIDMAN: Of course.

Answer:

When determining which State Heritage Register (SHR) nominations will be prioritised and progressed to a full assessment, the Heritage Council of NSW's SHR Committee considers several factors including whether the nominated item:

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- may be of State heritage significance
- aligns with Heritage Council of NSW priorities (currently First Nations, including frontier conflict heritage, and LGBTIQ+ heritage)
- presents a strategic or important opportunity for listing
- has been nominated by or with the support of the owner
- is under threat or if it is afforded adequate protection via other statutory mechanisms (e.g. listing on a Local Environmental Plan).

Based on current information available to the SHR Committee, the assessment of Waverley War Memorial Hospital is not considered a priority for heritage nomination.

8 Aboriginal sites – Transcripts page 22

The Hon. WALT SECORD: Mr Kidman, can you assist? How many Aboriginal sites are there actually—I have seen two sources: one that says it is 20 and one that says it is 26. How many Aboriginal sites are in this corridor?

SAM KIDMAN: I do not know off the top of my head, Mr Secord, but if they are registered on the Aboriginal Heritage Information Management System I can get that information very quickly.

The Hon. WALT SECORD: Are you familiar with any of the sites? I understand there is a rare whaling carving that actually goes back longer than the common Christian era, before the birth of Christ—it has been around that long. Are you aware that there are 20 Aboriginal sites on the corridor?

SAM KIDMAN: I am not aware of those specific items.

The Hon. WALT SECORD: Can you please provide them all on notice, the full list of the Aboriginal sites, and what is the planning proposal to protect those sites on there?

Answer:

The Beaches Link and Gore Hill Freeway Connection is a State Significant Infrastructure (SSI 8862) project. Transport for NSW is the proponent and the Department of Planning and Environment is the determining authority. Heritage NSW has reviewed the relevant Aboriginal cultural heritage components of the SSI assessment process and can advise that there are 10 Aboriginal sites recorded within the overall corridor: one site will be directly impacted, five sites may be subject to indirect impacts, and four sites will not be impacted.

Site Number	Description
Directly Impacted	
45-6-0662	Site is a rock engraving and potential for direct (partial/potential) impacts.
Indirect Impacts	
45-6-0655	Site is a rock engraving and potential for indirect impacts due to change to environmental setting and access and potential for vibration impacts
45-6-0654	Site is a shelter with art and potential for indirect impact to occur through vibration impacts and settlement
45-6-0996	Site is a shelter with art and potential for indirect impact to occur through vibration impacts and settlement
45-6-3032	Site is a rock engraving and potential for indirect impact to occur through vibration impacts and settlement
45-6-2940	Site is a rock engraving and potential for indirect impact due to change to environmental setting and access and potential for vibration impacts
No Impact	

No. Question

45-6-3362	Site is a potential archaeological deposit and would not be impacted by the project
45-6-3361	Site is a potential archaeological deposit and would not be impacted by the project
45-6-3363	Site is a potential archaeological deposit and would not be impacted by the project
45-6-3599	Site is a sub-surface artefact scatter and would not be impacted by the project

Heritage NSW understands that Transport for NSW is proposing a variety of mitigation measures to manage both direct and indirect impacts. Heritage NSW will continue to provide advice and guidance, as requested by Transport for NSW and the Department of Planning and Environment, in consultation with the Metropolitan Local Aboriginal Land Council and the Registered Aboriginal Parties for the project.

The Bantry Bay Aboriginal Engraving Site (Site 45-6-0655) is located within 50 metres of surface works and may be subject to indirect impacts, including change to environmental setting and access and from vibration. I am advised Transport for NSW notes that any vibration impacts are considered to be negligible.

9 Regent Theatre Mudgee – Transcript page 24

The Hon. WALT SECORD: I want to take you to the much-heralded Blue Plaques program of your predecessor. When will we see this program and when will we see the next stage or the successful nominations?

Mr JAMES GRIFFIN: It is a very well-received, well-regarded program, which will deliver an opportunity for people across communities around the State to experience and see heritage at a local level for places that they love and that have importance. I am working with Heritage NSW to roll out the program quickly. We have finalised and gone through and analysed all of the submissions that have been provided from the community, of which there were quite a lot. We have thoroughly fact-checked and considered them and we will be moving to make announcements and support communities in celebrating this great program in the next couple of months.

The Hon. WALT SECORD: This is budget estimates, so how much has been allocated to the Blue Plaques program?

The Hon. SHAYNE MALLARD: A budget question.

SAM KIDMAN: I can take that if you like.

Mr JAMES GRIFFIN: Mr Kidman.

SAM KIDMAN: It is \$5 million over two years.

The Hon. WALT SECORD: How many staff members have been allocated to work on this program?

SAM KIDMAN: We have three staff working on it at the moment.

The Hon. WALT SECORD: Mr Kidman, will you be familiar with representations from the Central West for a theatre called Regent Theatre in Mudgee?

SAM KIDMAN: I cannot recall the detail of it off my head, I am sorry.

The Hon. WALT SECORD: The local MP and now Minister was on 2GB talking about the need to protect this heritage-listed Regent Theatre in Mudgee. Are you taking that on notice?

SAM KIDMAN: Yes. I do not know the details off the top of my head, but I can come back to you.

No. Question

Answer:

Representations for the Regent Theatre, Mudgee, began in 2018 with a request for an Interim Heritage Order and two separate nominations received within a matter of a few months.

On 28 February 2019, an Interim Heritage Order was made over the property to allow time to investigate its potential state heritage values.

The investigation resulted in the listing of the Regent Theatre on the State Heritage Register, which was gazetted on 7 February 2020.

Heritage NSW has not seen an application for approval under the *Heritage Act 1977*, in relation to the current development consent for apartments, given by order of the Land and Environment Court and expiring on 18 February 2023.

10 Minerva Theatre – Transcript page 24

The Hon. WALT SECORD: Then I will take you to another theatre. Your predecessor made many supportive comments about a theatre in Potts Point-Kings Cross called the Minerva Theatre. What has happened in regard to that?

Mr JAMES GRIFFIN: I recall reading reports about that particular theatre, but I do not have the details. I will have to ask Mr Kidman to provide an update.

The Hon. WALT SECORD: Mr Kidman?

SAM KIDMAN: Yes. There is a development application which is processing in relation to redevelopment of the site. I think there is some detailed archaeological testing work being undertaken to look at any sort of colonial or Aboriginal cultural heritage values that might be there before development can proceed.

The Hon. WALT SECORD: I understand that excavation has discovered that it was actually a historic building under the site and they found I guess the remnants of it. Is that correct?

SAM KIDMAN: Yes, that is correct.

The Hon. WALT SECORD: What did they discover under the Minerva Theatre?

SAM KIDMAN: Well, that is—

The Hon. WALT SECORD: We both seem to know, but I want you to tell me. What did they find or discover under the theatre?

SAM KIDMAN: I am not sure that that archaeological work has been completed yet. I do not think it has, but I can check that for you.

The Hon. WALT SECORD: The previous Minister made claims that he wanted to see it end. I have actually been on a site visit to the Minerva and I have spoken to the people who now have the site, and he made threats of compulsory acquisition of the site. What has happened with his threat to compulsorily acquire the site?

SAM KIDMAN: I am not aware of any comments by the former Minister in relation to the compulsory acquisition.

The Hon. WALT SECORD: They were reported in The Sydney Morning Herald; It was very public. In fact, the proprietors had concerns about it and they wanted to know what was the latest on the Minister saying that he wanted to compulsorily acquire it. I figured that he would, in fact, consult with his own department if he was going to make comments like that.

SAM KIDMAN: Well, it is not—

The Hon. SHAYNE MALLARD: Point of order: This estimates inquiry is regarding the budget and regarding—

The Hon. WALT SECORD: Yes—

The Hon. SHAYNE MALLARD: Allow me to make a point of order, Mr Secord.

No. Question

The Hon. WALT SECORD: Okay, sunshine.

The Hon. SHAYNE MALLARD: The Minister is Mr Griffin. We are not doing an estimates inquiry into the alleged comments made by the previous Minister. He needs to direct them so that they are relevant to the current Minister.

The CHAIR: Thank you, Mr Mallard, but there is no point of order. The member was being relatively relevant according to the portfolio and I think that is within order.

The Hon. WALT SECORD: In fact, I know that you have been around for a long—

The Hon. SHAYNE MALLARD: You do not need to talk back to me. You got the point of order.

The CHAIR: Mr Secord, continue your questions to the witnesses.

The Hon. WALT SECORD: Okay. This actually goes to budget estimates. The Minister threatened to compulsorily—

The Hon. SHAYNE MALLARD: Former Minister.

The Hon. WALT SECORD: The former Minister said he wanted to compulsorily acquire the Minerva Theatre

The Hon. SHAYNE MALLARD: You allege he said that because—

The CHAIR: Order!

The Hon. WALT SECORD: He said it in The Sydney Morning Herald, and in fact I was on—

The Hon. SHAYNE MALLARD: Do not believe everything you read.

The Hon. WALT SECORD: Okay.

SAM KIDMAN: I am happy to take the question.

The Hon. WALT SECORD: Sir, I just want to know, was any work done in the area of compulsory acquisition?

SAM KIDMAN: Certainly not in relation to heritage. That would fall within the former Minister—

The Hon. WALT SECORD: Sorry, I cannot hear the answer.

SAM KIDMAN: That particular matter would fall within the Minister's former portfolio responsibilities, the Minister for the Arts.

The Hon. WALT SECORD: It was just hot air. There was no work done in that area. It was just an empty threat.

The Hon. SHAYNE MALLARD: Come on. Honestly.

SAM KIDMAN: No comment.

The Hon. SHAYNE MALLARD: I know you do not like Don, but do you have to goad him from here?

The CHAIR: Order!

Answer:

These questions should be referred to the Minister for the Arts, the Hon Ben Franklin MLC.

11 Roxy Theatre Parramatta – Transcript page 25

The Hon. WALT SECORD: I want to take you to the Roxy Theatre at Parramatta.

Mr DAVID SHOEBRIDGE: When?

The Hon. WALT SECORD: We have talked about the Regent Theatre; we have talked about the Minerva Theatre. What exercises have you undertaken to protect or preserve the Roxy Theatre?

No. Question

Mr JAMES GRIFFIN: I have not had the opportunity to go there yet, but I look forward to you taking me on a date there.

The Hon. WALT SECORD: Okay, we will go together.

The Hon. SHAYNE MALLARD: I cannot erase that from my mind now.

Mr DAVID SHOEBRIDGE: I thought that was the offer, Walt.

Mr JAMES GRIFFIN: I will have to take that one on notice, Mr Secord, I am sorry.

