

# **PORTFOLIO COMMITTEE NO. 1 – PREMIER AND FINANCE**

**Tuesday 3 September 2019**

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

## **FINANCE AND SMALL BUSINESS**

**CORRECTED**

**The Committee met at 9:30**

### **MEMBERS**

The Hon. Robert Borsak (Chair)  
Ms Abigail Boyd  
The Hon. Scott Farlow  
The Hon. Ben Franklin (Deputy Chair)  
The Hon. Courtney Houssos  
The Hon. Taylor Martin  
The Hon. Daniel Mookhey  
The Hon. Penny Sharpe  
Mr David Shoebridge  
The Hon. Natalie Ward

### **PRESENT**

**The Hon. Damien Tudehope, *Minister for Finance and Small Business***

**CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

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

**Budget Estimates secretariat**

**Room 812**

**Parliament House**

**Macquarie Street**

**SYDNEY NSW 2000**



**The CHAIR:** Welcome to the public hearing for the inquiry into budget estimates 2019-2020. Before I commence I would like to acknowledge the Gadigal people who are the traditional custodians of this land. I would also like to pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Damien Tudehope and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Finance and Small Business. Today's hearing is open to the public and is being broadcast live via the Parliament's website.

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

Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you that the officers accompanying you are free to pass notes and refer directly to your advisers seated at the table behind you. Transcripts of this hearing will be available on the web from tomorrow morning. Finally could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

**MICHAEL PRATT**, AM, Secretary, NSW Treasury, on former oath

**JOANN WILKIE**, Deputy Secretary, Economic Strategy and Productivity, NSW Treasury, on former oath

**PHILIP GARDNER**, Deputy Secretary, Commercial, Commissioning and Procurement, NSW Treasury, on former oath

**STEPHEN BRADY**, Deputy Secretary, Revenue NSW, sworn and examined

**The CHAIR:** I declare the proposed expenditure for the portfolio of Finance and Small Business open for examination. Questioning of this portfolio will begin at 9.30 a.m. All witnesses, including the Minister, will be questioned in the morning session. After a lunch break we will continue questioning government witnesses. The Minister will not be questioned in the afternoon and evening sessions. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. DANIEL MOOKHEY:** Thank you, Mr Chair. Thank you, Minister, for your appearance. Greetings again to Secretary Pratt and deputy secretaries Wilkie and Gardner. It is good to see you again. And hello, Mr Brady, as well. Minister, can I just ask you straight away, in March 2018 Revenue NSW launched an investigation into Foodora with respect to State taxes payable, is that correct?

**The Hon. DAMIEN TUDEHOPE:** Foodora being the gig economy company?

**The Hon. DANIEL MOOKHEY:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** And Revenue NSW determined that payments to delivery drivers qualified effectively as payments to employees and therefore there was a payroll tax liability, is that correct?

**The Hon. DAMIEN TUDEHOPE:** Well, I take it Mr Brady would probably have more information in relation to that. That was certainly an issue before my time but I understand the issue that you are going to and it is certainly something relating to the status of people who are employed in or working in the gig economy.

**The Hon. DANIEL MOOKHEY:** But it is the case that Revenue NSW issued an assessment to Foodora claiming \$500,000 of outstanding payroll tax; that is correct?

**The Hon. DAMIEN TUDEHOPE:** I will accept that that is.

**The Hon. DANIEL MOOKHEY:** And Foodora has entered administration, hasn't it?

**The Hon. DAMIEN TUDEHOPE:** I have no direct—

**The Hon. DANIEL MOOKHEY:** Well, it has. It is on the public record. You accept that?

**The Hon. DAMIEN TUDEHOPE:** I accept that if you are telling me that, yes.

**The Hon. DANIEL MOOKHEY:** They entered administration last August. Have we received the money that is owing us?

**The Hon. DAMIEN TUDEHOPE:** I will pass that to Mr Brady.

**Mr BRADY:** I will have to take that question on notice. As far as I am aware the business is in administration and working through its arrangements with all of its creditors but I will come back to you with a definitive answer.

**The Hon. DAMIEN TUDEHOPE:** In relation to that, though, you would be aware that in the administration of a company in terms of the payment of creditors there is a statutory order of payments of creditors and the Office of State Revenue if there is money owing—

**The Hon. DANIEL MOOKHEY:** Has priority, yes.

**The Hon. DAMIEN TUDEHOPE:** That would be paid in accordance with that order of priority.

**The Hon. DANIEL MOOKHEY:** I accept that. But at the point of administration Foodora had \$566,000 in total assets and total liabilities of \$28 million. Minister, it is fair to say that the prospect of us being able to recover our money is pretty much nil, isn't it?

**The Hon. DAMIEN TUDEHOPE:** You might know something I don't but—

**The Hon. DANIEL MOOKHEY:** It is not a trick question.

**The Hon. DAMIEN TUDEHOPE:** If they are the disclosures on the public record in relation to the administration of that company, if there are circumstances where there are insufficient assets to pay the creditors, then the point that you are making is probably right.

**The Hon. DANIEL MOOKHEY:** Has it been the case that Revenue NSW has already made a decision to write off the money?

**The Hon. DAMIEN TUDEHOPE:** Again I will have to pass that to Mr Brady.

**Mr BRADY:** I am not aware of any decision being taken to write off the money at this stage. We would generally wait until the outcome of the administration before making that decision.

**The Hon. DANIEL MOOKHEY:** Are you able to provide us either now or on notice the total cost that Revenue NSW has incurred in investigating Foodora, which took place, to be fair, before you issued the assessment, and also the amount of money spent in pursuing the debt?

**Mr BRADY:** Yes, we will take that on notice.

**The Hon. DANIEL MOOKHEY:** Thank you very much. But you would agree with me, Minister, that it is absolutely outrageous that this company has been able to effectively disappear the moment that they get presented with a bill from Revenue NSW and the Australian Taxation Office [ATO] and it does look like they have deliberately chosen to put themselves into administration to effectively abscond from being able to pay their debts.

**The Hon. DAMIEN TUDEHOPE:** Mr Mookhey, I agree with the sentiment that you are expressing that circumstances where companies deliberately place themselves in administration or in fact go into liquidation for the purposes of avoiding the payments of their debt is a circumstance which I think is unacceptable—

**The Hon. DANIEL MOOKHEY:** Morally unconscionable?

**The Hon. DAMIEN TUDEHOPE:** You use those words. This circumstance is not an unusual circumstance. I am not justifying this for one moment but what we need to be sure of here is there may be a whole range of circumstances which impact on a company going into liquidation and administration. You have in fact put it to me that they have deliberately done it. I do not know that. You may have information which says that they have deliberately done it for the purpose of avoiding paying creditors.

**The Hon. DANIEL MOOKHEY:** To be clear, the information I am deriving is effectively from the public comments that have been made by Commonwealth regulatory agencies and, incidentally, the creditors investigation that has been undertaken by the administrator of that company. But I accept your point that you have to obviously wait and deal with the circumstances that are presented to you.

**The Hon. DAMIEN TUDEHOPE:** And you would accept my point, of course, that I do not know necessarily the details of the administration of every company.

**The Hon. DANIEL MOOKHEY:** Well, I am shocked! But I accept your point. Minister, it is the case that an enterprise must pay payroll tax if it meets the test for an employee or a relevant contractor provision and it exceeds the threshold; that is correct?

**The Hon. DAMIEN TUDEHOPE:** Correct.

**The Hon. DANIEL MOOKHEY:** And as part of Revenue NSW's compliance activities, has your Government investigated, for example, Uber to determine whether there is a payroll tax liability? I make the point that I have asked this question in estimates before and was told by Revenue NSW that they were effectively not wanting to comment on the specifics of a particular company but they were looking into this practice of these emerging digital platforms. I just want to know where we are up to in determining the payroll tax compliance obligations of Uber, Uber Eats, Deliveroo, Menulog, Freelancer, Ola, Etsy, Airtasker or Mable.

**The Hon. DAMIEN TUDEHOPE:** What you would effectively like is, rather than commenting on each of those specific companies, is there a general policy to—

**The Hon. DANIEL MOOKHEY:** Well, there is a general policy; it is called the law. What I am asking you—

**The Hon. DAMIEN TUDEHOPE:** Well, listen, you just let me answer one question and then—

**The Hon. NATALIE WARD:** There is no need to be rude, Daniel.

**The Hon. DANIEL MOOKHEY:** What I am asking is—

**The Hon. DAMIEN TUDEHOPE:** No, I get it.

**The Hon. DANIEL MOOKHEY:** I am just asking for an update. Has Revenue NSW checked and investigated whether or not there is a compliance obligation and a liability owing by these companies?

**The Hon. DAMIEN TUDEHOPE:** In respect of those companies which I characterise as being part of the disruptive economy there is an ongoing question as to their payroll tax liability. It is certainly an issue which I know that the commissioner is aware of and he could probably be the best to give you that update.

**Mr BRADY:** Mr Mookhey, without wanting to comment on individual taxpayers, we are very aware of the different business models that apply in the gig economy and the complications in engaging with them at a general level. The issue being that whether there is a liability or not comes down to the specific arrangements that the company has put in place and the contracts and the structure of those contracts that they have with their deliverers, if that is the particular situation we are talking about. It is not possible to make a sweeping statement about the liability of someone in the gig economy. You have to go down to individual contracts. In fact, the amount that an individual purported contractor has worked for that particular organisation. We are focused in on the gig economy as one sector of the economy that there is risk for the payment of taxation. We have some ongoing investigations in both the rideshare and food delivery businesses.

**The Hon. DANIEL MOOKHEY:** I accept that, commissioner, of course. I am not asking you to make a sweeping statement. I am asking you specifically: What has Revenue NSW done in the past 12 months to determine whether or not there is a liability owing? You have just said there that you are undertaking some investigations into some ridesharing. Can you tell us a bit more about where we are up to on that?

**Mr BRADY:** We have ongoing discussions with one particular ridesharer. We are engaging with some of the individual contractors who work for that rideshare organisation and, as I said earlier, we are looking at the structure of the contracts with that particular rideshare organisation. There is one organisation where the Fair Work Ombudsman has defined the relationship between the rideshare provider and the driver as "independent contracting" based on the commercial arrangement in place. Therefore we step into the detailed assessment of whether there is actually a liability.

**The Hon. DANIEL MOOKHEY:** Sure. I am going off the public record because the extent to which the Fair Work Ombudsman has made public comments about that, they have said that Uber is a company that they classify as being an independent contractor. Whilst I accept, of course, that you cannot comment on the specifics of any individual taxpayer, is it the case that you are examining the ridesharing industry and when do you expect to be in a position to provide public guidance about whether or not payroll tax is owing?

**Mr BRADY:** As I said earlier, Mr Mookhey, it is not possible to provide blanket guidance around a particular industry because they do have very different models within what we might call the gig economy and very different structures to the contracts that they appoint. In fact, even those contracts themselves change over time. It does require an individual assessment of an organisation and the many contracts that they have with their providers. Also, some of the exemptions relating to relevant contractors require you to understand the degree of engagement between the specific contractor, that organisation and potentially another organisation. As you would be aware, some of the people operating in the gig economy work for multiple organisations in different guises. It is a particularly complex space and requires us to do very detailed analysis. We do have a number of active investigations underway—

**The Hon. DANIEL MOOKHEY:** When you say "a number", how many?

**Mr BRADY:** I would have to come back to you on notice. We investigate many organisations over the course of a year.

**The Hon. DANIEL MOOKHEY:** We will get into that this afternoon. Minister, I ask these questions because I am sure you are hearing the same complaints that I am hearing from lots of other small businesses that are competing with these platforms—that is, they argue that they are getting an artificial advantage and they are not operating in a fair marketplace because the rules are not the same. Do you agree with me this is an issue that requires an urgent response from the New South Wales Government, and can you commit that there will be clear policy guidelines for all small businesses and, for that matter, large businesses that are competing with these platforms in short order?

**The Hon. DAMIEN TUDEHOPE:** Mr Mookhey, I entirely accept what you say and I just reinforce what the commissioner has said, though, that each individual contract needs to be assessed on its own merits. The point that he did make in relation to some people about whether they work in one particular part of the economy, for one employer, two employers or three employers, sometimes makes the assessment of the care, control and direction of that employee difficult to establish for the purpose of whether they are an independent contractor. I am happy for the commissioner to engage in that process, I am happy for the commissioner to potentially issue rulings or whatever in respect of where they come but, like you, I am also interested in making sure that there are

level playing fields in relation to the way that people are able to operate their business because certainly small businesses need that level of assurance that they are operating in that environment.

**The Hon. DANIEL MOOKHEY:** Minister, is there any circumstance in which it would be acceptable to you for a big business to treat a small business unconscionably?

**The Hon. DAMIEN TUDEHOPE:** The very nature of "unconscionable conduct" means that it is not fair.

**The Hon. DANIEL MOOKHEY:** You would, of course, condemn and take action when such behaviour becomes apparent.

**The Hon. DAMIEN TUDEHOPE:** As a matter of principle I think you need to put to me a set of facts that you want me to comment on.

**The Hon. DANIEL MOOKHEY:** You accept, of course, though, that you do have the power to act when businesses are being treated unconscionably?

**The Hon. DAMIEN TUDEHOPE:** Well, you provide to me a set of facts and I will establish whether in fact I do have that power.

**The Hon. DANIEL MOOKHEY:** But you accept that under law you have the ability to direct the Small Business Commissioner to undertake investigations?

**The Hon. DAMIEN TUDEHOPE:** I do accept that.

**The Hon. DANIEL MOOKHEY:** And you accept that you have the ability to bring suits for unfair contracts?

**The Hon. DAMIEN TUDEHOPE:** Well, it would depend, Mr Mookhey. If, potentially, in fact, a corporation is involved, maybe that is a matter for the Australian Competition and Consumer Commission [ACCC]. It may not be necessarily, and it would potentially depend on the terms of the contract.

**The Hon. DANIEL MOOKHEY:** Minister, I have asked you in the House about the AMP matter.

**The Hon. DAMIEN TUDEHOPE:** You have.

**The Hon. DANIEL MOOKHEY:** I accept that you have taken on notice and, of course, I appreciate that you were getting some more information and you were coming back. Are you able to give us an update as to where you are precisely in terms of your attitude on that question? Have you received any further information? I was asking you, effectively, whether or not you felt AMP were treating its financial advisers unconscionably in the manner in which it has discharged their contracts. Do you wish to provide an update as to where the New South Wales Government is in its assessment of this behaviour?

**The Hon. DAMIEN TUDEHOPE:** The starting point I would be making is exactly the response that I gave to you in the House: The situation in relation to AMP is that it is a company which was in fact the subject of significant criticism by the Hayne royal commission in relation to the way that it raised revenue from brokers who had a vertical arrangement with that company and were effectively providing advice to customers in circumstances where the only product they were making available was generally the product of the company that was providing that employment arrangement. It was not necessarily in the best interests of the customer involved. Having said that, it begs the question: If, in fact, AMP is acting unconscionably, then in those circumstances, Mr Mookhey, I would expect the ACCC to take the action in relation to the unconscionable conduct of that company.

The second observation I would make in relation to the businesses involved, is the facts and circumstances where they have entered into an agreement with AMP are not circumstances of which I have been made aware of. It is not a fact and circumstance in which I understand a complaint has been made or an opportunity has been made to the Small Business Commissioner to mediate an outcome in relation to the contract between AMP and the particular broker. If you are saying that there is an obligation on a Minister to take action, I am not sure that that is entirely right. I think that there are lots of opportunities for both the ACCC and statutory bodies to take the necessary action that you are envisaging.

**The Hon. DANIEL MOOKHEY:** Minister, are you aware that, in respect of these financial advisers, AMP provided them with a loan with a certain market valuation just two years ago to allow them to enter the AMP business?

**The Hon. DAMIEN TUDEHOPE:** Are you saying every one of those brokers or some?

**The Hon. DANIEL MOOKHEY:** A lot.



**The Hon. DAMIEN TUDEHOPE:** How many?

**The Hon. DANIEL MOOKHEY:** I am saying a lot. I am told at least over 100 of these advisers have been provided with loans directly by AMP at effectively four times the value of their books.

**The Hon. DAMIEN TUDEHOPE:** That was the basis on which the business was valued.

**The Hon. DANIEL MOOKHEY:** That was the basis upon which it has been entered. Have you since learned that perhaps AMP is buying them back for two times the value of their books just two years later? Are you aware that for some of these small businesses they have no opportunity to sell to anybody else because their original contract says they must sell back to AMP? Sorry, you have to give a verbal response for Hansard, Minister.

**The Hon. DAMIEN TUDEHOPE:** You are telling me this. I accept that.

**The Hon. DANIEL MOOKHEY:** Minister, are you aware that some of these small businesses stand to lose in the order of \$500,000 to \$1 million as a basis of AMP's treatment?

**The Hon. DAMIEN TUDEHOPE:** But, Mr Mookhey, I accept all that you are saying. A preliminary question I would be asking—assuming you, like me, provide legal advice to people—

**The Hon. DANIEL MOOKHEY:** Have.

**The Hon. DAMIEN TUDEHOPE:** Have provided legal advice to people—they would come in and see you at the time that they entered the contract and someone would give them advice, would they not? Now, maybe it is a fact and circumstance that AMP, before they loan money in relation to this business, would get asked for a certificate of independent advice.

**The Hon. DANIEL MOOKHEY:** It is not the case. Minister, I am not sure that that is the case.

**The Hon. DAMIEN TUDEHOPE:** I am not sure either, but are you sure?

**The Hon. DANIEL MOOKHEY:** Certainly no-one has suggested that that was a requirement of AMP and, to be fair, neither has AMP. Minister, I am not suggesting that this is your fault, by any means, but we have a New South Wales Small Business Commissioner. The law says that they have the opportunity to involve themselves in matters of unfair contract. This is going to be of a severe effect to many New South Wales towns. This is a live example of a big business treating a small business unconscionably right now. The criticism that has been laid at AMP's hands is that having treated consumers brutally for a long period of time, they are now treating their own financial advisers brutally for a long period of time. My point is that if this is happening in real time, we have laws and we have a commissioner who can do it. If you are not prepared to use it, what is the point of having the commissioner?

**The Hon. DAMIEN TUDEHOPE:** What I would be saying to you is have any of those businesses sought to approach the Small Business Commissioner with a view to mediating the terms of that contract?

**The Hon. DANIEL MOOKHEY:** You are the Minister for Finance and Small Business. Have any small businesses approached you or the Small Business Commissioner in this respect?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Have you had any meetings with AMP in this respect?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Have you had any opportunities to engage or have you taken any efforts or any steps to engage with AMP to discover why it is that they are behaving this way?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Do you not think that you have a responsibility here?

**The Hon. DAMIEN TUDEHOPE:** I think that there are positions in place for both the company involved and for the small business involved to seek to mediate an issue relating to the terms of their contract.

**The Hon. DANIEL MOOKHEY:** Minister, will you agree with me to refer this to the Small Business Commissioner for her to use her powers under the law in order for her to act so it is the case that these small businesses have somewhere to go?

**The Hon. DAMIEN TUDEHOPE:** I would be pointing out to each of the small businesses there is an opportunity to approach the Small Business Commissioner in respect of what they perceive, if they perceive it to be unconscionable conduct in relation to the contract which they have entered into with AMP.

**The Hon. DANIEL MOOKHEY:** You accept, therefore, that if they were to do that, they do not need to go to the ACCC?

**The Hon. NATALIE WARD:** That is their choice, though.

**The Hon. DAMIEN TUDEHOPE:** Potentially they can go to the ACCC. Would you be encouraging them to go to the ACCC?

**The Hon. DANIEL MOOKHEY:** I am encouraging them to utilise the laws and protections that are available to them under the New South Wales Act.

**The Hon. DAMIEN TUDEHOPE:** As would I.

**The Hon. DANIEL MOOKHEY:** I am asking whether or not you are going to agree with me—

**The Hon. DAMIEN TUDEHOPE:** If there is unconscionable conduct, then, in fact, that ought be remedied.

**The Hon. COURTNEY HOUSSOS:** Minister, can you outline what percentage of Aboriginal-owned businesses were awarded domestic contracts for goods and services issued by New South Wales agencies in the last financial year?

**The Hon. DAMIEN TUDEHOPE:** In fact, it is one of the really good things that NSW Procurement does. It has, in fact, specified that when New South Wales agencies are negotiating contracts for either goods or services or construction contracts, they need to be involved with ensuring that Indigenous organisations be given an opportunity of tendering those. It is a complex—it appears complex.

**The Hon. COURTNEY HOUSSOS:** I appreciate the complexity, Minister. I am asking for a percentage and I have got very limited time.

**The Hon. DAMIEN TUDEHOPE:** I understand that you want the percentage. But I am just saying to you that there are a variety of circumstances where Indigenous organisations are contracted, and that is for contracts up to \$50,000. There are separate contracts between \$50,000 and \$250,000, then up to \$1 million. So the percentage which we can give you is generally specified in relation to the sort of contracts that we would be looking at at any particular time. Mr Gardner is the chair of the procurement committee, so he is probably the best person.

**Mr GARDNER:** The data that I have for the financial year 2019 is that \$17.8 million was spent with Aboriginal businesses in the goods and services categories—0.12 per cent of overall spend and 0.49 per cent of the number of contracts.

**The Hon. DANIEL MOOKHEY:** Could you repeat that, Mr Gardner?

**Mr GARDNER:** It was 0.12 per cent and 0.49 per cent of the number of contracts.

**Mr DAVID SHOEBRIDGE:** Minister, nice to see you this morning.

**The Hon. DAMIEN TUDEHOPE:** Nice to see you, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** It is a lovely moment.

**The Hon. DAMIEN TUDEHOPE:** It is always interesting, is it not, when there is fresh blood.

**Mr DAVID SHOEBRIDGE:** I would not describe you that way. In March of last year, the Department of Finance, Services and Innovation [DFSI] developed a workplace health and safety framework for system documentation and also a series of documents about safe design following a long period of time with a consultant. Are you aware of the framework for system documentation or the safe design work that the department has done, Minister?

**The Hon. DAMIEN TUDEHOPE:** I have to tell you I am not.

**Mr DAVID SHOEBRIDGE:** Mr Pratt?

**Mr PRATT:** No, I am not aware, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** I am told it was a \$250,000 contract for which the consultants had to work out a series of documentations for safe design for the department and also some detailed framework for system documentation. Would that be right?

**The Hon. DAMIEN TUDEHOPE:** Is this in Customer Service?

**Mr DAVID SHOEBRIDGE:** This is Finance, Services and Innovation.

**The Hon. DAMIEN TUDEHOPE:** But is it now in Customer Service?

**Mr DAVID SHOEBRIDGE:** I am not sure where it is that is why I am asking you, but it was auspiced under Finance.

**Ms WILKIE:** Is it about information technology-type issues?

**Mr DAVID SHOEBRIDGE:** No, it is a series of documents that require how you safely go about the work within the department.

**Mr PRATT:** So it is work health and safety within what was DFSI?

**Mr DAVID SHOEBRIDGE:** Correct.

**Mr PRATT:** I have not seen the document, Mr Shoebridge. I am happy to take your questions on notice and come back, but I have not seen the document.

**Mr DAVID SHOEBRIDGE:** One of the five national priorities in Australian Work Health and Safety Strategy addresses healthy and safe work by design. You would agree with that?

**Mr PRATT:** Yes, I would.

**Mr DAVID SHOEBRIDGE:** In order to do that, safety in design aims to prevent injuries and disease by considering hazards as early as possible in the planning and design process. Would you agree with that?

**Mr PRATT:** Yes.

**Mr DAVID SHOEBRIDGE:** That is as important for government departments as it is for manufacturing?

**Mr PRATT:** Yes. Different set of risk issues, but yes.

**Mr DAVID SHOEBRIDGE:** Correct. Indeed, the department contracted with an external consultant to develop a set of documentations for safe design. Are you aware of that?

**Mr PRATT:** As I said, I have not seen the report.

**Mr DAVID SHOEBRIDGE:** It is quite weighty. I am told it was completed—in fact, the document states it was completed on 28 March 2018. Is there a set of safe design documents for the department now, given it is one of the five national priorities?

**Mr PRATT:** As I said, I have not seen that document.

**Mr DAVID SHOEBRIDGE:** I am not asking about this document. I am asking you about whether or not there is a set of documents that addresses healthy and safe work by design within the department.

**Mr PRATT:** Most of what was DFSI, bearing in mind machinery of government changes at 1 July this year—most of that department has moved into the new Customer Service department. That would possibly be a question for that group.

**Mr DAVID SHOEBRIDGE:** But a fair chunk of it has remained with you, secretary, which is why I am asking you: Is there, in accordance with one of the five national priorities, a series of documents in your department that addresses healthy and safe work by design?

**Mr PRATT:** To the first point, Mr Shoebridge, it is only a very small group that have moved to Treasury, which is the procurement group, which is a group of around 100 full-time equivalent [FTE]. The bulk of the FTE have gone into what is now Customer Service.

**Mr DAVID SHOEBRIDGE:** Separate to what Finance were doing, is there a set of documents for your department addressing safe design?

**Mr PRATT:** Without seeing that document, I cannot specifically compare to that. But do we have our work health and safety policy? Yes, we do.

**Mr DAVID SHOEBRIDGE:** I will show them to you, but it is my only copy and I did not want to cause more damage to the Amazon by having a second copy of it. I will show you these two documents.

**Mr PRATT:** What would you like me to do in terms of your questioning? I am very happy to take on notice—

**Mr DAVID SHOEBRIDGE:** Let me show you the documents first. You said you have not seen them, so maybe this will spark a memory.

**Mr PRATT:** I doubt that because I was not involved with DFSI at the time, so there would be no reason for me to see these documents.

**Mr DAVID SHOEBRIDGE:** I am addressing your more than one observation that you have not seen them, so I am showing them to you.

**Mr PRATT:** I hope you do not expect me to vet these documents in the time of the Committee. I am more than happy to do so, but that would take time.

**Mr DAVID SHOEBRIDGE:** No, I was not going to ask you to vet the documents. I was just showing them to you because you said you have not seen them. Could you take on notice, firstly, the actual cost of those documents and confirm or deny whether or not it was a \$250,000; and, secondly, you will note on the front page of each of them, I believe, that they are dated 28 March last year.

**Mr PRATT:** That is correct, yes.

**Mr DAVID SHOEBRIDGE:** Have either of them come into effect since that time?

**Mr PRATT:** Again, having not seen these documents, I cannot answer that question. But I will take it on notice.

**Mr DAVID SHOEBRIDGE:** Is it regular for the department to drop \$250,000 on consultants work for work health and safety and then not implement the work? Is that a regular practice?

**Mr PRATT:** I would stress the importance of work health and safety.

**Mr DAVID SHOEBRIDGE:** So would I.

**Mr PRATT:** Is it regular to spend that money? I cannot answer that because I was not involved in this process. But I would stress the importance of the issues, obviously.

**Mr DAVID SHOEBRIDGE:** Can you point to a set of safe design documents for the department that is in force at the moment?

**Mr PRATT:** There is no department any more—Department of Finance, Services and Innovation.

**Mr DAVID SHOEBRIDGE:** For your department?

**Mr PRATT:** There is a policy set of documents for work health and safety, yes.

**Mr DAVID SHOEBRIDGE:** Do they include safe design documentation similar to that?

**Mr PRATT:** I will have to take that on notice.

**Mr DAVID SHOEBRIDGE:** Thank you. With the redesign, Minister, do you still have a responsibility for safe work at all?

**The Hon. DAMIEN TUDEHOPE:** No.

**Ms ABIGAIL BOYD:** Can we talk about point of consumption tax [POC] revenue? I understand that in the 2019 budget papers the POC tax revenue was published in combination with the taxes raised on animal racing. Can you tell us why that point of consumption revenue was not published separately as we see in other States, given that much of the online gambling relates to football and non-racing sports as well?

**The Hon. DAMIEN TUDEHOPE:** I do not think there is any specific reason.

**Mr PRATT:** Joann?

**Ms WILKIE:** I am not sure.

**Ms ABIGAIL BOYD:** Can you tell us what the point of consumption tax revenue was as a stand-alone item for the financial year 2018-19?

**Ms WILKIE:** Yes. Let me just find it.

**Mr PRATT:** For 30 June 2019 the revenue number was \$40,802,770.

**Ms ABIGAIL BOYD:** So that was the stand-alone point of consumption tax revenue. Will that revenue figure be published separately from now on?

**Mr PRATT:** I would have to take that on notice. We do not publish every detail of revenue break-up.

**Ms ABIGAIL BOYD:** Was it reported separately? I appreciate you might not publish it in the actual budget, but did it get reported separately to that—I forget the name of the Queensland statistician who collates all the gambling figures for Australia?

**Mr PRATT:** I will take that on notice.

**Ms ABIGAIL BOYD:** Thank you. I understand in the second reading speech for the Gambling Legislation Amendment (Online and Other Betting) Bill, the Hon. Scott Farlow quoted a statistic. He said:

In 2018 more than 34 per cent of Australians placed a bet online, more than double the rate that existed in 2012.

Presumably that information came from the point of consumption tax data. Can the department provide data on how many individuals in New South Wales placed a bet online in the last financial year?

**Mr PRATT:** Again, I will have to take that on notice. I do not have that data.

**Ms ABIGAIL BOYD:** That would be great. In the last financial year and in the last 12 months would be very useful.

**Mr PRATT:** Okay.

**Ms ABIGAIL BOYD:** And if you could tell me if the evidence is available via other sources at all that would also be useful. I understand that the small business employment incentive scheme started in 2015 with a \$27 million allocation over the forward estimates. Is that scheme continuing for another four years?

**The Hon. DAMIEN TUDEHOPE:** It is certainly funded in this budget. I do not think there is a proposal as I am aware to continue it going forward.

**Mr BRADY:** The Small Business Grant ceased registrations on 30 June. So no further new registrations are available. They have closed registrations. There is a period from the appointment of new staff until the registrations are closed. So there will be some new registrations occurring this year but that will terminate within a couple of months. Then there is a period of time over which those employees need to stay in place for payments to continue. So whilst registrations will finish, the scheme itself will go on for a period.

**The Hon. DAMIEN TUDEHOPE:** That would be a policy decision for Treasury.

**Ms ABIGAIL BOYD:** Was there an evaluation of the scheme, do you know?

**Mr BRADY:** There has been no evaluation to date. Typically we apply an evaluation after the scheme has closed.

**Ms ABIGAIL BOYD:** So there was no evaluation to work out if this scheme should continue, it was just a policy-decision to—

**Mr BRADY:** The scheme was established for a fixed period and it came to the end of its period.

**Ms ABIGAIL BOYD:** How much of the allocated money was actually spent through that scheme?

**Mr BRADY:** I can tell you what grants have been paid. I will have to take on notice budget versus actual.

**Ms ABIGAIL BOYD:** If you could take on notice the actual versus budgeted, and also how many businesses have been allocated a grant since 2015. That would be very useful.

**Mr BRADY:** Thank you.

**The Hon. DANIEL MOOKHEY:** Revenue NSW administered the Jobs Action Plan. Is that correct?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** This was the program that provided payroll tax rebates to small businesses amongst others. Is that correct?

**The Hon. DAMIEN TUDEHOPE:** It was an incentive in relation to employing additional apprentices.

**The Hon. DANIEL MOOKHEY:** Just apprentices, Minister?

**The Hon. DAMIEN TUDEHOPE:** No, not just apprentices.

**Mr BRADY:** It was any increase in employment.

**The Hon. DAMIEN TUDEHOPE:** Sorry, mainly payroll taxes.

**The Hon. DANIEL MOOKHEY:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Correct.

**The Hon. DANIEL MOOKHEY:** Good to see. The rebate was structured into two payments for jobs created after 21 July 2016. Some \$2,000 was paid at the first anniversary of the persons' position and \$4,000 on the second anniversary. Is that correct?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** As we have just learned, the scheme closed to new applicants in June this year. That is correct?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** But people will still continue to be paid out because of the way in which the program worked.

**The Hon. DAMIEN TUDEHOPE:** The structure, yes.

**The Hon. DANIEL MOOKHEY:** Minister, is the Government intending to reintroduce the scheme or continue it in any way?

**The Hon. DAMIEN TUDEHOPE:** It is a policy decision for Treasury.

**The Hon. DANIEL MOOKHEY:** I think it is a policy decision for government.

**The Hon. DAMIEN TUDEHOPE:** And government, but let us get it in context. We have an unemployment rate of 4.4 per cent. We have given significant payroll tax relief by increasing the threshold for payroll tax, which will go to \$950,000 next year and \$1,000,000 the following year. So a combination of things for incentives to employ more people. It is something potentially Labor was not prepared to embrace but we did embrace it. We have a range of measures for ensuring—

**The Hon. DANIEL MOOKHEY:** Well, having heard those reasons, is that something the Government is planning to continue or not continue?

**The Hon. DAMIEN TUDEHOPE:** I cannot give a commitment to that. It is part of the budget process for next year as to whether—

**The Hon. DANIEL MOOKHEY:** The budget process contemplates no further money being allocated to this scheme other than to close it out.

**The Hon. DAMIEN TUDEHOPE:** That was what the original grant was for.

**The Hon. DANIEL MOOKHEY:** I am not quibbling. But am I to infer from that, the Government has made a decision not to continue the scheme after the final payments are paid which, presumably, will be in two years' time?

**The Hon. DAMIEN TUDEHOPE:** You can infer what you like. What I would reinforce with you is that going forward whether this is something the Government will commit to will be part of next year's budget program.