Answer:

Since 1989, the Roxy Theatre, Parramatta has been listed as an item of state heritage.

Since 2000, the Heritage Council of NSW has been the approval body for works to the theatre. Heritage NSW provides Heritage Council of NSW advice on heritage values and appropriate works to items of state heritage significance.

In 2003, the Heritage Council of NSW approved minor upgrade and refurbishment of the building, which did not impact heritage values.

Since 2015, the Heritage Council of NSW has been in discussions with the owner on plans for development of the item.

On 12 January 2018, the Heritage Council of NSW received a referral from the City of Parramatta Council for an Integrated Development Application for a 33-storey commercial tower above the Roxy Theatre.

On 7 June 2018, the Heritage Council of NSW did not approve or refuse the development application but resolved to advise the City of Parramatta of its recommendations.

I am advised that, broadly, the Heritage Council of NSW supported a reactivation of the Roxy Theatre to protect and complement its state heritage significance; did not support the envelope for a 33-storey tower on the site because of visual impacts and scale; and did not support proposed demolition as part of a concept proposal.

On 9 August 2018, the owner commenced proceedings in the Land and Environment Court, appealing the City of Parramatta Council's deemed refusal of the development application. The Heritage Council of NSW joined these proceedings as Second Respondent.

On 27 June 2019, Commissioner Susan O'Neill handed down her decision refusing the development application on the basis that the concept proposal, including demolition, would have an unacceptable and detrimental impact on the theatre's heritage significance.

As the site is listed on the State Heritage Register, the Heritage Council of NSW will be an approval party to any future development application.

12 Number of items removed from heritage list – Transcript page 26

The Hon. WALT SECORD: I can keep going if you want. Minister, how does reviewing or removing heritage listing from sites occur? Maybe Mr Kidman can answer. When you decide to remove a heritage listing on something, how does that occur and can you take me through the steps?

SAM KIDMAN: Yes, I can. The process is very similar to heritage listing. If an item was delisted because, for example, it was destroyed through a bushfire or a flood, there would be work done on whether there was anything salvageable from the heritage item. If not, there would be quite a lengthy research process. A recommendation would go to the Heritage Council and the Heritage Council would make a recommendation to the Minister to delist that item.

The Hon. WALT SECORD: Can you take this on notice: Last financial year, how many items were removed from the heritage list?

SAM KIDMAN: I am not aware of any, but I can take that on notice.

No. Question

Answer:

In the 2020–21 financial year, no items were removed from the State Heritage Register.

13 Wombat mange – Transcript page 30

The Hon. MARK PEARSON: The Australian Pesticides and Veterinary Medicines [APVMA] has allowed "persons general", such as landholders, to treat wombat mange. Is there a reason that the National Parks and Wildlife Service continues to restrict mange treatment activities to just trained wildlife carers when the APVMA has listed it as "persons general"? There has a concern that people, landholders, who want to actually help the animals are not able to because of this restriction.

Mr JAMES GRIFFIN: Yes. I understand.

ATTICUS FLEMING: Mr Pearson, the real expert on wombat mange is a witness this afternoon. Could we possibly take that on notice and address it this afternoon?

Answer:

Please refer to the answer given to the Hon Mark Pearson MLC to supplementary question 176 from the March 2022 Environment and Heritage Budget Estimates hearing.

14 ABC 7.30 Report on kangaroo cruelty – Transcript page 30

The Hon. MARK PEARSON: Minister, I am sure you are aware that on the ABC 7:30 program last year, it showed a live kangaroo and her joey being dragged behind a commercial kangaroo shooter's truck. Has the Minister's department investigated this incident of cruelty?

Mr JAMES GRIFFIN: Ms Molloy will be able to give you an answer on that.

SHARON MOLLOY: Apologies: Just getting organised here. So that would be a matter not for us to investigate, but the police and/or in collaboration with the RSPCA. Animal cruelty would have been notified to the police and the RSPCA.

The Hon. MARK PEARSON: And it has been notified?

SHARON MOLLOY: I am not aware of that but I can try and find out.

The Hon. MARK PEARSON: Would it not be an investigation under National Parks and Wildlife Service as well?

Answer:

I am advised the National Parks and Wildlife Service (NPWS) had not received any complaints regarding the specific offences shown in the video prior to its inclusion on the ABC's 7:30 Report. Matters relating to non-compliance with the *Prevention of Cruelty to Animals Act 1979* are administered by the NSW Royal Society for the Prevention of Cruelty to Animals (RSPCA) or NSW Police. NPWS has subsequently referred the matter to the RSPCA.

15 Funding COVID expenses – Transcript page 31

The Hon. PENNY SHARPE: Okay, good. I am not sure who this is for; maybe it is for Mr Fleming. There has been concern in relation to COVID contingency funding and what has been expended in relation to that. Are you able to provide to the Committee (a) how much was allocated within your agencies and (b) how much was spent and what it was spent on?

ATTICUS FLEMING: Can you clarify, are you referring to the stimulus funding or are you referring to funding for the department to assist in the management of COVID?

The Hon. PENNY SHARPE: There has been some media in relation to this. But the issue is that there was reporting from agencies that basically, as we understand it, Treasury provided funding to agencies to deal with COVID expenses. So it is not just stimulus money for projects; it is basically what was used by the department. What I am after is how much

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was allocated to your agencies and what the breakdown of the expenditure was. Basically, how much and what it was spent on.

ATTICUS FLEMING: I will have to take that on notice, Ms Sharpe.

Answer:

Please refer to the answer given later in the March 2022 Environment and Heritage Budget Estimates hearing, recorded on page 51 of the uncorrected transcript.

16 Potential additions to Wollemi National Park – Transcript page 34

The Hon. PENNY SHARPE: Okay. Last year the New South Wales Government ruled out releasing the Hawkins-Rumker proposed coal release areas on the edge of Wollemi National Park. There is, however, another area that I suppose is still in play, and that is called the Ganguddy-Kelgoola release area, which has two State forests in it. The previous Deputy Premier John Barilaro said that he had planned to rule this out along with Hawkins-Rumker. Similarly, Rob Stokes had supported the nomination of the Coricudgy State Forest and the Nullo Mountain State Forest into inclusion of the national park. I suspect you may not have been briefed on this, but I would like to get a sense of what your attitude is to that, and perhaps, Mr Fleming, whether there is any action being undertaken to progress these previous commitments from previous Ministers.

Mr JAMES GRIFFIN: Yes. Acknowledging an important stakeholder group, the Wilderness Society, I met with them. They raised this particular issue. I am incredibly sympathetic to their position. It is good that the former Deputy Premier and Minister that you have mentioned also had a particular view on it. But to the specifics, I might get Mr Fleming to provide a comment, but I have met with the Wilderness Society and I think there is an important opportunity there.

ATTICUS FLEMING: I think the process is one that is happening within the Department of Regional NSW, so I think the primary question is probably directed there. I am certainly aware of the two areas that you are talking about, and I am aware of the significant cultural and environmental values. I am not sure if you are asking me whether I support the addition of land to national parks or not.

The Hon. PENNY SHARPE: I would not do that to you, Mr Fleming, because that is not up to you, I know. As I said, this has been discussed and there has been an indication of it progressing. If it is going to progress, it is going to end up in national parks. I am just wondering whether there is any work going on to actually progress that discussion and stated commitment. I accept that you have met with groups, which is terrific. Is anything actually happening or does it need a push?

Mr JAMES GRIFFIN: I think we will take that on notice. I think we would all agree that it will be a great outcome. I am happy to take that on notice.

Answer:

The National Parks and Wildlife Service is aware of the conservation values of the Coricudgy State Forest and the Nullo Mountain State Forest. The transfer of these state forests to the national park estate would require the agreement of the Minister for Agriculture, the Hon Dugald Saunders MP, as the Minister responsible for forestry.

Questions about the NSW Government's Strategic Statement on Coal Exploration and Mining in NSW and associated Strategic Release Framework for Coal and Petroleum Exploration (<https://www.regional.nsw.gov.au/meg/geoscience/projects/coal-resource-identification-program>) are best directed to the Minister for Regional New South Wales, the Hon Paul Toole MP, as the Minister responsible for mining.

17 Full landfills – Transcript page 34

The Hon. PENNY SHARPE: When are the landfills full?

Mr JAMES GRIFFIN: Ms Moore?

No. Question

JACQUELEINE MOORE: I think there is a difference between the Sydney and regional.

The Hon. PENNY SHARPE: Yes.

JACQUELEINE MOORE: And you are asking about the Sydney.

The Hon. PENNY SHARPE: Yes. You can also give me the figures for regional, but I understand that there is more room in those.

JACQUELEINE MOORE: I think that is correct. I can check those figures for you. I do think they are in the Waste and Sustainable Materials Strategy 2041. I can come back to you on those.

Answer:

Greater Sydney landfills are likely to reach capacity by 2036 for putrescible landfills and by 2028 for non-putrescible landfills. By 2030, the Northern Rivers region will need additional landfill capacity of up to 100,000 tonnes per annum and Coffs Harbour region will need additional landfill capacity of up to 25,000 tonnes per annum. The Hunter region will need additional landfill capacity of more than 300,000 tonnes per annum by 2040.

18 Diverting waste from landfill – Transcript page 35

The Hon. PENNY SHARPE: I know it is getting long in the day. I am about to run out of time. We are looking at 80 per cent diversion from landfill.

Mr JAMES GRIFFIN: Yes.

The Hon. PENNY SHARPE: We have now acknowledged that it is 2028. What is the modelling that sits behind our ability to get an 80 per cent diversion?

JACQUELEINE MOORE: I will have to get back to you on the modelling, but obviously we have a range of strategies in place to meet that target.

The Hon. PENNY SHARPE: So you will come back to me this afternoon in relation to that?

JACQUELEINE MOORE: I can.

Answer:

Most of the targets within the NSW Waste and Sustainable Materials Strategy – Stage 1: 2021–2027 (the Strategy) are adopted from the National Waste Policy Action Plan, including the target for an average 80 per cent recovery rate from all waste streams by 2030. The NSW Government contributed to the development of the National targets, which was informed by Australian Government modelling. The National targets were agreed to by the Environment Ministers in November 2019.

In June 2021, the NSW Government published the NSW Waste and Sustainable Materials Strategy: A Guide to Future Infrastructure Needs (the Guide) with the Strategy. The Guide was informed by analysis of forecasted waste flows, current and planned infrastructure capacity and the projected impacts of key policies and initiatives from the Strategy. The Guide outlines the emerging critical waste and circular economy infrastructure needs for NSW. For instance, the Guide estimated that non-putrescible landfill space servicing the Greater Sydney region will expire in 2028 and putrescible landfill (servicing household needs) will expire in 2038.

A key focus of the Strategy is ensuring the right infrastructure is in place to process expected waste generation over the next two decades. To support this objective, the EPA is conducting feasibility assessments of circular economy infrastructure, informed by the Guide and the modelling for National Waste Policy Action Plan targets. The findings will guide actions to facilitate industry investment in high-priority residual waste and circular economy infrastructure in NSW. These actions are supported by a \$24 million Strategic Infrastructure Investment Fund.

19 Loftus Junction signal box – Transcript page 40

No. Question

The Hon. WALT SECORD: I want to go back to the Loftus Junction—

The CHAIR: Last question, Walt; we are at time.

The Hon. WALT SECORD: Okay. It was listed in the Government Gazette on 16 February. It says, "Notice of intention to consider removal from the State heritage register." That is a recommendation that you are taking public comment on. I put it to you that this is a rare example of a small signal box with a remote function dating back to the Victorian period—one of the last ones in the State. Why are you removing heritage from it?

SAM KIDMAN: Can I come back to you with the detail on that this afternoon?

Answer:

Please refer to the answer given to the Hon Mark Buttigieg MLC to supplementary question 127 from the March 2022 Environment and Heritage Budget Estimates hearing.

20 Aboriginal massacre sites – Transcript page 43

The Hon. WALT SECORD: I want to take you to something my colleague David Shoebridge touched on, which is Aboriginal massacre sites. I think that the number is around 300 in Australia at the moment of frontier massacre sites. Is there any work being undertaken by your area of the bureaucracy involving this?

SAM KIDMAN: There are a number of massacre sites that are listed. There is some work underway in relation to the Appin massacre site to assess whether that would be potentially State heritage listed, recognising the shared cultural values of parts of that place. I can come back to you with some more detail on places of conflict that are represented on the State Heritage Committee if you would like.

Answer:

Please refer to the answers given to the Hon Mark Buttigieg MLC to supplementary questions 131 to 134 from the March 2022 Environment and Heritage Budget Estimates hearing.

21 Parramatta Female Factor World Heritage listing – Transcript page 44

The Hon. PENNY SHARPE: Can I jump in? My understanding is that you basically need to prepare a bid for World Heritage listing that is done between the Commonwealth and the State Government, with usually the State Government doing all of the legwork and then it goes to the Commonwealth to be included in our list for World Heritage. Are you saying there is no work underway and there is not even a budget or anything in terms of progressing the initial assessment?

SAM KIDMAN: I might have to take part of that question on notice. But since 1 December last year, obviously, it is not a huge amount of time between December and now. I am not saying—

The Hon. WALT SECORD: You just said that work had stopped.

ATTICUS FLEMING: Perhaps it is one that we should take on notice and provide you with considered advice. As Ms Sharpe says, it is a pretty complicated process.

SAM KIDMAN: It is.

ATTICUS FLEMING: It is the Commonwealth that ultimately makes the decision as to whether to nominate. But we will come back with something as soon as possible.

Answer:

A feasibility study on preparing a World Heritage nomination for the Parramatta Female Factory was completed in June 2021.

Next steps for the proposed nomination are under consideration.

22 Women's heritage – Transcript page 45

The Hon. WALT SECORD: Are you aware of the comments from eminent curator Kylie Winkworth, who criticised the State Government several days after the article actually saying that women's heritage, particularly colonial heritage and Aboriginal female heritage, has been ignored by the Government? Is the Heritage Council doing any work in this area?

SAM KIDMAN: I am not aware of that report.

The Hon. WALT SECORD: Are you aware of the subject matter about a push to increase knowledge, awareness and recognition of women's heritage?

SAM KIDMAN: I am broadly aware of that but I am not aware of that particular report that you are referring to.

The Hon. WALT SECORD: You are broadly aware of the area of policy. So what are the Heritage Council and Heritage NSW doing in this area?

SAM KIDMAN: I will have to take that on notice

Answer:

Heritage NSW and the Heritage Council of NSW recognises the important role of women in the history and heritage of NSW. Many places with particular significance or links to women have been listed on the State Heritage Register under the *Heritage Act 1977*, including but not limited to the Calga Aboriginal Cultural Landscape, the McIver Women's Baths in Coogee, the CWA Rest House in Barellan, the Cootamundra Aboriginal Girls' Training Home, the Women's College at the University of Sydney, Catherine Chisholm Cottage in East Maitland, Sisters of Mercy Convent in Singleton, Juanita Nielsen's House in Potts Point, and the Julian Ashton Arts School in The Rocks. There are also Aboriginal places declared and protected under the *National Parks and Wildlife Act 1974* that are sacred women's sites such as Butterfly Cave.

The Heritage Council of NSW has given extensive consideration to choosing its current priority areas for State Heritage Register listings, which are First Nations heritage (including frontier conflict) and LGBTIQ+ heritage. The Heritage Council of NSW is committed to pursuing listings which meet these themes, and additional priority areas are not being explored or pursued at this time.

Kurrumbede in Gunnedah (with ties to Dorothea Mackellar) and the Elsie Refuge for Women and Children in Glebe are, however, currently under consideration for listing.

23 Royal Willows Hotel – Transcript page 46

The Hon. WALT SECORD: Are you familiar with a hotel on the South Coast called the Royal Willows Hotel in Pambula?

SAM KIDMAN: I am aware of that hotel.

The Hon. WALT SECORD: What is the current status of the plan to demolish this historic pub?

SAM KIDMAN: An interim heritage order was requested for that pub late last year.

The Hon. WALT SECORD: Requested.

SAM KIDMAN: It was requested. It was refused because the pub was not under any imminent threat of being demolished.

The Hon. WALT SECORD: I beg to differ. I think that on 7 December there was a Zoom meeting— sorry, it was a telephone hook-up—which constituted the Southern Regional Planning Panel to take place. In fact, there were plans, and the plans are still afoot, to demolish this 135-year-old pub, one of the rarest pubs on the South Coast, and replace it with a supermarket. Is that correct?

No. Question

SAM KIDMAN: I am not aware of that level of detail. I could take that on notice. But my understanding is that when the IHO was refused, there was no imminent threat to that item.

Answer:

The Southern Regional Planning Panel is currently assessing a development application (DA 2021.358) proposing the demolition of the Royal Willows Hotel in Pambula. On 7 December 2021, as part of its assessment the panel held a public briefing meeting with Pambula residents. This was an opportunity for residents to provide submissions to the panel.

Heritage NSW is aware of the community concern about this development application. In November 2021, an Interim Heritage Order was considered. In order for Heritage NSW to recommend to the Minister that an Interim Heritage Order be placed on an item, two conditions must be fulfilled including that it must be under imminent threat and potentially be of local or state heritage significance. Heritage NSW's assessment determined that the hotel is not under immediate threat as the development application is still being assessed and based on available information it is unlikely that the hotel is potentially of state heritage significance. As the hotel is within a local heritage conservation area (listed on the Bega Valley Local Environmental Plan 2013) an Interim Heritage Order cannot be placed on the item to protect its potential local heritage significance.

24 Fernhill Estate – Transcript page 46

The Hon. WALT SECORD: Mr Kidman, would you be familiar with a site in western Sydney called Fernhill Estate?

SAM KIDMAN: I am aware of the Fernhill Estate but I do not think I have the detail with me, I am afraid. I am happy to take questions.

The Hon. WALT SECORD: Fernhill Estate is the subject of a plan of management that runs to 2026 and refers to land use opportunities on the site.

SAM KIDMAN: Right.

The Hon. WALT SECORD: One of the proposals is to allow glamping—

The Hon. SHAYNE MALLARD: Excellent.

The Hon. WALT SECORD: —boutique accommodation, food and beverage provision and health and wellness spas on this heritage site.

The Hon. SHAYNE MALLARD: Fantastic.

The Hon. WALT SECORD: Are you aware of those plans?

SAM KIDMAN: No, I am not. But I am happy to take any questions that you have about it on notice...

The Hon. WALT SECORD: It is an extraordinary number of questions that are being taken on notice. Are you familiar that most of the Fernhill Estate is on the State Heritage Register?

SAM KIDMAN: Yes.

The Hon. WALT SECORD: How long has been it on the State Heritage Register?

SAM KIDMAN: I do not know the answer to that question.

The Hon. WALT SECORD: Do you want to take that on notice too?

SAM KIDMAN: Yes.

Answer:

On 19 October 2021, the Fernhill Foundation Plan of Management 2026 was adopted by the then Minister for Planning and Public Spaces, the Hon Rob Stokes MP. The plan of

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management establishes the custodianship and stewardship for opening up and taking care of the Fernhill Estate. It is the first plan of management for the estate.

The plan of management identifies key moves to support estate stewardship. Under land use opportunities, tourism is identified and includes camping, glamping, cabins, boutique accommodation, supporting sensitive and site-responsive retail, food and beverage, health spa and wellness.

Development proposals for these opportunities have not been referred to the Heritage Council of NSW for assessment or heritage approvals.

Amendments to the *Heritage Act 1977* in 1998 established the State Heritage Register (SHR). Fernhill Estate (SHR no. 00054) was listed on the SHR in 1999, as part of a bulk listing of state heritage significant sites.

25 **Grey-headed flying foxes listing** – Transcript page 49

SHARON MOLLOY: Grey-headed flying foxes are listed as vulnerable at the moment.

The Hon. MARK PEARSON: How long have they been listed as vulnerable?

SHARON MOLLOY: That is a good question. I would have to get back to you. It has been a while, hasn't it, Dean? I cannot remember exactly, but I can find that out for you.

Answer:

The Grey-headed Flying-fox was listed as a vulnerable species in NSW in 2001.

26 **Development proposal at Southern Highlands Shale Woodland** - Transcript page 49

The Hon. MARK PEARSON: That was actually going to be one of my questions. I would now like to ask a question about a couple of developments. Is the department aware of the Frensham School's proposed development at Southern Highlands Shale Woodland, which is listed as critically endangered by the Commonwealth? Are you aware of this particular development proposal by Frensham School? What it would do is see 249 koala trees cleared, along with the destruction of habitat belonging to wombats, platypuses and at least 50 other species. Could the department explain how such a project could be allowed? The Frensham School says it has approval to do this expansion. Are you aware of it at all?

DEAN KNUDSON: I am not, sorry. But we can check with our staff back in the department and come back to you.

Answer:

Please refer to the answer given to the Hon Mark Pearson MLC to supplementary question 215 from the March 2022 Environment and Heritage Budget Estimates hearing.