**The Hon. DANIEL MOOKHEY:** So this scheme commenced in June 2011 in its original incarnation. Is that correct?

**The Hon. DAMIEN TUDEHOPE:** Correct.

**The Hon. DANIEL MOOKHEY:** How much has been paid to date from that period of time?

**The Hon. DAMIEN TUDEHOPE:** I have been provided with a note that says between 1 July 2011 and 30 June 2019—and you will be delighted with this figure—

**The Hon. DANIEL MOOKHEY:** Thrilled.

**The Hon. DAMIEN TUDEHOPE:** Some 391,000 anniversary payments, totalling in excess of \$729 million were paid to eligible businesses.

**The Hon. NATALIE WARD:** Wow.

**The Hon. DANIEL MOOKHEY:** Yes, wow. So when you say 391,000 anniversary payments, let us effectively cut them into—that is, 151,000 businesses; each business getting two payments presumably or at least on average.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Okay. That covers that. Do you know how much was paid in the last financial year?

**The Hon. DAMIEN TUDEHOPE:** I would have to take that on notice.

**Mr BRADY:** Sixty-one point one million dollars.

**The Hon. DANIEL MOOKHEY:** In 2017-18 Revenue NSW audited 79 Job Action Plan claims and reduced payment approvals by \$62.1 million. That is correct?

**Mr BRADY:** I do not have those details with me, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Mr Brady, you might wish to quibble with it but I got that directly from your website.

**Mr BRADY:** I do not want to quibble with it; I do not have that detail with me.

**The Hon. DANIEL MOOKHEY:** How many audits did you do last year?

**Mr BRADY:** I would have to take that question on notice.

**The Hon. DANIEL MOOKHEY:** Did you reduce payment approvals for 2018-19?

**Mr BRADY:** Again, I would have to take that question on notice.

**The Hon. DANIEL MOOKHEY:** It is not a complicated question.

**Mr BRADY:** No, it is not.

**The Hon. DANIEL MOOKHEY:** What compliance activities have you undertaken in respect to the Jobs Action Plan then?

**Mr BRADY:** We absolutely do undertake compliance activity.

**The Hon. DANIEL MOOKHEY:** What have you done?

**Mr BRADY:** We follow up with employers about whether the number of anticipated jobs have stayed with them. The whole intent of the program is to ensure that the increase in employment stays in place over time. We check in relation to those organisations whether that increase has stayed in place, and then recalculate the rebate on the basis of the actuals versus what they may well have anticipated.

**The Hon. DANIEL MOOKHEY:** Do you use an intelligence-based approach? That is, rather than going out at large to all the businesses do you have suspects that you think might not be putting forward legitimate claims? Do you audit them specifically?

**Mr BRADY:** I will have to come back to you, Mr Mookhey, on the approach for that particular program. Generally we do take a data driven approach. On the Jobs Action Plan, though, I would have to come back to you with specific advice.

**The Hon. DANIEL MOOKHEY:** You have an Information Analysis unit that provides you with the data and allows you to make those decisions.

**Mr BRADY:** Generally, our Information Analysis unit does help us with case selection for compliance matters across all of our tax products.

**The Hon. DANIEL MOOKHEY:** How many staff do you have doing compliance with the Jobs Action Plan?

**Mr BRADY:** Can I take that question on notice, as well?

**The Hon. DANIEL MOOKHEY:** Sure. Minister, is there a business known to you as client 650 which says to Revenue NSW that they have 376,000 full-time employees?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Is it the case that by May 2017, client 650 received a total of \$13,271,000 in rebates?

**The Hon. DAMIEN TUDEHOPE:** Why did you ask me a follow-up question when I said no to the first one?

**The Hon. DANIEL MOOKHEY:** So you are saying that there is no client known to you as 650? Are you sure about that? Do you want to take that on notice as well, Minister?

**The Hon. DAMIEN TUDEHOPE:** I will take it on notice, but to the best of my knowledge I have no recollection of ever hearing of a client 650.

**The Hon. DANIEL MOOKHEY:** Sure. We will perhaps accept that that is the lexicon by which Revenue NSW describes them. Are you prepared to proceed on that basis?

**The Hon. DAMIEN TUDEHOPE:** If you are asking me my state of knowledge in relation to—

**The Hon. DANIEL MOOKHEY:** Maybe you can direct the question to Commissioner Brady.

**The Hon. DAMIEN TUDEHOPE:** Maybe that is a better approach.

**The Hon. DANIEL MOOKHEY:** Let's do that. I am glad we can work that out.

**The Hon. DAMIEN TUDEHOPE:** Well, it would have been pretty obvious to me.

**The Hon. DANIEL MOOKHEY:** Is there a business known to Revenue NSW as client 650, which registered itself as having 376,261 full-time employees?

**The Hon. DAMIEN TUDEHOPE:** Did you say 376,000?

**The Hon. DANIEL MOOKHEY:** Yes.

**The Hon. ROBERT BORSAK:** That is bigger than the New South Wales Government.

**The Hon. DANIEL MOOKHEY:** That is exactly the point.

**The Hon. NATALIE WARD:** It is not AMP, is it?

**The Hon. DANIEL MOOKHEY:** It could be. Let's find out. Is that known to Revenue NSW?

**Mr BRADY:** I will have to take that question on notice, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** As of May 2017, had that client claimed \$13 million of \$6,000 worth of rebates?

**Mr BRADY:** Again, I will take that question on notice.

**The Hon. DANIEL MOOKHEY:** Let us go to another one. Is there another business known as client 4473 to Revenue NSW?

**The Hon. DAMIEN TUDEHOPE:** Are you asking me that again?

**The Hon. DANIEL MOOKHEY:** Yes, I am asking you.

**The Hon. BEN FRANKLIN:** You might get the same answer.

**The Hon. DANIEL MOOKHEY:** It registered with this scheme with 225,059 full-time employees and it also receive rebates?

**The Hon. DAMIEN TUDEHOPE:** Why don't we just put all those questions to the Commissioner so that he can take them on notice and come back to you?

**The Hon. DANIEL MOOKHEY:** Minister, you are welcome to direct them as you see fit. The questions are to you specifically because it is your obligation to make sure this scheme is not being rorted. So I am asking you: Is there a business known as client 4473?

**The Hon. DAMIEN TUDEHOPE:** I do not conduct audits, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Clearly. It has 225,000 full-time employees. Is there a business known as client 495 that is known to you as well that registered itself with this scheme, claiming to have 105,000 full-time employees?

**The Hon. DAMIEN TUDEHOPE:** Are you again asking me whether I have specific knowledge of any of those?

**The Hon. DANIEL MOOKHEY:** Yes, I am. Do you have any specific knowledge of any of this?

**The Hon. DAMIEN TUDEHOPE:** To the best of my knowledge, no. That has never been raised with me.

**The Hon. DANIEL MOOKHEY:** Minister, the reason I ask you these questions is because effectively under the Jobs Action Plan, which you helpfully told us has paid out \$729 million, it is the case, isn't it, that



overwhelmingly the quantum share of those rebates has gone to some of Australia's biggest businesses? Do you know that? Do you accept that?

**The Hon. DAMIEN TUDEHOPE:** What I do accept is that we do have the lowest unemployment rate in the country and that we have people now working because of this plan. The opportunity of getting people in work is the priority of this Government, and to the extent that this plan is putting people in work, I do not resile from it. However, if what you are suggesting is that there is someone rorting this system then I encourage you, as you should, if you are in fact suggesting—

**The Hon. DANIEL MOOKHEY:** I am suggesting to you, Minister, that effectively the New South Wales—

**The Hon. DAMIEN TUDEHOPE:** —that there is a rort going on—

**The Hon. BEN FRANKLIN:** Point of order: We have a lot of time, Mr Chair. I ask that the Minister be allowed to finish his response.

**The CHAIR:** Yes.

**The Hon. DAMIEN TUDEHOPE:** What I was suggesting, Mr Mookhey, is that if you are aware of a circumstance where there is a suggestion of rorting of the system, which is going on by any of these case numbers which you have identified, then I think you are under an obligation to in fact provide specific details of what you say is the rort to the Commissioner to allow it to be investigated—if not to the police, if you, in fact, say that there is a rort going on where people are, in fact, taking money under this scheme which they are not entitled to take.

**The Hon. DANIEL MOOKHEY:** No, I am not—

**The Hon. DAMIEN TUDEHOPE:** However, if the assertion you are making is that there are companies that are now employing people because of the availability of this scheme then I say that that is a good thing and we ought be employing more people. If this scheme gives them an opportunity to be employed, you and I would both embrace it, wouldn't we?

**The Hon. DANIEL MOOKHEY:** The argument that I am putting to you is that your Government is effectively subsidising the payroll of big business, and it has absolutely no correlation between some of Australia's biggest businesses and their employment decisions in New South Wales.

**The Hon. DAMIEN TUDEHOPE:** I am saying to you that the plan is an incentive for people to employ more people.

**The Hon. DANIEL MOOKHEY:** Minister, is it the case that effective until May 2017, 79 per cent of all rebates paid under the Jobs Action Plan were paid to businesses that were registered in Sydney?

**The Hon. DAMIEN TUDEHOPE:** I do not know the answer to that, but what I would just say is this: That there is a policy decision made by the office of State revenue that from 31 July 2016 the focus of the plan was to, in fact, encourage applications from businesses employing less than 50 people.

**The Hon. DANIEL MOOKHEY:** Have you asked or sought any advice from Revenue NSW as to how precisely this money is being distributed?

**The Hon. DAMIEN TUDEHOPE:** I think I gave you the details.

**The Hon. DANIEL MOOKHEY:** No, that is not what I asked. Have you sought advice in that respect as to who precisely is benefiting from this scheme given, as you claimed, it is a marquee scheme of the Government that the Government is incredibly proud of?

**The Hon. DAMIEN TUDEHOPE:** I am saying it is marquee scheme which puts people in work.

**The Hon. DANIEL MOOKHEY:** Have you sought any advice as to precisely where it is being distributed?

**The Hon. DAMIEN TUDEHOPE:** Is it a scheme that Labor was prepared to embrace?

**The Hon. DANIEL MOOKHEY:** It does not need to more complicated. This is a really straightforward question. Have you sought advice as to where precisely it is being distributed?

**The Hon. DAMIEN TUDEHOPE:** No. I am happy to take the question on notice if you want further detail in relation to where the Job Action Plan money has been distributed.

**The Hon. DANIEL MOOKHEY:** Minister, is it the case that as of May 2017 businesses registered with postcode 2000 claimed 32 per cent of all moneys paid in the rebate scheme?

**The Hon. NATALIE WARD:** That is the Sydney CBD.

**The Hon. DANIEL MOOKHEY:** Exactly.

**The Hon. DAMIEN TUDEHOPE:** With a postcode of?

**The Hon. DANIEL MOOKHEY:** 2000.

**The Hon. DAMIEN TUDEHOPE:** So, in the CBD?

**The Hon. DANIEL MOOKHEY:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Claimed 32 per cent?

**The Hon. DANIEL MOOKHEY:** Yes. Does that worry you?

**The Hon. DAMIEN TUDEHOPE:** It does not worry me if, in fact, we are employing more people.

**The Hon. DANIEL MOOKHEY:** Does it worry you that as of the same date approximately only 11 per cent of moneys were paid out to regional businesses?

**Mr PRATT:** Mr Mookhey, I would just make the observation, of course, that for many small businesses their registered address may be their accountant's office or a service supplier. So I just question resting completely on that data re residence of business.

**The Hon. DAMIEN TUDEHOPE:** Do you accept that explanation?

**The Hon. DANIEL MOOKHEY:** I accept that the explanation has been given. Minister, is it the case that the reason the scheme is not continuing is because effectively for years this scheme has subsidised Australia's biggest businesses, that it benefited businesses overwhelmingly in the city and that it provided very little relief to small business whatsoever?

**The Hon. DAMIEN TUDEHOPE:** I suggested to you earlier that the emphasis of the distribution of the scheme was for businesses which employ less than 50 people.

**The Hon. DANIEL MOOKHEY:** Is the crossbench asking any questions?

**The CHAIR:** You can keep going.

**The Hon. DANIEL MOOKHEY:** Great, we can have some fun.

**The Hon. DAMIEN TUDEHOPE:** It is the Mookhey-Tudehope show.

**The Hon. COURTNEY HOUSSOS:** Let's make it not just the Mookhey-Tudehope show. You outlined that there was a policy change in 2016 to direct it to small businesses.

**The Hon. DAMIEN TUDEHOPE:** Of less than 50 employees.

**The Hon. COURTNEY HOUSSOS:** Businesses of fewer than 50 employees?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. COURTNEY HOUSSOS:** Have you sought any advice or any analysis on what the effects of that change have been?

**The Hon. DAMIEN TUDEHOPE:** No. But I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Does the commissioner want to add anything?

**Mr BRADY:** Since July 2016 we have been applying the program to businesses with less than 50 employees.

**The Hon. COURTNEY HOUSSOS:** Does that mean it is exclusively going to those businesses?

**Mr BRADY:** That is right. That is correct. It is an eligibility criteria. If a business has more than 50 employees it is not eligible to apply for the scheme.

**The Hon. DANIEL MOOKHEY:** Minister, I wish to now turn to the question of franchise reform. Have you been following the controversy in respect to the way franchises are regulated in this country?

**The Hon. DAMIEN TUDEHOPE:** I thought it has been a problem for a long time.

**The Hon. DANIEL MOOKHEY:** When you say it has been a problem, what do you mean by that?

**The Hon. DAMIEN TUDEHOPE:** Even when I was in practice I used to think that the balance between the franchisor and franchisees was unduly weighted in favour of the franchisors.

**The Hon. DANIEL MOOKHEY:** Do you still hold that view?

**The Hon. DAMIEN TUDEHOPE:** I do. The fact is that I think there is work to be done in relation to making sure that the balance is right between the obligations of franchisors and franchisees.

**The Hon. DANIEL MOOKHEY:** When you say that there is work to be done, what work is the New South Wales Government contemplating to get that balance right?

**The Hon. DAMIEN TUDEHOPE:** It is work that has been under—it is an issue I have raised specifically with the Small Business Commissioner. She is aware of it and I would expect that work to go forward.

**The Hon. DANIEL MOOKHEY:** When did you raise it?

**The Hon. DAMIEN TUDEHOPE:** When I first was appointed.

**The Hon. DANIEL MOOKHEY:** And what work did you ask her to do?

**The Hon. DAMIEN TUDEHOPE:** I have asked her to look at the arrangement, just the issue generally between how franchises are administered.

**The Hon. DANIEL MOOKHEY:** What advice has she returned to you with?

**The Hon. DAMIEN TUDEHOPE:** As of today nothing.

**The Hon. DANIEL MOOKHEY:** You of course have been following that there is a lot of action happening in this space in the Federal sphere?

**The Hon. DAMIEN TUDEHOPE:** Well, no.

**The Hon. DANIEL MOOKHEY:** You are not aware?

**The Hon. DAMIEN TUDEHOPE:** I am not aware specifically but it would be a good thing if there was.

**The Hon. DANIEL MOOKHEY:** We will tease this out, why don't we, Minister?

**The Hon. DAMIEN TUDEHOPE:** Good, we will.

**The Hon. DANIEL MOOKHEY:** Firstly, I assume that you have been seeing the multiple disturbing reports that have emerged about the practices of the Retail Food Group [RFG], which is one of Australia's largest franchise operators?

**The Hon. DAMIEN TUDEHOPE:** Which franchises does it operate?

**The Hon. DANIEL MOOKHEY:** Donut King, among many others, Bakers Delight among many others.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Does this now stir a memory, Minister?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** You are aware that there is controversy in respect to how they are engaging in the marketplace?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Has the New South Wales Government done any specific investigation into the RFG?

**The Hon. DAMIEN TUDEHOPE:** Not that I am aware.

**The Hon. DANIEL MOOKHEY:** Why is that, given that we do administer trading laws?

**The Hon. DAMIEN TUDEHOPE:** I am unaware of any specific review in relation to those practices.

**The Hon. DANIEL MOOKHEY:** To the best of your knowledge—

**The Hon. DAMIEN TUDEHOPE:** And I am unaware, quite frankly—

**The Hon. DANIEL MOOKHEY:** —there is no agency in the New South Wales government that is currently engaged in any investigation into the RFG.

**The Hon. DAMIEN TUDEHOPE:** To the best of my knowledge.

**The Hon. DANIEL MOOKHEY:** What about the Pizza Hut?

**The Hon. DAMIEN TUDEHOPE:** Is there a specific question you are asking?

**The Hon. DANIEL MOOKHEY:** Yes. Is the New South Wales Government undertaking any form of investigation into the business practices or otherwise legal compliance of Pizza Hut?

**The Hon. DAMIEN TUDEHOPE:** Is this a Fair Trading question now?

**The Hon. DANIEL MOOKHEY:** No.

**The Hon. DAMIEN TUDEHOPE:** Why?

**The Hon. DANIEL MOOKHEY:** Well, Minister, I am putting to you, are you aware of or are any of the agencies for which you are responsible undertaking any such investigation.

**The Hon. DAMIEN TUDEHOPE:** Well, let's get it clear.

**The Hon. DANIEL MOOKHEY:** Let's go.

**The Hon. DAMIEN TUDEHOPE:** In relation to the regulation which exists in relation to those particular businesses they would fall squarely in relation to Fair Trading.

**The Hon. DANIEL MOOKHEY:** So you accept the view?

**The Hon. DAMIEN TUDEHOPE:** If there are issues relating to the work of the Small Business Commissioner and if there are issues relating to potential mediation of disputes and the like, then I would anticipate that she would be involved. But for the purposes of regulation of those businesses I would expect the Fair Trading Minister to be asked those questions.

**The Hon. DANIEL MOOKHEY:** Just to be clear: To the extent to which you feel in relation to the agencies you are responsible for, your view is that the agency that has principal carriage of these matters is the Small Business Commissioner. That is it.

**The Hon. DAMIEN TUDEHOPE:** No. Well, no. I am saying—

**The Hon. DANIEL MOOKHEY:** I am asking specifically about the ones you are responsible for.

**The Hon. DAMIEN TUDEHOPE:** I am saying that there is a whole range of opportunities for those businesses to raise issues, whether it be with the Department of Fair Trading, which is now Better Regulation or Customer Service—

**The Hon. DANIEL MOOKHEY:** I want to be fair to you, Minister, which, to be fair, is not an attitude I usually have towards Government Ministers. I am going to ask you in series about a couple of them. If you wish to provide the same response I accept that but I do want to be fair to you, which is uncharacteristic of me, I accept.

**The Hon. DAMIEN TUDEHOPE:** In fact, I am suspicious when you say it.

**The Hon. DANIEL MOOKHEY:** Yes, I am sure.

**The CHAIR:** Can we stop the love-in and get on with it?

**The Hon. NATALIE WARD:** Good point of order, Chair.

**The Hon. DANIEL MOOKHEY:** Pizza Hut is not something you are engaged in?

**The Hon. NATALIE WARD:** He has answered that, I think.

**The Hon. DANIEL MOOKHEY:** I will move on.

**The Hon. DAMIEN TUDEHOPE:** Mr Mookhey, in the interests of fairness and the attitude and relationship that you and I have, perhaps you can say to me what is the issue you are alleging that Pizza Hut—

**The Hon. DANIEL MOOKHEY:** We will get there, Minister, patience.

**The Hon. DAMIEN TUDEHOPE:** No, no. I think it is only fair, and I think the Chair referred to procedural fairness at the commencement of these proceedings, that you in fact put context around Pizza Hut.

**The Hon. DANIEL MOOKHEY:** I will.

**The Hon. DAMIEN TUDEHOPE:** Okay, put the context.

**The Hon. DANIEL MOOKHEY:** What about Domino's?

**The Hon. DAMIEN TUDEHOPE:** No, put the context.

**The Hon. NATALIE WARD:** He has answered those, Daniel.

**The Hon. DANIEL MOOKHEY:** I will provide you with the context soon, Minister, but I just want to be fair to you to allow you to pre-empt me, which a lot of your colleagues wish to do on many questions. What about 7-Eleven?

**The Hon. DAMIEN TUDEHOPE:** Give me the context and I think in those circumstances if you are saying—

**The Hon. NATALIE WARD:** It is getting boring. You are going to force me to eat a pastry in a minute.

**The Hon. DANIEL MOOKHEY:** Caltex?

**The Hon. DAMIEN TUDEHOPE:** Maybe the question is, Have I heard of them? Is that what you are asking me? Yes, I have heard of them.

**The Hon. DANIEL MOOKHEY:** That is good to hear.

**The Hon. DAMIEN TUDEHOPE:** Okay.

**The Hon. DANIEL MOOKHEY:** That is refreshing. At least you are paying some attention.

**The Hon. DAMIEN TUDEHOPE:** If you do not give context that is the best I can say.

**The Hon. DANIEL MOOKHEY:** The reason I identify all those companies is because every single one of those companies in addition to creating franchise problems in the conduct of their franchise chain have equally been subjected to allegations and findings of incredible wage theft.

**The Hon. DAMIEN TUDEHOPE:** Certainly 7-Eleven I am aware of the allegations.

**The Hon. DANIEL MOOKHEY:** Should I keep going?

**The CHAIR:** Yes, keep going.

**The Hon. DANIEL MOOKHEY:** Yes, let's go. The reason I am now worried about your indifference towards this matter and the fact that you do not seem to know what your agencies do is that when it comes to these sort of issues you are of course responsible for collecting any payroll tax in respect to all those wages that were not paid. That is correct?

**The Hon. DAMIEN TUDEHOPE:** That issue is. Certainly the forgoing—

**The Hon. DANIEL MOOKHEY:** No, no. You wanted the context.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** You have it now.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** What have you done to investigate outstanding payroll tax obligations in respect of all the companies that have been found to have engaged in wage theft?

**The Hon. DAMIEN TUDEHOPE:** Name the ones that have.

**The Hon. DANIEL MOOKHEY:** Okay, let's go. Pizza Hut.

**The Hon. DAMIEN TUDEHOPE:** How much? Are there findings in relation to that—

**The Hon. DANIEL MOOKHEY:** RFG, Domino's.

**The Hon. DAMIEN TUDEHOPE:** —or allegations?

**The Hon. DANIEL MOOKHEY:** Minister, are you seriously contesting the fact—

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** —that 7-Eleven did not engage in wage theft? Are you seriously contesting that fact?

**The Hon. TAYLOR MARTIN:** No.

**The Hon. NATALIE WARD:** You are asked for the basis of the findings?

**The Hon. TAYLOR MARTIN:** That is not happening.

**The Hon. BEN FRANKLIN:** What the Minister is actually asking for is information so that he can have a sensible and intelligent conversation with you to discuss this issue, as he said he is happy to do.

**The Hon. DANIEL MOOKHEY:** They have pleaded guilty in this respect.

**The CHAIR:** Order!

**The Hon. DANIEL MOOKHEY:** They have pleaded guilty in these respects. So when you go there and ask for the evidence and have they accepted it, let us just assume that we are well and truly down that path, that these matters have been investigated and that these companies have accepted liability and, to be fair to them, are engaging in remediation schemes, or at least are claiming to, in respect to the outstanding wages that are owed.

**The Hon. DAMIEN TUDEHOPE:** So that in fact, I anticipate, would incur the payroll tax.

**The Hon. NATALIE WARD:** Let him answer. You have asked him the question.

**The CHAIR:** Order!

**The Hon. DANIEL MOOKHEY:** No, before we get to the details, I want to know what exactly is the New South Wales Government's policy when it comes to payroll tax collection for wage theft. That is a policy question that only you can answer.

**The Hon. NATALIE WARD:** Alleged.

**The Hon. DANIEL MOOKHEY:** They have pleaded, Natalie.

**The Hon. DAMIEN TUDEHOPE:** I just preface it by saying that, clearly, if wages are assessed, then in those circumstances there is a payroll tax liability. Perhaps Mr Brady would elaborate.

**Mr BRADY:** Thank you, Minister. When considering franchise businesses the important thing is who is paying the wages and, therefore, where does the payroll tax liability sit. The fact is that with most franchise operators there are small businesses operating individual outlets. Most of those small businesses fall well below the payroll tax threshold, which is currently \$900,000.

**The Hon. DANIEL MOOKHEY:** Mr Brady, is that the view that you have taken after having undertaken investigation into these businesses or as a matter of policy?

**Mr BRADY:** It is not a question of policy, Mr Mookhey. It is a question of the law.

**The Hon. DANIEL MOOKHEY:** I am asking what investigations—

**Mr BRADY:** The structure of these organisations is that they are individual businesses, individual employers. We have investigated individual circumstances where there have been allegations of underpayment in franchise operators. Our investigations have established—and I can only talk about individual situations because, again, generalising is dangerous—

**The Hon. DANIEL MOOKHEY:** Sure.

**Mr BRADY:** Sorry, if I can just—

**The Hon. DANIEL MOOKHEY:** Sure, of course.

**Mr BRADY:** What we have found is that the majority of franchisees tend to have individual outlets that fall well below the thresholds, irrespective of variations in wages that might be alleged. What we do see, though, is where there are franchisees who have multiple outlets—and that might require several—they can go over the threshold. In those circumstances we have investigated and taken appropriate action.

**The Hon. DANIEL MOOKHEY:** But, Mr Commissioner, firstly, I want to unpack that because there are some specific facts that are on the public record that I would like to follow up; but, secondly, you make the point that it is businesses that are over the threshold and the whole issue inherent with wage theft is that, by its very act, it puts people below the threshold.

**Mr BRADY:** Agreed. So it is a question of degree and whether the wage theft would push them over the threshold.

**The Hon. DANIEL MOOKHEY:** Indeed. As you just alluded, there are often in these supply chains two aspects: people who own multiple franchises of the same and therefore as one corporate entity and therefore likely to trigger; and, secondly, the knowledge of the head operators in terms of the wage payments as well as a source of information. Do you accept that?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** We have learnt previously—and I have asked this before, so it is not too much of a shock—and we have read previously that Revenue NSW has disclosed that it thought that your Victorian equivalent was responsible for leading the investigation of 7-Eleven. That is correct?

**Mr BRADY:** That is correct.

**The Hon. DANIEL MOOKHEY:** That is because the 7-Eleven headquarters is in Melbourne. That is correct?

**Mr BRADY:** Typically where there is a national business the revenue offices try not to have multiple audits of the one organisation coming from every jurisdiction.

**The Hon. DANIEL MOOKHEY:** Of course. Entirely logical.

**Mr BRADY:** We would ask that one jurisdiction takes the lead and works on behalf of all jurisdictions.

**The Hon. DANIEL MOOKHEY:** So what do we do? What did we find? I asked this two years ago—it has been two years. 7-Eleven has accepted liability. They have been fined. They are under a court-ordered remediation scheme. Where are we up to in terms of finding out whether or not they owe us any money?

**Mr BRADY:** I will take that question on notice and come back to you with the specifics, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Equally, we are down that pathway—who exactly have you investigated? Either you, Minister, or the Commissioner?

**Mr BRADY:** Sorry, you are wanting me to name every organisation that we have had a payroll tax audit of?

**The Hon. DANIEL MOOKHEY:** No, in respect to wage theft. I actually do want to know: How many companies have you investigated for allegations of wage theft the past 12 months?

**The Hon. DAMIEN TUDEHOPE:** Well is it not more appropriate to say, in the way that you have identified 7-Eleven, is there another—

**The Hon. DANIEL MOOKHEY:** Yeah, sure, Pizza Hut.

**The Hon. DAMIEN TUDEHOPE:** Is there a finding against Pizza Hut?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** So, sorry, in relation to individual taxpayers, again I will take that on notice. We do have secrecy obligations under the Tax Administration Act 1953.

**The Hon. DANIEL MOOKHEY:** We will get to that in the afternoon, perhaps. Your view is that you cannot say because you are subject to tax secrecy provisions?

**Mr BRADY:** I will take that on notice.

**The Hon. DANIEL MOOKHEY:** How many people are investigating wage theft in Revenue NSW?

**Mr BRADY:** We have a payroll tax compliance—

**The Hon. DANIEL MOOKHEY:** Last time you told us 153 people were in your payroll tax compliance team.

**Mr BRADY:** I have to take that on notice. In terms of whether it is "wage theft" as you characterise it or whether it is in terms of payroll tax general compliance activity or whether it is at-risk sectors, we have teams that work on where we are seeing anomalies across data provided to us from other organisations. We take data from around 50 different organisations—including the Australian Tax Office, SafeWork et cetera—and we match them to look for where there is an anomaly between the information that has been provided directly to us versus information that has been provided through other sources. That generates our general compliance activity. In addition to that, where we see an at-risk sector we will also target our activity into those sectors.

**The Hon. DANIEL MOOKHEY:** Do you classify this as being an "at-risk sector"?

**Mr BRADY:** We have certainly given our attention to cafes and restaurants where we are recording underpayment of wages. We are working closely with the Fair Work authority as well so that where there is identification of underpayment then we can take that into account in deciding where we target our audits.

**The Hon. DANIEL MOOKHEY:** You are also presumably responsible for helping icare collect its workers comp premiums. Is that a role that you play? Are any data exchanged with icare?

**Mr BRADY:** I am not sure that we actually collect on behalf of icare. I will have to take that on notice. I do not believe that we do.

**The Hon. DANIEL MOOKHEY:** That is reasonable. I accept that. Minister, you accept of course the fact that it is not acceptable for anyone to steal any wages—you accept that?

**The Hon. DAMIEN TUDEHOPE:** Absolutely.

**The Hon. DANIEL MOOKHEY:** You accept of course that the incidences of wage theft that have been revealed in the past year have been outrageous?

**The Hon. DAMIEN TUDEHOPE:** I think the Commissioner identified some of those food industries which have been involved in that.

**The Hon. DANIEL MOOKHEY:** Do you accept that that provides an overwhelming basis for law reform at both the Commonwealth and State levels?

**The Hon. DAMIEN TUDEHOPE:** I would accept that there are opportunities to make sure that employees are properly remunerated for what they do—

**The Hon. DANIEL MOOKHEY:** Well, that they are paid what they are legally owed.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you accept that there is a systemic problem in the franchise sector when it comes to wage theft?

**The Hon. DAMIEN TUDEHOPE:** I do not know if I would necessarily call it "systemic" but I understand the point that you make.

**The Hon. DANIEL MOOKHEY:** How would you describe it?

**The Hon. DAMIEN TUDEHOPE:** I would suggest to you that there are individual instances where people who have responsibility for collecting wages have not in fact fulfilled their obligations in relation to paying those.

**The Hon. DANIEL MOOKHEY:** Fair enough. To be fair, your Federal colleagues have described it as a systemic problem in the franchise sector, but who am I to tell you whether to agree with your Federal colleagues or not?

**The Hon. DAMIEN TUDEHOPE:** That's right.

**The Hon. DANIEL MOOKHEY:** Have you been paying attention to the Senate in this respect?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Should you be? Are you aware that it undertook and published a report in March this year called *Fairness in Franchising*?

**The Hon. DAMIEN TUDEHOPE:** Let me just say—

**The Hon. NATALIE WARD:** It is outside the terms of reference of this of this portfolio.

**The Hon. DANIEL MOOKHEY:** It is really not, because your Small Business Commissioner made a submission.

**The CHAIR:** Order!

**The Hon. DANIEL MOOKHEY:** Did you see the submission or have you been provided a copy of your small business—

**The Hon. DAMIEN TUDEHOPE:** When was it made?

**The CHAIR:** If you want to make a comment, please take a point of order.

**The Hon. DANIEL MOOKHEY:** December last year and the report was handed—



**The Hon. DAMIEN TUDEHOPE:** Well, it was certainly before I was the Minister and I—

**The Hon. DANIEL MOOKHEY:** So you have not received any briefings in that respect?

**The Hon. DAMIEN TUDEHOPE:** I have not.

**The Hon. DANIEL MOOKHEY:** Okay. The Senate has made multiple recommendations for reform. I want to ask you what the New South Wales Government's attitude is to some of them, given that we would have to give some agreement to them in order to change the Australian consumer law. Do you accept that?

**The Hon. DAMIEN TUDEHOPE:** I would also suggest to you that the manner in which you would be changing the law would be a matter for the Minister for Industrial Relations who—

**The Hon. DANIEL MOOKHEY:** No. This is small business regulation. I am sorry, but it is in your—you have the Small Business Commissioner, so it is well and truly within your territory. I am asking you because this is the tenor of the reforms that have been taken. We are awaiting the Commonwealth's response, but I do want to find out what the New South Wales Government thinks. I cannot ask public servants because they cannot provide me with Government policy, so I will ask you. Do you support whistleblower protections being added to the franchise code?

**The Hon. DAMIEN TUDEHOPE:** Who administers the franchise code?

**The Hon. DANIEL MOOKHEY:** It is joint.

**The Hon. DAMIEN TUDEHOPE:** Between?

**The Hon. DANIEL MOOKHEY:** Shouldn't you know this, Minister?

**The Hon. DAMIEN TUDEHOPE:** Well, do you know?

**The Hon. DANIEL MOOKHEY:** Yes, I do. It is joint—

**The Hon. DAMIEN TUDEHOPE:** Yes, okay, so who administers—

**The Hon. DANIEL MOOKHEY:** You are aware of the Australian competition framework, are you not?

**The Hon. DAMIEN TUDEHOPE:** Who administers that?

**The Hon. DANIEL MOOKHEY:** You are aware that that is a joint framework between the Commonwealth and the States?

**The Hon. DAMIEN TUDEHOPE:** Okay, but the legislative responsibility is?

**The Hon. DANIEL MOOKHEY:** Minister, you are the Minister here. Can I just make the point that as much as I am amused by your cross-examination of me, you are the Minister and you are the witness. Let me ask the questions and you provide the answers.