27 **JobKeeper** – Transcript page 51

The Hon. PENNY SHARPE: It is good to see everyone has come back. Thank you. Mr Fleming, you talked about the COVID extra funding and I appreciate that. You have provided us with good information. You said there was \$1.1 million over the last two years for increased cleaning. Can you give a bit more detail of what that actually involved?

ATTICUS FLEMING: I can tell you that in 2019-20 it was \$440,000 and that has been fully spent. The \$670,000 in 2021-22—obviously we are still in 2021-22 so that is being spent. The funding was for additional cleaning for, in particular, NPWS offices, depots and visitor infrastructure, but also our scientific laboratories within BCS.

The Hon. PENNY SHARPE: And the revenue shortfalls?

ATTICUS FLEMING: The information I have is that that is primarily for NPWS, Taronga, Jenolan Caves and Lord Howe Island.

The Hon. PENNY SHARPE: It is just to cover the fact that people could not go to the zoo?

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ATTICUS FLEMING: Yes, that is right. They could not go to the zoo. They did not go to Lord Howe Island—Lord Howe Island is quite heavily dependent on income that is associated with visitors. Likewise with NPWS, it is obviously a smaller part of our revenue but still significant.

The Hon. PENNY SHARPE: I should know the answer to this but I do not, so I am going to ask. Were any of those agencies eligible for JobKeeper?

ATTICUS FLEMING: I should know the answer to that as well. I think the answer is no, but I will take that on notice.

The Hon. PENNY SHARPE: I am just wondering about casual staff.

ATTICUS FLEMING: Certainly within NPWS it was never something that crossed my desk, but I will check for the others, which are either independent or semi-independent, and come back to you.

Answer:

Government agencies are not eligible for Job Keeper. Employees of Taronga Conservation Society Australia, Jenolan Caves Trust and Lord Howe Island are government employees. As such, no Job Keeper payments were received by the respective agencies.

In addition, the Environment, Energy and Science Group and associated entities have received \$52.6 million in funding to cover revenue shortfalls resulting from COVID-19. Approximately \$16 million was provided in 2019–20 and approximately \$36 million was provided in 2020–21. No additional funding has been provided this year. This funding supported revenue shortfalls - for instance from decrease in visitor numbers - in NPWS, Taronga Zoo, Jenolan Caves and Lord Howe Island.

Casual employees who were not rostered for work during periods impacted by COVID-19 (i.e. unemployed) may have been eligible for additional support but these payments would have gone directly to the individuals.

28 Coastal emus – Transcript page 52

The Hon. PENNY SHARPE: Can we just unpack "secure in the wild"? We had that discussion about fenced areas. I am very happy that they are safe in their pens, but they are in pens, even if they are very big pens.

ATTICUS FLEMING: Ms Sharpe, they are regarded as in the wild from a science point of view.

The Hon. MARK PEARSON: It is like Auschwitz.

ATTICUS FLEMING: I do not believe that "in pens" is accurate.

The Hon. PENNY SHARPE: But they are in a fenced area. Anyway, I am genuinely not having a go about that, but it is a fairly extreme measure that has been acquired because of all the other difficulties. You said there are 470 species. To go back to my original question, have any of them been delisted or considered more safe? You have the six that were extinct, including the woodhen. In terms of the 470 species out of the Saving our Species program, you said—

SHARON MOLLOY: About 80 per cent are on track to be secure in the wild.

The Hon. PENNY SHARPE: Secure in the wild includes within those rewilding NRMs?

SHARON MOLLOY: Yes, it would, definitely, but not all of them are part of the rewilding. A really good example locally in the Hunter is *Persoonia pauciflora*. It is a critically endangered small plant and it has increased by 1,000 per cent over the last 10 years of investment. That is a combination of securing conservation agreements on private land, replanting and getting rid of weeds. There are lots of good examples.

The Hon. PENNY SHARPE: There is a body of work that shows how you can turn it around by pulling all of those pieces together.

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SHARON MOLLOY: Yes. It would be different for different species.

The Hon. PENNY SHARPE: I was going to ask you about coastal emus. They are up around Coffs.

SHARON MOLLOY: I might have to get back to you on the specifics of that.

The Hon. PENNY SHARPE: My understanding is they are exactly that problem, which is that they live in this area that is under extreme pressure from housing development and there is not really a natural place that you can offset them to.

SHARON MOLLOY: They are a site-managed species so they are specific to a particular area. I do not have that information about that species. I have lots of other information here in front of me, but I can certainly get back to you on where we are up to with coastal emus.

Answer:

The Coastal Emu is a genetically distinct, endangered population listed under the *Biodiversity Conservation Act 2016*.

Fewer than 40 Coastal Emus are estimated to remain in the wild, occupying diverse, mixed tenure landscapes that include highly modified farmland, open heath and lightly wooded coastal forests.

Major threats to the population include predation of eggs and small chicks by feral pigs and wild dogs, and road strikes. Wildfire also threatens the population due to its very small size.

Since 2017, over \$373,000 has been invested in recovery actions for the endangered coastal emu population using funding from the Saving our Species program, the Department of Planning and Environment and the Australian Government's Bushfire Recovery Program for Wildlife and their Habitat. On-ground actions have included:

- reducing the threat of road strike by lowering speed limits, installing signage and conducting public education campaigns
- installing emu-friendly fencing
- reducing feral pig and wild dog populations.

29

Species not on track Saving our Species Program – Transcript page 52

The Hon. PENNY SHARPE: So, 80 per cent. Of the 20 per cent that are not on track, would you be able to provide on notice the ones where we are struggling?

SHARON MOLLOY: Yes, I can. I do not have the 80/20 split of the 470.

The Hon. PENNY SHARPE: I do not know why you cannot just recite them!

DEAN KNUDSON: Mr Kidman has all of that information.

SHARON MOLLOY: But a lot, as well, we need to put in the context of the impacts of the fires in 2019-20. We had to shift focus and there would still be some species there probably in that 20 per cent that are struggling and we need to change tack on that.

The Hon. PENNY SHARPE: That goes to my question about the 80 per cent that are on track post-bushfires. I assume some would possibly not be on track as a result of that?

SHARON MOLLOY: Yes, quite likely, but I will have to get you the detail about why they may not be on track. It may not be all to do with the fires. And in the context of biodiversity, six years is not a long time, but things should start to trajectory in the right direction.

Answer:

Saving our Species project status is assessed on an annual basis to determine if they are on track. Following the 2019–20 bushfires, 62 projects were not on track. Of these, 24 implicated fire impacts. The 2020–21 report cards are currently being finalised and will be available in the coming months with a list of off-track species.

No. Question

30 **Natural Resources Commission review of private native forestry codes** – Transcript page 53

The Hon. PENNY SHARPE: Are you able to give me any more information about—there are two things that I want to understand. Look, clearly it is over at LLS, but does Environment formally have a role in terms of the development and consultation around what that looks like, or is it all done over at Agriculture and then it hits the environment Minister's desk and we are going to have a fight about koala habitat? That is really what I am—

DEAN KNUDSON: No, there are two elements. Mr Wilde is here to help with the NRC component. But, certainly, I have now been in the job a little over 11 months and in week one we were meeting with Local Land Services, Regional NSW, the EPA, et cetera, to try to sort through what the codes could look like going forward. That work is not finished, but we are making very good progress on that. I was wondering, did you want to offer any comments, Mr Wilde?

BRYCE WILDE: The Natural Resources Commission has been engaged to undertake an in-confidence review of the private native forestry codes. We were commissioned by the former planning Minister at the request of the former Deputy Premier with the concurrence of the former environment Minister.

The Hon. PENNY SHARPE: Obviously it is in confidence but are you able to give us some ideas about the time lines for that? Or has it been done?

BRYCE WILDE: We are approaching the end of our review.

The Hon. PENNY SHARPE: From there, that then goes back to those—Mr Field, did you want to jump in? I am okay for you to.

Mr JUSTIN FIELD: I am just wondering, Mr Wilde, when was that commissioned?

BRYCE WILDE: I will have to take that on notice. It was late last year, and we are looking to finalise it in the coming month.

Answer:

The Deputy Premier requested the Natural Resources Commission's advice in November 2021.

31 **Briefing Minister on IPCC report** – Transcript page 54

The Hon. PENNY SHARPE: I will start with you, Mr Fleming. I know that some of the climate change people are here, so they might be able to answer it. Obviously the IPCC report came out overnight. Again, it was very sobering reading. As a result of that report, what is the internal process across the department to assess that report and then plug that into the work that is ongoing in many different areas, some of which we have touched on today?

ATTICUS FLEMING: I think that is for Ms Parry.

RACHEL PARRY: Thanks for your question. I was, in fact, reading that report as you were asking that question—ironically timed.

The Hon. PENNY SHARPE: I had a flick through very early this morning. It was not good.

RACHEL PARRY: It is a bit dense. Thank you for your question. In terms of how the Government will consider that report, clearly, as you are aware, the Government has its net zero plan in place with some very concrete targets and actions. In addition to when this Committee last met, there has also been the establishment of the Net Zero Emissions and Clean Economy Board, chaired by Dr Kerry Schott, including a number of eminent people with very strong climate change credentials advising the Government on the implementation of its plans. I have no doubt that those committee members will be taking that report into consideration and advising the Government on any further actions they could take.

The Hon. PENNY SHARPE: Just to be clear, I suppose your part of the department will read that report. I assume you will brief the Ministers responsible to that. Do you have a

No. Question

formal briefing role to the clean energy net zero board? Do you support their secretariat? Who supports their secretariat?

RACHEL PARRY: We support the—

The Hon. PENNY SHARPE: You are the secretariat.

RACHEL PARRY: That is right. The department has a secretariat role there. I have no doubt, we will be briefing the Minister on the outcomes of that report. I can take that on notice but I am confident that we would be.

Answer:

The Department of Planning and Environment is scheduled to brief the Minister for Environment and Heritage in early April on the latest Intergovernmental Panel on Climate Change (IPCC) report findings and its implications for NSW.

32 Net Zero Emissions and Clean Economy Board – Transcript page 54

The Hon. PENNY SHARPE: Is their advice going to be public?

RACHEL PARRY: I will have to take that question on notice. Going back to the terms of reference, I certainly know the intention is that the minutes of the meetings will be captured and made public.

The Hon. PENNY SHARPE: But the actual specific advice would not necessarily—but you will take that on notice.

RACHEL PARRY: I was going to say, let me take that on notice. The board has actually just met for the first time so we are still in the early stages of that board, but I will take that on notice.

Answer:

The Net Zero Emissions and Clean Economy Board was formally established by the NSW Government in July 2021 under the Energy and Utilities Administration Regulation 2021. Members were appointed in December 2021. The first and second meetings were held on 9 February 2022 and 9 March 2022. It is intended that information on the role and activities of the Board will be made publicly available online. The regularity and format of reporting on the activities and advice of the Board is still being determined.

The Net Zero Emissions and Clean Economy Board falls under the portfolio responsibilities of the Minister for Energy, the Hon Matt Kean MP. Further questions about the Board should be directed to the Minister for Energy.

33 Plastics Action Plan – Transcript page 55

The Hon. PENNY SHARPE: That is great. There is only three months though until plastic bags are gone. I completely accept that large retailers are well across that; in fact, most of them have actually taken action in relation to plastic bags. Can you just give us an idea of the budget that you were provided with to do this education work?

NANCY CHANG: The budget for the Plastics Action Plan formed part of the larger Waste and Sustainable Materials Strategy, which, as you know, is the \$356 million that will commence on 1 July this year over five years.

The Hon. PENNY SHARPE: If you could take it on notice and be a little bit more specific in terms of how much you are actually putting into that, that would be very helpful.

Answer:

The NSW Government will support business and community awareness of the upcoming bans. This includes \$547,000 (excl. GST) on an education and engagement campaign targeting impacted businesses to ensure retailers, suppliers and community organisations

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are aware of and understand the upcoming single-use plastic bans, including the ban on lightweight plastic bags.

The campaign, which started in February 2022, will continue over the next nine months as the bans commence. It includes a national hotline, store-to-store retailer visits, webinars and in-person information sessions to explain the bans and how to comply. The campaign is expected to reach up to 40,000 businesses and organisations across 650 shopping precincts in NSW.

Under the NSW Plastics Action Plan, the NSW Government has also committed \$1 million from July 2022 for a behaviour change campaign to support consumers and business during the transition.

Land clearing penalty notices – Transcript page 58

34

Mr JUSTIN FIELD: I want to go back to the questions I was asking before about unexplained clearing, but I guess the extension of that is regulatory actions under part 5 of the Local Land Services [LLS] Act. I got some information through questions on notice to you as well about the number of regulatory actions, compliance actions. There has been just one prosecution in the last five years since the code came into effect, but there have been quite a lot of advisory and warning letters: a number of penalty notices and remediation orders. So this must give you a bit of an idea about the nature of some of that clearing that might have appeared in the unexplained clearing column of the Statewide Landcover and Tree Study [SLATS] review. I am trying to get a bit of an understanding about the nature of these advisory and warning letters. What are the sorts of issues you are seeing out there on the ground?

DEAN KNUDSON: I will turn to Ms Molloy to give you the details on that, but it is absolutely standard and appropriate that you have an escalating approach to compliance in which you are pointing at some interventions at the lower end as you escalate up. But I think you have to view it as a whole and I appreciate the question because I think you are trying to get exactly at that. Ms Molloy?

SHARON MOLLOY: Thanks, Dean, and thanks for the question. I mean, I can give you sort of—I can explain a little bit more about our compliance framework and how we operate within that. It does take a risk-based approach, but we deal with all of the calls that come into the environment line and various other ways that we are made aware.

Mr JUSTIN FIELD: Sure, but I have limited time.

SHARON MOLLOY: Okay.

Mr JUSTIN FIELD: There have been 587 advisory and warning letters. You have had to go through quite a bit of process before you sent that out, so you are sending those relating to a specific concern.

SHARON MOLLOY: Yes.

Mr JUSTIN FIELD: In the main, what is the majority of those warning letters about?.....

...**Mr JUSTIN FIELD:** So to the penalty notices then as we escalate up the hierarchy, I think 12 of those—the majority—have actually been issued in the last three years, 12 last year. What is the majority of penalty notices for? What sort of issue?

SHARON MOLLOY: I would have to get back to you on the actual specifics of that because then it escalates up from the warning letter.

Answer:

Descriptions of all regulatory action types, including warning letters, are contained in Appendix 2 of the Compliance Policy: <https://www.environment.nsw.gov.au/research-and-publications/publications-search/compliance-policy>.

No. Question

The majority of the warning letters and the majority of the 12 penalty notices were issued for alleged breaches of section 60N of the *Local Land Services Act 2013*, which is in relation to unauthorised clearing of native vegetation in regulated rural areas.

35 Remediation orders – Transcript page 59

Mr JUSTIN FIELD: —the vast majority of those in the last two years. None of those has been completed yet. What is the process for guaranteeing that these remediation orders are complied with?

SHARON MOLLOY: There would be a certain period of time that they have to sort of remediate that land. I do not have to hand the specifics of each of those remediation orders and the longevity of when they have to complete that work, but it then subsequently would be our responsibility to follow up to make sure that they have actually done that remediation. I think some of them can be over a period of maybe 10 years. I would need to get back to you on the specifics of those remediation orders.

Mr JUSTIN FIELD: Sure. We are not talking about a tiny amount of land here—over 2,000 hectares under remediation order. If you could give me on notice a bit of a sense of the program of work and the resources you have to monitor and ensure compliance are in your annual reporting because I would like a better understanding about how the remediation orders work.

SHARON MOLLOY: Yes. I can certainly do that. Of course you might appreciate there is a lot of detail behind that that I do not have here with me today.

Mr JUSTIN FIELD: Sure.

SHARON MOLLOY: But in terms of resourcing, we have had a slight increase in the number of full-time equivalent—up to 43 staff to 37, which has been of fantastic assistance to us, but I can get back to you on the detail around that.

Answer:

A copy of each remediation order, issued since the introduction of the *Biodiversity and Conservation Act 2016*, including monitoring and reporting requirements, is on the remediation order public register: <https://www.environment.nsw.gov.au/policy-and-law/public-registers/remediation-orders>.

36 Compliance inspections in State Forests – Transcript page 60

Mr JUSTIN FIELD: Got you. Thank you for that. Ms Moore, I might turn to you. That is all for the NRC. Thank you, gentlemen. I wanted to go back to some of the compliance questions that I was raising this morning with regards to Crown land forestry now. You indicated—and I understand your defence of the organisation's role here—that you were undertaking compliance actions in our State forests before, during and after logging activities. I must say that is a concern to me because it has been suggested that actually very little pre-logging activity is done by the EPA in the forest. Are you able to give us an indication of how often you have got officers going out into the field before Forestry Corporation actually commences logging in a coupe?

JACQUELEINE MOORE: I do have the figures for total numbers of inspections. I will have to get back to you on the pre.

Mr JUSTIN FIELD: You were quite clear this morning in saying, "We are going out before, during and after." It seems to me that the approach that the EPA has been taking more recently is very much that you are only really responding to complaints when they are received, and that really since the reform or the restructure there has been little pre-logging compliance work happening. I would appreciate if you could give us a sense of how many times the EPA has gone out on site before logging operations has commenced at a new coupe—how many times during and how many times after. That would be greatly appreciated.

JACQUELEINE MOORE: Yes. We will take that on notice.

No. Question

Answer:

The NSW Environment Protection Authority (EPA) assesses all approved and active forest operations using a risk based assessment tool. Following the initial risk assessment, additional work is undertaken on a case by case basis. In some instances, the harvest plans are assessed by desktop audit and others have site inspections conducted pre harvest. Compliance work is not solely reliant on a site inspection.

For currently approved and active harvest operations, and harvest operations that have been completed since 31 August 2021, the EPA has conducted the following inspections:

- one operation was inspected pre harvest
- one operation was inspected pre and post harvest
- one operation was inspected pre and during harvest
- one operation was inspected pre, during and post harvest
- 18 operations were inspected during active harvest
- two operations were inspected both during and post harvest
- one operation was inspected during suspended harvest.

37 Emissions licence compliance – Transcript page 61

Mr DAVID SHOEBRIDGE: Thank you very much, Chair. I suppose this question is best put to you, Mr Fleming, and you can send it where you think best. Are you aware of the Australian Conservation Foundation report entitled Emissions expose: Australia's biggest polluters are emitting more than approved and getting away with it?

ATTICUS FLEMING: I think I might have seen something in the media, but I have not read the report.

Mr DAVID SHOEBRIDGE: I might help you then.

ATTICUS FLEMING: Sure.

Mr DAVID SHOEBRIDGE: The report says that on reviewing fossil fuel projects they found that "two in three fossil fuel projects were wrong in their estimates of greenhouse emissions by more than 25 per cent". Was that brought to your attention?

ATTICUS FLEMING: It was not. But I think it is probably something that should be directed towards the Minister for energy and climate change. Ms Parry, do you want to add anything now?

RACHEL PARRY: No. I have nothing to add and I am not aware of the report.

Mr DAVID SHOEBRIDGE: Do you, the EPA or anyone in your space have a role in double-checking that people comply with their emissions?

ATTICUS FLEMING: It would depend on what approval we were talking about, I suspect.

Mr DAVID SHOEBRIDGE: Do you have any oversight as to whether or not these quite massive fossil fuel projects in any way comply with their predicted greenhouse gas emissions or is it all just dragons and you do not look?

JACQUELEINE MOORE: I was going to say I think you were referring to the information put together as part of a planning process. EPA obviously does not regulate the planning conditions. We do have a role in relation to regulating emissions for standards that are in environment protection licences. We obviously have a role if they are committing an offence under the Protection of the Environmental Protections Act or if they are breaching any part of the clean air regulation.

Mr DAVID SHOEBRIDGE: What about the fact that Whitehaven's Maules Creek coalmine is emitting somewhere between 357 per cent and 452 per cent of their estimated greenhouse gas emissions? Is this something that never comes across your desk, Ms Moore? Is it someone else's problem?

No. Question

JACQUELEINE MOORE: No. As I said, if that is a breach of their environment protection licence then that is definitely something that the EPA would be responsible for and we would be taking action if they were breaching their licence.

Mr DAVID SHOEBRIDGE: But to know that you would have to review the report and read the report. Have you done that?

JACQUELEINE MOORE: I have not read that report, no. I am aware of it.

Mr DAVID SHOEBRIDGE: Did nobody at all in any part of environmental regulation in New South Wales pick up the report and think, "We may have a problem here."? Mr Fleming?

ATTICUS FLEMING: If you are asking about planning approvals, that is a question for the Minister for Planning. If you are asking about EPA approvals, I think Ms Moore has answered that. It depends on what the regulatory framework is. For the regulatory frameworks that we manage, yes, we obviously monitor compliance, but your question is fairly general. If it is a permit or a licence that the EPA manages, the framework that they manage, then I assume they are taking action—

Mr DAVID SHOEBRIDGE: Is there an EPA licence on Maules Creek?

JACQUELEINE MOORE: Yes.