**The Hon. DAMIEN TUDEHOPE:** I want to make sure that you put your questions in context. If in fact it is a Senate inquiry—

**The Hon. DANIEL MOOKHEY:** Okay. Let me—

**The Hon. BEN FRANKLIN:** He is being helpful, Daniel.

**The Hon. DANIEL MOOKHEY:** I will be helpful too. Let me unpack this step by step so you can follow, Minister. You are aware that there is this thing called the Australian competition framework, yes? The National Competition Policy—ever heard of it?

**The Hon. DAMIEN TUDEHOPE:** It is a Commonwealth policy.

**The Hon. DANIEL MOOKHEY:** Are you sure? It is joint, isn't it?

**The Hon. DAMIEN TUDEHOPE:** It may well be joint.

**The Hon. DANIEL MOOKHEY:** It has been joint since 1995. That is correct?

**The Hon. DAMIEN TUDEHOPE:** Good.

**The Hon. DANIEL MOOKHEY:** As a result we have the opportunity to weigh on important questions like who the ACCC commissioner is. Do you accept all this?

**The Hon. DAMIEN TUDEHOPE:** I do.

**The Hon. DANIEL MOOKHEY:** Do you accept, therefore, that the ACCC answers to the COAG body, which you are meant to sit on?

**The Hon. DAMIEN TUDEHOPE:** I do not think I sit on it.

**The Hon. DANIEL MOOKHEY:** The Treasury. We will go with the Treasury. I am not sure if you sit on it because it very hard to figure out what you sit on.

**The Hon. DAMIEN TUDEHOPE:** I am pretty sure that I do not sit on it.

**The Hon. DANIEL MOOKHEY:** You accept therefore that the New South Wales Government has to give its consent and is a part of the COAG processes that are about these reforms?

**The Hon. DAMIEN TUDEHOPE:** Sure.

**The Hon. DANIEL MOOKHEY:** You therefore accept that the New South Wales Government has to have an attitude towards these policy questions?

**The Hon. DAMIEN TUDEHOPE:** And I think that it does.

**The Hon. DANIEL MOOKHEY:** You accept that the Small Business Commissioner is the person who participated in this inquiry and has been leading the New South Wales Government's response to this issue?

**The Hon. DAMIEN TUDEHOPE:** I have been provided with no briefing in relation to the issue that you are identifying.

**The Hon. DANIEL MOOKHEY:** I am going to pause there and ask why have you not sought one.

**The Hon. DAMIEN TUDEHOPE:** It is not an issue that has—other than my own personal interest in it, which I indicated to you earlier—

**The Hon. DANIEL MOOKHEY:** So your view is you have no official responsibilities as the small business Minister to do anything in this respect?

**The Hon. DAMIEN TUDEHOPE:** I did not say that. I just said that I have not received any briefing in relation to that issue.

**The Hon. DANIEL MOOKHEY:** And I have asked you why you have not sought one.

**The Hon. DAMIEN TUDEHOPE:** Because it has not been one that has come across my desk.

**The Hon. DANIEL MOOKHEY:** Do you not think that perhaps you are creating the appearance that you may not be paying attention to your portfolio?

**The Hon. DAMIEN TUDEHOPE:** No, I would not suggest that to you at all. In fact, I would have to suggest to you that I pay inordinate attention to my portfolio.

**The Hon. DANIEL MOOKHEY:** But you have just managed to miss the fact that there has been this huge reform, the most substantial conversation about franchise reform in a long time.

**The Hon. DAMIEN TUDEHOPE:** Which is a Commonwealth-led reform, is it not?

**The Hon. DANIEL MOOKHEY:** Let me ask you again: Do you support whistleblower protections in the supply chain in the franchise code? What is the New South Wales Government's attitude to this? I ask you, Minister, because—would you like me to provide you with your own Small Business Commissioner's submission to the report? Would that help?

**The Hon. DAMIEN TUDEHOPE:** It would not necessarily help and I would not give you an answer on the spot. I think the nature of whistleblower protections is always—

**The Hon. DANIEL MOOKHEY:** Can I provide this to the Minister please? I will try to help. It is important. I am just trying to actually understand what you guys think about this.

**The Hon. BEN FRANKLIN:** Point of order: If the Minister said he is not prepared to provide an answer on the spot that clearly implies he wants to take the question on notice. Therefore—

**The Hon. DANIEL MOOKHEY:** He can. I am just going to provide him the information and he can use the information as he sees fit—

**The CHAIR:** Order! Please address all comments through the Chair.

**The Hon. DAMIEN TUDEHOPE:** Is there a specific paragraph you want me to look at? Or do you want me to read the document—?

**The Hon. DANIEL MOOKHEY:** Would you like me to provide you with a copy of the Federal Senate report as well, the recommendations? Would that assist? These are not trick questions, they are things that the entire sector has an interest in and I want to know what the Minister for Finance and Small Business thinks about them, that is all. There is nothing complicated about this. Do you think that there should be whistleblower powers? The context is that that is how all these issues surfaced—people came forward. There is a view that unless you have them, the gag clauses in contracts will preclude them from their ability to report illegal behaviour. In that context, do you have a view on it?

**The Hon. DAMIEN TUDEHOPE:** I may have a view on gag clauses in contracts.

**The Hon. DANIEL MOOKHEY:** Okay, tell me then, let's go.

**The Hon. DAMIEN TUDEHOPE:** I have to say that gag clauses in contracts would be something that I would be challenging. Let's get this in context. The Small Business Commissioner is an independent statutory officer. She makes submissions in her capacity as an independent statutory officer. She has the ability to make submissions and make recommendations in accordance with the way that she fulfils her obligations as the Small Business Commissioner. I have no problem, either in relation to the way that she carries out her obligations or the submissions that she makes. In fact, recently you would be aware, Mr Mookhey, that she has made a submission in relation to the night-time economy. She does that in her capacity as an independent statutory officer.

**The Hon. BEN FRANKLIN:** She was excellent, by the way.

**The Hon. NATALIE WARD:** Fabulous.

**The Hon. DANIEL MOOKHEY:** I am glad we were able to get that on the record.

**The Hon. BEN FRANKLIN:** She was.

**The Hon. DANIEL MOOKHEY:** Let us just accept that you have to take on notice your views on whistleblower protection. As the Minister for Finance and Small Business do you think there should be mandatory disclosure of Business Activity Statements, profit and loss statements, balance sheet and labour costs by franchisors at the top of the chain to the people they want to franchise to? That is just to call for law reforms, so a person who wishes to enter into an arrangement has all the information that is available to them to make a sound commercial decision. Do you accept that there is a policy logic in that argument? Is that something that the New South Wales Government might support?

**The Hon. NATALIE WARD:** Is this Federal law?

**The Hon. DAMIEN TUDEHOPE:** It would be something that I would anticipate would come out of that inquiry.

**The Hon. DANIEL MOOKHEY:** It is a direct recommendation from that inquiry. I am asking you specifically what do you think about this?

**The Hon. DAMIEN TUDEHOPE:** I have some sympathy for the view in the same way as the Retail Leases Act has obligations for lessor disclosures. I think that there are certainly opportunities to have a code for franchisor disclosures.

**The Hon. DANIEL MOOKHEY:** That is useful, thank you. There is a code for franchises but the proposition is that the code be amended to include mandatory disclosure of these financial statements. You have no objection in principle to that? Is that the correct summation of your position?

**The Hon. DAMIEN TUDEHOPE:** I would not want to pre-empt the obligations of other organisations. It is probably something that I would like to—

**The Hon. DANIEL MOOKHEY:** To be fair, this was a unanimous recommendation of both the Liberals and Nationals in the Commonwealth. It is not political. That is the context which might help you.

**The Hon. DAMIEN TUDEHOPE:** It is in accordance with the way that I would see those obligations of making sure that there is balance between franchisors and franchisees, so that they have all the information necessary and available to them for the purposes of making a business decision about whether they would accept a franchise. It is how I started this discussion with you, Mr Mookhey. I have a serious—

**The Hon. DANIEL MOOKHEY:** We both have sympathy in this regard.

**The Hon. DAMIEN TUDEHOPE:** —professional view in relation to ensuring—

**The Hon. DANIEL MOOKHEY:** We both do, I accept that. I accept that you are coming to this with those professional views and in good faith. That is not in dispute.

**Mr PRATT:** Mr Mookhey, could I comment on the process from a Treasury perspective how I would expect this to progress?

**The Hon. DANIEL MOOKHEY:** Please, that would be useful.

**Mr PRATT:** The report, as you are no doubt well aware, was handed down in March of 2019 and there were 71 recommendations made on this issue of fairness in franchising. On 21 June 2019 the Minister for Employment, Skills, Small and Family Business announced the establishment of a task force.

**The Hon. DANIEL MOOKHEY:** The Commonwealth Minister.

**Mr PRATT:** The Commonwealth Minister. The key agencies at the Commonwealth level involved in that task force are the Department of the Treasury, the Department of Employment, Skills, Small and Family Business and the Department of the Prime Minister and Cabinet. The key issues that the Federal Minister has raised, some of which you have referred to this morning, are to examine how consultation processes associated with franchising policy, regulation and legislation can achieve an appropriate level of input from franchisees, investigate options for a public franchise register, and it goes on. There are seven or eight key points. I would expect now, in terms of next steps, there will be a process involving the States given that Treasury at the Federal level has a key input into this. We will be asked to put submissions into this task force. I would expect that will be the next step.

**The Hon. DANIEL MOOKHEY:** Thank you, Mr Secretary. To be fair, a form of that task force has been in existence now for a couple of years. In fact, you will find that of those 71 recommendations that the Senate made, a lot of them were to that task force. I accept the information that you have given is of great value in this discussion that we are having. I am glad that you raised the issue of the public register, because that is the next question I was going to ask you, Minister. Do you think that there should be a public register for franchise and franchise disclosure?

**The Hon. DAMIEN TUDEHOPE:** My own personal view is I would have no objection to such a register.

**The Hon. DANIEL MOOKHEY:** I ask now about the practice of third line forcing. I ask you specifically because there is an argument that the New South Wales Government and the Small Business Commissioner have power to enforce here. This is the compulsory sale of goods below cost at the behest of a franchisor at the top of a chain. For example, Bakers Delight telling one of their shops that they must sell this bread roll for this price, even though it is below cost. That is something which can qualify as an unfair contract term for which the Small Business Commissioner's powers can be triggered.

**The Hon. DAMIEN TUDEHOPE:** Third line forcing is a Trade Practices Act matter.

**The Hon. DANIEL MOOKHEY:** Both actually, to be technical; it can multiply.

**The Hon. DAMIEN TUDEHOPE:** Under what Act in New South Wales is third line forcing?

**The Hon. DANIEL MOOKHEY:** The Consumer Law.

**The Hon. DAMIEN TUDEHOPE:** That is a Federal Act.

**The Hon. DANIEL MOOKHEY:** No, we passed concurrent legislation in New South Wales. But let us not go too far down that path because I do not want to necessarily demonstrate that you do not know what you are talking about. I will move on. I am asking you, do you think that the practice of third line forcing—

**The Hon. NATALIE WARD:** You are asking about Federal law, Daniel.

**The Hon. DANIEL MOOKHEY:** —and there is the responsibility of the Small Business Commissioner here to start engaging in enforcement and actually bringing suit fund for contracts.

**The Hon. DAMIEN TUDEHOPE:** They are all policy matters which, quite frankly, would be reviewed as part of the task force.

**The Hon. DANIEL MOOKHEY:** This question is specific to the NSW Small Business Commissioner Act. In terms of what has been called the introduction of binding arbitration, you would be aware that currently the Small Business Commissioner can undertake mediation, correct?

**The Hon. DAMIEN TUDEHOPE:** I am.

**The Hon. DANIEL MOOKHEY:** But you are aware that the Small Business Commissioner cannot undertake binding arbitration?

**The Hon. DAMIEN TUDEHOPE:** That is right.

**The Hon. DANIEL MOOKHEY:** Do you think there is a case for binding arbitration under the New South Wales law when it comes to franchises?

**The Hon. DAMIEN TUDEHOPE:** That would be a significant expansion of the role of the Small Business Commissioner. Again, I think that is a policy decision which would have to be explored over time. I would not rush into a position of necessarily endorsing expanding the obligations to make it binding arbitration.

**The Hon. DANIEL MOOKHEY:** You are aware that multiple people in the small business sector are calling for the establishment of a binding arbitration dispute resolution system, not just for franchises?

**The Hon. DAMIEN TUDEHOPE:** It has never been put to me as a proposal, I must say. Having said that, there are plenty of opportunities for arbitrations, whether it is in the NSW Civil and Administrative Tribunal [NCAT] or in the court system. There are opportunities for arbitration.

**The Hon. DANIEL MOOKHEY:** Are you aware that NSW Farmers has called for the establishment of a no-cost litigation model for small businesses?

**The Hon. DAMIEN TUDEHOPE:** Yes, I am aware.

**The Hon. DANIEL MOOKHEY:** What is the New South Wales Government's response to the NSW Farmers call?

**The Hon. DAMIEN TUDEHOPE:** I do not think the legal system can embrace a no-cost litigation call. I am certainly of the view that there is sometimes an imbalance between the opportunities of litigants in relation to claims which they have to be severely disadvantaged in relation to how they bring actions and the costs implication of bringing those actions. However, it is a very complex issue to have no-cost litigation—

**The Hon. DANIEL MOOKHEY:** You are aware that the NCAT is designed on a no-cost basis.

**The Hon. DAMIEN TUDEHOPE:** For both parties.

**The Hon. DANIEL MOOKHEY:** Yes. And you know that, for example, the industrial relations system is designed on a no-cost basis.

**The Hon. DAMIEN TUDEHOPE:** For both parties—yes.

**The Hon. DANIEL MOOKHEY:** So to the extent to which you say there are difficulties or complexities in establishing—

**The Hon. DAMIEN TUDEHOPE:** The complexity is if you want one party to have a no-cost—

**The Hon. DANIEL MOOKHEY:** Well, to be fair, I do not think that is what the farmers were calling for. They were calling for the establishment of a no-cost—

**The Hon. DAMIEN TUDEHOPE:** In respect of what sorts of actions?

**The Hon. DANIEL MOOKHEY:** Unfair contract terms would be the one that they would cite and have cited, and also unconscionable conduct and in supply chain negotiations. Are you aware that there are these concerns that the farmers have about particularly the behaviour of the very big retailers and the purchasing of farm products?

**The Hon. DAMIEN TUDEHOPE:** Well, I certainly am aware that it is an issue relating to farm gate prices and the like. Yes, I am.

**The Hon. DANIEL MOOKHEY:** And are you aware that one of the fears that the farmers have is that should they ever articulate their concerns with Woolworths or Coles they run the risk of having their goods removed from the shelves of Woolworths and Coles?

**The Hon. DAMIEN TUDEHOPE:** I am aware that that is a suggestion that was made, yes.

**The Hon. DANIEL MOOKHEY:** And are you aware that their view is that they are unable to access the commercial litigation system in the Supreme Court because there is no way that a farmer can afford to litigate against Coles and Woolworths?

**The Hon. DAMIEN TUDEHOPE:** Again, Mr Mookhey, I understand the point that you make and I can understand how you would, I suppose, proffer a policy position to be automatically adopted.

**The Hon. DANIEL MOOKHEY:** To be fair, they are.

**The Hon. DAMIEN TUDEHOPE:** They are and I infer from your questions that you are sympathetic to it.

**The Hon. DANIEL MOOKHEY:** I am sympathetic to it. To be fair, so is the Hon. Ben Franklin.

**The Hon. DAMIEN TUDEHOPE:** I must say that in relation to the nature of the conduct of an estimates hearing it is not the place where I necessarily develop policy on the run.

**The Hon. DANIEL MOOKHEY:** I am trying to be fair to you.

**The Hon. DAMIEN TUDEHOPE:** It is a circumstance where you would put a policy position to me. It is something that I think I would be loath to necessarily say, without a significant amount of input from others as to the pros and cons in relation to that policy, whether I would embrace it. I accept the inference that you make, that it is something that they would advocate for, but if you are using this as an opportunity to say—and which you have in a subtle sort of manner tried to wedge me on the basis of saying, "Well, you don't know what you're talking about." I am saying this is not the forum to develop policy on the run.

**The Hon. DANIEL MOOKHEY:** To be fair, the origin of the question was, "What is your attitude towards NSW Farmers' position?" which is legitimate. I want to follow that up and having met with the—

**The Hon. DAMIEN TUDEHOPE:** I understand the issue and my attitude is I do not develop policy on the run at forums like this.

**The Hon. DANIEL MOOKHEY:** Have you met with the NSW Farmers about these concerns?

**The Hon. DAMIEN TUDEHOPE:** No, I have not.

**The Hon. DANIEL MOOKHEY:** Will you commit now to meet with them about these concerns?

**The Hon. DAMIEN TUDEHOPE:** I am happy to.

**The Hon. DANIEL MOOKHEY:** Sure.

**The Hon. COURTNEY HOUSSOS:** Minister, can you outline what are the current uses of artificial intelligence that the department undertakes?

**The Hon. DANIEL MOOKHEY:** With Revenue NSW this time.

**The Hon. DAMIEN TUDEHOPE:** In relation to data management.

**The Hon. DANIEL MOOKHEY:** Not Treasury—we did that with Treasury before. That was pleasant, but with Revenue NSW, thank you.

**Mr BRADY:** Artificial intelligence is a broad term, so if I can talk a little about machine learning models, perhaps, it is probably more accurate where we are. We have two major applications at the moment. One is our case identification model for payroll tax where we take in the different data sources I mentioned earlier and we use those to risk assess. We then take the outcomes of those audits to understand how effective that selection model was and then fine-tune the model. Effectively what we are trying to do is make sure that we are applying our resources where they are returning the best compliance outcomes and that we are not auditing organisations and exposing them to red tape for no real purpose. We are currently reviewing that model. We have the Data Analytics Centre working with us to see if we can fine-tune and improve that model.

The second application for us has been in looking at the way we enforce our powers under the Fines Act for vulnerable people and trying to understand where people are starting to fall into that vulnerable space and then diverting our enforcement away so that we are not exposing people who are subject to financial hardship to further difficulties in their lives. That model has been successful in moving our efforts away from some of those people with the most vulnerable situations and actually resulted in some improvements in the yield from our enforcement activities as well.

**The Hon. COURTNEY HOUSSOS:** Sorry, you used a different term. I used "artificial intelligence". What was the term you used?

**Mr BRADY:** Machine learning. Artificial intelligence [AI] is a continuum from automation, cognitive systems, machine learning up to artificial intelligence. I would not claim we are at the artificial intelligence level, but we do have machines where we are taking the outcomes that we are seeing to help fine-tune those algorithms to then create better and better outcomes. We are currently working with the Department of Customer Service around that vulnerability model to again fine-tune it, to make sure it is in what people are terming "explainable" AI so that we are in a position where that model can be understood quite clearly as to the recommendations it is making to the decision-makers.

**The Hon. COURTNEY HOUSSOS:** What are some of the factors that go into the vulnerability model?

**Mr BRADY:** It goes into the history of the person in terms of their ability to meet their obligations.<sup>1</sup> We look at their income where that is known to us, whether they have been on Centrelink. We have looked at other aspects of their engagement with us—so how difficult has it been for them to engage with us, how have they stuck to previous arrangements around payments et cetera.

**The Hon. COURTNEY HOUSSOS:** Do you have any policy guidelines that surround the use of machine learning?

**Mr BRADY:** Again, we are working with the department around the ethical use of artificial intelligence. The important part for us is that these machines do not make decisions; they help to filter through large volumes of information and simplify the analysis so that the person with the relevant delegation under the Act can make an informed decision.

**The Hon. COURTNEY HOUSSOS:** Thanks.

**The Hon. DANIEL MOOKHEY:** Minister, let's talk about your wonderful capacity as finance Minister. You act as a shareholding Minister for a series of State-owned corporations and others, is that correct?

**The Hon. DAMIEN TUDEHOPE:** I do.

**The Hon. DANIEL MOOKHEY:** Which ones?

**The Hon. DAMIEN TUDEHOPE:** Essential Energy, Landcom, Forestry Corporation, Sydney Water, WaterNSW, Hunter Water, and Port Authority of New South Wales.

**The Hon. DANIEL MOOKHEY:** Is that it?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Are you a shareholding Minister for Roads Retained Interests Pty Ltd?

**Mr GARDNER:** He is not.

**The Hon. DANIEL MOOKHEY:** He is not?

**Mr GARDNER:** No.

**The Hon. DANIEL MOOKHEY:** Because we had this in Transport after we met last time, Mr Gardner, and they certainly inferred very strongly that he was.

**Mr GARDNER:** No, it is definitely the case that the Treasurer is the responsible Minister.

**The Hon. DANIEL MOOKHEY:** I thought so. Is it the Treasurer and the transport Minister or is it just the Treasurer?

**Mr GARDNER:** Just the Treasurer.

**The Hon. DANIEL MOOKHEY:** Oh, okay, just the Treasurer. Minister, you are for Essential Energy?

**The Hon. DAMIEN TUDEHOPE:** Correct.

**The Hon. DANIEL MOOKHEY:** Were you advised of Essential Energy's decision to reduce employment by 540 positions over the next few years before it announced that decision?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Were you not meant to be under the Treasury commercial framework?

**The Hon. DAMIEN TUDEHOPE:** Why?

**The Hon. DANIEL MOOKHEY:** Well, you tell me, Minister.

**The Hon. DAMIEN TUDEHOPE:** Well, you tell me the premise for the question.

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<sup>1</sup> In [correspondence](#) to the committee received on 11 September 2019 Mr Stephen Brady, Chief Commissioner of State Revenue provided clarification to his evidence.

**The Hon. DANIEL MOOKHEY:** Minister, are you familiar with the Treasury commercial framework?

**The Hon. DAMIEN TUDEHOPE:** Give me the premise of the question. Under what provision in the State Owned Corporations Act are you saying—?

**The Hon. DANIEL MOOKHEY:** I am going to give you—

**The Hon. DAMIEN TUDEHOPE:** Tell me the section, Mr Mookhey. Which section of the Act have you identified?

**The Hon. DANIEL MOOKHEY:** Minister, just calm down.

**The CHAIR:** Order! Minister—

**The Hon. DAMIEN TUDEHOPE:** I am not Minister Constance.

**The Hon. DANIEL MOOKHEY:** Just calm down—step by step.

**The CHAIR:** Order!

**The Hon. DAMIEN TUDEHOPE:** Sorry.

**The CHAIR:** Minister, you are here to answer questions, not ask them.

**The Hon. DAMIEN TUDEHOPE:** Okay. I am just trying to get the basis of the question.

**The CHAIR:** You will look a lot better in the media if you answer questions or take them on notice rather than trying to bounce back with questions to members of the committee.

**The Hon. DAMIEN TUDEHOPE:** Thank you.

**The Hon. DANIEL MOOKHEY:** You are familiar with the Treasury commercial framework, that is correct?

**The Hon. DAMIEN TUDEHOPE:** I am aware that I am a shareholding Minister of those—

**The Hon. DANIEL MOOKHEY:** That was not my question, Minister. You aware that there is a Treasury commercial framework?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** And you are aware that this is the policy that supervises State-owned corporations?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** And you are aware that in that policy State-owned corporations have an obligation to provide Treasury and/or their shareholding Ministers with, for example, a monthly report?

**The Hon. DAMIEN TUDEHOPE:** It is not a requirement under the Act, but it is certainly—

**The Hon. DANIEL MOOKHEY:** Under the policy?

**The Hon. DAMIEN TUDEHOPE:** It may well be under the policy.

**The Hon. DANIEL MOOKHEY:** Perhaps Mr Gardner might want to confirm that there is an obligation to provide regular reports—it might not be monthly, to be fair, but regular reports. Quarterly, is it?

**Mr GARDNER:** There is a quarterly reporting cycle to Treasury and relevant Ministers. So in this instance—

**The Hon. DANIEL MOOKHEY:** Yes, relevant Ministers. And you are aware in addition to the requirement that there be quarterly reports provided to relevant Ministers that there is a continuous disclosure obligation that all State-run corporations have?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Yes. So I am asking you: In either of the quarterly reports or in the continuous disclosure obligations, were you told of Essential Energy's decision to reduce employment by 540?

**The Hon. DAMIEN TUDEHOPE:** Not that I can recall.



**The Hon. DANIEL MOOKHEY:** Once they did announce that decision, what inquiries did you make of Essential Energy?

**The Hon. DAMIEN TUDEHOPE:** I attended on a meeting with the other shareholding Minister with Essential Energy, together with the portfolio Minister.

**The Hon. DANIEL MOOKHEY:** When was that?

**The Hon. DAMIEN TUDEHOPE:** Three weeks ago, a month ago.

**The Hon. DANIEL MOOKHEY:** What was discussed?

**The Hon. DAMIEN TUDEHOPE:** The decision by Essential Energy to reduce its workforce.

**The Hon. DANIEL MOOKHEY:** What basis did they provide you for why they made that decision?

**The Hon. DAMIEN TUDEHOPE:** Well, in their capacity as being a State-owned corporation they made a decision in what they thought was the best interests of the company.

**The Hon. DANIEL MOOKHEY:** Did they provide you a rationale for why they thought that that was in the best interests of the company?

**The Hon. DAMIEN TUDEHOPE:** Yes, to the best of my knowledge.

**The Hon. DANIEL MOOKHEY:** What was that rationale that they provided you with?

**The Hon. DAMIEN TUDEHOPE:** Well, it was in order to comply with their obligations relating to the Energy Regulator to deliver affordable electricity prices to its consumers.

**The Hon. DANIEL MOOKHEY:** Did you express any opposition to that decision in that meeting or in any other meeting?

**The Hon. DAMIEN TUDEHOPE:** Whether it was opposition or not, I thought that there was a valid discussion to be had. There was a discussion between the portfolio Minister who is primarily responsible for the Energy portfolio and he, in fact, arising from that meeting, gave a direction.

**The Hon. DANIEL MOOKHEY:** Of course, the Government made the decision to not proceed or direct the Essential Energy board not to proceed with that decision, which is a legal right that the Government has. Do you accept that?

**The Hon. DAMIEN TUDEHOPE:** I do.

**The Hon. DANIEL MOOKHEY:** Yes. Have you received any subsequent briefings from Essential Energy as to how they intend to make the cost savings that you said were required as a result from the regulator?

**The Hon. DAMIEN TUDEHOPE:** No, I have not.

**The Hon. DANIEL MOOKHEY:** Are you intending to seek any briefing in this respect?

**The Hon. DAMIEN TUDEHOPE:** I would expect that they would provide me with a briefing in terms of their requirement to report.

**The Hon. COURTNEY HOUSSOS:** Did the Deputy Premier make any representations to you on this issue?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Did any MP make any representations to you on this issue?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Okay.

**The Hon. COURTNEY HOUSSOS:** Sorry, did the Deputy Premier attend the meeting of the shareholding and portfolio Ministers?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Have you had any discussions with the Deputy Premier directly about this issue?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Are you intending to have any discussions with the Deputy Premier about this issue?

**The Hon. DAMIEN TUDEHOPE:** Well, there is an overriding policy in relation to employment obligations in the public service generally that there will be no job losses in regional areas. That is a well-known position of the Government. To the extent that the Deputy Premier has a view in relation to job losses in Essential Energy, it is probably consistent with that policy that there would be no job losses in regional areas. I am aware of that as a position that he has advocated for. I am aware that it is an issue which he has been very strong about.

**The Hon. DANIEL MOOKHEY:** Sure, but to date you have received no briefings from Essential Energy as to how they intend to make the savings targets? That is the core of the question, I guess.

**The Hon. DAMIEN TUDEHOPE:** Well, no, but there is a piece of work to be done in relation to that because they have obligations in relation to the energy providers and in relation to electricity prices. One of the things that I will say about Essential Energy is that they have been remarkably successful in driving down electricity prices.

**The Hon. DANIEL MOOKHEY:** Okay.

**The Hon. DAMIEN TUDEHOPE:** I would anticipate that they have to go back and re-look at the business model which they have in place for the purposes of ensuring that they can comply with their obligations to the regulator.

**The Hon. DANIEL MOOKHEY:** You said, Minister, that you are a shareholding Minister of the Forestry Corporation?

**The Hon. DAMIEN TUDEHOPE:** I am.

**The Hon. DANIEL MOOKHEY:** And you receive, presumably, the quarterly briefings that they are obliged to provide you?

**Mr GARDNER:** Sorry, Mr Mookhey, they are not obliged to provide them to the shareholder Ministers, just to Treasury.

**The Hon. DANIEL MOOKHEY:** Just to Treasury. Has Treasury provided you those advices or any advice in this respect?

**The Hon. DAMIEN TUDEHOPE:** No. I do not recall having seen it.

**The Hon. DANIEL MOOKHEY:** Have you been made aware of anything that has triggered any continuous disclosure obligation of Forestry New South Wales to report or has Treasury been made aware of anything? Have they utilised that provision of the commercial policy framework in the past 12 months?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Minister, you are aware that the Treasurer is subjecting Forestry New South Wales to a scoping study pending any potential sale?

**The Hon. DAMIEN TUDEHOPE:** I heard him give that evidence to this Committee.

**The Hon. DANIEL MOOKHEY:** Was that the first time you learned about his intentions in that respect?

**The Hon. DAMIEN TUDEHOPE:** I think he was asked a question in the House about it, in fact, and he replied to the question that he does not rule anything in or out.

**The Hon. DANIEL MOOKHEY:** Was that the first time you learned about that proposition, in the House?

**The Hon. DAMIEN TUDEHOPE:** Certainly I was aware of his response when it was put to him in the House.

**The Hon. DANIEL MOOKHEY:** You paid attention to his evidence last Thursday as well?

**The Hon. DAMIEN TUDEHOPE:** I did.

**The Hon. DANIEL MOOKHEY:** Did you receive or have you received any specific briefings prior to that point in time about the intention of the Government to proceed with the scoping study?

**The Hon. DAMIEN TUDEHOPE:** Mr Mookhey, you would be aware that this Government has a long history in relation to getting the best value for the people of New South Wales in relation to asset recycling

programs. I have to say that if the Treasurer has indicated that he would be happy to embark on a scoping study in relation to Forestry New South Wales, it would be completely consistent with us achieving the best results and benefits for the people of the State.

**The Hon. DANIEL MOOKHEY:** Well, I am comforted by that. My specific question—

**The Hon. DAMIEN TUDEHOPE:** I hope you are, Mr Mookhey. Perhaps Labor is now going to embark upon an asset recycling endorsement, is that right?

**The Hon. DANIEL MOOKHEY:** You can hold your breath. The reason I ask you specifically is because you are not in the ordinary category of Government Minister in this respect. I am asking you, when did you first learn that the Government was intending to proceed with the scoping study for Forestry New South Wales?

**The Hon. DAMIEN TUDEHOPE:** I first was aware that Forestry New South Wales would be—

**The Hon. DANIEL MOOKHEY:** Forestry Corporation, to be correct.

**The Hon. DAMIEN TUDEHOPE:** Forestry Corporation. I first learned of the suggestion when the Treasurer answered a question about it in the House.

**The Hon. DANIEL MOOKHEY:** What responsibility or involvement do you have in this scoping study as one of the two shareholding Ministers?

**The Hon. DAMIEN TUDEHOPE:** I would anticipate that I would be informed in relation to where it would go but primarily this is an organisation which provides dividends to the Government. I am currently satisfied that it is a well-run, well-organised organisation. It has a well-functioning board and it is delivering on its obligations to the Government. As a shareholder in that company and the shareholding Minister in that company, my chief obligation is to make sure that there is a well-functioning board delivering for the benefit of the people of New South Wales and the dividends that it pays to the Government.

**The Hon. DANIEL MOOKHEY:** What have you done in that respect?

**The Hon. DAMIEN TUDEHOPE:** What do you mean, what have I done?

**The Hon. DANIEL MOOKHEY:** What have you done to ensure that we have a well-functioning board that pays dividends, as you have just described?

**The Hon. DAMIEN TUDEHOPE:** I see the dividends that are reported in the annual reports of the company. I am involved in the appointment of people to the boards of that company.

**The Hon. DANIEL MOOKHEY:** Is it best described that perhaps you are more of a passive investor in this respect?

**The Hon. DAMIEN TUDEHOPE:** I think the Government has a significant interest in the Forestry Corporation being a well-run organisation, so I am not passive in that respect.

**The Hon. DANIEL MOOKHEY:** Are you aware of any similar suggestions about the use of a scoping study or other market testing proposition in respect to any of the other shareholding companies for which you are the shareholding Minister, any other State-owned corporations?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Can we turn to Landcom now? You are shareholding Minister in that respect?

**The Hon. DAMIEN TUDEHOPE:** I am.

**The Hon. DANIEL MOOKHEY:** And you are aware that there have been some allegations of bullying in the organisation?

**The Hon. DAMIEN TUDEHOPE:** I am.

**The Hon. DANIEL MOOKHEY:** What steps have you taken to ascertain that the board there is well functioning and doing its responsibilities, particularly when it comes to these matters?

**The Hon. DAMIEN TUDEHOPE:** I understand that a number of inquiries were done in relation to that allegation. Perhaps the question is best directed to the secretary who in fact carried out one of those investigations.

**The Hon. DANIEL MOOKHEY:** Well, we had the opportunity to have extensive dialogue with the secretary and, let us be fair, we might have the opportunity to have more extensive time with him later on today, but I am asking you as a shareholder Minister did you receive—well, let us unpack this step by step.

**The Hon. DAMIEN TUDEHOPE:** In fact, when you are unpacking it, make sure that you get the chronology right, okay?

**The Hon. DANIEL MOOKHEY:** Okay, I will do that. I am sure you will be here to correct me if you need to, Minister.

**The Hon. DAMIEN TUDEHOPE:** I will.

**The Hon. DANIEL MOOKHEY:** Has Landcom provided Treasury with quarterly reports, as is required?

**Mr GARDNER:** Landcom has been complying with their quarterly reporting obligations, yes.

**The Hon. DANIEL MOOKHEY:** And have you received any of those reports, Minister, or has any specific briefing been provided to you in that respect?

**The Hon. DAMIEN TUDEHOPE:** I received a briefing in relation to the secretary's findings in respect of a particular aspect of a bullying report.

**The Hon. DANIEL MOOKHEY:** When did you receive that briefing from the secretary?

**The Hon. DAMIEN TUDEHOPE:** It would have been two months ago.

**The Hon. DANIEL MOOKHEY:** Right. Are you in a position to tell us what the content of the briefings were? Sorry, was that the first time you received any specific information from Treasury in this respect?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** What did the secretary tell you?

**The Hon. DAMIEN TUDEHOPE:** That he had conducted an inquiry independently in relation to the bullying allegation and had made a finding. I think the upshot of the finding was that a lady was reinstated to her position.

**The Hon. DANIEL MOOKHEY:** Did the secretary identify who the subjects of this investigation were to you?

**The Hon. DAMIEN TUDEHOPE:** She certainly identified one person in respect of whom there was an allegation.

**The Hon. DANIEL MOOKHEY:** Was that person a board member?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you appoint board members?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** What was your reaction to hearing that there was a specific allegation made about a board member?

**The Hon. DAMIEN TUDEHOPE:** Consequent on the finding of the secretary, I was comfortable in re-endorsing her appointment.

**The Hon. DANIEL MOOKHEY:** Have you actually re-endorsed her appointment since?

**The Hon. DAMIEN TUDEHOPE:** I think I have.

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** Did you seek any specific dialogue with her or direct the secretary to undertake any specific dialogue with her prior to you making the decision to reappoint?

**The Hon. DAMIEN TUDEHOPE:** I was satisfied with the secretary's finding in relation to the allegation.

**The Hon. DANIEL MOOKHEY:** Just to be clear, at the time that you made the reappointment you were aware that that person was subject to bullying allegations and that there was an investigation?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** With that knowledge, you still felt it appropriate to reappoint that person.

**The Hon. DAMIEN TUDEHOPE:** I thought that an appropriate process had been adopted to ensure that the person was appropriate for the purposes of being reappointed.

**The Hon. DANIEL MOOKHEY:** Did you have any discussions with the other shareholding Minister about this?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Was it you who was required to make the appointment or was it the other shareholding Minister? Or was it the two of you?

**The Hon. DAMIEN TUDEHOPE:** I think we both have to sign off on it.

**The Hon. DANIEL MOOKHEY:** Did it not occur to you, perhaps, that an appropriate thing to do would be to talk to the other shareholding Minister about whether or not this met a threshold as to whether this person was effectively fit and proper?

**The Hon. DAMIEN TUDEHOPE:** I accepted the advice that I received.

**The Hon. DANIEL MOOKHEY:** Do you apply a "fit and proper person" test to these types of appointments?

**The Hon. DAMIEN TUDEHOPE:** Mr Mookhey, I did not conduct an investigation in relation to the allegation. I received a report in relation to it. I was satisfied that the report had been properly carried out and in the circumstances, that having occurred, I was not about to embark upon a reinvestigation of the issue independently of those who had done it.

**Mr GARDNER:** If I might interject, I think we may need to just clarify the time line here. The appointment of Suzanne Jones as chair preceded the allegations of bullying.

**The Hon. DAMIEN TUDEHOPE:** But she was returned to her position.

**Mr GARDNER:** So it was not for the Minister to make the decision about reappointing her to the chair—that she should return. That was a matter for the secretary.

**Mr PRATT:** Mr Mookhey, I can give you dates on that. On 16 May 2018 Suzanne Jones was appointed by the shareholding Ministers as the permanent chair of Landcom. On 20 June 2019 Suzanne Jones resumed her role as the Landcom chair following the investigation.

**The Hon. DANIEL MOOKHEY:** You are now saying, Minister, that you were not required to provide—is it the position that is being adopted that the Minister was not required to give consent to the resumption of her role?

**Mr PRATT:** That is correct, because I found there was no further action to be taken. There was no reason, then, for the Minister to be involved in confirmation of her appointment.

**The Hon. DANIEL MOOKHEY:** What, then, was the evidence we had of the Minister signing off on the appointment? What was that about, Minister?

**The Hon. DAMIEN TUDEHOPE:** Probably what I am mistaking is that I have signed off that I was aware of the finalisation of the report and that she was returning to her position.

**The Hon. DANIEL MOOKHEY:** When you said you "signed off", you are referring more to an informal consent than a legal consent? Is that a fair description?

**The Hon. DAMIEN TUDEHOPE:** Signing off that I had been provided with a briefing and that the chair was returning to her position.

**The Hon. DANIEL MOOKHEY:** As the shareholding Minister you have the opportunity to issue directions to the board, yes?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** No? Is that correct?

**The Hon. DAMIEN TUDEHOPE:** Correct.

**The Hon. DANIEL MOOKHEY:** The board is required to provide you with, for example, a statement of corporate intent and you have to give your consent to that each year, do you not?

**The Hon. DAMIEN TUDEHOPE:** I would accept that that is correct.

**The Hon. DANIEL MOOKHEY:** Have you done that in respect to Landcom?

**Mr PRATT:** At this point, given the fairly new creation of this portfolio, I would think that has not been the case to date, Mr Mookhey. But it would be going forward.

**The Hon. DANIEL MOOKHEY:** Minister, are you going to, in the statement of corporate intent, declare to them that they have to take all the remediation actions that have been recommended to them in the investigation and that you will enforce it?

**The Hon. DAMIEN TUDEHOPE:** Let us cross that bridge when we come to it, Mr Mookhey. We make those decisions in circumstances when the opportunity arises.

**The Hon. DANIEL MOOKHEY:** It is a serious matter, though. You would accept that, would you not, Minister?

**The Hon. DAMIEN TUDEHOPE:** Absolutely.

**The Hon. DANIEL MOOKHEY:** Earlier, in relation to another State-owned corporation, you said that it is your core responsibility to make sure that the board is well functioning.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you not think that this perhaps should trigger some activity or involvement on your behalf to make sure that the Landcom board is well functioning, particularly in light of the fact that board members have been subjected to serious allegations?

**The Hon. DAMIEN TUDEHOPE:** I would expect in their report to me they would address the issue to make sure that they demonstrate that it is well functioning.

**The Hon. DANIEL MOOKHEY:** You are the shareholding Minister of the Port Authority of New South Wales as well?

**The Hon. DAMIEN TUDEHOPE:** Yes, I am.

**The Hon. DANIEL MOOKHEY:** Do you meet with them?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** How often do you meet with them?

**The Hon. DAMIEN TUDEHOPE:** I met with them about three weeks ago.

**The Hon. DANIEL MOOKHEY:** What did you meet them about?

**The Hon. DAMIEN TUDEHOPE:** I think it was just a general briefing in relation to activities that they were involved in in respect of the redevelopment of Port Botany.

**The Hon. DANIEL MOOKHEY:** What did they tell you about the redevelopment of Port Botany?

**The Hon. DAMIEN TUDEHOPE:** Just a general discussion in relation to potential opportunities for new terminals.

**The Hon. DANIEL MOOKHEY:** What were they?

**The Hon. DAMIEN TUDEHOPE:** I have a map in my office, if you would like me to provide it to you.

**The Hon. DANIEL MOOKHEY:** I would not mind, if you want to put it on notice. That would be quite useful.

**The Hon. DAMIEN TUDEHOPE:** But you would appreciate the information they provide to me in relation to that sort of stuff is probably commercial-in-confidence material.

**The Hon. DANIEL MOOKHEY:** I accept that. Did they, in the course of that briefing or any other briefing, tell you about their intentions when it comes to Yarra Bay?

**The Hon. DAMIEN TUDEHOPE:** Again, if they did I am not going to tell you because, again, it would be commercial in confidence.

**The Hon. DANIEL MOOKHEY:** To be fair, they did tell the transport committee, so you do not need to. I accept the point, but they made clear in evidence on Friday that they are heavily engaged in delivering the

New South Wales Government's cruise strategy. They said at estimates that they have been in discussions in what they described as a market-sounding process with three cruise operators. Are you aware?

**The Hon. DAMIEN TUDEHOPE:** I am not going to discuss it.

**The Hon. DANIEL MOOKHEY:** You are welcome to take that position.

**The Hon. DAMIEN TUDEHOPE:** Others may take the view that they—

**The Hon. DANIEL MOOKHEY:** It is not a trick question. There is nothing too sinister about this.

**The Hon. DAMIEN TUDEHOPE:** No, I am aware of the issue.

**The Hon. DANIEL MOOKHEY:** Did they inform you that they were in dialogue with the Royal Caribbean cruise line about the proposition that Royal Caribbean would make a financial contribution to the construction of the Yarra Bay cruise terminal? I accept your point that there are commercial-in-confidence discussions here but everything that I have just put to you is on the public record—they disclosed it on Friday.

**The Hon. DAMIEN TUDEHOPE:** Then you do not need my answer.

**The Hon. DANIEL MOOKHEY:** I do, because you are the shareholding Minister. Have they discussed that with you?

**The Hon. DAMIEN TUDEHOPE:** I am not disclosing that to you.

**The Hon. DANIEL MOOKHEY:** What is the dividend target of WaterNSW for the next 12 months?

**Mr GARDNER:** I do not have the target but the budget papers reflect the dividend projections at a high level across the sector. I do not have the specific data for WaterNSW specifically but I can give you the data for the water sector generally.

**The Hon. DANIEL MOOKHEY:** While you find that information, I might ask the Minister: Have you been paying attention to the separation of WaterNSW's compliance activities and the movement of them towards the natural resource regulator?

**The Hon. DAMIEN TUDEHOPE:** No, I have not.

**The Hon. DANIEL MOOKHEY:** But you are aware that that was a decision the Government, made in the last term of Parliament, to separate the compliance function from WaterNSW and the sales function from WaterNSW?

**The Hon. DAMIEN TUDEHOPE:** No, I am not specifically aware of it.

**The Hon. DANIEL MOOKHEY:** Are you aware that legislation came through the Parliament that was heavily debated—

**The Hon. DAMIEN TUDEHOPE:** In this term?

**The Hon. DANIEL MOOKHEY:** In the last term, that you were in—not in this capacity, I accept. You are not disputing that the compliance function has been separated?

**The Hon. DAMIEN TUDEHOPE:** No.

**The Hon. DANIEL MOOKHEY:** Has there been any talk in the Government about a consequential change to WaterNSW's dividend policy to reflect the fact that WaterNSW is in a pretty serious reform process right now?

**The Hon. DAMIEN TUDEHOPE:** Right.

**The Hon. DANIEL MOOKHEY:** Well, has there been?

**The Hon. DAMIEN TUDEHOPE:** I have not been party to any discussions in relation to that.

**The Hon. DANIEL MOOKHEY:** Are you aware that the Government commissioned this thing called the Matthews inquiry into water theft in New South Wales?

**The Hon. DAMIEN TUDEHOPE:** I am aware of it.

**The Hon. DANIEL MOOKHEY:** And you are aware that one of the findings in the review undertaken by Mr Ken Matthews was that because WaterNSW has commercial obligations, that was a reason why perhaps it did not have, as he described it, a "compliance culture"?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** Are you aware of that?

**The Hon. DAMIEN TUDEHOPE:** I am aware of it.

**The Hon. DANIEL MOOKHEY:** You are aware that one of the policy reforms as to why it was so necessary to separate it out, was to destroy that culture or at least that conflict of interest in WaterNSW?

**The Hon. DAMIEN TUDEHOPE:** I would accept that.

**The Hon. DANIEL MOOKHEY:** How often have you been meeting with the WaterNSW board and how often are you checking on this?

**The Hon. DAMIEN TUDEHOPE:** I have not met with the board at all.

**The Hon. DANIEL MOOKHEY:** Do you intend to meet with the board of WaterNSW?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** What do you intend to talk to them about?

**The Hon. DAMIEN TUDEHOPE:** The issue which you have just arose is no doubt something which would be on the agenda for them to brief me on.

**The Hon. DANIEL MOOKHEY:** You are aware that WaterNSW undertakes the sale of licences for the purposes of the New South Wales Government in the water market?

**The Hon. DAMIEN TUDEHOPE:** Yes, I am.

**The Hon. DANIEL MOOKHEY:** What reports do you get about how they go in that respect?

**The Hon. DAMIEN TUDEHOPE:** I have received no reports, but I would expect that they would report regularly to the water Minister.

**The Hon. DANIEL MOOKHEY:** To be fair, you just described before that your core function as finance Minister—as the shareholder Minister in respect of all of these corporations—was to make sure that their boards are well functioning and that they pay dividends.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**The Hon. DANIEL MOOKHEY:** So I am asking you about the dividends policy about this. Given that the Matthews inquiry said that commercial incentives were distorting WaterNSW's behaviour, I am asking you—and only you, because only really you can do this—what adjustments are you intending to make to WaterNSW's dividend requirements to diminish that as an incentive in how they behave?

**The Hon. DAMIEN TUDEHOPE:** I would not say it is me and only me. It is the policy of Government in relation to the licences and the manner it administers—

**The Hon. DANIEL MOOKHEY:** Who else is the shareholding Minister for WaterNSW? It is you and the Treasurer?

**The Hon. DAMIEN TUDEHOPE:** The Treasurer.

**The Hon. DANIEL MOOKHEY:** Are you having discussions with the Treasurer about whether there is a need to adjust a dividends policy to reflect WaterNSW's new circumstances.

**The Hon. DAMIEN TUDEHOPE:** That is a decision for the board of that company to ensure that it complies with the recommendations of the Matthews inquiry. If there is a recommendation in relation to that, I would expect them to comply.

**The Hon. DANIEL MOOKHEY:** You are aware that WaterNSW has constructed a—

**Mr PRATT:** Sorry, Mr Mookhey. I can give you the dividend trend.

**The Hon. DANIEL MOOKHEY:** Please. Thank you.

**Mr PRATT:** For the 2016-17 financial year, \$38 million. For 2017-18, \$98 million. Then the forecast for 2018-19 is \$20 million.

**The Hon. DANIEL MOOKHEY:** Why was the spike?

**Mr PRATT:** I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** It more than doubled in one year.



**Mr PRATT:** It spiked in 2017-18, that is correct. I do not have the answer to that question there. I can take that on notice.

**The Hon. DANIEL MOOKHEY:** Could you? You are aware that WaterNSW has constructed a pipeline from Wentworth to Broken Hill?

**The Hon. DAMIEN TUDEHOPE:** Yes, I am.

**The Hon. DANIEL MOOKHEY:** And you are aware that there is controversy in the Broken Hill community about the extent to which WaterNSW will have to recover the capital expenditure from residents?

**The Hon. DAMIEN TUDEHOPE:** I understand that there is controversy.

**The Hon. DANIEL MOOKHEY:** And you accept that the Government had to introduce some transitory relief that will not be recovered until at least 2022?

**The Hon. DAMIEN TUDEHOPE:** I accept what you are saying.

**The Hon. DANIEL MOOKHEY:** The community is calling for that policy to be continued, given that they are in drought and they are recovering from drought.

**The Hon. DAMIEN TUDEHOPE:** It is not entirely unreasonable.

**The Hon. DANIEL MOOKHEY:** It is not entirely unreasonable. I am not trying to politicise it. I am asking because the only way in which this is possible is if there is adjustment to the commercial requirements of WaterNSW—and to be fair, the Independent Pricing and Regulatory Tribunal [IPART] as well.

**The Hon. DAMIEN TUDEHOPE:** And you would be conscious of the fact that this is probably a pretty good development, the pipeline?

**The Hon. DANIEL MOOKHEY:** Well, put that aside.

**The Hon. DAMIEN TUDEHOPE:** Would you agree with me on this?

**The Hon. DANIEL MOOKHEY:** No, I would not. To be fair, neither would your business case. So let us not open that can of worms.

**The Hon. DAMIEN TUDEHOPE:** Well, we have got water supply to Broken Hill.

**The Hon. DANIEL MOOKHEY:** You might want to tread lightly here, Minister. It is a controversial issue. My only question to you is: Are you prepared to talk with the WaterNSW board about heeding that call from the Broken Hill community?

**The Hon. DAMIEN TUDEHOPE:** I am happy to discuss that with them, yes.

**The Hon. DANIEL MOOKHEY:** Thank you.

**The Hon. COURTNEY HOUSSOS:** Minister, I wanted to come back to the question of the Essential Energy job cuts, 540 as my colleague has outlined. Are you aware—

**The Hon. DAMIEN TUDEHOPE:** I think there was a proposal in relation to 160.

**The Hon. DANIEL MOOKHEY:** It was 540 over the two—

**The Hon. COURTNEY HOUSSOS:** There were two phases that were proposed, the initial and then the larger was the second one. I am interested to note that the Deputy Premier did not make any direct representations to you. But I will put that to one side. The thing I wanted to ask you about as a shareholding Minister, were you aware that the Electrical Trades Union provided a detailed briefing to the Essential Energy CEO about an alternative plan to those job cuts?

**The Hon. DAMIEN TUDEHOPE:** I know the Electrical Trades Union was very involved in relation to representing those workers. So I would anticipate that it would have put forward a model, whereby it could say that the jobs could be retained.

**The Hon. COURTNEY HOUSSOS:** Are you prepared, as the shareholding Minister, to direct the CEO to carefully consider that proposal?

**The Hon. DAMIEN TUDEHOPE:** I do not give directions to the CEO. The portfolio Minister would give a direction. But to the extent it is something where that direction has been given, I would anticipate, as a shareholding Minister, the CEO and the chair would report as to how they propose to implement it.

**The Hon. COURTNEY HOUSSOS:** So would you give an undertaking that you would ask, and I appreciate that it needs to come from the portfolio Minister—you are a shareholding Minister, though.

**The Hon. DAMIEN TUDEHOPE:** Sure.

**The Hon. COURTNEY HOUSSOS:** This was a serious proposal provided by the Electrical Trades Union as an alternative to a very significant number of job losses that was not taken seriously by the organisation.

**The Hon. DANIEL MOOKHEY:** Do you accept that?

**The Hon. DAMIEN TUDEHOPE:** I do not accept that it was not taken seriously.

**The Hon. COURTNEY HOUSSOS:** That is not my characterisation.

**The Hon. DAMIEN TUDEHOPE:** Essential Energy is delivering significant reductions in energy prices for people in regional New South Wales. I would anticipate that, as a result of its financial management of that company, it would need to have the liberty to manage that company in circumstances where it continued to be able to deliver those energy reductions for a vast number of people living in regional New South Wales. I also accept that the Minister has given a direction in relation to the retention of jobs by Essential Energy. So a responsible company now has to comply with the direction and also to fulfil its obligations in respect of delivering lower energy prices.

**Mr PRATT:** Could I refer to the Act covering Essential Energy, because that is key to the question? The Act has these core objectives: to be a successful business and, to this end, to operate at least as efficiently as comparable businesses; to maximise the net worth of the State's investment; and to exhibit a sense of social responsibility, having regard to the interests of the community in which it operates. It should protect the environment by conducting its operations in compliance with principles under sustainable development contained in a section of the act; exhibit a sense of responsibility towards regional development and decentralisation in the way it operates; operate efficient, safe and reliable facilities for the distribution of electricity; and be an efficient and responsible supplier of electricity and other forms of energy. As you have heard, the Act is finely balanced in running an efficient business, but ensuring that it is a responsible employer and deliverer of services it offers. They are the objectives of the act.

**The Hon. COURTNEY HOUSSOS:** Mr Pratt, you helpfully pointed out the social responsibility aspect of the Act. I am interested, Minister, about whether you have a view about the implementation that is required of the energy regulator. Does Essential Energy have flexibility in implementing that? Do you have a view on that?

**The Hon. DAMIEN TUDEHOPE:** I support the Deputy Premier's position that there should be no regional job losses. With the drought we are currently facing, the Deputy Premier is a strong advocate for ensuring job positions in regional New South Wales are retained, as am I. To the extent that there is a social obligation flowing from that, I would expect that Essential Energy would acknowledge that social obligation in terms of the way it manages its workforce.

**The Hon. COURTNEY HOUSSOS:** But you would be aware, Minister, this was a decision by an energy regulator that Essential Energy is forced to implement and as a result it cut jobs. Do you think that is appropriate, that it is forced to implement it?

**The Hon. DAMIEN TUDEHOPE:** It is forced to implement a requirement that it delivers lower energy prices. I accept that. It then has to have a business model which can accommodate that and also, fulfil its social obligations.

**The Hon. DANIEL MOOKHEY:** Minister, are you aware that retailers in the Albury community are calling for an extension of the rebate compensation scheme that arises from the Container Deposit Scheme?

**The Hon. DAMIEN TUDEHOPE:** I am. In fact I went to Albury.

**The Hon. DANIEL MOOKHEY:** Sorry?

**The Hon. DAMIEN TUDEHOPE:** I went to Albury.

**The Hon. DANIEL MOOKHEY:** I know. I do not want to point out that was one of the things that they asked you or were seeking an answer on.

**The Hon. DAMIEN TUDEHOPE:** You ought to come with me one time.

**The Hon. DANIEL MOOKHEY:** Let me know and I might be there. Why should we limit our show just to Parliament, Minister? We can take it on the road. We can do our Vaudeville act later, but the people of Albury would like to know, the small businesses of Albury would like to know, will the Government extend the scheme?

**The Hon. DAMIEN TUDEHOPE:** Do you understand the fundamental problem here?

**The Hon. DANIEL MOOKHEY:** We have gone through this before. I ask questions, you answer them.

**The Hon. DAMIEN TUDEHOPE:** I will tell you what the fundamental problem is.

**The Hon. DANIEL MOOKHEY:** The show does not work.

**The Hon. NATALIE WARD:** Let him answer.

**The CHAIR:** Order! Minister, you are not here to ask questions.

**The Hon. DAMIEN TUDEHOPE:** Can I just say this to you: The fundamental problem relating to the container deposit scheme is?

**The Hon. DANIEL MOOKHEY:** You tell me. It is your scheme.

**The Hon. DAMIEN TUDEHOPE:** The Labor Government in Victoria does not have a corresponding scheme. In fact, every other State in Australia does. Labor in Victoria does not have a responsible scheme to deliver a recycling program. If they did, the circumstances necessitating us having the extension of the rebate scheme for small businesses in Albury would not be necessary. In fact, if you want to know the facts, I have written to both the environment Minister and the small business Minister in Victoria and invited them to get on board with looking after the environment properly. In fact, Labor States—

**The Hon. DANIEL MOOKHEY:** I infer from your answer that you are not going to vote Labor in Victoria, which I am sure will be a tragedy on their behalf.

**The Hon. DAMIEN TUDEHOPE:** Join me in writing to them.

**The Hon. DANIEL MOOKHEY:** The reason I ask is because there is a significant surplus in the container deposit scheme in New South Wales and it is the case that that money always gets rebated back to the big providers—principally Coca Cola, which is the biggest provider. The community is asking for this scheme to be extended and for the funds to be drawn from the surplus that would otherwise go to Coca Cola, amongst others. I accept the political point that you just made—I do not accept it but I understand that you have made it.

**The Hon. DAMIEN TUDEHOPE:** You should accept it.

**The Hon. DANIEL MOOKHEY:** It is a really basic question. The small businesses of Albury and all the people in our border region are just asking whether that is something that the Government would consider when the scheme expires.

**The Hon. DAMIEN TUDEHOPE:** It expires in July next year.

**The Hon. DANIEL MOOKHEY:** Yes, 2020. They are just asking if you are going to consider extending it beyond 2020?

**The Hon. DAMIEN TUDEHOPE:** Let us get to that point next year. But you ought to be joining me in advocating for your Victorian counterparts to get on board.

**The Hon. DANIEL MOOKHEY:** I join you in having a competently managed New South Wales container disposal scheme, and I condemn you for designing a scheme that has inadvertently managed to top-up Coca Cola's bottom line at the expense of consumers. I have got to say that that is an act of genius that only this Government is capable of providing. [*Time expired.*]

**The CHAIR:** Minister, thank you very much for attending this hearing. We will now break for lunch. The Committee will return at 2.00 p.m. for further questioning of the Government officers who are now with us.

**(The Minister for Finance and Small Business withdrew.)**

**(Luncheon adjournment)**

**The Hon. PENNY SHARPE:** I have some questions for Mr Brady. Mr Brady, I am interested in the actions taken by Revenue NSW when you discovered that there was a breach of data that you provided to the Minister's office. I understand that the discovery of the breach was found in about November last year. My first question is: When were you informed of the breach of data that had gone to the Minister's office from Revenue NSW?

**Mr BRADY:** Thank you. If you like, I can step you through the chronology just to set out what happened. So on 14 June we received the initial data request from the Minister's office, and that data was provided on 19 July. Unfortunately, that is where the additional information was provided, with the data request.

**The Hon. PENNY SHARPE:** But it was not recognised at that time by your office, was it?

**Mr BRADY:** No, it was not. It was on 12 June that the Minister's office requested an update of the data.

**The Hon. PENNY SHARPE:** Was it 12 June or 12 November?

**Mr BRADY:** I am sorry, 12 November—my apology—that we discovered that. I am sorry: We were requested the data on the twelfth. On 13 November we became aware that a breach had occurred back in July.

**The Hon. PENNY SHARPE:** So in July you provided information to the Minister's office off the back of a request.

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** It included a number of files. It included the personal offences and names of private citizens in relation to the Roads and Maritime Services [RMS] database. Is that right?

**Mr BRADY:** It was a spreadsheet. That is right.

**The Hon. PENNY SHARPE:** We will call it a spreadsheet or a database, okay? But you had not realised at that time.

**Mr BRADY:** No.

**The Hon. PENNY SHARPE:** Then around 12 November the Minister's office came back to you and said, "We would like you to update that data."

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** It was at that point you realised that there was a problem. Is that right?

**Mr BRADY:** It was on the thirteenth we realised there was an issue.

**The Hon. DANIEL MOOKHEY:** Mr Brady, when you say you realised on the thirteenth, can you describe who in Revenue NSW you refer to when you use the term "we".

**Mr BRADY:** The correspondence and briefings area within our technical advisory branch, who manage all our correspondence with Ministers and with MPs, et cetera. They would manage the initial release of the information. When they received the request for the update, they became aware that they had provided the additional information in the first instance.

**The Hon. PENNY SHARPE:** When did they tell you?

**Mr BRADY:** On the thirteenth of November.

**The Hon. PENNY SHARPE:** How did they tell you?

**Mr BRADY:** The issue was escalated to me via the executive of that area and so I received an initial email and then follow-up telephone call.

**The Hon. DANIEL MOOKHEY:** On the thirteenth?

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** What did you do once you had realised that there had been this breach?

**Mr BRADY:** On the fourteenth I spoke with the chief of staff in the Minister's office concerning the brief. The chief of staff gave an undertaking the information should not be circulated beyond the office or used inappropriately. There was a follow-up conversation on 19 November, where the chief of staff confirmed that the information had been deleted.

**The Hon. PENNY SHARPE:** Can I just confirm—you would be aware that there has been a GIPAA request and I have copies of all these documents.

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** It appears to me that, once you found out about it, you obviously had a discussion with the chief of staff of the Minister's office. What did you say to the Minister's chief of staff about the breach when you rang him?

**Mr BRADY:** We described what had occurred with the initial release of the information, the fact that an update had been sought. It was then that we became aware that we provided information that should not have

been provided and that we considered this a breach of personal information, and that we were seeking assurances that the information would go no further and that it would be destroyed.

**The Hon. PENNY SHARPE:** Can I confirm, though, that there had been a report on the 13th between some of your officers and the departmental liaison officer at the time when the DLO had informed some of your officers that the Minister's office was considering using the data, and I quote: "We are determining whether to use this information against Mr Daley in the political arena or not." Did you raise that with Mr Dawson?

**Mr BRADY:** I specifically raised that the information was personal and should not be used in any way.

**The Hon. PENNY SHARPE:** But you were aware at that time that the Minister's office was considering using that data?

**Mr BRADY:** I do not believe I had seen that particular statement at that point, but we were concerned that there was potential for it to be used inappropriately.

**The Hon. DANIEL MOOKHEY:** You said you spoke to an executive director who briefed you.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** What did he tell you?

**Mr BRADY:** Well, he confirmed what had occurred in terms of the initial breach and how that had occurred.

**The Hon. DANIEL MOOKHEY:** Did he tell you that that report had been received by Revenue NSW?

**Mr BRADY:** The statement by the DLO?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** Not at that point.

**The Hon. PENNY SHARPE:** When you sought assurances, I am aware that you obviously spoke to Mr Dawson and then late at night you received a text from the Minister's chief of staff, which I will quote: "Hi Steve, just following up on our conversation this afternoon. I know where your concern emanates from and have now got a copy of the relevant spreadsheet. I'm happy to give an undertaking that the information will not be circulated beyond our office or used inappropriately. I have conveyed this message to the advisers." Mr Brady, that did not actually give a commitment to deleting the file. What did you do upon receipt of that text?

**Mr BRADY:** There was subsequent correspondence, which did confirm deletion of the file.

**The Hon. PENNY SHARPE:** Did you have further discussions with the Minister's chief of staff before sending the email two days later requesting deletion of the file? On the Wednesday night—I am sorry; I am just going through it—you get the text from the Minister's chief of staff basically saying they are not going to do anything with the data but not committing to deleting the data or destroying it. Then two days later is when this email goes to the chief of staff specifically seeking deletion of the data file. I am just wondering at this point who else you had a discussion with between the Wednesday and the Friday in relation to this matter and the Minister's office's assurances around the data?

**Mr BRADY:** We had discussions with my executive director of the area and also I had informed the secretary of the department of the breach and the conversations we were having with the Minister's office.

**The Hon. PENNY SHARPE:** You informed him. Do you know what date that was? I am assuming that is by phone.

**Mr BRADY:** That is right. I have to take that on notice, I am afraid. I do not—I have not recorded the exact date that we spoke with the secretary.

**The Hon. PENNY SHARPE:** Okay, but it was in between the text—

**Mr BRADY:** There were a number of conversations.

**The Hon. PENNY SHARPE:** Yes, a number of conversations. Do you know whether the secretary raised the matter anywhere else, either with the Department of Premier and Cabinet or with the Minister himself?

**Mr BRADY:** I do not know that but we did discuss the fact we were notifying the Information and Privacy Commissioner. He was keen to ensure that we followed all correct procedures in relation to the data breach.

**The Hon. PENNY SHARPE:** When you spoke to the chief of staff, did you inform the chief of staff—had you decided at that point that you were going to let the privacy commissioner know about this breach?

**Mr BRADY:** I believe we did.

**The Hon. DANIEL MOOKHEY:** At that first conversation you had with the Minister's chief of staff—which, remind me, I think you said was on the thirteenth or the fourteenth—

**Mr BRADY:** On the fourteenth.

**The Hon. DANIEL MOOKHEY:** You said that you raised the matter with his chief of staff. What did the chief of staff say when you raised it?

**Mr BRADY:** Well, he initially was not aware of the data itself and so that is why in the subsequent text he said he now understood what the issue was. So we were outlining our concerns what the data was and that we were keen to make sure that it did not go any further.

**The Hon. DANIEL MOOKHEY:** Did you ask him to inquire whether or not the matters were canvassed inside his office at an adviser level?

**Mr BRADY:** We did not ask that specifically but we ensured that the data did not go outside—did not go anywhere.

**The Hon. DANIEL MOOKHEY:** Did you ask him a basic question like: Have you already discussed this with anyone? Have you figured out whether your office has already spoken to anybody about this?

**Mr BRADY:** Well, at the time he was not aware of what the dataset was.

**The Hon. DANIEL MOOKHEY:** What about after the first conversation?

**Mr BRADY:** After that he assured me it was not going any further and that it had been deleted, so we felt that the data breach had been contained.

**The Hon. PENNY SHARPE:** So you are not aware, though, whether this matter was ever raised directly with the Minister?

**Mr BRADY:** I am not aware of that at all.

**The Hon. PENNY SHARPE:** Are you able to take on notice whether it was the secretary raised it with either the Department of Premier and Cabinet or the Minister?

**Mr BRADY:** I will take that on notice.

**The Hon. PENNY SHARPE:** Thank you. Obviously there were a lot of discussions about what was going on at the time in relation to containing the breach. There had been the original email from Mr Dawson saying, "It's not going anywhere. It's still with us. But here it is", and then you subsequently obviously sent the email, and there were assurances given around deleting of that. After that was sent and then there was the email coming back saying, "Yep, we've deleted the file", were there any further discussions with the Minister's office around this issue?

**Mr BRADY:** I do not believe we had need for further discussions.

**The Hon. PENNY SHARPE:** So you never checked whether there were any other hard copies available? What I am getting at is that the Minister's chief of staff's wording is fairly careful in relation to this. Obviously you took them at their word that they had deleted it and thought that.

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** But there was never any question put by you or your officers, as far as you are aware, about whether there are any hard copies that existed?

**Mr BRADY:** Not as far as I know. We were told it was not going any further, that it had been deleted. We accepted that that was what had occurred.

**The Hon. PENNY SHARPE:** Once Mr Dawson was aware that there was a problem—obviously in his text he sort of alluded to that—was it ever raised directly with him the issue around the conversations in his office about using this data inappropriately in a political sense?

**Mr BRADY:** No, we did not raise that with him because what we had emphasised was the need for the data to be treated with the privacy that it was intended to and that it was protected under the Act. I think anything beyond that was implied.