Mr DAVID SHOEBRIDGE: When this report says that they are emitting between 357 and 452 per cent of what they estimated would be their greenhouse gas emissions, has anybody in the EPA gone up and pulled up the licence and said, "Hang on, let's have a look here"?

JACQUELEINE MOORE: I am not aware if anyone has done that or not. But, as I said, we would be regulating against our own licensing conditions, not against information that was provided to Planning as part of a planning process.

Mr DAVID SHOEBRIDGE: You would assume that they have not told—although it is the fossil fuel industry, so who knows—Planning one thing and something totally different to the EPA when they were trying to get an EPA licence, would you, Ms Moore?

JACQUELEINE MOORE: I assume they would not, but that is not really a matter for me.

Mr DAVID SHOEBRIDGE: But if you do not check, you do not know—and you have not checked?

JACQUELEINE MOORE: We definitely check compliance with our own licence conditions.

Mr DAVID SHOEBRIDGE: What about the fact that Whitehaven's Narrabri underground coalmine is emitting between 240 and 340 per cent of their estimated greenhouse gas emissions? Again, that is a "haven't checked, haven't looked"?

JACQUELEINE MOORE: I personally have not looked at their licence.

Mr DAVID SHOEBRIDGE: I am not asking you personally. You know that, Ms Moore. I am asking about the agency.

JACQUELEINE MOORE: I can look. I can get back to you on what we have done recently in connection with checking that that licence holder is complying with their licence.

ATTICUS FLEMING: Can I just—

Mr DAVID SHOEBRIDGE: I will put one more to you: MACH Emergency's Mount Pleasant coalmine up in the Hunter Valley emitting between 145 and 255 per cent of what they estimated would be their greenhouse gas emissions in the planning process. Again, is that a "don't look, don't see" problem?

JACQUELEINE MOORE: As I said, it would depend on what emissions standards we have in our licence conditions, and advise us whether or not you are taking any regulatory action?

Mr DAVID SHOEBRIDGE: Will you commit, on notice, to go and look at this report, look at the licence conditions, and advise us whether or not you are taking any regulatory action?

No. Question

JACQUELEINE MOORE: Yes, I am happy to look at whether or not. But, as I said, whether we are responsible for taking regulatory action will depend on what our licence conditions are and our own framework.

Answer:

The NSW Environment Protection Authority has considered the environment protection licences for the Whitehaven coal mine at Maules Creek, the Whitehaven coalmine at Narrabri and the MACH Energy coalmine at Mount Pleasant in connection with the Australian Conservation Foundation report. The matters raised in that report do not involve breaches of the environment protection licences.

38 Recycled material in large infrastructure projects – Transcript page 65

The Hon. PENNY SHARPE: Great. One of the key points with all of this is actually having a market for the recycled materials. Do we monitor or have any sense of how much recovered material is being used across government in terms of large infrastructure projects? I am trying to get a sense of what we are doing to actually create a market—for example, whether underneath WestConnex we could be using a lot of that recycled glass, just as a very basic and not a specific example. Do we have a handle on how much the Government is contributing in terms of requiring recycled materials in our large infrastructure projects?

JACQUELEINE MOORE: I think as part of the WASM there is a commitment that government will—

The Hon. PENNY SHARPE: Sorry, as part of the?

JACQUELEINE MOORE: Sorry, the Waste and Sustainable Materials Strategy.

The Hon. PENNY SHARPE: Thank you.

JACQUELEINE MOORE: There is a commitment there that government will prioritise the use of recycled materials.

The Hon. PENNY SHARPE: I am wanting some figures. There are lots of nice words; I am trying to understand what is actually being done.

JACQUELEINE MOORE: I do not have those figures, no.

The Hon. PENNY SHARPE: Can you take them on notice and provide them, or do we just not know them?

JACQUELEINE MOORE: We can take that on notice

Answer:

The NSW Government is currently implementing the following commitments relating to development of recycled material markets under the NSW Waste and Sustainable Materials Strategy 2041 – Stage 1: 2021–2027:

- NSW government departments will preference products that contain recycled content, including building materials and office fit outs and supplies, on an ‘if not, why not’ basis.
- Through the Circular Innovation Fund, the NSW Government will invest \$13 million to support research into new technologies and recycled material uses and provide opportunities to pilot them in government projects.
- The NSW Government will publish a register of upcoming government infrastructure and construction projects that will procure recycled material to help industry plan for the pipeline of demand.
- From 2023, the NSW Government will report annually on the use of recycled content in its procurement and the associated impact on emissions and waste reduction.

No. Question

The Department of Planning and Environment is currently working to embed requirements in government procurement frameworks and consulting with agencies to establish a pipeline of demand for recycled content.

39 FOGO and landfills – Transcript page 65

The Hon. PENNY SHARPE: Obviously the expansion of FOGO, which people welcome and has been in place for a while—do you actually have clear figures on the transfer over to FOGO and how much longer that is going to give landfills in terms of space? Do we actually have some hard numbers on that?

NANCY CHANG: Modelling has been undertaken to understand how much capacity will free up from landfills with the mandating of FOGO for every council.

The Hon. PENNY SHARPE: What is the figure?

NANCY CHANG: I can take that on notice.

Answer:

Under the NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027, preliminary estimates indicate more than 560,000 tonnes of food and garden organic waste will be diverted from landfill by 2027. Putrescible landfills servicing Greater Sydney are likely to reach capacity by 2036.

40 Hazardous waste – Transcript page 66

The Hon. PENNY SHARPE: My last topic is hazardous waste. Again, the strategy suggests that we are going to top out at 2031 in relation to hazardous waste. What is the plan on managing that?

NANCY CHANG: In terms of hazardous waste, again, we will be discussing with all relevant stakeholders in terms of managing the infrastructure needs of New South Wales depending on the stream of hazardous waste. There is a number of other initiatives under the plan that we have commenced, including the national hazardous waste tracking system.

The Hon. PENNY SHARPE: That is really trying to tackle illegal dumping of that material. That is what that is for.

NANCY CHANG: And the transportation and illegal stockpiling, yes.

The Hon. PENNY SHARPE: Am I correct that at the moment a portion of that hazardous waste actually gets transported interstate?

NANCY CHANG: I will have to take that on notice.

Answer:

A small proportion of hazardous waste gets transported interstate. Latest data reported indicates that around three per cent by weight of hazardous waste generated in NSW in 2019–20 was transported interstate.

41 Toxic ash – Transcript page 67

The CHAIR: I have a question to the EPA on a situation that has come to our attention as a result of a GIPAA that Western Sydney Direct Action obtained, which is in relation to Cleanaway and Bingo and the dumping of toxic ash. I understand Cleanaway has a medical incinerator at Silverwater where it incinerates clinical waste, radioactive waste, cytotoxic substances such as chemotherapy drugs as well as quarantine waste from cruise ships. The information obtained under GIPAA shows that from September 2018 the EPA has been aware that Bingo was illegally transporting this toxic ash from Cleanaway's incinerator to the Bingo landfill at Honeycomb Drive, Eastern Creek. It means that the EPA, as I understand, has failed to notify the surrounding community that this is occurring when in fact the EPA has been aware that this has been going on since September 2018. Ms Moore, are you aware of that situation?

No. Question

JACQUELEINE MOORE: I am not across that issue but Mr Steve Beaman may be able to give you some information.

STEPHEN BEAMAN: No, I am not aware of that. I am happy to take that on notice and come back with further details. I am not aware of the specifics of that.

Answer:

The NSW Environment Protection Authority does not have evidence to indicate that ash has been illegally transported from the Cleanaway Daniels NSW Pty Ltd Silverwater facility to the Dial-A-Dump landfill in Eastern Creek.

42 EPA Narrabri office – Transcript page 67

The CHAIR: That is the end of those questions. I want to turn to you, Ms Moore, but stay there, Mr Beaman, just in case. In relation to the EPA office in Narrabri, I understand that that has had no staff for several months. Is that correct?

STEPHEN BEAMAN: My understanding is that the staff member up there was a single EPA staff officer and that officer has left the organisation. That is correct.

The CHAIR: So there is a single officer in the EPA at Narrabri. Is there an office there?

STEPHEN BEAMAN: We do have an office there.

The CHAIR: Is it open?

STEPHEN BEAMAN: It has no staff in it at the moment. That is my understanding.

The CHAIR: I understand that some locals are suggesting that it appears to be getting renovated or is under construction.

STEPHEN BEAMAN: Sorry, I am just getting advice. We have two staff there.

The CHAIR: Two staff positions or two staff?

STEPHEN BEAMAN: Two staff.

The CHAIR: What are those positions?

STEPHEN BEAMAN: It is not my area, but I am happy to take that on notice and come back to you on those at Narrabri.

The CHAIR: You said there was one before. Are there two full-time staff?

STEPHEN BEAMAN: That is my understanding. I will take that on notice and come back.

Answer:

Please refer to the answer given later in the hearing in the March 2022 Environment and Heritage Budget Estimates hearing, recorded on page 68 of the uncorrected transcript.

43 Coalmine EPLs and greenhouse gas emissions – Transcript page 69

Ms ABIGAIL BOYD: Why would the department in its assessment accompanying its recommendation in relation to Narrabri make this deliberate point that the EPA has powers to unilaterally amend an EPL, although EPLs do not currently set limits on GHG emissions? I understand that maybe this was not something you did 10 or 20 years ago but, given recent court decisions, given the focus and given the climate emergency, why are you not putting regulations on greenhouse gas emissions under EPLs?

JACQUELEINE MOORE: Further to your comment about the powers we have with EPLs, I think depending on the type of planning approval, we have to give licences that are consistent for the first period for certain types of planning approvals.

Ms ABIGAIL BOYD: But the EPL can be unilaterally amended at any time. That is something we look to the EPA to do in order to adjust to the ongoing environmental risks.

No. Question

STEPHEN BEAMAN: Just to clarify a correction there, we cannot unilaterally amend it under the planning legislation for a set period. I think it is three years. We have to be consistent with the planning approval for the first three-year period.

Ms ABIGAIL BOYD: Okay. How many of the coalmines that have been approved further than three years ago, which would be a great number of them, have you now unilaterally acted to amend their EPL to include a limit on greenhouse gas emissions?

JACQUELEINE MOORE: I can take that on notice.

Answer:

None will, however the EPA is currently preparing a Climate Change Policy and Action Plan which sets out regulatory action the EPA may take to ensure NSW meets its commitments to achieving net zero emissions by 2050. The EPA will soon release the policy and action plan for public comment.

44 Russell Vale Colliery – Transcript page 70

Ms ABIGAIL BOYD: Right. Okay. I will be generous and say that is fine if that is the assessment that they have made. In any event, the condition that was put on Russell Vale Colliery has not been met. The deadline was November. What action has the EPA taken?

STEPHEN BEAMAN: I am unaware of that requirement, but I am happy to take that on notice given that it is November 2019.

Answer:

The drainage realignment requirement at Russell Vale Colliery was an outcome of the Independent Planning Commission (IPC) approval and is not a condition of the environment protection licence issued by the NSW Environment Protection Authority. Compliance with conditions in the IPC approval is regulated by the Department of Planning and Environment.

45 Koala Strategy expenditure – Transcript page 70

The Hon. PENNY SHARPE: I just wanted to come back to the koala strategy, Ms Dumazel. I know that I asked this this morning, but have you been able to get me a figure on how much of the \$44.7 million has been expended?

MICHELLE DUMAZEL: I actually would like to take that on notice. You might recall this morning I mentioned that 18 of the 24 actions had been finalised, but there were still some. I just want to confirm because there are some acquisitions that I am not at liberty to talk about today.

The Hon. PENNY SHARPE: Sure.

MICHELLE DUMAZEL: I would rather take that on notice. But we are close to finalising the expenditure on the \$44.7 million.

Answer:

As of March 2022, \$41.2 million of the original \$44.7 million has been expended on the NSW Koala Strategy (2018-2021).

A further \$2.7 million is committed to land acquisitions by the National Parks and Wildlife Service. The remaining \$0.8 million is committed to ongoing actions from the NSW Koala Strategy (2018-2021).

46 Koala Strategy recommendations – Transcript page 71

The Hon. PENNY SHARPE: There was a lot of discussion about this in October. Arguably there were only four out of the 24 actions. You have now said that all but four are completed. Is that right?

MICHELLE DUMAZEL: Eighteen out of the 24. There are five of them that are on track to be completed this year. For example, we have been working on some guidelines with

No. Question

NPWS and RFS for planned burns and also some finalisation of some of the State forest transfers. I mentioned the acquisition program that is being undertaken with Parks. Then there are a couple of the research programs, particularly around chlamydia and disease. The one that is going to be delivered in the next financial year relates to thermal and dietary constraints affecting koala habitat. Our research plan under the initial koala strategy was a 10-year plan. We will be looking to see, of those elements that we have funded in those first three years, what we will be extending over the period. There will be follow-on work, given the research findings that are coming through.

The Hon. PENNY SHARPE: I could go through all of them but I do not want to take up everyone's time. I suspect I am looking for an update in terms of the detail of how completed they are. For example—and I suspect we may disagree about whether this is completion or not—one of the key recommendations is the management of Crown land, travelling stock routes and other public land to conserve high quality habitat. Last year it said it is in progress and there is an initial 12-month pilot project. I want to know whether that was it and we now consider that a tick or whether we consider that progress.

MICHELLE DUMAZEL: Can I take that one on notice?

The Hon. PENNY SHARPE: I am asking for an update on all of them on what you consider to be in progress and what you consider to be completed. We do not have time to argue the toss about that.

Answer:

18 of the 24 actions are complete. Five actions are on track to be completed this year. One research action is on track to be delivered in 2022–23.

The NSW Koala Strategy 2018-2021 Final Report will include a complete list of which actions are in progress and which are completed.

The 12-month pilot project to improve the management of koala habitat across public lands in the Wingecarribee region is complete.

The NSW Government is continuing to explore ways to improve the management of public lands to identify and protect koala habitat and other environmental values.

47 Koala fencing Picton Road – Transcript page 71

MICHELLE DUMAZEL: The detailed annual report is—

The Hon. PENNY SHARPE: That will have all of that in it, will it? We asked about when that was coming, we should say. My last question is a specific one. There was an issue about the koala fencing on Picton Road and other hotspots. I believe that because of COVID none were done in 2019-20. Can you give us an update on what was completed in 2021, given we had more COVID?

MICHELLE DUMAZEL: There was the nine kilometres of fencing that was installed along Picton Road near Wollondilly.

The Hon. PENNY SHARPE: That was in 2019, though.

MICHELLE DUMAZEL: That is right.

The Hon. PENNY SHARPE: So nothing new since then?

MICHELLE DUMAZEL: I do not have anything further on there. But I do know that the team, working with Transport, did struggle during COVID. I will have to get back to you on that.

Answer:

The Department of Planning and Environment's Environment, Energy and Science Group has worked closely with Transport for NSW and other land managers since 2018 to implement vehicle strike mitigation responses at koala vehicle strike hotspots across NSW.

In 2021, a koala road zone was installed at Goonengerry in the Byron Shire Local Government Area (LGA) to alert and remind drivers to look out for koalas and slow down. The road zone includes two sets of distinctive road markings and signs at a site with koala habitat and breeding females.

More than 3.3 kilometres of koala exclusion fencing is being installed in the Coffs Harbour LGA to extend existing fencing at a hotspot.

Works are also planned for a vehicle strike hotspot in the Lismore LGA and at a fourth site, which will be announced soon. The fourth site will include koala exclusion fencing, a culvert to direct koalas under the road and koala grids where fence ends adjoin side roads.

48 EPA staff knowledge on forestry – Transcript page 72

Mr JUSTIN FIELD: Ms Moore, I will come back to you on some of the EPA's regulatory responsibilities around forestry, and private native forestry in particular. Before the realignment there was a dedicated forestry operations team that did the work in terms of inspections and regulatory actions with regard to forestry. How many of those staff who were originally in the dedicated forestry team have left the EPA? I am happy for you to take that on notice.

JACQUELEINE MOORE: Yes, I would have to take that on notice. But, generally, as I mentioned earlier, under our realignment we have not decreased our resourcing from the forestry—

Mr JUSTIN FIELD: I appreciate that. I am talking about the experience and the specialised knowledge. I am concerned that there has been a loss of the specialised knowledge around forestry, and that with the realignment there is a lack of information sharing about what is going on in the different sections of forestry. That is really where I am coming to. I am trying to get a sense of how much of that skill set is still within the EPA.

JACQUELEINE MOORE: I am sure there has been some staff turnover. I would need to take that piece on notice. I do not accept that there has been a loss of specialist knowledge in respect of forestry matters.

Answer:

Five people who were formerly employed in the Forestry branch of the NSW Environment Protection Authority have left since March 2020. The EPA has about 340 Authorised Officers (as at January 2022) whose role includes compliance and enforcement. They have regulatory expertise and can respond to forestry matters.

Compliance and private native forest operations – Transcript page 72

49

Mr JUSTIN FIELD: I asked some questions on notice about compliance activities around private native forestry. In the 2021-22 financial year I got a breakdown of the number of compliance actions that have been taken by the EPA with regard to PNF operations. I think there are 3,750 PNF plans in New South Wales. In the past 12 months there have been 17 inspections. Those 17 inspections resulted in, if I am reading this right, 21 different compliance actions, including advisory letters, formal warnings and cautions. That suggests that nearly 100 per cent of your inspections have shown up compliance issues within private native forestry. Is that right?

JACQUELEINE MOORE: Where we inspect, we inspect based on a priority basis. We will be taking the information that we receive through annual reports, we will be looking at sunlight imagery and we will be looking at other datasets we have, so that where we are inspecting, it is in an area where we think it is a high priority issue.

Mr JUSTIN FIELD: I appreciate that. We know that there are reporting obligations on private native forestry holders. In the reporting year that is due to finish, I think, at the end of this March, the EPA—in its answers to questions on notice I got back last week—said that you have received five reports.

JACQUELEINE MOORE: That is correct.

Mr JUSTIN FIELD: What percentage of private native forestry operations in New South Wales do you think that represents?

JACQUELEINE MOORE: I am not sure what percentage that is. But, as you have just indicated, people have until the end of March to submit their annual reports, and they are only required to submit those if they have undertaken private native forestry clearing operations in the 12 months preceding the date the report is due, or if they are planning to do that.

Mr JUSTIN FIELD: Let us assume that some of them did not report by the end of February, or the middle of February, when you answered this question, and they are going to answer next month. But last year—and the reporting year is closed—you got 25 reports in the whole year. What percentage of private native forestry activities do you think that represents?

JACQUELEINE MOORE: I would have to take that on notice.

Answer:

17 of the 19 Private Native Forestry (PNF) inspections resulted in communication with either the approval holder, contractor/s, or both. This communication included Advisory Letters, Formal Warnings and an Official Caution. Based on the NSW Environment Protection Authority's (EPA) regulatory approach for PNF, the issues identified and raised in these responses will range from instances where future practices can be improved to issues where the EPA believes non-compliance can be proven.

The EPA understands that there are approximately 3900 PNF approvals in NSW held by approximately 3750 holders. Based on the number of annual reports received for 2020, this represents 0.65 per cent of all approvals.

50 Forestry inspections by EPA – Transcript page 73

Mr JUSTIN FIELD: So in questions I have asked of the Forestry Corporation, we know that because of the fires and the hit to the Crown estate in terms of wood supply, there was a push into private native forestry, to some degree, increasing on the South Coast more than there might have been in others because of the severity of the hit down there. Ms Moore, your inspections, or when you have provided advice on inspections, there has been just one inspection in the South Coast in the last 12 months. That does not seem to reflect the forward-looking, get it there before, during and after approach to regulation of this part of the forestry industry. Why would there be only one inspection?

JACQUELEINE MOORE: In the last 12 months there have been some issues, particularly in the private native forestry space around COVID-19 impacting and raising some health and safety issues for us with sending staff out to, essentially, private landholders' properties.

Mr JUSTIN FIELD: You did 17 on the North Coast, one on the South Coast and one in the river red gum areas. So COVID affected us all and, with respect, it is pretty sparse out there. Social distancing is not a great challenge. I do not want to put your staff in harm's way but there is an identified environmental risk here. You have got more warnings as a result of the few inspections you have done than the numbers of inspections you have held, so this high risk, it seems this is not being done well. Why so few inspections in the west and in the south?

JACQUELEINE MOORE: We have used our priority. As we have said, we look at where to prioritise our regulatory actions in that space. I do not know if Mr Fowler has anything to add to that.

DAVID FOWLER: No, I do not.

Mr JUSTIN FIELD: Okay. I will get you to put something on notice, if you could, around where the investigations into the south rim and Mogo complaints—and, I understand, investigations and then possibly prosecutions are—if you could.

JACQUELEINE MOORE: Certainly. I am happy to take that on notice.

Answer:

In relation to Crown Forestry operations on the South Coast, the NSW Environment Protection Authority has conducted at least 18 inspections of Crown forestry operations, including three inspections in Mogo State Forest during 2021. A further three inspections have been completed on the South Coast since the start of 2022. 17 Private Native Forestry inspections have been completed in the past 12 months.