**The Hon. DANIEL MOOKHEY:** You referred to the fact you were aware that the DLO report that came to your staff, that you did not learn about that at first instance. When did you learn about that?

**Mr BRADY:** I believe it was when we were going back and pulling together the chronology and going through our files. That particular comment did not come to my attention for some time later.

**The Hon. DANIEL MOOKHEY:** But that comment was reported to your managers?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you want to take us through how it was reported to your managers?

**Mr BRADY:** That comment itself really did not come to my attention until we were, as I said, pulling together information. What was escalated to me—

**The Hon. DANIEL MOOKHEY:** Sure. I am not suggesting contemporaneous knowledge of it on your part. However, now that you have had the opportunity to go back and look at events, do you want to explain how that report from the DLO directly to Revenue NSW staff got escalated?

**Mr BRADY:** It was the fact of the breach that was escalated and the potential sensitivity given that Mr Daley's name was on that list. That was really the context for the escalation.

**The Hon. DANIEL MOOKHEY:** It is the case though, is it not, that the person from Revenue NSW who had the conversation with the DLO felt strongly that any such use of the information for political purposes would be something that would not to occur, and she had very strong views about it?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** At the time she strongly advised the DLO that that was the position of Revenue NSW: The information should not be used for any political position or political advantage. In fact, she took a note to that effect, that she had provided that advice. That is correct?

**Mr BRADY:** Sorry, I think you are reading from the email there, Mr Mookhey, so you have me at a disadvantage. I do not have that with me.

**The Hon. DANIEL MOOKHEY:** To be fair, that was the previous quote that Ms Sharpe read to you.

**The Hon. PENNY SHARPE:** Basically, we have got an email from your technical officer—I am not naming them—to you on the fourteenth, on that afternoon, that actually includes the email note from Ms Morgan, where she talked to the DLO. That outlines this issue around the use of political—

**Mr BRADY:** Yes.

**The Hon. PENNY SHARPE:** I am just wanting you to confirm that, because you are saying you did not know it at that time; it looks like you did.

**Mr BRADY:** I was concerned about the fact of the data breach and the political context was fairly obvious at the time.

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

**The Hon. DANIEL MOOKHEY:** But it goes so far. Ms Morgan—and again, no inferences are being directed at Ms Morgan whatsoever.

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

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** But she writes and she reports, "I strongly advised"—I will not read the person's name, but the DLO—"that the Minister's office should not be using this data in this way" quite deliberately.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** That report is provided to a variety of people who Ms Morgan answers to. You accept that?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Including perhaps—you may or may not have been on an email chain that included that report. I am not sure. Were you?

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

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** Well, you have it there; I do not.

**The Hon. DANIEL MOOKHEY:** Yes. Did that not arouse any suspicion on behalf of Revenue NSW that the Minister's office might have had the intention to?

**Mr BRADY:** The fact that we acted quickly to get in touch with the chief of staff to express our concerns, to seek assurances that the data was not going to be released outside the office and that it would be destroyed is I think evidence of how seriously we took the issue.

**The Hon. DANIEL MOOKHEY:** When Ms Morgan had this conversation did she seek further details from the DLO or did she seek to follow it up with the DLO? Did anyone from Revenue NSW seek to follow it up with the DLO or anyone from the department?

**Mr BRADY:** I spoke to the chief of staff and sought assurances that the information would not be used outside the office and that it would be deleted.

**The Hon. DANIEL MOOKHEY:** To be fair, Mr Brady, you have made—no inferences are being directed here—but you made the earlier point that you were not aware of that until later in the chronology. What I am trying to understand is why was that not brought to your immediate attention that that was something the Minister's office was contemplating? To be fair, you were not in a position to have a conversation with Mr Hoffman or others unless that point was directly made to you. What I am trying to inquire is: Was there a reason why Revenue NSW or your staff did not bring that to your immediate attention as a risk?

**Mr BRADY:** No. As I said earlier, I think the risk of the information in the political context of the time was fairly obvious. Whether the DLO was well informed or not, I do not know. What I thought was the most important thing for me to do was to raise it with the chief of staff and ensure that the data breach was contained.

**The Hon. DANIEL MOOKHEY:** I accept that, and I understand the reason. You said earlier that Revenue NSW is acutely conscious of its need to keep information private and that you take the secrecy of information seriously—obviously high steps. Do you accept that?

**Mr BRADY:** Yes, I do.

**The Hon. DANIEL MOOKHEY:** Observing these documents, it looks like at least two things are happening. A discussion is being engaged in by the Minister's office to effectively break the law, actually, because they have an obligation to keep that information secret. Do you accept that?

**Mr BRADY:** I do. It is private information.

**The Hon. DANIEL MOOKHEY:** Do you accept as well that, should anyone discover that someone is understanding or intending upon or has considered even breaking the law, that is a reportable matter?

**Mr BRADY:** I do not necessarily accept that we knew that someone was intending to break the law.

**The Hon. DANIEL MOOKHEY:** We have here a report that says, "During the conversation [DLO] advised that the Minister's office had interrogated the table previously supplied and identified that Michael Daley, MP, contacted the MP hotline about his own speeding fine. [DLO] advised that the Minister's office were determining whether to use this information against Mr Daley in the political arena or not. I strongly advised [DLO] that the Minister's office should not be using this data in this way." What I am trying to get to is why was this not treated as a potential breach of the law that therefore required notification to law enforcement authorities in addition? That is pretty clear; there is no ambiguity in that. That is a record of a conversation—

**Mr BRADY:** I think there is a great deal of ambiguity in that. There is a DLO speculating about someone else's intention and then relayed through an officer at Revenue NSW.

**The Hon. DANIEL MOOKHEY:** I do not think it is speculation. It is effectively that they have witnessed a conversation or gained knowledge that a conversation was taking place. Did it occur that perhaps there was an obligation here to report this to any other authority at the time?

**Mr BRADY:** As I say, I believe that was speculation. My duty was to ensure that the data breach was contained, and those are exactly the steps that I took.

**The Hon. PENNY SHARPE:** Can I go back to the confirmation that you received from the Minister's office in relation to what they had done with the documents? I have got a copy of the email from Matt Dawson, the chief of staff, to one of your officers—and you are cc'd into it—around the disclosure of data. It says,



"Thanks for your email. I can confirm the document has now been deleted from our systems". Again, at no point is there any formal written confirmation that all the data is gone and that it has not left the office. Is that right?

**Mr BRADY:** You have the confirmation that I have.

**The Hon. PENNY SHARPE:** The reason why this is so important is that I then want to refer to the letter that you sent to the privacy commissioner—again, acknowledging that you did absolutely the right thing. You basically sent a detailed letter to the privacy commissioner saying, "Look, we have found it, we are reporting ourselves, we have got a breach; we have sought assurances that it has been contained and we really rely on that. As a result, we are not going to tell other—well, not going to tell anyone, really—that this data has been breached and that personal details have been breached relating to that." You worked on the assurances of the Minister's office in relation to that?

**Mr BRADY:** That's right.

**The Hon. PENNY SHARPE:** I note that the privacy commissioner accepted that in the first instance, on 27 November, I think. They say that is fine but they urged—well, asked—you to consider informing the citizens whose data had been breached about that. What happened after that?

**Mr BRADY:** Just to clarify, I think the statement was something along the lines of "We generally say that it is best practice to inform". We were—

**The Hon. PENNY SHARPE:** Yes, I am prepared to accept it was not a direct order, but I am prepared to say they thought it was a very good idea.

**Mr BRADY:** We were acting in accordance with the Information And Privacy Commission's data breach policy of 2016, which sets out four steps in relation to a data breach. The first one is to contain the breach—as I mentioned earlier, we believed we had done that. The second step in that process is to evaluate the risks. Revenue NSW evaluated the risks and—

**The Hon. PENNY SHARPE:** How did you do that? Tell me how you evaluated the risks.

**Mr BRADY:** Firstly, we considered the number of people affected by the breach. There were 190—

**The Hon. PENNY SHARPE:** 193.

**Mr BRADY:** The information I have got is 190.

**The Hon. PENNY SHARPE:** Okay. I have got 193. That is okay.

**Mr BRADY:** Of those, 148 had been people who had made representations to the Minister in the first instance, so us giving the information back to the Minister's office was not a breach of personal information in respect of those 148—it was information the office already held. With respect to the breach, then we are talking about 42 people affected. The information contained was really a name, no address details, the nature of the offence and an electorate. With respect to the breach, it was a fairly contained breach. It was not a systematic breach, it was a one-off oversight by an individual. So that is a couple of the key points that the Privacy Commission points to.

**The Hon. PENNY SHARPE:** You do accept that it did have someone's name with a record of their driving offences?

**Mr BRADY:** Of an offence, yes.

**The Hon. DANIEL MOOKHEY:** You would accept that also it was implied, if not stated directly, that that person had made a representation to their MP who then made a representation as well?

**Mr BRADY:** That is how we would have received that information.

**The Hon. DANIEL MOOKHEY:** It is not just that that person was subject to it, it is also that they did contact their MP and asked their MP to help.

**Mr BRADY:** I am just speaking to the information that was within the data. Based on the fact that it was a single breach, that it was not a systematic issue, that it was a contained number of people and a contained amount of information, we felt that following the standard that is put out by the Information and Privacy Commission [IPC]—which is really to say where there is a real risk of serious harm to an individual flowing from a breach, individuals should be notified—we felt that based on what I have just described as the nature of the breach that it did not meet that standard and that we did not need to inform the individuals.

**The Hon. DANIEL MOOKHEY:** Can I just say, in your correspondence with the commissioner, the commissioner says that you have confirmed the personal information has not been disclosed to any person outside the Minister's office. Do you recall that?

**Mr BRADY:** I do not recall the exact words but I see—

**The Hon. DANIEL MOOKHEY:** That is me reading directly from it.

**Mr BRADY:** Yes, I accept that.

**The Hon. DANIEL MOOKHEY:** Did you make any inquiries as to who received the information inside the Minister's office or how widely it was dispersed inside the Minister's office, given that a Minister's office is not necessarily a small operation?

**Mr BRADY:** No, we did not. We accepted that the chief of staff as the leader of the office reporting to the Minister was the person who could contain it, make commitments in relation to that data.

**The Hon. DANIEL MOOKHEY:** In your conversation with the chief of staff was that question asked?

**Mr BRADY:** We did not specifically ask who had seen what, no, we did not.

**The Hon. PENNY SHARPE:** You have done all the right things, you have referred it all on, it has gone to the Privacy Commission, it has been backwards and forwards. What action did you take on 8 and 10 February when this material appeared in the media?

**Mr BRADY:** At that point we did not take any immediate action.

**The Hon. PENNY SHARPE:** The first you became aware of it was when it appeared in the media?

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** Just to be clear, there is nowhere else that that information could have come from except from that file?

**Mr BRADY:** That I am aware of, that is right. At that point there was not really any real action we could take in relation to it.

**The Hon. PENNY SHARPE:** Were you concerned?

**Mr BRADY:** Obviously. We were concerned for the reputation of the organisation and its impact on the trust that people placed in our organisation, given that we do deal with a great deal of private information. We were extremely concerned by what had occurred. We were contacted by the Privacy Commission on 11 February to follow up on the discussions that we had had with them.

**The Hon. PENNY SHARPE:** To be clear, after it had been in the media the Privacy Commission contacted you directly—

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** Forgive me because I do not have the documents for this, after they wrote back to you in November was there an ongoing investigation of the matter or as far as you were concerned the matter was closed?

**Mr BRADY:** As far as we were concerned the matter was closed.

**The Hon. PENNY SHARPE:** On 11 February the Privacy Commissioner comes back to you, having obviously seen the media and said, "What is going on?"

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** What else did they say?

**Mr BRADY:** I do not have a copy of the email with me. Can I take that on notice?

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

**Mr BRADY:** I can give you specifically what was said.

**The Hon. DANIEL MOOKHEY:** Was it directly from the Privacy Commissioner herself?

**Mr BRADY:** No, it was from a manager within the IPC.

**The Hon. PENNY SHARPE:** The person whom you had been dealing with beforehand?

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** They triggered it themselves, having seen the data?

**Mr BRADY:** That is right.

**The Hon. PENNY SHARPE:** Once they had done that, what action did you take from there?

**Mr BRADY:** At that point there was not really a lot we could do.

**The Hon. PENNY SHARPE:** Did you raise it with the Minister's office?

**Mr BRADY:** I did have a conversation with the Minister's office.

**The Hon. PENNY SHARPE:** Who in the Minister's office?

**Mr BRADY:** The chief of staff.

**The Hon. DANIEL MOOKHEY:** When?

**Mr BRADY:** I do not have the exact date here; it was a telephone conversation.

**The Hon. DANIEL MOOKHEY:** You can give it circa, approximately the same time of publication?

**Mr BRADY:** It would have been around then, yes.

**The Hon. PENNY SHARPE:** What did you say and how did the chief of staff respond?

**Mr BRADY:** It was a conversation along, "What has happened?", "How did this happen?" and the chief of staff was not able to explain.

**The Hon. DANIEL MOOKHEY:** When you say he was not able to explain, do you remember what he said to you?

**Mr BRADY:** I do not remember the exact words, Mr Mookhey, other than there was not an explanation for it and—

**The Hon. PENNY SHARPE:** Did the chief of staff accept that the data had come out of his office?

**Mr BRADY:** He did not specifically comment.

**The Hon. DANIEL MOOKHEY:** Did you ask him whether or not that data emanated from his office?

**Mr BRADY:** I did not seek to interrogate the situation on the basis that it was outside of my control.

**The Hon. DANIEL MOOKHEY:** When you say it was outside your control, what do you mean by that?

**Mr BRADY:** At this point we had done everything we could in terms of the data breach. It was in the hands—it was now a secondary breach, it had occurred somewhere else. I could ask as many questions as I liked but I really could not influence any outcome there.

**The Hon. DANIEL MOOKHEY:** Of course, and no-one is suggesting that you could have. But at this point presumably you were aware of the report of the DLO to Revenue NSW?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** You were aware that that report said that the Minister's office was determining whether to use this information against Mr Daley in the political arena? And you were aware that Revenue NSW said, "I strongly advised the DLO this option should not be in that data"?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Then it appears in the media. You have a conversation with the chief of staff. Did you ask, imply or otherwise seek to provide him an opportunity to say that it was not from the Minister's office?

**Mr BRADY:** The fact that I called and expressed disappointment in what had occurred.<sup>2</sup> I do not specifically recall going to the level of detail you are questioning.

**The Hon. PENNY SHARPE:** You must have been pretty unhappy about it though.

**Mr BRADY:** I was.

**The Hon. PENNY SHARPE:** You had relied upon your entire self-report to the Privacy Commissioner on the basis of information that had been told there.

**Mr BRADY:** We were very disappointed.

**The Hon. DANIEL MOOKHEY:** How long did you speak to the Minister's chief of staff for? How long was that conversation?

**Mr BRADY:** It was a fairly short conversation.

**The Hon. DANIEL MOOKHEY:** Was it in the morning, the evening?

**Mr BRADY:** I am sorry, I cannot recall.

**The Hon. PENNY SHARPE:** Did you speak to anyone else? Did you raise it with Mr Hoffman?

**Mr BRADY:** Through the course of this there have been a number of conversations with the secretary and, yes, we did have a conversation.

**The Hon. PENNY SHARPE:** Was there any further action? Was the secretary planning on taking any other action as a result of what had occurred?

**Mr BRADY:** I do not believe so.

**The Hon. DANIEL MOOKHEY:** What did you say to the secretary after the publication?

**Mr BRADY:** Obviously he rang to advise that it had occurred. I had spoken with the chief of staff and relayed again that we were disappointed and it was not clear what had occurred.

**The Hon. DANIEL MOOKHEY:** By this time the caretaker conventions were in place. They were, I think, commenced, from memory—I am sure someone here may be able to help me—slightly before?

**Mr BRADY:** No.

**The Hon. PENNY SHARPE:** Pre-election time.

**Mr BRADY:** Pre-election time.

**The Hon. DANIEL MOOKHEY:** It was in the pre-election time.

**Mr BRADY:** Yes.

**The Hon. PENNY SHARPE:** Did you seek any advice or do you know whether the secretary sought any advice from the Department of Premier and Cabinet in relation to these matters at any point in the process?

**Mr BRADY:** Can I take that on notice?

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

**The Hon. DANIEL MOOKHEY:** Did you ask the secretary whether or not he intended to make any inquiries with the Minister's office?

**Mr BRADY:** No, I did not ask him that. I was having direct dialogue with the chief of staff.

**The Hon. DANIEL MOOKHEY:** When you said that there were a number of conversations you had with the secretary about this, do you want to talk us through that? We are aware of the ones that you had in November. Between November and February did any further discussions take place?

**Mr BRADY:** I do not believe so. Really what I was trying to do was keep the secretary apprised—

**The Hon. DANIEL MOOKHEY:** As is your responsibility.

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<sup>2</sup> In [correspondence](#) to the committee received on 11 September 2019 Mr Stephen Brade, Chief Commissioner of State Revenue provided clarification to his evidence.

**Mr BRADY:** That is right—of what had occurred and seek any counsel in terms of how we should respond.

**The Hon. DANIEL MOOKHEY:** And the counsel he gave you is to make sure you strictly obeyed the privacy guidelines?

**Mr BRADY:** Of course.

**The Hon. DANIEL MOOKHEY:** Did you at that time or at any time inform the secretary that Revenue NSW were told by the DLO that there was that report that you received from the DLO?

**Mr BRADY:** I do not believe we would have gone into that level of detail.

**The Hon. DANIEL MOOKHEY:** Right.

**The Hon. PENNY SHARPE:** But you will take on notice and be able to confirm for us whether the secretary at any point had a discussion with the Minister or Premier and Cabinet in relation to this.

**Mr BRADY:** To the extent that I can.

**The Hon. PENNY SHARPE:** Sure, I accept that. Going back to the Privacy Commissioner getting in touch on 11 February, they came back to you. Take us through what happened from that point. It is quite unusual for the Privacy Commissioner to be so prompt in coming back in relation to these matters, so I am quite interested.

**Mr BRADY:** It was a general conversation. Again there was an email exchange. I think I have taken on notice that I will provide you with details of that. But from my recollection it was really again checking in: "We have seen this in the press. Has anything else occurred outside of our previous conversations?" That was really it.

**The Hon. PENNY SHARPE:** At that point would they be reopening it? There was a complaint from the Opposition at some point in relation to the matter. Obviously we are pretty unhappy about it, as you know.

**Mr BRADY:** Yes.

**The Hon. PENNY SHARPE:** So you had a conversation, but where was it reopened? Was the matter reopened and formally then closed again? I am just not sure. They came back to you and they said, "There's been a problem." What happens after that in relation to closure from the Privacy Commissioner's end?

**Mr BRADY:** At that point we were talking about the things we had done. So if I go back to the four steps from a data breach, we then have to ensure that it will not reoccur. So we were talking about the things that we had done inside our office to ensure that there would not be further data breaches. That goes to policy, process and people, so things like making sure that only people who need information for the execution of their roles have access to that information. We instituted compulsory privacy training for all of our staff and we also made sure that our processes ensure that there is a second set of eyes at a senior level before any data leaves the organisation. So in this case there was a reasonably senior person who put together that data and sent it but there had not been another person checking. So now we ensure that there is someone at a very senior level in our organisation has that second set of eyes to try to prevent an inadvertent data breach like this happening again.

**The Hon. PENNY SHARPE:** Did anything trigger a re-examination of informing people in relation to the data breach after this became apparent?

**Mr BRADY:** No, it did not. We still felt, given the limited nature of the breach, that—

**The Hon. PENNY SHARPE:** So just because one person was named in the media article—

**Mr BRADY:** There had also been significant criticism in the media of the breach on top of the fact that there was a fairly targeted story behind that around the breach. We felt that there was nothing that changed our view that the nature of the breach meant that the other people on that list did not need to be informed.

**The Hon. DANIEL MOOKHEY:** You made the point earlier that the third limb of your four-prong response was to assess the risk that would be posed to the people there; that is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** And the fact that one of those people had their details splashed all over the front pages of the newspapers did not cause you to reassess that, at least in respect of that person?

**Mr BRADY:** It did not seem necessary to inform Australia that there had been a data breach when it was all over the front page of the paper.

**The Hon. DANIEL MOOKHEY:** Sure, but did you make any contact with Mr Daley, given it was his data—well, it was not his data, it was his wife's data—that was breached?

**Mr BRADY:** No, we did not.

**The Hon. PENNY SHARPE:** You are aware that the file that was given did actually include everyone. It was not just Mr Daley's information. In relation to the breach being given to a third party—in this particular instance a member of the media—from people at this point unknown, you were not prepared to revisit that and the Privacy Commissioner did not raise that with you either?

**Mr BRADY:** I will have to take the Privacy Commissioner on notice and check our correspondence but I do not believe we were specifically requested to do that.

**The Hon. PENNY SHARPE:** Because let's remember that it is not actually informing people that their data is breached. It is informing them; the first step is implicit. They are informed that the data is breached but it is really informing them that they are allowed to make a complaint in relation to a breach of the Privacy and Personal Information Protection [PPIP] Act.

**Mr BRADY:** Right, yes.

**The Hon. PENNY SHARPE:** I argued the case about whether it is 190 or 193 but just to confirm there are still 42 people who are unaware that this very private data in relation to their driving record and their seeking to go through the system of whether they pay fines, lose points and all those things—whether one accepts 190 or 193—but there are at least 42 people who should probably have been told.

**Mr BRADY:** It was our assessment that it was not necessary.

**The Hon. PENNY SHARPE:** You would not be prepared to reconsider that?

**Mr BRADY:** No. Given the guidance which I read out earlier in terms of the risk of serious harm, I do not think that we reach that level.

**The Hon. PENNY SHARPE:** I think it is a pretty serious harm when this sort of very private data is used against a political opponent six weeks from an election.

**Mr BRADY:** I think in retrospect you are right.

**The Hon. DANIEL MOOKHEY:** That is not necessarily retrospect though, is it, Mr Brady? Because it was the case that Revenue NSW did receive a report that this was being contemplated in prospect.

**Mr BRADY:** But we had also received an assurance that the information had been deleted and that it had not gone beyond the office. Taking those two things together we felt that the risk had been contained.

**The Hon. DANIEL MOOKHEY:** The original request for this data you said came in June, was it not?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** What did you understand to be the reasons why the Minister's office was making this request? To be clear, the specific request was for your information analysis unit to provide advice on the top five speeds, highest of the speed limits, specifically in a school zone, generally across all reps and MPs with the most reps about speeding for this financial year. Why did you think the Minister was seeking that specific information? And given that was quite onerous—it took you at least a month to provide that and compile that data; it is a serious use of Revenue NSW's resources—why was the Minister's office seeking the information in the first place?

**Mr BRADY:** I am not sure why it took us that long to respond. It is administrative data. It is information on how we are using our resources to support inquiries. It is information the office is entitled to. I would be honest to say that I was not aware of the inquiry. It is a simple administrative matter of information that the Minister's office is entitled to.

**The Hon. DANIEL MOOKHEY:** When you say they are entitled to it, what do you mean by that?

**Mr BRADY:** There is no reason why I would not provide that information. It is information, as I say, in relation to resources of the department being used to support citizens. It is about the activities that we supported.

**The Hon. DANIEL MOOKHEY:** But in your examination of these episodes did you seek to find that out? Because then the Minister's office asked for that to be updated. Did you seek to understand why they wanted it in the first place and why they wanted it updated in October?

**Mr BRADY:** No, we did not.

**The Hon. DANIEL MOOKHEY:** With the DLO, was she appointed from Revenue NSW or was she from DFSI? What department was she, the DLO, from?

**Mr BRADY:** Revenue is part of DFSI, or was. But she was one of our staff.

**The Hon. DANIEL MOOKHEY:** And you were the deputy secretary of DFSI at the time?

**Mr BRADY:** For Revenue NSW, yes.

**The Hon. DANIEL MOOKHEY:** In addition to being the chief commissioner of revenue.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Was this report provided to anybody else in DFSI?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** And you have taken steps to find that out?

**Mr BRADY:** No. It was a request from the Minister's office and provided to the Minister's office.

**The Hon. DANIEL MOOKHEY:** And in your conversations with Mr Hoffman did you perhaps nominate that that was something Mr Hoffman should inquire into?

**Mr BRADY:** The information was conveyed directly from our staff in our correspondence and briefing unit to the Minister's office, so I had no reason to think that it went anywhere other than between our office and the Minister's office.

**The Hon. DANIEL MOOKHEY:** Did you seek legal advice throughout this episode?

**Mr BRADY:** Can I take that on notice as well? I had my head of technical advisory area supporting me through the process. We certainly spoke with the Information and Privacy Commissioner. We may well have sought legal advice as well.

**The Hon. DANIEL MOOKHEY:** He says in one of these emails that we—and when he says "we" he is referring to you and him—have discussed the matter with the DFSI General Counsel.

**Mr BRADY:** We did in that case.

**The Hon. DANIEL MOOKHEY:** Yes. And in fact he provided that advice to the then secretary as well, which I guess is routine, as you would expect him to do. Do you recall the conversation you had with the DFSI General Counsel?

**Mr BRADY:** I did not speak with the DFSI General Counsel. My executive director did.

**The Hon. DANIEL MOOKHEY:** So he is using the royal "we" there perhaps.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Did you inquire about what legal obligations Revenue NSW might be subject to in respect of this data breach.

**Mr BRADY:** The advice from the legal counsel was part of the advice that came to me from my head of technical advisory.

**The Hon. DANIEL MOOKHEY:** Yes, so what was the advice?

**Mr BRADY:** That advice was in relation to our obligations under the Information and Privacy Commissioner.

**The Hon. DANIEL MOOKHEY:** Did you provide that at least to the secretary at the time?

**Mr BRADY:** I do not believe we provided the detailed legal advice but we provided him with the summary position.

**The Hon. DANIEL MOOKHEY:** Mr Brady, earlier in your evidence you said that you constructed a chronology?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** When did you do that?

**Mr BRADY:** I think we did it a couple of times through the process as things continued to develop.

**The Hon. DANIEL MOOKHEY:** Yes, take us through all that.

**Mr BRADY:** I would have to take the question on notice to provide you exactly when that was done.

**The Hon. DANIEL MOOKHEY:** But was that circa the date of publication of the data breach?

**Mr BRADY:** I believe we started doing it before then, as we started to understand when the first information was provided and then subsequent information.

**The Hon. DANIEL MOOKHEY:** I can see in these documents at least two examples of you doing that—one in November and one in February.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** You said earlier that in the course of you preparing that chronology is when you found out about that report that came from the DLO. Do you recall saying that?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** What did you do then?

**Mr BRADY:** As I mentioned earlier, for me the critical part of the information was the fact that we had made a breach, that it had gone to the office and that we had to contain that breach. As I have stated earlier, my actions were really contacting the chief of staff and seeking assurances that the data would—

**The Hon. DANIEL MOOKHEY:** I am talking about the February aspect of this, Mr Brady, because the implication was that is when you found out—or it was directly drawn to your attention—that this report had been received. When you had your conversation with the Minister's chief of staff in February, at that point in time where you aware of the report that your DLO had made to Revenue NSW?

**Mr BRADY:** I believe I was aware of it at that point.

**The Hon. DANIEL MOOKHEY:** Yes. Prior to speaking to the chief of staff, you were aware of it?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** At that point in the conversation with the Minister's chief of staff, did you make any reference to you knowing or having that report?

**Mr BRADY:** No, I did not.

**The Hon. DANIEL MOOKHEY:** Right. Do you want to explain why not?

**Mr BRADY:** I think, as I said earlier, the context of where we were and the fact that the information had been used, it was really at that point that we were just expressing great disappointment at the fact that there had been a breach of the data. I mean, there was no point in me casting aspersions on people's motivations at that point or at prior points.

**The Hon. PENNY SHARPE:** Motivations were pretty clear.

**The Hon. DANIEL MOOKHEY:** I accept that it was not your responsibility to cast aspersions, but at that point had you developed a suspicion?

**Mr BRADY:** A suspicion?

**The Hon. DANIEL MOOKHEY:** You said you were expressing disappointment.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** At that point had you drawn a suspicion as to what you think might have happened, or did you have a theory as to how this data may have arrived on the front pages of *The Sydney Morning Herald*?

**Mr BRADY:** Actually, given the assurances that I had received, I really do not know how it got into the paper.

**The Hon. DANIEL MOOKHEY:** To be fair, I was not asking you that. At the time that you had your conversation with the Minister's chief of staff, did you have a suspicion as to how this data breach could have happened?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** But you were aware of the fact that this report had been received by Revenue NSW?

**Mr BRADY:** Yes.



**The Hon. DANIEL MOOKHEY:** But you did not put the report directly to the Minister's chief of staff?

**Mr BRADY:** No, I did not.

**The Hon. DANIEL MOOKHEY:** So other than calling to express your disappointment, what was the purpose of the call?

**Mr BRADY:** Given that the horse had bolted, so to speak, it was really about expressing my disappointment that we thought we had a contained data breach, and clearly that was not the case.

**The Hon. DANIEL MOOKHEY:** Were you worried that perhaps the implication that the Minister's office might draw was that your agency was responsible for the leak?

**Mr BRADY:** I do not believe so. There was some speculation in the press in the very early part that we had been responsible for the breach. We were particularly concerned about that, as you would appreciate, given that we had done everything that we were meant to do under the Act. I was very concerned about the reputational damage and what it means for an organisation like that, which does rely heavily on personal information.

**The Hon. DANIEL MOOKHEY:** Did you take steps to investigate whether it was Revenue NSW officers or staff who leaked it?

**Mr BRADY:** We had no reason to suspect that anyone at Revenue NSW had breached—

**The Hon. DANIEL MOOKHEY:** Since then you have had no reason to suspect that anyone—

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** It is not the case that Revenue NSW has a habit of doing this, is it? You are actually very good at maintaining data.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** No-one has suggested to you that it is Revenue NSW's people who leaked it, that is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Therefore everybody has accepted that you are not a suspect, your agency is not a suspect and no-one inside your agency is a suspect for this leak?

**Mr BRADY:** I cannot comment on what other people think, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** You are certainly not the worst offender in that respect.

**Mr BRADY:** I am not aware of anyone seriously contending that Revenue NSW—

**The Hon. DANIEL MOOKHEY:** Just to be clear, we are not contending either.

**Mr BRADY:** Thank you.

**The Hon. PENNY SHARPE:** This matter was referred to the police and there was a police investigation. Were any of you or your officers interviewed as part of that investigation?

**Mr BRADY:** Yes.

**The Hon. PENNY SHARPE:** Can you say how many of your officers?

**Mr BRADY:** I really cannot because I do not know. It was a police investigation; they spoke to whoever they wanted to.

**The Hon. PENNY SHARPE:** I am obviously not asking for their names or anything.

**Mr BRADY:** I understand. They were free to talk to whoever they wanted to talk to.

**The Hon. PENNY SHARPE:** But your office was involved in the police investigation?

**Mr BRADY:** Absolutely. We provided them all of the information we could.

**The Hon. PENNY SHARPE:** I do not have very many other questions about this but I am still particularly interested in the role of the Department of Premier and Cabinet and any liaison with your office in relation to these matters. Obviously if things escalated to police investigation that is a pretty serious matter.

**Mr BRADY:** Absolutely.

**The Hon. PENNY SHARPE:** Are you able to provide the Committee with any information about the interaction between your office and the Premier's department in relation to this matter?

**Mr BRADY:** I did not have any direct interaction with the Premier, from DPC. Was it DPC or the Premier's office?

**The Hon. PENNY SHARPE:** Both, but the department is really where I am looking.

**Mr BRADY:** I think I have asked to take this on notice.

**The Hon. PENNY SHARPE:** I just want to cover all of it. We talked about the police before, but at what point was the Department of Premier and Cabinet and/or the Premier's office—I cannot make you be a mind reader but, as far as you know, the interaction between your office and those parts of government, if you can come back to us about that, that will be great.

**Mr BRADY:** I will. Thank you.

**The Hon. DANIEL MOOKHEY:** I have a few more on this matter. Revenue NSW, when this became published in the Herald, did you see or commission the preparation of any advice or suggested responses for media inquiries?

**Mr BRADY:** We would, as a matter of course, prepare media responses in case we were called upon.

**The Hon. DANIEL MOOKHEY:** When you say "as a matter of course", can you take us through how that happens?

**Mr BRADY:** There is a corporate affairs unit within the communications team within the department.

**The Hon. DANIEL MOOKHEY:** When you say "the department" you mean at that time the DFSI?

**Mr BRADY:** That is right. We would work with them in relation to potential queries that we might receive from the media and have some draft responses prepared in case we get called upon.

**The Hon. DANIEL MOOKHEY:** I am happy to provide you with a copy of this, but after I read it to you. Is that okay?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** It states:

On 19 July 2018 in response to a data request from the Department Liaison Officer, information regarding speeding offences was provided to Minister Dominello's office in an Excel spread sheet.

Inadvertently and due to an administrative error, the spread sheet also contained 274 rows of data captured by Revenue NSW's ministerial correspondence data ... relating to approximately 193 customers, including personal information regarding Michael Daley.

When Revenue NSW was made aware of the breach ... it took all available steps to contain the breach, including advising the NSW Privacy Commissioner. Revenue NSW staff handled this situation with the utmost professionalism, integrity and accountability.

I will just get that provided to you. When did you first see that?

**Mr BRADY:** I would need to take that on notice, Mr Mookhey. I do not have knowledge of exactly what date we prepared this.

**The Hon. DANIEL MOOKHEY:** But you have seen it before?

**Mr BRADY:** I do not believe I have seen it in this form but I have seen a draft media response.

**The Hon. DANIEL MOOKHEY:** I think that might be the draft media response.

**Mr BRADY:** I would have seen it being drafted, that is what I am saying. I do not recognise this piece of paper.

**The Hon. DANIEL MOOKHEY:** Was that used?

**Mr BRADY:** I am not aware of whether it was used or not.

**The Hon. DANIEL MOOKHEY:** Was it circulated to anyone else in the Government?

**Mr BRADY:** I will take that question on notice.

**The Hon. DANIEL MOOKHEY:** Did the Minister's office ask you to prepare that?

**Mr BRADY:** We prepare these on our own volition.

**The Hon. DANIEL MOOKHEY:** For whose use? As in, if a media inquiry was to come, how would that document be used?

**Mr BRADY:** So it may be that we would receive an inquiry directly from the media and then, instead of scrambling to come up with an appropriate response, we have something ready that we can respond with and tailor, depending on what the exact question is.

**The Hon. DANIEL MOOKHEY:** But who would be the spokesperson whose name that information would go out in? Would it be you, would it be a spokesperson for Revenue NSW?

**Mr BRADY:** It would vary, depending on the nature of the issue. This would more than likely be from me.

**The Hon. DANIEL MOOKHEY:** So it was predominantly prepared for you to have, really. Is that fair?

**Mr BRADY:** Fair but it would depend on who the inquiry is directed to. If it was directed to the secretary, then this would be adapted.

**The Hon. DANIEL MOOKHEY:** You saw that being drafted, you said?

**Mr BRADY:** I am sure I was involved in some of the preparation of this.

**The Hon. DANIEL MOOKHEY:** Did you ask for it to be prepared?

**Mr BRADY:** I do not specifically recall. Generally there is an awareness of issues that may lead to media inquiries—

**The Hon. PENNY SHARPE:** Is it generally the case that if it appears in the media someone usually generates a note?

**Mr BRADY:** Preferably before it appears in the media.

**The Hon. PENNY SHARPE:** In this case, probably not. You could not have done it—it would have to have been after it was in the media.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** That is a good question. Were you provided advanced notification by anyone prior to the publication of the Herald, that the Herald was intending to publish that story?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** So the first time you found out about it was when you picked up the paper?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** The first two paragraphs were pretty clear in terms of what Revenue NSW thought had happened.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Did that prompt you to make any inquiries as to the responsibility or knowledge of Minister Dominello's office in this regard?

**Mr BRADY:** No, I think we were trying to be purely factual.

**The Hon. COURTNEY HOUSSOS:** Mr Brady, this is obviously a fairly serious situation where you seek undertakings from a chief of staff, who gives you undertakings in fairly carefully worded language back, and that trust is subsequently breached. How has this changed the way that you provide advice? Or has it changed the way that you provide your advice or do your job as a public servant?

**Mr BRADY:** No, it has not. I think firstly it is not clear to me at all how the breach finally occurred, and so whether there should be a breach of trust there or not. I continue to provide advice to the Government on the range of responsibilities that I have. I answer and respond professionally and I still serve the government of the day.

**The Hon. COURTNEY HOUSSOS:** In response to the Privacy Commissioner's report, you made some changes. Have you made any other changes to the organisation as a result of this experience?

**Mr BRADY:** As I said, we made a number of different changes relating to the way that people access information, the sign-offs for the information and the training all our staff receive in relation to privacy. We have not made any structural changes to our organisation. The key for us has been to try and raise the level of awareness and importance of privacy within our organisation and then to make sure that we have got those extra controls to try and prevent any other breaches occurring.

**The Hon. COURTNEY HOUSSOS:** Let me give you a bit of a hypothetical. If your organisation was to receive the same request from a Minister's office today, how would it be dealt with?

**Mr BRADY:** The response would be prepared. It would then proceed to the executive director of the relevant area, who would review the response and ensure that it, firstly, answered the questions and, secondly, did not extend beyond what should be sent out from our office. Then it would be provided to the Minister's office.

**The Hon. COURTNEY HOUSSOS:** Would that be any different to how it was dealt with previously?

**Mr BRADY:** The key difference was the officer who prepared the material attached the information that should not have been attached. They missed it; it should not have happened. There was not a second set of eyes to ensure that nothing went out that should not have gone out.

**The Hon. PENNY SHARPE:** The Minister was asked 22 questions in the Parliament in relation to this matter. I am assuming that the department would have provided briefing notes in relation to this. Are you able to provide those to the Committee?

**Mr BRADY:** Can I take that on notice?

**The Hon. PENNY SHARPE:** Yes, that is fine. I did not expect you to have them here but that would be good. Given the sensitive timing of the release of this information within weeks of the State election—obviously very targeted to the Leader of the Opposition at the time—I have looked closely at the caretaker conventions and the general guidance given by the Department of Premier and Cabinet [DPC] in relation to these matters. There are some fairly clear points in here which, obviously, is that the caretaker conventions are not black-and-white, they are interpreted and that they are, by definition, conventions. But it does emphasise in relation to the guidelines that:

Whilst agencies are concerned at all times to avoid partisanship, the circumstances of an election campaign require special attention to the need to ensure the impartiality and apolitical nature of the public service, and its continuing ability to serve whatever government is elected.

It goes on to say:

Ministers should take particular care to ensure that they do not compromise the neutrality of the public service in the lead up to an election.

Is there any review process after an election that leads into any issues or that agencies would have concerns in relation to the way in which the conventions are working? I am assuming that it is a document that changes over time in response to circumstances. In this case, after the election in March, is there any input or review of the caretaker conventions or the way that they operated during the election period?

**Mr BRADY:** I was not contacted by DPC in relation to this event. If you are thinking of a broader process, you should direct that question to DPC.

**The Hon. PENNY SHARPE:** But you are not aware of a broader process and you did not participate in one?

**Mr BRADY:** No.

**The Hon. PENNY SHARPE:** Mr Pratt, are you aware of a broad process around a review of the caretaker conventions and the way they operate during an election?

**Mr PRATT:** No, I am not. That really would be a question for Mr Reardon.

**The Hon. DANIEL MOOKHEY:** I have a lot more questions for Mr Brady but not related to this matter. I might ask Mr Gardner some questions before coming back to you. Mr Gardner, is it you who is responsible for the procurement framework or Ms Wilkie?

**Mr GARDNER:** I am responsible for NSW Procurement.

**The Hon. DANIEL MOOKHEY:** That change has arrived as a result of the change of the administrative arrangements. Is that correct?

**Mr GARDNER:** That is correct. NSW Procurement came into Treasury as part of the machinery of government change.

**The Hon. DANIEL MOOKHEY:** The FTEs have transferred from what is now the Department of Customer Service to Treasury?

**Mr GARDNER:** Yes, though not completely. There are some FTEs that were associated with the information and communications technology project—the buy.nsw digital transformation program—so a number of them, and obviously those members of staff who were responsible for procurement within what is now the Department of Customer Service, also remained there. But the answer to your question is substantially yes, NSW Procurement FTE came into Treasury.

**The Hon. DANIEL MOOKHEY:** They answer to you?

**Mr GARDNER:** They do.

**The Hon. DANIEL MOOKHEY:** Who is in charge of NSW Procurement?

**Mr GARDNER:** Sue Woodall is the Chief Procurement Officer and head of NSW Procurement.

**The Hon. DANIEL MOOKHEY:** How many FTEs are at NSW Procurement?

**Mr GARDNER:** As at 30 June there was 113 roles and 89 FTE.

**The Hon. DANIEL MOOKHEY:** Depending on your level of generosity to Mr Brady, I will ask you a pretty open-ended question and you can decide how long you want to answer it for. Broadly speaking, in terms of what the current procurement framework of New South Wales is—when I say that I mean precisely the role NSW Procurement plays vis-a-vis the agencies themselves directly.

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** What does NSW Procurement, broadly speaking, do as opposed to what the agencies do? Can you explain the relationship between the two?

**Mr GARDNER:** NSW Procurement is the central agency, so they manage a certain percentage of the whole-of-government spend—so, if you look at 2017-18 financial year, about \$4 billion. I can give you a breakdown of what categories they are, if you like.

**The Hon. DANIEL MOOKHEY:** Please.

**Mr GARDNER:** They are consulting and professional services, recruitment and contingent labour, fleet, electricity and gas, and travel and transport. Everything else is procured under what we describe as a devolved procurement model, where agencies procure the rest of the State's procurement. If, again, you refer to 2017-18 then that would be a total of about \$33 billion.

**The Hon. DANIEL MOOKHEY:** Can you give me the percentages of State spend in those five categories?

**Mr GARDNER:** So \$4 billion out of \$33 billion.

**The Hon. DANIEL MOOKHEY:** And these are the standard form contracts that you effectively procure on behalf of all departments in respect of those five categories?

**Mr GARDNER:** Yes, for those categories. They do not apply to every department; some departments do not necessarily use NSW Procurement.

**The Hon. DANIEL MOOKHEY:** Which departments do not use NSW Procurement?

**Mr GARDNER:** Specifically in the recruitment and contingent labour category.

**The Hon. DANIEL MOOKHEY:** Transport for NSW certainly would be one that does itself—

**Mr GARDNER:** And Treasury is the other, interestingly enough.

**The Hon. DANIEL MOOKHEY:** Really? Why is that?

**Mr GARDNER:** We are reviewing that. It is just the nature of the contingent labour force we have tended to seek has been different. The contingent labour force has very specific categories.

**The Hon. DANIEL MOOKHEY:** There is no labour hire for economists, you are saying? Busted! That is correct?

**Mr GARDNER:** Yes. The contingent labour force actually has very specific categories and so, generally, we are not looking in that same pool of categories.

**The Hon. DANIEL MOOKHEY:** You manage the prequalification framework process in respect to—is it 17 panels?

**Mr GARDNER:** We will take that on notice.

**The Hon. DANIEL MOOKHEY:** But you are responsible for the maintenance and management of those prequalification panels?

**Mr GARDNER:** Yes. Some of those prequalification panels relate to categories that are managed by other agencies, so it would only be prequalification panels in those particular categories I just listed.

**The Hon. DANIEL MOOKHEY:** Yes, and that is what I am asking you about. You are responsible for the management of those frameworks?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** You administer the opportunity for any business to enter those frameworks at any point in time if they can go through the prequalification checklist. That is correct?

**Mr GARDNER:** Yes. For some of them we only update—for electricity, for example, we will only do that on a particular cycle so that we are procuring particular contracts for particular periods of time. So new participants would not come in, but for a prequalification panel I would confirm—yes.

**The Hon. DANIEL MOOKHEY:** Do you maintain data on the allocation of contracts through those panels by yourselves or other agencies?

**Mr GARDNER:** We have a database that collects the amount of spend we have in each of those categories, yes.

**The Hon. DANIEL MOOKHEY:** Do you provide analysis or do you analyse that result?

**Mr GARDNER:** We can analyse that result, yes we do.

**The Hon. DANIEL MOOKHEY:** So you are in a position to identify, for example, on each of the three qualification frameworks which firms are getting all the work?

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** That is presumably because you have specific targets in respect of government procurement. Is that correct?

**Mr GARDNER:** There are particular targets around Indigenous or small- and medium-sized enterprises [SMEs] procurement strategies.

**The Hon. DANIEL MOOKHEY:** We went through the Indigenous one this morning. How are we tracking in terms of the target?

**Mr GARDNER:** The new Indigenous procurement policies only came into force on 1 July 2018. We are currently in the process of reviewing that policy.

**The Hon. DANIEL MOOKHEY:** What was the target again?

**Mr GARDNER:** The Indigenous one, the target overall is to create 3,000 Indigenous jobs through New South Wales procurement by 2021. The subsets of those, the mechanism through which they are expected to be delivered, is in goods and services. So 3 per cent of domestic contracts for goods and services are to be awarded to Aboriginal-owned businesses. In the construction space, 1.5 per cent of construction spend in mandated categories are to be allocated to specific eligible spend.

**The Hon. DANIEL MOOKHEY:** And that is to be achieved by 2021?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** So that is two years? And they have a three-year target, is that correct?

**Mr GARDNER:** Yes. So coming into place on 1 July 2018.

**The Hon. DANIEL MOOKHEY:** So we are about a third of the time in?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** We learnt this morning that we are at 0.12 per cent of Indigenous spend?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** We are targeting three?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** Therefore you are planning for a pretty sharp increase over the next two years. Is that correct?

**Mr GARDNER:** You can infer from the target—

**The Hon. DANIEL MOOKHEY:** If you are assuming that you are still trying to hit the target.

**Mr GARDNER:** That is correct. We are looking for an increase.

**The Hon. DANIEL MOOKHEY:** So what are you doing?

**Mr GARDNER:** There are two or three things, particularly for NSW Procurement. In the Indigenous space we have identified a number of Aboriginal businesses that are not currently on prequalified schemes. We have set up a concierge service so we can assist those businesses to become prequalified. We are working with the Australian Indigenous Chamber of Commerce and Supply Nation. We will be holding workshops in October.

**The Hon. COURTNEY HOUSSOS:** Where are they being held?

**Mr GARDNER:** Sorry. The workshops have been held with industry and the report will be coming out in the fourth quarter.

**The Hon. DANIEL MOOKHEY:** Perhaps on notice, you would like to tell us where they were held?

**Mr GARDNER:** We will do.

**The Hon. DANIEL MOOKHEY:** And where they were held? And how many people attended them? Let us go through your SME targets. What are the SME targets?

**Mr GARDNER:** The SME targets. There is not a particular target for SMEs.

**The Hon. DANIEL MOOKHEY:** But there is a policy.

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** Do you want to take us through at least the key dimensions of that policy?

**Mr GARDNER:** The key dimensions of that policy are a general procurement exemption which allows agencies to purchase goods and services from any business up to a maximum of \$10,000. There is a small business exemption which allows agencies to purchase goods and services from any small business, which is up to 19 employees, up to a maximum of \$50,000. There is an SME first policy, requiring an agency to first consider purchasing from an SME in direct procurement—whether on a panel or a prequalification scheme—for values up to \$250,000. There is an innovation stream which allows accredited agencies to directly engage an SME on short-term contracts valued up to \$1 million to do pre-concept testing or outcomes-based trials. Finally, for procurements valued at over \$3 million, agencies must incorporate a supplier SME and sustainability commitment into the contracts.

**The Hon. DANIEL MOOKHEY:** Do you monitor agency compliance with that directive?

**Mr GARDNER:** They must monitor compliance with that directive. We will ultimately then be able to capture that, once the money is spent, through the spend analytics framework.

**The Hon. DANIEL MOOKHEY:** I am going to pause my question about whether or not you wish to explain how you are enforcing it and just jump straight to the analytics part. How much money is going on SMEs and their spend? Of the \$33 billion spend, are you in a position to tell us how much is going to NSW Procurement's definition of an SME?

**Mr GARDNER:** So in the financial year 2017-18, the Government spent approximately \$12.5 billion, with 56,000 SMEs.

**The Hon. DANIEL MOOKHEY:** Where are we up to now?

**Mr GARDNER:** I only have partial figures for financial year 2018-19.

**The Hon. DANIEL MOOKHEY:** What do you have partially?

**Mr GARDNER:** I have \$9.1 billion up to March 2019. So effectively three-quarters for three-quarters of the year.

**The Hon. DANIEL MOOKHEY:** You do not have the last quarter data, so basically it is hovering at \$12 billion.

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** Do you maintain data and analysis about the allocation of money, particularly on a professional services prequalification framework?

**Mr GARDNER:** We have data around how much we are spending on professional services.

**The Hon. DANIEL MOOKHEY:** By firm?

**Mr GARDNER:** We do.

**The Hon. DANIEL MOOKHEY:** So who are the people we are spending with?

**Mr GARDNER:** In the 2018-19 financial year, Goldman Sachs was at the top of the list. That would be related to the WestConnex transaction.

**The Hon. DANIEL MOOKHEY:** How much did we spend?

**Mr GARDNER:** That would be \$15,135,107.

**The Hon. DANIEL MOOKHEY:** Predominantly to do with WestConnex?

**Mr GARDNER:** That is predominantly to do with WestConnex, PwC, Ernst and Young.

**The Hon. DANIEL MOOKHEY:** What was the amount for PwC?

**Mr GARDNER:** That was \$12.98 million. Ernst and Young was \$12.15 million. Allens law firm was \$10.85 million.

**The Hon. DANIEL MOOKHEY:** Do you know what precisely is being spent with each of these, as in the cluster of contracts each of them would have received?

**Mr GARDNER:** I understand those that are associated with Treasury. Some of those relate to some of the asset sales. Allens, for example, PwC with WestConnex. But the individual agencies have responsibility for disclosing the relationship between individual consultant spend and projects in their cluster.

**The Hon. DANIEL MOOKHEY:** But you maintain a central eye on it to be able to provide this data?

**Mr GARDNER:** That is correct. Consultant data does come up centrally, yes.

**The Hon. DANIEL MOOKHEY:** Let us go through the top 10. We are up to number four, Allens.

**Mr GARDNER:** Allens, KPMG—

**The Hon. DANIEL MOOKHEY:** How much?

**Mr GARDNER:** That is \$9.3 million. Deloitte is \$6.9 million. Capgemini consulting was \$6.3 million. Boston Consulting Group was \$4.7 million, and Turner and Townsend was \$4.6 million.

**The Hon. DANIEL MOOKHEY:** On notice, are you able to provide the equivalent figures for last year?

**Mr GARDNER:** I do not have them with me.

**The Hon. DANIEL MOOKHEY:** Hence on notice.

**Mr GARDNER:** On notice, yes.

**The Hon. DANIEL MOOKHEY:** That was 2018-19. You are in a position to provide 2017-18?

**Mr GARDNER:** We will be able to provide that on notice.

**The Hon. DANIEL MOOKHEY:** Thank you very much.

**The Hon. COURTNEY HOSSOS:** Can you table that document?

**Mr GARDNER:** That is public information.

**The Hon. SCOTT FARLOW:** Maybe consider it and take it on notice.



**The Hon. DANIEL MOOKHEY:** Mr Brady, let us just go through some basics. How many FTEs are there at Revenue NSW?

**Mr BRADY:** There were 1,368.6 as at 30 June.

**The Hon. DANIEL MOOKHEY:** Do you have the equivalent for 2017-18?

**Mr BRADY:** I do not have that data. I can provide it to you.

**The Hon. DANIEL MOOKHEY:** Can you provide the same data on notice for 2016-17, so the last three years?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you produce an annual report?

**Mr BRADY:** No. We are part of the department so our data gets combined to create the department annual report.

**The Hon. DANIEL MOOKHEY:** Are you a separate agency?

**Mr BRADY:** No. We are a division within the department.

**The Hon. DANIEL MOOKHEY:** That explains why you have ceased publication of an annual report.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Is Revenue NSW subject to the efficiency dividend?

**Mr BRADY:** Yes it is.

**The Hon. DANIEL MOOKHEY:** You are required to present 3 per cent savings each year for the next few years?

**Mr BRADY:** The department is subject to the efficiency dividend.

**The Hon. DANIEL MOOKHEY:** You are now in Treasury?

**Mr BRADY:** No. We are part of the Department of Customer Service. We contribute to the department's savings target which we are working through at the moment.

**The Hon. DANIEL MOOKHEY:** What are you contemplating in terms of activities that you can take to help the Government meet its target?

**Mr BRADY:** We have been looking at all of our procurement activity to make sure that we have eliminated any procurement or spend that we do not think is providing the maximum contribution to our outcomes and looked at all of our contracts. We have looked at our telecommunications contracts, our print and post contract, given the amount of correspondence we send to taxpayers and fine recipients we send a lot of mail, and you would be aware that we are looking to try and convert to more electronic measures of communications with our customers.

**The Hon. DANIEL MOOKHEY:** I was not aware but now I am.

**Mr BRADY:** That in itself provides a better customer experience but it also reduces our operating costs. We are also looking at reducing our spend items on things like travel et cetera to try and make sure that we are providing the customer support and the staff support we need, but make sure we have them as tight as possible. We are also reviewing our overall staffing across our activities to make sure that we have resources providing the best revenue and customer and staff outcomes.

**The Hon. DANIEL MOOKHEY:** Have you identified potential savings that can be made for the reforms to staffing that you just outlined?

**Mr BRADY:** We are in the process of working that through right now.

**The Hon. DANIEL MOOKHEY:** Are you contemplating reducing the number of full-time staff?

**Mr BRADY:** We have already reduced the senior executive service. We have reduced four senior executives from our structure and we are now working through the next layers. We anticipate there will be some reductions.

**The Hon. DANIEL MOOKHEY:** What scope? What magnitude?

**Mr BRADY:** We are still working through that at the moment.

**The Hon. DANIEL MOOKHEY:** At what level?

**Mr BRADY:** We believe it will be across our structure.

**The Hon. DANIEL MOOKHEY:** All of your structure?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** This 3 per cent, that is for each year that the department of Customer Service is subject to. Is that correct?

**Mr BRADY:** That is correct.

**The Hon. DANIEL MOOKHEY:** Have you been informed how much of that you are expected to make up as part of the department of Customer Service, given that I think you are probably one of the more labour-intensive parts of their division?

**Mr BRADY:** We are, although we are also a heavy regional employer, and as you would be aware there are no regional employment cuts. We have been in discussion with the department about the impact of those cuts in the metro area and what that might mean in terms of our outcomes. We are balancing that across the department, so we have had a range of discussions and we are still finalising exactly what target we will be pursuing.

**The Hon. DANIEL MOOKHEY:** Of your 1,368.6 staff, how many are regional and how many are Sydney—or Newcastle or Wollongong for that matter?

**Mr BRADY:** In our Gosford office we currently have 126 people—I will give you the whole numbers—in Lithgow, 227; Maitland, 256.

**The Hon. DANIEL MOOKHEY:** Slow down. Lithgow?

**Mr BRADY:** That is 227. Maitland, 256; Parramatta, 727; and Wollongong, 4.

**The Hon. DANIEL MOOKHEY:** Okay.

**Mr BRADY:** I do not think that quite tallies up with the number I already—

**The Hon. DANIEL MOOKHEY:** That is okay; it is close.

**Mr BRADY:** It is very close.

**The Hon. DANIEL MOOKHEY:** That is quite a good segue to the next questions. You operate call centres, is that correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How many do you do?

**Mr BRADY:** We have call centres—it works as one virtual call centre but we have—

**The Hon. DANIEL MOOKHEY:** The locations.

**Mr BRADY:** We have people located in Lithgow, Maitland and Gosford.

**The Hon. DANIEL MOOKHEY:** So when you said that there were 256 people in Maitland, 126 in Gosford and 227 in Lithgow, were you referring predominantly to call centre staff?

**Mr BRADY:** Not necessarily, no.

**The Hon. DANIEL MOOKHEY:** How many people work in the call centres in Maitland, Lithgow and Gosford?

**Mr BRADY:** I do not have that split with me. Can I take that on notice?

**The Hon. DANIEL MOOKHEY:** Sure, that is fine. What work is predominantly performed in those call centres?

**Mr BRADY:** The call centre takes inquiries from people with fines and land tax, predominantly individuals in those areas. It may be someone querying or appealing notices they have been sent; it may be asking about what are their options for resolving it. They may not be able to afford to pay the amount up-front or it may be in respect of land tax, for instance, querying the size of the assessment and then trying to understand how it has been determined. So it ranges through from, "Where can I find some information?" "Can you explain this to me?" through to, "How can I resolve the situation in terms of—

**The Hon. DANIEL MOOKHEY:** Can a person initiate a dispute with that call centre about a fine?

**Mr BRADY:** They can request a review. That can happen in two ways. They can talk to the call centre about how they request a review in writing, and that is done through our website or by writing in. Secondly, they can raise the issues they have and then, under the powers that I have to self-initiate a review, I can initiate a review based on the information that the fine recipient has raised.

**The Hon. DANIEL MOOKHEY:** The information the fine recipient has provided the staff in the call centre?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** And that is a procedure which is stipulated with the Fines Act, more broadly speaking. Yes?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Are the staff trained in the procedures in the Fines Act?

**Mr BRADY:** Yes, they are.

**The Hon. DANIEL MOOKHEY:** Very briefly, what type of training is provided to them in that respect?

**Mr BRADY:** The procedures that the staff work through are built into all the training materials, their continuous improvement, and it is based in our systems as well. They have access to knowledge bases online. So if there is a particular query they can access a knowledge base about the best way to handle that inquiry and what pieces of information they should provide to the fine recipient. So it is a question of the training people receive, the support they receive via the knowledge bases and the systems that they have access to and the team leaders that they have there to support them on the ground.

**The Hon. DANIEL MOOKHEY:** Very quickly, how does Revenue NSW check that its staff is complying with the procedures in the Fines Act?

**Mr BRADY:** We have the advantage of an internal audit program where we have reviews into a range of different aspects of our operations and ensure we are complying with the Act and that we are managing all the risks associated with it.

**The Hon. DANIEL MOOKHEY:** Have those audits revealed that there is any non-compliance with the Act?

**Mr BRADY:** It has revealed opportunities for us to tighten our processes. In terms of outright non-compliance I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Can you take on notice how many incidents of non-compliance with the Fines Act at the call centres have been discovered through your audit programs or the other methods that you just described, as well as how many reports or complaints of non-compliance have been received for the last few years?

**Mr BRADY:** Happy to.

**The Hon. DANIEL MOOKHEY:** Have you heard reports of your staff not complying with the Fines Act procedure?

**Mr BRADY:** Not in those terms. We do have customers who will—

**The Hon. DANIEL MOOKHEY:** Unhappy, I am sure.

**Mr BRADY:** No-one likes a fine, so we do have customers complain. Sometimes their complaints are about the receipt of the fine in the first place, the circumstances surrounding it, and other times it might be the engagement with our systems and the information we are providing. We have certainly be looking at those complaints and using them as opportunities to improve and go to the records analysis of why we are getting some of those complaints. That has led to us improving our communication of some of our processes and certainly some of the training for our staff as well.

**The Hon. DANIEL MOOKHEY:** Are staff from the call centres on any key performance indicators?

**Mr BRADY:** Yes, they are.

**The Hon. DANIEL MOOKHEY:** What are they?

**Mr BRADY:** They have a range of KPIs. Those KPIs vary depending on what part of the fines process you are in. Generally the KPIs relate to how well we are helping the person to resolve their issue. That issue can

be resolved in a number of different ways. It may be by withdrawing the penalty. It might be by cautioning. It might be by entering into a payment plan, referring the person to another part of our organisation—

**The Hon. DANIEL MOOKHEY:** Just to be specific, are any of the staff on KPIs that relate to dispute and dispute handling of fines?

**Mr BRADY:** Our KPIs relate to our ability to—

**The Hon. DANIEL MOOKHEY:** Collection rates, is that something which they are subject to?

**Mr BRADY:** I will answer the first one. What we focus on with respect to people who have an issue with their fine is how well we answer that issue. Have we resolved it for them? We measure whether the person has had to call back to have a second attempt at resolution or whether the situation we have put in place has over a period resolved their issue. For instance, if it set up a payment plan, has the person been able to stick to that payment plan, has it been appropriate to their circumstances—really trying to take into account those individuals' circumstances. In the case where we have an enforced fine, I can step you through that process.

**The Hon. DANIEL MOOKHEY:** I understand what that is.

**Mr BRADY:** Well, it is not a debt until it goes enforced. That is the important part of that.

**The Hon. DANIEL MOOKHEY:** Yes, I am aware.

**Mr BRADY:** In terms of any measurement of debt collection, it is in that—

**The Hon. DANIEL MOOKHEY:** In that category?

**Mr BRADY:** —whereas a request for a review can only occur prior to enforcement.

**The Hon. DANIEL MOOKHEY:** Yes. I accept that. Are they on any key performance indicators [KPIs] in relation to the debt collection of enforcement orders?

**Mr BRADY:** We do not measure it at a personal level. We measure it at an average level, which is really about understanding whether the collection centre is bringing in the same returns as we have them historically.

**The Hon. DANIEL MOOKHEY:** What KPIs is each of the collection centres subject to?

**Mr BRADY:** Can I take that on notice and provide you with the detail?

**The Hon. DANIEL MOOKHEY:** Yes, that is fine. What happens if a collection centre does not meet the KPIs?

**Mr BRADY:** Well, really what we try to do is use it as an operational metric to understand whether there is something happening in the business that we need to look at to see what is driving that. It is about saying that behaviour has changed from last year. The KPI is actually set around the average from the previous year. We are saying, "Has something changed in the behaviour that we are seeing coming through in the data to say that either there is something changed in the people receiving the fines, the way they are responding to the fines, or the way in which we are assisting people to resolve those issues?"

**The Hon. DANIEL MOOKHEY:** Are there already incentive payments?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** Does Revenue NSW use any private debt collection agencies?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** Which ones?

**Mr BRADY:** Can I take that on notice?

**The Hon. DANIEL MOOKHEY:** And what for?

**Mr BRADY:** We use them at the back end of our collections process. We call them the debt partners. It is where we have used our processes and we still have not resolved the debt. We will then put it to our debt partners and see whether they can stimulate action. They may be able to do that because they have other sources of data that we do not have, so it might be that we have not been able to locate or contact a person.

**The Hon. DANIEL MOOKHEY:** Yes, I am about to get to that issue, but let us just stay on the question of the use of private debt collection agencies. How many?

**Mr BRADY:** I believe there are four or five. We will provide you that information.

**The Hon. DANIEL MOOKHEY:** Four or five, yes. Do you sell the debt to them?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** So you retain them just to assist you in terms of collection?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** What policies are they subject to? Are they subject to the same policies around interaction with private citizens as you are?

**Mr BRADY:** Can I take that on notice as well so that I can give you a specific answer? There are private sector debt collection guidelines.

**The Hon. DANIEL MOOKHEY:** There are, yes.

**Mr BRADY:** But, at the same time, whatever actions they are taking must be within the powers that we have as Revenue NSW.

**The Hon. DANIEL MOOKHEY:** How do you pay them?

**Mr BRADY:** They are paid on a per item basis. Again, I will provide the detail of that to you.

**The Hon. DANIEL MOOKHEY:** Is it a margin that you provide them as a percentage of the fines?

**Mr BRADY:** I would like to give you a specific answer.

**The Hon. DANIEL MOOKHEY:** Do you know how much you spent in total on all of them in the last financial year?

**Mr BRADY:** I do not have that data with me but I will provide it to you.

**The Hon. DANIEL MOOKHEY:** Do you monitor their interaction with citizens?

**Mr BRADY:** We do have a team that works closely with the debt partners and we monitor the amount of debt we are sending to them, what the outcomes are, and whether there are any issues arising from those interactions.

**The Hon. DANIEL MOOKHEY:** Do you access private credit databases?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** Which ones?

**Mr BRADY:** I believe there are two.

**The Hon. DANIEL MOOKHEY:** Dun & Bradstreet is one of the major ones. Is that one of them?

**Mr BRADY:** And Veda, I think, is one of them.

**The Hon. DANIEL MOOKHEY:** I think they bought that. Anyway, I am going back too much. You access them, just two?

**Mr BRADY:** I believe it is two. I will confirm that for you.

**The Hon. DANIEL MOOKHEY:** What do you use the data for?

**Mr BRADY:** It is so that we can actually update our contact details. One of the biggest issues with fines is actually—

**The Hon. DANIEL MOOKHEY:** Finding people?

**Mr BRADY:** —making contact with people.

**The Hon. DANIEL MOOKHEY:** Do you provide any information into private credit databases?

**Mr BRADY:** I do not believe so but I will confirm that for you.

**The Hon. DANIEL MOOKHEY:** Okay. Are you aware of any proposal for a merger of Revenue NSW with Service NSW?

**Mr BRADY:** There is no proposal to merge Revenue NSW as far as I am aware. We are looking at how we bring the customer engagement elements of the Department of Customer Service together to provide a better customer experience. That is looking to include the Revenue NSW contact centre. That would provide us with the

ability to leverage the capabilities in Service NSW both in terms of its call centre capability but also in terms of its digital footprint in its over 100 physical locations to provide a better service to our customers.

**The Hon. DANIEL MOOKHEY:** Would that be if Service NSW is assuming functions that belong to Revenue NSW? That would mean Revenue NSW effectively hiring Service NSW as a service provider.

**Mr BRADY:** Service NSW currently provides services for us. They do some query resolutions for us and have done for a couple of years, so what we would see is that I would remain the commissioner of fines administration. I would delegate my functions as I currently do and Service NSW would deliver some of those front-of-house engagements on our behalf.

**The Hon. DANIEL MOOKHEY:** When you say it is being examined, what is the time line for decision-making in this particular examination?

**Mr BRADY:** Well, we are currently working through the strategy at the moment. I would expect that we will have a decision around how we want to approach this sometime in the next three months.

**The Hon. DANIEL MOOKHEY:** The next three months?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Okay. I hope that was as exciting for everybody as it was for me. I am sure it was a thrill. Let us go on to Revenue NSW compliance, if you do not mind.

**The Hon. SCOTT FARLOW:** Even more exciting.

**The Hon. DANIEL MOOKHEY:** I am trying to get through this.

**The Hon. SCOTT FARLOW:** You are doing great.

**The Hon. BEN FRANKLIN:** You are doing well, Daniel. Keep going.

**The Hon. DANIEL MOOKHEY:** How many people are in your compliance teams?

**Mr BRADY:** Just to be clear, we do not have a dedicated compliance team the way we approach—

**The Hon. DANIEL MOOKHEY:** Do you have compliance units?

**Mr BRADY:** We do not have compliance units. We have units that provide service and do compliance activity together. We see having a separate compliance unit can have cultural issues. We do not want to have a situation where people get focused on gotcha moments. Our intent is always to be in a situation where we are trying to help taxpayers understand their obligations, making it as easy for them to comply as they can and then in that way reducing the red tape and improving the revenue collection. So we focus on service, which also includes compliance where people have not done the right thing.