51 Internal audit on kangaroos – Transcript page 74

The Hon. MARK PEARSON: I am just wondering; I have asked the Minister a few questions about this and this comes up because of those magpies that were shot because they were dive-bombing people. There was discussion in the past about non-lethal methods to try to deal with this issue. I know that in Queensland this has been explored and it has been quite successful. So the question is: Where is our department up to with looking at alternatives to lethal ones?

TRISH HARRUP: Thank you. We are, and as I think we have communicated to you, reviewing the policy for the management of aggressive birds, and for a range of other wildlife management issues. We have completed a review and the next steps will be that we will soon be engaging with key stakeholders with a view to putting out a new policy. The policy will cover the range of issues.

The Hon. MARK PEARSON: But the department is seriously turning its mind to non-lethal methods?

TRISH HARRUP: Yes. The policy will canvass a range of methods, including looking at the non-lethal methods that can be applied to these situations.

The Hon. MARK PEARSON: Great. Thank you for that. Probably my next question is for you, Ms Molloy. It is in relation to compliance. One of the recommendations from the audit that I referred to earlier with the Minister was to move to mandatory reporting for non-head shots and underweights with kangaroos. Can you advise whether this has been implemented or whether there is work in progress to fulfil this very important recommendation?

SHARON MOLLOY: Is that the internal audit that we talked about earlier?

The Hon. MARK PEARSON: Yes, that is correct.

SHARON MOLLOY: I will have to get back to you on that because there were a number of recommendations, and some of them I am more familiar with than others. But I am happy to provide you with a report on how we are tracking with those recommendations, if that is helpful.

Answer:

In 2020, conditions for Animal Dealer (Kangaroo) Licences were amended to include requirements for action to be taken if a licensee (dealer) receives a kangaroo carcass containing a bullet wound. Licensees are required to report to the Department within 24 hours, any carcass with a bullet wound to the body.

Licensees must not buy, possess, sell, import or export any carcass that is under the weights prescribed in their Animal Dealer (Kangaroo) Licence Conditions. Reporting of underweight carcasses will be further considered as part of ongoing future program improvements.

52 Animal dealer inspections – Transcript page 75

The Hon. MARK PEARSON: Ms Molloy, during the inquiry you were asked how many kangaroo compliance officers there were, and you replied 40. In later and further questioning, you clarified that there are no dedicated kangaroos or other macropods compliance officers but, rather, general compliance officers. Can you confirm exactly how many compliance officers that the department has and if any are dedicated to the kangaroo management program and, since the inquiry, whether the number of compliance officers has increased?

SHARON MOLLOY: The total number of compliance officers across all the pieces of legislation that we are required to do compliance against has increased from 37 to 43. So the kangaroo management team that looks after—that regulates—the program, there are six staff in that. The compliance is done in a combination of people within that team but also our regional compliance teams. So the regional compliance staff and the authorised officers that are right there on the ground are very familiar with all aspects of all the legislation that we need to comply with. So we do not have dedicated specific officers because they are able to undertake the duties across Aboriginal cultural heritage, native veg, the old legacy cases, Local Land Services and also the regulation of the kangaroo industry.

There may be people who are more familiar with specific areas of the State and specific compliance issues in relation to kangaroos. We would deploy those people to assist the regional teams. We have also got, in the legal team within the department, some specialist investigation unit staff that help us when we have some of the more egregious or tricky cases to be able to support us, and that is regardless of what regulation we are trying to do compliance on.

The Hon. MARK PEARSON: It is a bit concerning. I am not sure if you are aware of an email that was found by discovery from Sonya Errington asking people to make a "guesstimate" of how many times each animal dealer was inspected in 2019 as she was finalising a report for the Commonwealth. Why would department employees need to make a "guesstimate" about the number of inspections of animal dealers? Is that information not recorded?

SHARON MOLLOY: Yes, that information is recorded. I am not aware of the details behind that email. I will have to take that on notice.

Answer:

Regionally based Department of Planning and Environment Compliance Officers regularly inspect Animal Dealer premises. Records of inspections are made and stored regionally.

Central storage of this information to facilitate more timely reporting is being considered as part of ongoing program improvements.

53 Compliance audit kangaroos – Transcript page 74

The CHAIR: I might just continue on that line of questioning in relation to compliance around kangaroos. I understand that the department does compliance audits. Is that correct, Ms Molloy?

SHARON MOLLOY: We would audit programs and if compliance is part of that, then that would happen, yes.

The CHAIR: Have you received a compliance audit in relation to the kangaroo management program recently?

SHARON MOLLOY: Not recently, no.

The CHAIR: When was the last one?

SHARON MOLLOY: I think it was that internal one, which was back in 2018-19, to the best of my knowledge, but I would have to double-check that.

The CHAIR: Have you put in place a process to address all of the shortcomings found in that audit report?

SHARON MOLLOY: Yes. I think I sort of described some of the processes that we are going through at the moment in terms of that. For any of the programs that we manage there is that sort of continuous improvement. We are also looking at it more broadly in terms of our compliance program, not just for kangaroos, and we have got an internal review happening of that. We are going to get some external advice to support us in terms of rolling that out. Any time there is a review of compliance it also includes the kangaroo management program itself. There are sort of three- and four-year internal audits that are done within the department as well for a whole range of our programs.

The CHAIR: Who undertook the last audit?

SHARON MOLLOY: It was probably before my time in the role so I will just have to double-check who undertook that audit. I can get back to you on that.

The CHAIR: Just to be clear, there is a plan in place within the department that has set, for example, a timeline to meet the 44 recommendations from that audit to ensure that the kangaroo management program is improved?

SHARON MOLLOY: I will have to get back to you on that and what specific documents I have got to align with the audit. But we would be on that track of continuous improvement and looking at all of the recommendations that come out of any kind of review or audit in terms of making sure we are continuously improving how we deliver our programs. But I can get back to you on the specifics.

The CHAIR: That would be good if you can provide on notice exactly what the response has been.

SHARON MOLLOY: That is not a problem.

Answer: In 2018–19, the Department’s Audit and Strategic Projects Team in collaboration with the regional compliance teams conducted an internal audit of the commercial Kangaroo Management Program. The Audit Report made 27 recommendations for improving program performance and compliance outcomes. The following summarises the current status of the 27 recommendations:

- Completed 5
- Progressed and ongoing 7
- Progressing 4
- Noted for further consideration 10
- Not actioned 1

The following highlights some of the already completed or underway actions, that have been taken to address the Audit findings and recommendations:

- Animal Dealer licences were amended to include requirements for action to be taken if they receive a kangaroo carcass containing a bullet wound.
- Templates for reporting non-headshot and untagged carcasses were developed and provided to Animal Dealers and are publicly available on the Department's website.
- All new Professional Kangaroo Harvester Licensees receive an induction folder. Existing licensees can request a folder at any time.
- A tool has been developed using Power BI (Microsoft business intelligence software package) to facilitate the comparison of records submitted by harvesters and chiller managers. Compliance officers use this tool to check consistency of records.
- The Department has increased the number of unannounced inspections of chillers and processing plants.
- Reporting by Animal Dealer (Kangaroo Skin) Licensees is now wholly online through the Wildlife Management System.
- The Department currently has 43 Compliance Program staff. Compliance officers operate across the State in regionally based teams and are trained to deal with the full range of compliance matters. A specialist investigation section provides additional support and specialist expertise.

54 Campbelltown koalas – Transcript page 76

The CHAIR: Thank you. I just wanted to go back to koalas if I can, Professor Durrant-Whyte. I wondered if you could just recall the detail of the report that was undertaken by yourself into Campbelltown koalas. One of the critical parts of that report was the corridors that need to be retained to ensure as best as possible that that koala population is maintained and does not come to too much harm as a result of all the development that is happening in the area. Does the recommended average width of the 390 metres to 425 metres for the koala corridors include the buffer of 30 metres or not?

HUGH DURRANT-WHYTE: I was not involved personally in the whole Campbelltown koala corridor thing. My deputy, Chris Armstrong, who I think was referred to this morning, led that program and also chairs the Koala Strategy group. He will be here on Thursday, should you wish to ask that question. But I am not in a position to answer it. I could take your question on notice.

The CHAIR: If you could take the question on notice, that would be great. Although, I will probably still ask it on Thursday if I get to that session.

Answer:

Please refer to the answer given to Ms Cate Faehrmann MLC to supplementary questions 308 and 309 from the March 2022 Environment and Heritage Budget Estimates hearing.

55 EPA investigations in South Brooman and Mogo – Transcript page 76

Mr JUSTIN FIELD: I am not asking for a number at this point. I just want to make sure you are actually going to be able to identify it and segment it out so we can understand the consequences of that terrible ecological decision of the New South Wales Government. That would be useful. Thank you. Ms Moore, if I could just quickly go back, while I have got a second, to those investigations, particularly South Brooman and Mogo. If you do have

anything you can put on the record today, that would be good. I am happy for you to take it on notice. One was subject to a stop-work order and the other, I think, there was a threat of one—it was not implemented because Forestry moved out for a time. They are now logging back in those neighbouring forests down there. We know there are investigations, but there seems to be no action at this point, no sense of regulatory response and no idea of prosecutions that are still on foot. Can you give us a bit of an update?

JACQUELEINE MOORE: Do you want me update you on prosecutions that are on foot? I can certainly take on notice your question about those two investigations, but I can give you an update on the three prosecutions we do have on foot at the moment.

Mr JUSTIN FIELD: That would be great.

JACQUELEINE MOORE: We have prosecutions on foot in relation to Tomerong, Wild Cattle Creek and Dampier.

Mr JUSTIN FIELD: I think we knew about those from last year. So they are still on foot and we have got no resolution. So you have not launched prosecutions with regards to either South Brooman or Mogo at this point?

JACQUELEINE MOORE: No, we just have the three prosecutions on foot.

Mr JUSTIN FIELD: No worries. If you could on notice provide an update on the investigations there or if there has been any regulatory action around those at this point because it is now quite some time since the stop-work order was in place. That seems to have been in place because of breaches that were occurring, but we have not seen a regulatory response. The community is really keen to know what is happening there.

Answer:

The NSW Environment Protection Authority (EPA) is in the final stages of considering a regulatory response in relation to the alleged breaches by Forestry Corporation of NSW in South Brooman State Forest Compartment 58A. The EPA issued a stop work order in relation to South Brooman State Forest Compartment 58A in July 2020.

The EPA has issued three penalty notices to Forestry Corporation of NSW for breaches in Mogo State Forest. Forestry Corporation of NSW has paid these penalty notices. The EPA has not issued a stop work order in relation to Mogo State Forest.