**The Hon. DANIEL MOOKHEY:** I am just going to go off the 2017 data that you provided.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** I think that might be the last time you provided data by a unit level by tax on the record.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Maybe on notice can you provide how many people are working on these particular ways and however you wish to describe them.

**Mr BRADY:** Yes. I think last time we pulled our people and their activities apart to provide you with that data.

**The Hon. DANIEL MOOKHEY:** Oh, good. If you can do that again, that would be great.

**The Hon. SCOTT FARLOW:** It is very helpful.

**The Hon. DANIEL MOOKHEY:** It is very helpful. You said that there are 153 people in payroll tax compliance, 12 in returns compliance which is health insurance levies, insurance duty and mineral royalties, 18 in land tax compliance, one in parking space levy compliance, 14 in landholder compliance, six in duties investigation, 12 in electronic duty return governance and 11 in duties and first home buyer for some benefits audit. If you could give us updated data in that respect, that would be very useful.

**Mr BRADY:** Will do.

**The Hon. DANIEL MOOKHEY:** Equally, you also gave us recurrent funding received and revenue identified by unit as well, which was also very helpful. If we can get that on notice as well that will be very useful.

**Mr BRADY:** Will do.

**The Hon. DANIEL MOOKHEY:** How much payroll tax is currently outstanding to the taxpayers of New South Wales?

**Mr BRADY:** One moment please. I am afraid I do not have the breakdown of debt by tax line with me but I am happy to provide that to you.

**The Hon. DANIEL MOOKHEY:** I might then come—

**The CHAIR:** Mr Mookhey, before you go further and launch into another question, we will take a 10-minute break and resume at 15:40.

**(Short adjournment)**

**The Hon. DANIEL MOOKHEY:** Secretary Pratt and Deputy Secretary Wilkie, precisely what do you do for the Minister for Finance and Small Business in his portfolio responsibilities?

**Mr PRATT:** The overall portfolio responsibility of the Minister comprises small business, which we touched on this morning. In terms of revenue our role is largely around policy, which Ms Wilkie is responsible for. The execution of that policy rests with the commissioner and Revenue NSW itself, as you have been talking about this afternoon.

**The Hon. DANIEL MOOKHEY:** Those are predominantly the areas of the Minister's responsibility that you assist with?

**Mr PRATT:** That is correct. The final piece is procurement. They are the three key pieces.

**The Hon. DANIEL MOOKHEY:** Ms Wilkie, in respect to the policy dimensions of revenue what is Treasury currently working on?

**Ms WILKIE:** On revenue policy at any particular time there is—

**The Hon. DANIEL MOOKHEY:** Do you mind just grabbing the microphone a bit closer?

**Ms WILKIE:** Sure, sorry. On revenue policy at any particular time there is always a range of matters that any Treasury would be looking at that. They sort of go to whether there are loopholes in the tax laws or issues with—so while issues of administrative policy are the responsibility of Revenue NSW, issues to do with, say, unintended consequences or loopholes in terms of interpretation of the tax law and how the tax law can be administered are things that we would look at.

**The Hon. DANIEL MOOKHEY:** Are there any loopholes in our tax laws?

**Ms WILKIE:** At the moment there is nothing that we are specifically looking at. This is more in the nature of constant environmental scanning, looking at matters before the courts and that sort of thing. That is the usual business that we would be looking at.

**The Hon. DANIEL MOOKHEY:** Are you leading any work or undertaking any work into the appropriate revenue policies that should be applied on digital platforms?

**Ms WILKIE:** We are not looking specifically at that at the moment. That is more an issue that the Commonwealth has responsibility for because it tends to come under things like broad-based consumption tax such as GST.

**The Hon. DANIEL MOOKHEY:** What about in respect to the payroll tax stuff that we were talking about earlier in respect to gig economy providers? Is the Treasury undertaking any work in terms of the revenue dimensions to that?

**Ms WILKIE:** Not at the moment, no. But GST is something, given that—because I also have responsibility for intergovernmental finance, so Federal financial relations. Anything to do with the GST, given how much money we get from GST funding each year, is obviously of incredible interest to us. We spend a lot of time looking at that as well.

**The Hon. DANIEL MOOKHEY:** Sure. Are you engaged in any work around multinational tax compliance with payroll tax and tax structures that sit behind payroll tax to do with multinationals that, let's be honest, arises from the Australian Tax Office's work in this respect?

**Ms WILKIE:** No, not specifically on payroll tax.

**The Hon. DANIEL MOOKHEY:** Land tax? Any of the other tax bases?

**Ms WILKIE:** No. To the extent that those mostly arise under the Commonwealth corporate tax law we do not tend to look at that in any detail. That sort of structure does not impact as much in the context of most of the State taxes.

**The Hon. DANIEL MOOKHEY:** Okay, but just to be clear: The Treasury is not looking for policy dimension—

**Ms WILKIE:** Not at this time.

**The Hon. DANIEL MOOKHEY:** —at anything to do with the emergence of the gig economy?

**Ms WILKIE:** No.

**The Hon. DANIEL MOOKHEY:** Fair enough. Mr Brady, let us turn to fines. How much did Revenue NSW collect in fines last year?

**Mr BRADY:** One moment, please. It is a number I should have on the tip of my fingers; I am just struggling to find it, Mr Mookhey. If you can just bear with me. Sorry, can I take that on notice?

**The Hon. DANIEL MOOKHEY:** Okay. Do you know how many people you collected the money from? Or do you need to take that on notice as well?

**Mr BRADY:** I can give you some rough numbers.

**The Hon. DANIEL MOOKHEY:** We will go with rough numbers at this point.

**Mr BRADY:** It is around three million penalty notices issued each year and approximately 70 per cent of those are paid prior to going into enforcement. Obviously of the 30 per cent that go into enforcement, that is where it takes us longer and we have potential for write-off et cetera.

**The Hon. DANIEL MOOKHEY:** Yes. I was going to get to that. For 2018-19 what was the average resolution rate for the crime fine debt?

**Mr BRADY:** The average resolution rate?

**The Hon. DANIEL MOOKHEY:** Yes. You said in 2016-17 it was 69.2 per cent.

**Mr BRADY:** So that is the—I am just not clear on what exactly that number is.

**The Hon. DANIEL MOOKHEY:** I will read the information and I am fairly positive—I interpret this to mean the amount of crime fine debt that is resolved or that is paid. However, I will leave you to provide the definitions because fundamentally this is coming from answers provided by Revenue NSW.

**Mr BRADY:** I understand.

**The Hon. DANIEL MOOKHEY:** It says the average resolution rate for crimes fine debt is 69.2 per cent and that was for 2016-17. Incidentally, for what it is worth, it says here it was 75.1 per cent for tax debt.

**Mr BRADY:** We are just—

**The Hon. DANIEL MOOKHEY:** Do you want to seek some advice?

**Mr BRADY:** We are, if you would just bear with us a moment.

**The Hon. DANIEL MOOKHEY:** Sure.

**Mr BRADY:** We are just trying to get that fines paid number for you, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Thank you.

**Mr BRADY:** Unfortunately the data does not quite answer the question you are asking.

**The Hon. DANIEL MOOKHEY:** What data do you have?

**Mr BRADY:** I can tell you the number of penalty notices issued, the number enforced, the face value—that is the data that I have.

**The Hon. DANIEL MOOKHEY:** Do you want to just give us that?

**Mr BRADY:** For 2018-19 the number of penalty notices issued was 2,989,833.

**The Hon. DANIEL MOOKHEY:** Very close to the three million figure you gave us.



**Mr BRADY:** That's right. The number enforced was 949,427.

**The Hon. DANIEL MOOKHEY:** Sorry, can you repeat?

**Mr BRADY:** It was 949,427. The total face value of the fines issued was \$772,961,321.

**The Hon. DANIEL MOOKHEY:** On notice, can you provide us the trend figures in those for the last three years according to those criteria?

**Mr BRADY:** I can give you the 2016-17 and 2017-18 numbers now if you would like?

**The Hon. DANIEL MOOKHEY:** On notice is fine if that is possible, just because I am trying to get you out by five o'clock. What percentage of fine debt was written off last year?

**Mr BRADY:** Last year there was \$42.7 million written off, representing 6.6 per cent of total fines receivable.

**The Hon. DANIEL MOOKHEY:** Forty-two million?

**Mr BRADY:** It was \$42.7 million, representing 6.6 per cent of total fines receivable.

**The Hon. DANIEL MOOKHEY:** I presume you might have the 2017-18 figures with you?

**Mr BRADY:** Yes. It was \$30.9 million, representing 4.7 per cent.

**The Hon. DANIEL MOOKHEY:** I have the 2016-17 figure, which was 4.7 per cent, but I do not have the monetary value. Do you have the monetary value for 2016-17?

**Mr BRADY:** I do not have that with me.

**The Hon. DANIEL MOOKHEY:** Do you have a reason why there was an increase in write-offs?

**Mr BRADY:** I will come back to you with a detailed response to make sure that we are providing accurate information. We did receive a large volume of electoral notices last year. There is a data issue we receive in terms of some of those penalty notices, so we do tend to find that people have been overseas or whatever it might be and then we end up writing back quite a few of those. We also have done quite a bit of work around deflecting the enforcement action from vulnerable people. We have increased our work and development orders as well. The other measures that we have taken to deal with vulnerable customers have meant that we are writing off a lot more fines.

**The Hon. DANIEL MOOKHEY:** I look forward to your detailed answer in that respect. I am just going to move forward a bit within the fines space to the enforcement phase of fines collection, Mr Brady. If you are able to bring whatever data you have got it might be helpful. If a person fails to pay a debt by the due date Revenue NSW can impose additional fees. Is that correct?

**Mr BRADY:** That's right: \$65.

**The Hon. DANIEL MOOKHEY:** Yes. You can suspend licences?

**Mr BRADY:** That's right.

**The Hon. DANIEL MOOKHEY:** You can cancel registrations?

**Mr BRADY:** That's right.

**The Hon. DANIEL MOOKHEY:** You can terminate the ability for people to do business with RMS?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Can I ask how many additional fees were imposed last year? Do you have that data?

**Mr BRADY:** No, I do not have that. I can provide it to you though.

**The Hon. DANIEL MOOKHEY:** Could you?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you provide the monetary value of the additional fees that were raised by Revenue NSW applying the additional fees?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. Do you have the data as to how many people were suspended?

**Mr BRADY:** No, I do not.

**The Hon. DANIEL MOOKHEY:** And their licences? Can you provide that on notice too?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you provide on notice as well the number of registrations that were cancelled?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you provide on notice the number of people whose ability to do business was terminated?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you have any role in restoring their ability to do business with RMS, or is that RMS?

**Mr BRADY:** We would generally lift those restrictions once we are back in discussions with them about resolution of their fine.

**The Hon. DANIEL MOOKHEY:** Okay. You would keep data as to how long a person's ability to do business with RMS is suspended for?

**Mr BRADY:** Possibly. I am not sure whether we would have that aggregate data in a way that we could extract from our systems. Happy to take that on notice and see what we can provide.

**The Hon. DANIEL MOOKHEY:** In addition to that, you also have the ability to seize and auction property for non-payment. Is that correct?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** How many people were subject to that power last year?

**Mr BRADY:** Can I take that on notice?

**The Hon. DANIEL MOOKHEY:** Sure. Do you have any of this information or can you get it for us?

**Mr BRADY:** I do not have it with me.

**The Hon. DANIEL MOOKHEY:** Is it possible to seek your advisers to assist you in this respect in the time that is available?

**Mr BRADY:** I could ask.

**The Hon. DANIEL MOOKHEY:** Do you have the ability to garnishee people's wages?

**Mr BRADY:** I do.

**The Hon. DANIEL MOOKHEY:** How does that work?

**Mr BRADY:** Obviously we need to know who they are working for.

**The Hon. DANIEL MOOKHEY:** Clearly.

**Mr BRADY:** Then we approach the employer and take a portion of their wage each time until the debt is resolved.

**The Hon. DANIEL MOOKHEY:** How many times did you utilise that power?

**Mr BRADY:** It is not a power we use extensively, but I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Do you have the power to garnishee bank accounts?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** How does that work—same process?

**Mr BRADY:** Similar process but it is a power we use more than the wages garnishee power. Again the difficulty is knowing where someone's bank account is and making sure that the person is the person—

**The Hon. DANIEL MOOKHEY:** Generally when it comes to tax affairs that is also, I am assuming, a big question too as to where people keep their bank accounts.

**Mr BRADY:** We have arrangements with Australian banks where we issue the garnishee orders and they match the data to their data and then we extract money from their bank accounts.

**The Hon. DANIEL MOOKHEY:** Do you know how many times you utilised that power in the past year?

**Mr BRADY:** I would take that on notice.

**The Hon. COURTNEY HOUSSOS:** And how much?

**Mr BRADY:** And how much, yes.

**The Hon. DANIEL MOOKHEY:** You have the power to undertake auctions, that is correct, seizures of property?

**Mr BRADY:** Seizures, that is executed via the Sheriff.

**The Hon. DANIEL MOOKHEY:** Via the Sheriff but effectively you are the people who—

**Mr BRADY:** They are doing it on our behalf.

**The Hon. DANIEL MOOKHEY:** That is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Do you maintain data on property seizures?

**Mr BRADY:** We will.

**The Hon. DANIEL MOOKHEY:** You are getting that?

**Mr BRADY:** You have already asked me for that.

**The Hon. DANIEL MOOKHEY:** Sorry, thank you. Do you maintain demographic data on who is being exposed to the use of all these remedies?

**Mr BRADY:** We do not. We will know where people's registered address is and we will know what actions we have taken. We do not necessarily run those reports in that way. Our interest is in getting people to engage with us to resolve their debts. We are not the policy setters.

**The Hon. DANIEL MOOKHEY:** When you decide to auction, do you have to get a court order?

**Mr BRADY:** I do not believe so. But I can confirm that for you.

**The Hon. DANIEL MOOKHEY:** Do you undertake the auctions directly yourself?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** Who do you use?

**Mr BRADY:** Again we use the Sheriff. I can come back and confirm that process for you.

**The Hon. DANIEL MOOKHEY:** To be clear, the Sheriff seizes the property, enters the premises and that is their responsibility, but do they undertake the auctions as well?

**Mr BRADY:** I believe they do. I will confirm that for you.

**The Hon. DANIEL MOOKHEY:** Do you pay the Sheriff?

**Mr BRADY:** We pay their costs of exercising the service.

**The Hon. DANIEL MOOKHEY:** How much do you pay them?

**Mr BRADY:** I will confirm that for you as well.

**The Hon. DANIEL MOOKHEY:** You mentioned before that you have the ability to seek work and community service orders.

**Mr BRADY:** Work and development orders.

**The Hon. DANIEL MOOKHEY:** That is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How many people are currently on them?

**Mr BRADY:** I will have to take that on notice as well, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Do you require a court consent before you impose one or do you have the ability to do that yourself?

**Mr BRADY:** We do not impose a work and development order. The way that the system works is that a non-government organisation [NGO] will be registered with the system. That NGO will sponsor a fine recipient to work with them in accordance with the different activities that can be conducted under a work and development order and then the fine is reduced as they execute those activities. There may be rehabilitation, there might be training, there might be community service.

**The Hon. DANIEL MOOKHEY:** But you screen the non-profits?

**Mr BRADY:** They go through a process with Legal Aid and ourselves in terms of getting onto that system.

**The Hon. DANIEL MOOKHEY:** So, yes?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** How many non-profits are involved?

**Mr BRADY:** I will take that on notice.

**The Hon. DANIEL MOOKHEY:** On notice can you also provide who precisely they are, which non-profits?

**Mr BRADY:** It is a long list.

**The Hon. DANIEL MOOKHEY:** Which is fine, no issues there. That will be useful. How do you codify units of time? You said there was a reduction for the time served. Presumably at some point that needs to be converted to a dollar value for the purpose of fine reduction?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How do you do that?

**Mr BRADY:** I will answer that in detail for you as well.

**The Hon. DANIEL MOOKHEY:** Do you maintain demographic information on this?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** How do you monitor whether these orders have been breached?

**Mr BRADY:** The work and development orders?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** There is a regular reporting from the NGO to ourselves. They certify the activities are being undertaken and we then reduce the fine accordingly.

**The Hon. DANIEL MOOKHEY:** If a person does not comply with their obligations under the order, what happens to them?

**Mr BRADY:** The work and development order gets terminated. They are then in default of their fine and then we proceed back into an enforcement process.

**The Hon. DANIEL MOOKHEY:** So there is no interaction with the criminal justice system in that respect then?

**Mr BRADY:** No, other than Legal Aid or a participant in the scheme.

**The Hon. DANIEL MOOKHEY:** In respect to these orders, how do you advertise their availability to fines?

**Mr BRADY:** We work extensively with the support groups in the legal sectors: the Aboriginal Legal Service, the Community Legal Services, Legal Aid. There is an extensive network of organisations that report through to our work and development governance group. It is through that and an engagement with the NGOs. Because the NGOs are sponsoring people into the system, it is generally the NGOs who are bringing forward the

fine recipients. At times when someone rings through and they need assistance, we will put them in touch with an NGO so that they can support them.

**The Hon. DANIEL MOOKHEY:** Do you initiate bankruptcy proceedings against people for fines non-compliance?

**Mr BRADY:** We can do that.

**The Hon. DANIEL MOOKHEY:** Do you?

**Mr BRADY:** In rare circumstances.

**The Hon. DANIEL MOOKHEY:** What are the rare circumstances that would trigger that?

**Mr BRADY:** It would be in a situation where it is a large fine and we believe the individual has got property that could provide a return on the fine. So we will seek to apply pressure to bring them to the table.

**The Hon. DANIEL MOOKHEY:** How many times did you utilise that power in the past 12 months?

**Mr BRADY:** I will have to take that on notice.

**The Hon. DANIEL MOOKHEY:** But the threshold for the initiation of a bankruptcy proceeding, does that come to you?

**Mr BRADY:** Not necessarily. Again I will confirm that for you, that we would make sure that our fines people are working with our technical advisory area to ensure that we are making appropriate decisions. It is not a common occurrence.

**The Hon. DANIEL MOOKHEY:** That is why I am asking whether or not it therefore has to come to you.

**Mr BRADY:** I expect that it might be brought to me. Whether it needs to be is a different question.

**The Hon. DANIEL MOOKHEY:** Is it brought to you?

**Mr BRADY:** Where there are things that are out of the ordinary, things do get brought to me. Whether for raising it to my attention, there might be something that is an unusual step to take. I cannot recall the last time someone brought a bankruptcy proceedings to me.

**The Hon. DANIEL MOOKHEY:** Do you have an information analysis unit, that is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How many people work in that?

**Mr BRADY:** It is approximately 40, but I would have to give you an exact answer. Actually I might have that number.

**The Hon. DANIEL MOOKHEY:** Do they maintain or provide any form of demographic analysis of the application of the fines system?

**Mr BRADY:** We have done analysis from time to time. We do not maintain demographic analysis on an ongoing basis. Where we have tried to use it is where we were doing some work around what we were calling a fairer penalty notice system, trying to understand and trying to influence perhaps the policy around the overall fines system. But in terms of our enforcement action and our regular day-to-day use of that information generated by the information analytics unit, demographics information is not actually something that is terribly relevant.

**The Hon. DANIEL MOOKHEY:** Do you maintain data on people who are caught driving whilst suspended or is that exclusively within the province of RMS?

**Mr BRADY:** We would only have that information in relation to any further fines that are incurred.

**The Hon. DANIEL MOOKHEY:** I just ask these questions because I am sure that you are aware—and you made allusions to it in the course of these answers—that there is an interaction between fines collection, the criminal justice system and particularly mass incarceration of First Nations people. Do you accept that?

**Mr BRADY:** We have quite a few clients who are from First Nations.

**The Hon. DANIEL MOOKHEY:** Yes. When you say "clients" you mean people who fines have been imposed on.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Right. And do you maintain any specific demographical analysis on the interactions of Indigenous peoples with the fines system?

**Mr BRADY:** No, we do not because it is not necessary for someone to identify whether they are Aboriginal or not.

**The Hon. DANIEL MOOKHEY:** But it is the case that there has been a substantial law reform agenda in this respect; you would agree with that?

**Mr BRADY:** There has.

**The Hon. DANIEL MOOKHEY:** And you would agree that, for example, I think it was the NSW Law Reform Commission that undertook a particular analysis of this, or maybe it was another State's law reform commission that looked at this.

**Mr BRADY:** It might have been Western Australia, I believe.

**The Hon. DANIEL MOOKHEY:** Yes. And to be fair they still send people to prison for non-payment of fines, so let's not take their standards. But my point is, is this an area of continuing reform for Revenue NSW that you have been asked to be involved in?

**Mr BRADY:** We have not been asked to be involved in any reforms in this area. We do support quite a few Aboriginal people through the Work and Development Order Program. We are interested particularly for Aboriginal people and for youth in what more we can do to support people in those two groups because we do think there is a disproportionate impact of the fines system on those two groups. It is something we are looking to embark on some further work this year.

**The Hon. DANIEL MOOKHEY:** On notice, could you tell us what work you are intending to embark upon?

**Mr BRADY:** Certainly.

**The Hon. DANIEL MOOKHEY:** Thank you. Do you collect debts and fines for other government agencies?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** Which ones predominantly, by category—local councils, I presume?

**Mr BRADY:** We do collect for some local councils and we collect for other government agencies.

**The Hon. DANIEL MOOKHEY:** Which ones?

**Mr BRADY:** We collect for the Ambulance Service. We are doing work for SIRA, the State Insurance Regulatory Authority.

**The Hon. DANIEL MOOKHEY:** What are you doing for them?

**Mr BRADY:** It is outstanding premiums, I believe.

**The Hon. DANIEL MOOKHEY:** For workers compensation?

**Mr BRADY:** Can I take that on notice to give you specifics? There are a couple of pieces of work we are doing for them so I would like to—

**The Hon. DANIEL MOOKHEY:** Sure. But broadly speaking they levy or collect premiums. Well, they supervise CTP and workers compensation or dust diseases which is an adjunct of workers compensation.

**Mr BRADY:** And it may well be penalties for non-compliance as well.

**The Hon. DANIEL MOOKHEY:** That is interesting. How many penalties for non-compliance can you on data provide us that you are pursuing and have been pursuing for SIRA?

**Mr BRADY:** I am happy to take that on notice. To be clear, we are only just starting to work with SIRA so whatever data we have will be—

**The Hon. DANIEL MOOKHEY:** I get it. Do they pay you?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** How?

**Mr BRADY:** We calculate the cost of us providing the service and we charge them for that.

**The Hon. DANIEL MOOKHEY:** So it is cost recovery.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you take a percentage of the money you collect?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** It is just pure cost recovery for your costs.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** And is that the same for local governments?

**Mr BRADY:** Yes, it is.

**The Hon. DANIEL MOOKHEY:** And for local governments you are presumably doing parking fines, council rates—

**Mr BRADY:** We have done parking fines for a very long time. That is done under the Fines Act so that is not part of our general debt collection activity. But we have started to do some fees collection for them as well for different local government entities.

**The Hon. DANIEL MOOKHEY:** Are you involved in the collection of special infrastructure charges?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** What fees, by category, broadly speaking, do you do for local government?

**Mr BRADY:** Whatever they charge their communities for. So it could be an outstanding fee for a development application or for—

**The Hon. DANIEL MOOKHEY:** Library fines?

**Mr BRADY:** It could be library fines. Well, I am guessing. There is a broad category of things they charge their communities for. If they have money outstanding then we will take that portfolio.

**The Hon. DANIEL MOOKHEY:** Because I am confident my wife owes Marrickville Library \$7 and I promise she will pay.

**Mr BRADY:** I do not think we are working for Marrickville council just yet. I will be giving them a call.

**The Hon. DANIEL MOOKHEY:** Can you come back to us in that respect: which councils you are working for and what fees you are collecting? Do you cost recover from them?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Pure cost recovery is the only way you are remunerated from councils?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Is there anybody else you are doing debt collection for?

**Mr BRADY:** We collect on behalf of Fair Trading, SafeWork, Fire and Rescue. We are about to start work with the Point to Point Commission and we are about to start work with IPART. We have done work for the Department of Industry in their water licensing area.

**The Hon. DANIEL MOOKHEY:** I was going to ask you about point to point. I might just skip to that straightaway. When you say you are about to collect for point to point, you are presumably referring to what I think is called the private transport operators levy.

**Mr BRADY:** We collect that part already—the passenger service levy.

**The Hon. DANIEL MOOKHEY:** That is the passenger service levy, which for some reason is reported in the budget papers as the "private transport operators levy" but I think it is the same thing.

**Mr BRADY:** This is the one dollar per passenger service?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** We collect that.

**The Hon. DANIEL MOOKHEY:** Actually, Secretary, can I just confirm that the "private transport operators levy" which is listed in the other revenue section of the budget papers does refer to the passenger levy?

**Mr PRATT:** I will check that.

**The Hon. DANIEL MOOKHEY:** Could you? Because it came up in the Transport estimates hearing as to whether or not that is right. How much have you collected in that respect, Mr Brady?

**Mr BRADY:** We have collected \$88,904,954.00 as at 30 June.

**The Hon. DANIEL MOOKHEY:** And that was for the last financial year?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How much is outstanding for that financial year?

**Mr BRADY:** Unpaid?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** I do not have that information with me. I can get that for you.

**The Hon. DANIEL MOOKHEY:** And you are collecting that from what is called booking service providers and taxi service providers? I think those are the two categories under the law that that levy applies to.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** Do you maintain data as to how much is coming from booking service providers and how much is coming from taxi providers?

**Mr BRADY:** I do not have any of that data with me, so I can bring that to you.

**The Hon. DANIEL MOOKHEY:** But you collect it?

**Mr BRADY:** We do collect it.

**The Hon. DANIEL MOOKHEY:** By those two categories?

**Mr BRADY:** It refers to anyone in the passenger transport with exceptions for being in a bus, transport of patients facilitated by a hospital or ambulance service, under the Assisted School Travel Program or under community transport contracts. So I think it is a cover-all provision with some exceptions rather than simply saying it is a rideshare and it is a taxi.

**The Hon. DANIEL MOOKHEY:** I accept that but the way in which that levy has been applied legally in the point to point space is that it is called booking service providers, which is predominantly rideshare—also hire cars?

**Mr BRADY:** Precisely.

**The Hon. DANIEL MOOKHEY:** But also taxi providers, which is otherwise colloquially known as rank and hail.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** I am just wondering whether or not you delineate—I do not expect you to have the data here—between the two in terms of how much of the \$88 million is collected from each side.

**Mr BRADY:** I can see what we can provide.

**The Hon. DANIEL MOOKHEY:** Could you?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** That would be very useful. And how much are you projecting that you will collect in the next year—the same amount?

**Mr BRADY:** No, that amount was collected from 1 February 2018, so we expect a full year.

**The Hon. DANIEL MOOKHEY:** Within the booking service provider space—you might need to take this on notice, I am sure—do you maintain which booking service provider is collecting, as in one of them is definitely Uber, another one must definitely be Ola. Do you keep the data at that level?

**Mr BRADY:** We have to collect from them, so yes.



**The Hon. DANIEL MOOKHEY:** Fair enough. I might ask you some supplementary questions on that on notice. But let us return to the wonderful issue of tax compliance. Did you find out, by the way, how much payroll tax is still outstanding?

**Mr BRADY:** It is coming.

**The Hon. DANIEL MOOKHEY:** Great. And do you define "outstanding" as being owing for more than 21 days after the due date?

**Mr BRADY:** It varies from tax to tax depending on the way the Act is set up, so I need to confirm which particular tax and the—

**The Hon. DANIEL MOOKHEY:** Payroll tax.

**Mr BRADY:** Payroll tax—let me just check. Can I come confirm that for you, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** And how many taxpayers owe us money for payroll tax?

**Mr BRADY:** I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Okay. What was the final collection rate for last year?

**Mr BRADY:** I do not have that data with me. Can I get it to you?

**The Hon. DANIEL MOOKHEY:** Okay. How much was written off?

**Mr BRADY:** That I can provide. How much tax debt was written off—is that the question?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** Tax written off was \$66.2 million.

**The Hon. DANIEL MOOKHEY:** And did you make the decision to write it off?

**Mr BRADY:** There are delegations within Revenue NSW.

**The Hon. DANIEL MOOKHEY:** But legally it is your responsibility for that decision.

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** And what would cause you to decide to write it off—lower prospects of collection?

**Mr BRADY:** Yes, and the principal cause for payroll tax is that the company has gone into administration or has been wound up.

**The Hon. DANIEL MOOKHEY:** We will get to that as well. How many people had their payroll tax written off?

**Mr BRADY:** I will have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Or companies, for that matter. When I say "people" I mean both legal personalities and individual personalities.

**Mr BRADY:** I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Okay. And you undertake audits as a principle in enforcements or for payroll tax; that is correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How many did you do last year?

**Mr BRADY:** We undertook 7,091 payroll tax investigations.

**The Hon. DANIEL MOOKHEY:** You provided on your website a baseline, effectively, for how much of that led to the additional revenue being collected. Can you just tell us, of those 7,000 audits what was the revenue influx?

**Mr BRADY:** It was \$238.3 million.

**The Hon. DANIEL MOOKHEY:** It is roughly about the same each year. Is that approximate?

**Mr BRADY:** I would have to get the trend data for you, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** On notice that would be useful. Presumably the 7,091 audits were of 7,091 taxpayers?

**Mr BRADY:** That was—

**The Hon. DANIEL MOOKHEY:** Yes, you can infer that. That is correct. Fair enough. How many disputed assessments for payroll tax were received last year?

**Mr BRADY:** If there would be an objection, is that what you are referring to?

**The Hon. DANIEL MOOKHEY:** Yes.

**Mr BRADY:** Can I get that data for you?

**The Hon. DANIEL MOOKHEY:** Please. Now, or do you want me to—

**Mr BRADY:** Are we able to provide that? We do not have it with us.

**The Hon. DANIEL MOOKHEY:** I feel like I am making at least two people's day slightly miserable.

**Mr BRADY:** At least three.

**The Hon. TAYLOR MARTIN:** I do not think it is in single digits, mate.

**The Hon. DANIEL MOOKHEY:** I do not mind about you guys. The escalation sequence for objections, a taxpayer has the opportunity to seek an internal review, is that correct?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** How many do?

**Mr BRADY:** Can I take that on notice for you, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Yes. How does that internal review work, by the way?

**Mr BRADY:** Within our tax area our tax officers will engage with the taxpayer, will gather the information and do the assessment. If the taxpayer is unhappy with that assessment, there will be some further dialogue to see if that can be resolved in that area. If it cannot be resolved and it proceeds through to an objection, the matter is then taken up in our technical area where it is reviewed independently of the assessors who did the initial assessment. That will require engagement with the taxpayer. It may require further information, independently assessing whether that decision should stand or whether it should be varied and then if a revised assessment is necessary, it will be issued.

**The Hon. DANIEL MOOKHEY:** You are coming back to us with how much—have I asked you this one yet? I am getting confused, or you are getting ahead of me. How many lead to a change after an internal review? Do you keep data on that?

**Mr BRADY:** I will have a look and see what we can provide you.

**The Hon. DANIEL MOOKHEY:** How many disputes are lodged with NCAT each year in payroll tax?

**Mr BRADY:** One moment. I am not sure that I have the data specifically in relation to payroll tax.

**The Hon. DANIEL MOOKHEY:** Tell us how many in general because it will save me from asking you in every tax regime I am going to ask you about.

**Mr BRADY:** We had 90 tax cases finalised through NCAT or the Supreme Court by way of settlement, through mediation or judgement.

**The Hon. DANIEL MOOKHEY:** How many of them led to a change in assessment?

**Mr BRADY:** I would have to take that on notice. I can say that of those cases 96 per cent resulted in Revenue NSW achieving a revenue outcome from them.

**The Hon. DANIEL MOOKHEY:** You mean an improvement on your initial assessment?

**Mr BRADY:** Typically we do not take people to court. It will be the taxpayer who takes us to court.

**The Hon. DANIEL MOOKHEY:** You may end up winning and charging them more?

**Mr BRADY:** It would be unlikely that we would charge them more than their initial assessment. It is possible, because in a negotiation we may have tried to reduce it and if the taxpayer does not accept that then we may end up with the initial assessment.

**The Hon. DANIEL MOOKHEY:** Do you use your own lawyers in those proceedings?

**Mr BRADY:** We will work through the Crown Solicitor.

**The Hon. DANIEL MOOKHEY:** Do you pay the Crown Solicitor?

**Mr BRADY:** Because the nature of what we do is for the Crown, then it is paid for by the Crown.

**The Hon. DANIEL MOOKHEY:** Through Revenue NSW, or do they just incur the cost?

**Mr BRADY:** There is a fund for the Crown Solicitor for these types of things that are run separately. We do not actually pay them money.

**The Hon. DANIEL MOOKHEY:** I might then take those questions to the Crown Solicitor. Do you know how much is in that fund?

**Mr BRADY:** No, I do not.

**The Hon. DANIEL MOOKHEY:** Let us talk about the insolvency of companies, because you are right to identify that as being one of the principal objections to the ability of New South Wales taxpayers to collect their money. Equally, it is also one of the biggest complaints of small businesses, that they have to pay tax and these insolvent companies do not. What is the total value of payroll taxes owed by companies that are insolvent? Do you maintain that data?

**Mr BRADY:** I can see what we have, but typically if they are insolvent we will write that money off.

**The Hon. DANIEL MOOKHEY:** But it is right to infer that if you are writing it off that is heavily correlated with insolvency?

**Mr BRADY:** It is one of the principal causes but it is not the only one.

**The Hon. DANIEL MOOKHEY:** How many companies enter into administration or liquidation because of payroll tax? Do you keep that data? I am not surprised if you do not. It is very specific.

**Mr BRADY:** I do not know that we would have causality between payroll tax and liquidation or administration.

**The Hon. DANIEL MOOKHEY:** I identify that because that was one of the reasons that Foodora cited for why it went into insolvency, amongst others. ATO compliance obligations and New South Wales Government compliance obligations was one of the reasons that it cited that caused it to want to enter insolvency—at least according to their administrators. Revenue NSW participates in administration processes for insolvent companies?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** How do you do that?

**Mr BRADY:** We have a provable debt, just like any other creditor for the business. We will lodge our claims with the administrator and seek to get our proportion of the estate.

**The Hon. DANIEL MOOKHEY:** Do you utilise private firms or do you do that directly with your staff to participate in the administration of things? Often it is the case that you can appoint a proxy to handle your debt for you in processes. That is common in the private sector.

**Mr BRADY:** I believe we do it ourselves, but I will confirm that for you.

**The Hon. DANIEL MOOKHEY:** You are part of the Phoenix Taskforce, is that correct?

**Mr BRADY:** Yes, that is right.

**The Hon. DANIEL MOOKHEY:** That is a task force which I think is led by the Commonwealth?

**Mr BRADY:** Yes, that is right. There are 34 Federal and State agencies involved in the task force.

**The Hon. DANIEL MOOKHEY:** Yes. You do undertake investigations into phoenixing in New South Wales, do you not?

**Mr BRADY:** We do.

**The Hon. DANIEL MOOKHEY:** Can you tell us about that?

**Mr BRADY:** During 2018-19 we completed 19 phoenix matters.

**The Hon. DANIEL MOOKHEY:** Do they arise predominantly for companies that are in the building industry?

**Mr BRADY:** There are a range of different industries. Certainly we see issues in labour hire companies. The building industry, cleaning industry and security industry are ones where we see high risk.

**The Hon. DANIEL MOOKHEY:** How many investigators do you have for phoenixing?

**Mr BRADY:** We do not have a separate team that does phoenixing. It will be part of our general compliance and service activities.

**The Hon. DANIEL MOOKHEY:** You have the opportunity to impose penalties for phoenixing, is that correct?

**Mr BRADY:** They are not specific penalties for phoenixing; they are penalties under the Tax Administration Act.

**The Hon. DANIEL MOOKHEY:** Which part of the Tax Administration Act do you cite to companies, directors or people who are engaged in phoenixing?

**Mr BRADY:** I do not have that with me at the moment. We have general provisions around interest and penalties, and those are the ones that we apply in phoenixing. We would also look to our provisions which allow us to look to directors of companies that have not met their obligations.

**The Hon. DANIEL MOOKHEY:** I ask these questions because I am sure it is no shock to you that phoenixing is a deplorable practice.

**Mr BRADY:** I totally agree.

**The Hon. DANIEL MOOKHEY:** It leads to not only a loss to taxpayers but also a loss to businesses that comply with their obligations. Do you agree with that?

**Mr BRADY:** Totally agree, absolutely.

**The Hon. DANIEL MOOKHEY:** Do you accept that there is a need for ongoing vigilance in terms of law reform when it comes to phoenixing?

**Mr BRADY:** I would refer any policy decisions to my colleagues in Treasury who are responsible for tax policy.

**The Hon. DANIEL MOOKHEY:** I think that might be you, Ms Wilkie.

**Ms WILKIE:** Can you repeat the question?

**The Hon. DANIEL MOOKHEY:** Is the Treasury examining any further law changes when it comes to phoenixing?

**Ms WILKIE:** No, not at the moment.

**The Hon. COURTNEY HOUSSOS:** Is it explicitly outlawed under the Taxation Administration Act?

**Mr BRADY:** No. It is not a legal concept, as such. The fact that people set up corporate enterprises that have a separate legal nature, then they do things and then they terminate them without fulfilling their obligations.

**The Hon. COURTNEY HOUSSOS:** I understand that.

**Mr BRADY:** There is no specific phoenixing.

**The Hon. COURTNEY HOUSSOS:** If you are pursuing them, then you are pursuing them for other breaches of that Act, you are not actually pursuing them—

**Mr BRADY:** We are pursuing them for unpaid taxation.

**The Hon. COURTNEY HOUSSOS:** As a result of the phoenixing?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** You are aware of the proposal that has emanated from not the Commonwealth per se, but certainly in the Commonwealth's sphere, for there to be director identification laws?

**Mr BRADY:** I am, that is right.

**The Hon. DANIEL MOOKHEY:** Is that something Revenue NSW would support as a way of reducing instances of phoenixing?

**Mr BRADY:** We would absolutely support it.

**The Hon. DANIEL MOOKHEY:** Would that be the view of the Treasury as well?

**Mr PRATT:** Yes, it would.

**The Hon. DANIEL MOOKHEY:** Good to hear. What is the total value of the contractor exemptions to payroll tax?

**Mr BRADY:** I do not have the data and I am not sure we would actually be able to provide it. It goes to whether someone's liability in total—

**The Hon. DANIEL MOOKHEY:** There are seven tests.

**Mr BRADY:** That is exactly right.

**The Hon. DANIEL MOOKHEY:** Do you have data about how many people are applying or claiming it?

**Mr BRADY:** I am not sure we would have it in that way.

**The Hon. DANIEL MOOKHEY:** Sure, that is okay.

**Mr BRADY:** You are either an employer or we are looking at the relevant contractor provisions and then assessing whether it is the seven—we would not be collecting detail about which company is getting which head of exemption under which—

**The Hon. DANIEL MOOKHEY:** I asked that particular question, Mr Brady, because I think last year when I asked you about Uber you made the point then that whether or not that company owes a particular liability would be what the outcome would be of the application of those seven tests to their business model, amongst other aspects of it, once you assume that they do not meet the definition of an "employee".

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Is that how you would be using it to assess?

**Mr BRADY:** Absolutely. If you are not an employee in a common law sense, then we would be looking at whether the people who worked for them are relevant contractors. There is a fairly broad umbrella that the provision provides.

**The Hon. DANIEL MOOKHEY:** Where are you up to with the examination of those sphere of companies, understanding that you are not going to identify them by name?

**Mr BRADY:** Let me just get the specific details for you.

**Ms WILKIE:** While Mr Brady is looking for that, we have got the answer on the private transport operators levy. The budget papers actually combine under total private transport operators levy the private transport operators levy, which is application and annual authorisation fees for taxi and booking services, and then it also includes the passenger service levy.

**The Hon. DANIEL MOOKHEY:** Got it. So it is their annual fee and it is their levy.

**Ms WILKIE:** That is correct. In terms of the total private transport operators levy, for example, in 2019-20 we were forecasting \$82 million in revenue receipts for that, of which \$75 million is for passenger service levy and \$7 million is for the private transport operators levy.

**Mr PRATT:** I was just going to say it is table 4.4 in *Budget Paper No. 1*, Mr Mookhey, if you would like to see that.

**The Hon. DANIEL MOOKHEY:** Yes, I have seen it. That was where the memory I had of it. It came up in the Transport estimates quite extensively because of the questioning by the Hon. Mark Banasiak as well, so I thought I might pursue that here for him as well. I note, Secretary and Deputy Secretary Wilkie, that table 4.4 says that the tax will effectively drop off in the later years of the forward estimates.

**Ms WILKIE:** Yes, that is correct. That is due to the passenger service levy because that levy was introduced to help fund the New South Wales Government's industry adjustment package of up to \$250 million. So it starts declining once the \$250 million has been raised.

**The Hon. DANIEL MOOKHEY:** So a reasonable inference, at least in the budget paper, is that Treasury has yet to receive any instructions to include the ongoing levy beyond the forward estimates, or at least in that year of the forward estimates, because that would be a policy choice of the Government, I presume.

**Ms WILKIE:** That is correct.

**Mr PRATT:** Yes, it would and it tails off to \$8 million in the final year of the estimates.

**The Hon. DANIEL MOOKHEY:** Absent a policy directive from the Government to continue the levy, then that will be the way in which Treasury will continue to score the cost?

**Mr PRATT:** Yes.

**The Hon. DANIEL MOOKHEY:** Fair enough. I might give Mr Brady a bit of a break.

**Mr BRADY:** I do have a couple of pieces of information, the payroll tax objections that you are asking about. In the last financial year there were 722 and 56 of those were allowed.

**The Hon. DANIEL MOOKHEY:** When you say "allowed", do you mean by Revenue NSW?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Not by NCAT?

**Mr BRADY:** No, an objection is where it is internal.

**The Hon. DANIEL MOOKHEY:** Internal review.

**Mr BRADY:** With respect to NCAT and the Supreme Court and payroll tax there were 42 cases. Revenue NSW lost one and settled 25.

**The Hon. DANIEL MOOKHEY:** I will divert to the secretary, if that is okay, for at least the next five minutes. Secretary, earlier in the day you provided some data about dividend payments for WaterNSW. Do you recall?

**Mr PRATT:** Yes.

**The Hon. DANIEL MOOKHEY:** I was going to ask you about the others, if that is okay.

**Mr PRATT:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you have them with you so we can get the similar profiles?

**Mr PRATT:** I will answer if I have them, yes. Just to clarify your question re WaterNSW, you recall you asked me about the middle year where there was a spike.

**The Hon. DANIEL MOOKHEY:** Yes, I did.

**Mr PRATT:** The answer to that was that there was a capital restructuring that went on at that time and so a big component of that payment was actually capital, not dividend as such. That was the reason for—

**The Hon. DANIEL MOOKHEY:** So it was effectively a capital return to the shareholders?

**Mr PRATT:** Correct. That is right, yes.

**The Hon. DANIEL MOOKHEY:** What triggered that capital return, by the way? What were the capital changes that WaterNSW were entitled to?

**Mr PRATT:** It would have been in the course of ongoing dialogue with Treasury around capital required and out of that would have come a restructuring agreement where some capital was then returned.

**The Hon. DANIEL MOOKHEY:** Do you have the Essential Energy numbers?

**Mr PRATT:** Let me just check.

**Mr GARDNER:** Essential Energy dividends: in financial year [FY] 2016, \$28 million; FY 2017, 28; and nothing in 2018.

**The Hon. DANIEL MOOKHEY:** Why was that? Why was there nothing in 2018?

**Mr GARDNER:** Because they do not make any profit.

**The Hon. DANIEL MOOKHEY:** Fair enough. Do you have the same numbers for Forestry?

**Mr GARDNER:** Forestry: FY 2016, \$22 million; FY 2017, 30; FY 2018, 25; FY 2019, 33.

**The Hon. DANIEL MOOKHEY:** Sydney Water?

**Mr GARDNER:** FY 2016, 389; FY 2017, 291; FY 2018, 546; FY 2019, 915.

**The Hon. DANIEL MOOKHEY:** That is \$915 million in dividends?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** That is quite the spike. Do you agree?

**Mr GARDNER:** That is quite the spike, yes.

**The Hon. DANIEL MOOKHEY:** Why was that?

**Mr GARDNER:** The dividend policy is set around them achieving a specific capital structure and a specific credit rating, and so it can be a combination of retained earnings and profit in any particular year. So we may have agreed that position based on a combination of retained earnings and cash.

**The Hon. DANIEL MOOKHEY:** When you say you might have agreed to that position, is that something you negotiate with them?

**Mr GARDNER:** Yes, we work through that. They provide us with a dividend forecast. Treasury reviews that and it is part of—we have a dividend policy statement and it is consistent with that statement.

**The Hon. DANIEL MOOKHEY:** How do those negotiations take place? Is it between you, the secretary and Sydney Water?

**Mr GARDNER:** Predominantly it will be myself, members of my team, the secretary, the CEO and the CFO of any of the entities of Sydney Water. There is a policy—Treasury policy 1604—which sets out financial distribution policy for government businesses. We follow that policy, which is to agree—there is a recommendation and approval process for dividends.

**The Hon. DANIEL MOOKHEY:** So that combination of retained earnings and profit, you said?

**Mr GARDNER:** Any time. Basically the process of dividends is to ensure that they are a viable going concern and that they have the appropriate capital structure—in this particular case, a capital structure consistent with the regulatory determinations and a BAA2 credit rating.

**The Hon. DANIEL MOOKHEY:** BAA2?

**Mr GARDNER:** Which is middle of triple-B so, if you think about it, right in the middle.

**The Hon. DANIEL MOOKHEY:** But that is at the level of the corporation?

**Mr GARDNER:** That is correct.

**The Hon. DANIEL MOOKHEY:** The \$915 million being retained earnings—that did not include the surplus capital or anything on the side of WaterNSW that the secretary made reference to?

**Mr GARDNER:** It was not a capital return, no, because they had the cash available.

**The Hon. DANIEL MOOKHEY:** Okay, that is interesting. Do you have the same numbers for the port authority?

**Mr GARDNER:** I do. Port authority: nothing in FY 2016; \$5 million in FY 2017; and in FY 2018, a similar capital structure change of \$200 million; and then in FY 2019, \$9 million.

**The Hon. DANIEL MOOKHEY:** What was the capital change?

**Mr GARDNER:** The same thing. We were targeting a specific credit rating and so that was a dividend paid in line with the capital structure and distribution policies.

**The Hon. DANIEL MOOKHEY:** Do you have Hunter Water?

**Mr GARDNER:** I do: \$42 million in FY 2017; \$43 million in FY 2018; and \$144 million in FY 2019.

**The Hon. DANIEL MOOKHEY:** Why was that triple?

**Mr GARDNER:** I am expecting it will be the same answer, that we were just targeting a particular credit rating and that is the amount of available cash, retained earnings and profit to make that payment.

**The Hon. DANIEL MOOKHEY:** Have you resolved the dividends policy for the next financial year that they have to target?

**Mr GARDNER:** We have in the budget forecasts. So the budget forecasts are reconciled back to target dividends for each of the businesses. Yes.

**The Hon. DANIEL MOOKHEY:** So if I were to ask you to identify the target for each one of those things could you tell me?

**Mr GARDNER:** As I said, in the budget papers we narrow it down to those four categories. I would have to take it on notice for any more specific detail beyond that.

**The Hon. DANIEL MOOKHEY:** In the budget papers there was this one reference to a final contribution from WestConnex that arose as a result of the sale. Do you recall that?

**Mr GARDNER:** I do not recall. Can you refresh my memory on the number and the budget paper.

**The Hon. DANIEL MOOKHEY:** It is \$261-ish million. It is in Budget Paper No. 1. I might just pause and allow you to have a look at that. I think it might be in the variation section of the budget papers. It is listed there. I was just going to ask why that was created. It could actually just be a return before we go into the private sector.

**Mr GARDNER:** There were definitely some distributions. There was retained cash in the business that came back from the sale. There was a range of things that came back to the State post-sale.

**The Hon. DANIEL MOOKHEY:** Do you want to have a look at that?

**Mr GARDNER:** I will have a look at it.

**The Hon. DANIEL MOOKHEY:** Mr Brady, I am sorry to have to return to your interrogation.

**The Hon. NATALIE WARD:** You are not really sorry.

**The Hon. DANIEL MOOKHEY:** I am not that sorry. I am not going to lie; I am a nerd. This stuff excites me. We are going to continue our journey through tax compliance. Let us turn to the land tax. How much land tax is currently owing to the people of New South Wales?

**Mr BRADY:** I do not have the debt breakdown by tax type but I can provide it to you.

**The Hon. DANIEL MOOKHEY:** When you do provide it, can you say by how many taxpayers?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** How many land tax defaults were there last year?

**Mr BRADY:** I will have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Can you provide trend data on that?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you know or have at hand the final collection rate for land tax?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** Do you know how much was written off?

**Mr BRADY:** No, I do not.

**The Hon. DANIEL MOOKHEY:** What are the reasons you would usually write off land tax?

**Mr BRADY:** It would be very rare. It would most likely be in a situation where we would assume there was an error in the assessment. Where it attaches to land, for someone to sell the land they need to get a land tax clearance certificate. So it is actually a very secure tax.

**The Hon. DANIEL MOOKHEY:** Yes. That was precisely the reason I was asking because I imagine it is probably—

**Mr BRADY:** Very rare.

**The Hon. DANIEL MOOKHEY:** Do you provide and take audits for land tax compliance?

**Mr BRADY:** Yes, we do.

**The Hon. DANIEL MOOKHEY:** The principal reason for people not paying land tax is because they are not registered. Is that right?

**Mr BRADY:** We generally pick them up within a year. We get the data through from the Land Titles Office. The principal reason for an audit is where someone has more than one property subject to land tax and they have not bought them together. So it might be, in my case, a Stephen Brady, an S. R. Brady and a Steve and Sue Brady. So it is the matching of that data to make sure that we are applying the right thresholds and the right premium tax rates.



**The Hon. DANIEL MOOKHEY:** How many audits did you do last year on land tax?

**Mr BRADY:** I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Again, I want to ask how many led to disputed assessments, as well, which you might like to take on notice?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** I think you said that there were 90 payroll and land tax matters, of which I think you have now come back and said 42 of them were for payroll tax or thereabouts.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** So would you infer that the balance, the 58, were land tax?

**Mr BRADY:** I would like to bring you back to the actual data on that because there may well be other areas of compliance.

**The Hon. DANIEL MOOKHEY:** On notice, can you also tell us how much money you are spending on land tax compliance in terms of the Supreme Court and NCAT?

**Mr BRADY:** Absolutely.

**The Hon. DANIEL MOOKHEY:** That would be useful. I wanted to ask you about the first home owner scheme. Have you got your compliance data available to you there?

**Mr BRADY:** I may not have compliance data in relation to the first home owner scheme.

**The Hon. DANIEL MOOKHEY:** Your web site said that in 2017-18 you completed 79 first home owner grant investigations, with 54 recipients repaying the grant and additional fees of \$965,000, including penalties. That stir a memory?

**Mr BRADY:** I do not recall the specific numbers.

**The Hon. DANIEL MOOKHEY:** How do you investigate this? Take us through the compliance approach.

**Mr BRADY:** We will go to the eligibility criteria. For the first home owner the principal issue will be whether the person in fact has held property—whether on their own or with another person. There are also rules about them residing in that property for a period of time. So we will do compliance checks looking at the Rental Bond Board, for instance, to see if they have been renting somewhere when they were supposed to be occupying the premises. We will look at whether they have actually held property by interrogating the Land Titles database.

**The Hon. DANIEL MOOKHEY:** I am going to read a whole bunch of questions, which I presume you will need to take on notice.

**Mr BRADY:** Okay.

**The Hon. DANIEL MOOKHEY:** Can you come back to us with how many investigations were undertaken in 2018-19?

**Mr BRADY:** Will do.

**The Hon. DANIEL MOOKHEY:** Can you come back to us with how many recipients had to repay any moneys.

**Mr BRADY:** Will do.

**The Hon. DANIEL MOOKHEY:** The value of moneys recovered.

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you give us the principal reasons for non-compliance that you found?

**Mr BRADY:** Will do.

**The Hon. DANIEL MOOKHEY:** And can you come back to us with a view as to how many staff you have working on this?

**Mr BRADY:** Yes.

**The Hon. DANIEL MOOKHEY:** I am not going to say no to a trend analysis, either. Is that fair?

**Mr BRADY:** I will attempt to provide whatever I can provide to you.

**The Hon. DANIEL MOOKHEY:** Now I am really going to nerd out with you. Let's talk about the New South Wales Government's Tax Equivalent Regime, which is what you administer, as well. Is that right? This is the ability to ensure competitive neutrality of government enterprises.

**Mr BRADY:** I think I am going to talk to my Treasury colleagues.

**The Hon. DANIEL MOOKHEY:** Great. Under the New South Wales competition framework we compel government businesses to pay tax equivalent payments to ensure competitive neutrality. Is that correct?

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** Which businesses are subject to this?

**Mr GARDNER:** That is a good question. I have the tax equivalent payment policy document here. It is not one I look at regularly.

**The Hon. DANIEL MOOKHEY:** You would be surprised by the amount of paranoia people have about whether or not New South Wales Government businesses have artificial advantages for non-tax compliance. That is just a statement, really, from me.

**Mr GARDNER:** It is not clear, for me, exactly which businesses do have to comply with the tax equivalent regime from this policy. So, apologies, I might have to take that on notice.

**The Hon. DANIEL MOOKHEY:** I might give you some additional ones to take on notice while we are there, if that is okay.

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** I presume that this obligation arises from the commercial policy framework of the New South Wales Treasury.

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** I presume it is correct that there are quarterly payments that are an approximation of the payments that would be made if the business was privately owned.

**Mr GARDNER:** Again, I will have to take that on notice.

**The Hon. DANIEL MOOKHEY:** I was going to ask you how that is assessed—as to what the liability should be.

**Mr GARDNER:** I can give you a little bit of background here. The preface to the document gives a little bit of background as to what qualifies businesses to have to comply with this. It says:

In accordance with National Competition Policy arrangements, larger State Government businesses generally are subject to the National Tax Equivalent Regime. The Tax Equivalent Regime outlined in this Policy and Guidelines Paper applies to those NSW Government commercial businesses that are not subject to the National scheme ...

Again, I will have to get a specific list of those businesses that apply to both schemes.

**The Hon. DANIEL MOOKHEY:** Which is why, I presume, Essential Energy, for example, and others would be subject to the national scheme. The one that I am specifically interested in is Forestry, as well, because that is an example of a State-owned enterprise being an equivalent of a private sector enterprise. So I am interested as to whether or not they qualified as a State or the national tax equivalency regime aspect. It would be helpful to know specifically about them. There are a couple of others, as well.

**Mr GARDNER:** I can confirm that Forestry does pay tax equivalence, but I cannot give you a sense of whether it State or Federal.

**The Hon. DANIEL MOOKHEY:** That is useful. How do you calculate it? If they are meant to be subject to quarterly payments at some point you have to figure out what they should be paying otherwise.

**Mr GARDNER:** That is correct. I will have to take on notice the calculation methodology.

**The Hon. DANIEL MOOKHEY:** Okay. That is good to know. Mr Brady, I want to ask you about royalties compliance. Which royalties do you collect for?

**Mr BRADY:** Any royalties levied by New South Wales.

**The Hon. DANIEL MOOKHEY:** Which are? Coal?

**Mr BRADY:** Coal is our principal mineral but it applies to other minerals as well.

**The Hon. DANIEL MOOKHEY:** Do you or Ms Wilkie want to take us through? It is coal and petroleum. Is that the lion's share? Is that fair to say? Sorry, I need a verbal response for *Hansard*.

**Ms WILKIE:** Yes, I think that is correct.

**The Hon. DANIEL MOOKHEY:** How much coal royalties are currently outstanding?

**Mr BRADY:** I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Do you have the equivalent for petroleum?

**Mr BRADY:** Are you after royalties outstanding? I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Are we in dispute with anyone about this?

**Mr BRADY:** Not that I am aware of but, again, I will take that on notice.

**Ms WILKIE:** Mr Mookhey, on the revenue from royalties, the lion's share of it is coal, which is \$1.2 million out of \$2 million, for example in 2018-19. So the next biggest is actually coal seam gas and then after that it is all other minerals. Petroleum would be captured in "all other minerals". So coal and coal seam gas are the majority of it.

**The Hon. DANIEL MOOKHEY:** With coal, that is a volumetric royalty regime. That is correct?

**Ms WILKIE:** Yes.

**The Hon. DANIEL MOOKHEY:** Is Treasury undertaking any work about converting from a volumetric system to any other system method of taxation?

**Ms WILKIE:** No.

**The Hon. DANIEL MOOKHEY:** Mr Brady, I think I did just ask, although I am sure I heard your answer, to the best of your knowledge we are not in dispute with anyone about—

**Mr BRADY:** To the best of my knowledge, we are not.

**The Hon. DANIEL MOOKHEY:** That is good to know. I am comforted by that.

**The Hon. COURTNEY HOUSSOS:** Can I ask Mr Gardner: Were you responsible for the procurement process around the job-sharing portal that the Public Service Commission announced?

**Mr GARDNER:** No.

**The Hon. COURTNEY HOUSSOS:** Mr Pratt and Mr Brady, can I ask how you are implementing the Government's planned all-roles flex?

**Mr PRATT:** Yes. We have implemented through Treasury an approach where we are focusing very much on what gets done rather than where it gets done, so there is a strong focus on providing flexibility in its broadest context. For some that might mean working from home a day a week, for others it might mean working in a cafe or whatever. We are very clear about not stipulating strict terms around that. Obviously it goes against the whole notion of flexibility.

**The Hon. COURTNEY HOUSSOS:** Do you maintain a central register?

**Mr PRATT:** We maintained a register initially to get this in place and to get discipline around how we focused on this. We are not maintaining that now, though, because in my opinion that does go against the notion of flexibility. We hold people accountable for what has been agreed in terms of their objectives, but how they do that and where they do that is a lot more freedom in terms of them managing those arrangements. In the recent People Matter Survey that has just been issued Treasury had an 80 per cent rating on workforce flexibility so I think we are getting real traction with that.

**The Hon. COURTNEY HOUSSOS:** Are you able to tell me when you were maintaining your central database how many of your senior executive levels were registered on that? I am happy for you to take that on notice.

**Mr PRATT:** Look, I will. I would say to you, however, that my expectation and observation would be that they are all approaching it in that way in terms of role model inflexibility. But I could get you specific data if you require it.

**The Hon. COURTNEY HOUSSOS:** That would be great and anything else on notice would be fantastic.

**Mr PRATT:** All right.

**The Hon. COURTNEY HOUSSOS:** Thank you.

**Mr BRADY:** For Revenue NSW, we have followed our departmental policies, which is, again, all-roles flex. We have trained all our managers in managing our flexible workforce. Staff have been encouraged to sit with their manager, discuss their personal circumstances and what type of flexibility they might desire and how that fits with the nature of the work they do. If you are in a call centre doing shift arrangements, that is very different than if you are a policy officer or a compliance person. It has to fit with the nature of the role that the people are doing. That might include things from job sharing through to part-time work, working from different offices—we have some people who work some days out of our Maitland office and some days out of our Gosford office and that is perfectly fine.

The limitations we have found to date have really been around our rollout of technology. We have traditionally been quite a conservative organisation—people with desks and fixed computers, et cetera. That is not really conducive to flexible working so we have been rolling out laptops and wi-fi to assist them to work flexibly. We do, because of the nature of what we do, access a lot of sensitive information, as you know, so our ability to have people work from home and have access to those systems is something we are still working through, particularly when some of those systems are not our systems.

**The Hon. COURTNEY HOUSSOS:** I am happy for you to provide me on notice, but can you give any examples of how, for example, in call centres or in other non-office-based roles you are implementing the all-roles flex system?

**Mr BRADY:** We have actually had a pilot operating out of our Maitland call centre where we have had, I believe, 40 and then gone up to 70 people—I will confirm those numbers for you—who have been working from home. We have actually done the measurement over that period to understand the benefits of people working from home. What we have found is that the productivity has gone up, their satisfaction has gone up and absenteeism has gone down, so we think it has been a resounding success. It is those issues around access to information and technology that is only slowing us down a little bit.

**The Hon. COURTNEY HOUSSOS:** Have you seen a reduction in your floor space requirements as a result of implementing it?

**Mr BRADY:** The numbers have not been sufficient for us to be able to do that. Of course, floor space—we have got leases on some of these properties for a number of years, so it will be time before we can actually harvest reductions in floor space.

**Ms WILKIE:** Mr Mookhey, just before you ask the next question, I need to correct on the coal royalties. They are actually an ad valorem tax rather than a volume tax. They are taxed at different rates, dependent upon the source of the coal. For example, open-cut coal is different to underground is different to deep underground coal.

**The Hon. DANIEL MOOKHEY:** Thank you. That is good to know.

**Mr PRATT:** Sorry, Mr Mookhey, could I just answer the prior question re workplace?

**The Hon. DANIEL MOOKHEY:** Please.

**Mr PRATT:** This is real flexibility. This is still work in progress in my opinion from what I have seen in that the concept of hot-desking, one could argue, does not work with flexibility. You might think on first observation you can reduce floor space. However, people coming in on a flexible basis at different hours, the worst thing is coming in and finding no desk available. So you have got to look at this as a whole package. It is work in progress, so we are still working through a lot of those issues.

**The Hon. DANIEL MOOKHEY:** Did you have something, Mr Gardner?

**Mr GARDNER:** I have a couple of clarifications for you, Mr Mookhey, if you would like.

**The Hon. DANIEL MOOKHEY:** Please.

**Mr GARDNER:** On the adviser fees, the numbers I gave you are actually 2017-18 because we do not have the 2018-19 finalised.

**The Hon. DANIEL MOOKHEY:** When you say "adviser fees"?

**Mr GARDNER:** Those consultant fees; the list we tabled with Goldman Sachs.

**The Hon. DANIEL MOOKHEY:** The prequalification framework?

**Mr GARDNER:** That is exactly right. The other point is that on the total State sector accounts in 2017-18 we disclosed a payment of \$13,345,000 to SMC, the Sydney Motorway Corporation.

**The Hon. DANIEL MOOKHEY:** Payment to or from?

**Mr GARDNER:** To—to assist in the due diligence and management of the WestConnex sale process. I just did not want to be accused of misleading the Committee in that regard.

**The Hon. DANIEL MOOKHEY:** That due diligence was for any person who was interested in purchasing the SMC?

**Mr GARDNER:** That was because you have to prepare a significant amount of documentation on the business, on the state of the project, on the traffic flows, volumes. SMC was uniquely positioned to assist the sale team, the transactions team, with a range of different due diligence traffic modelling and project update information.

**The Hon. DANIEL MOOKHEY:** Was that when SMC was in public ownership predominantly?

**Mr GARDNER:** That is correct, yes.

**The Hon. DANIEL MOOKHEY:** Or 100 per cent Essential Energy?

**Mr GARDNER:** Yes.

**The Hon. DANIEL MOOKHEY:** Effectively, it was them recovering their cost and assisting you in the sale process.

**Mr GARDNER:** That is exactly right, yes.

**The Hon. DANIEL MOOKHEY:** Did you come back to me in terms of that dividend that was listed in the budget papers about WestConnex?

**Mr GARDNER:** Yes. We basically sell businesses cash-free. We take the cash out of the businesses. We went through a process of calculating how much cash SMC needed to just carry its way through the transaction process. Therefore it was taking excess cash out of the business.

**The Hon. DANIEL MOOKHEY:** The criteria for you to decide how much cash they need is what? Is it to avoid an insolvency event?

**Mr GARDNER:** Yes. There would have been a sort of financial—our tax and accounting and financial advisers would have opined on the amount of liquidity the business needed. There would have been projections around outflows and the balancing item is the item that is reflected in the budget.

**The Hon. DANIEL MOOKHEY:** On notice, Mr Gardner, are you able to come back to us with the equivalent top 10 spenders in terms of their contingent labour prequalification framework that you maintain?

**Mr GARDNER:** Yes. I will take it on notice to provide you with what information we can on that, yes.

**The Hon. DANIEL MOOKHEY:** That would be useful. Mr Brady, do you have any information that is returned?

**Mr BRADY:** I do. Thank you. Total payroll tax outstanding as at today is \$139,017,300.

**The Hon. DANIEL MOOKHEY:** Did you come back in terms of what you contend is a definition of outstanding for the purpose of payroll tax?

**Mr BRADY:** Yes, confirmed that it is 21 days to pay for payroll tax and once it is overdue it is then considered debt.

**The Hon. DANIEL MOOKHEY:** So \$139 million is debt that has been taking more than 21 days at this point?

**Mr BRADY:** That is right.

**The Hon. DANIEL MOOKHEY:** I will go further on that point. Once you have gone beyond the 21 days to pay, what is the average time that people take to pay?

**Mr BRADY:** It really depends on whether they are seeking to dispute the assessments and so something that ends up going to the Supreme Court can be outstanding for a considerable period of time. It will vary

dramatically depending on the nature of why the organisation is late versus whether they are generally trying to contest through the courts.

**The Hon. DANIEL MOOKHEY:** Yes, got it. Did you have more?

**Mr BRADY:** Yes. Total land tax debt as at 30 June is \$239,799,976.

**The Hon. DANIEL MOOKHEY:** What do you define as outstanding or the equivalent of outstanding for the purposes of land tax?

**Mr BRADY:** Excellent question. I will confirm this but under the provisions taxpayers have the option of paying within 30 days, I believe, or paying over three instalments. So if they do not pay by the due date of the third instalment then—

**The Hon. DANIEL MOOKHEY:** Do you have a ratio or a breakdown as to how many people are paying upfront and how many are utilising the new provision to allow three instalments?

**Mr BRADY:** That provision has been in place for quite a long time.

**The Hon. DANIEL MOOKHEY:** Forgive me on the new dimension of it.

**Mr BRADY:** I do not have it with me but we can provide it to you. We do have taxpayers who contact us because it is a fairly large sum. So from a cashflow perspective it can be difficult, particularly for people who do not have a strong source of cash. We do enter into payment arrangements beyond the three months where it is needed for people to be able to manage their debt. Some of that debt will be money that we will clearly ensure is paid before the next round of assessments are due. But we do have a number of people who pay us over a longer period than the three months.

**The Hon. DANIEL MOOKHEY:** I am not sure if I understand how you define what is outstanding after all that?

**Mr BRADY:** Let me come back to you with a specific answer.

**The Hon. DANIEL MOOKHEY:** Do you have any further data on the number of defaults?

**Mr BRADY:** No, I do not.

**The Hon. DANIEL MOOKHEY:** Do you have anything else to come back with?

**Mr BRADY:** No.

**The Hon. DANIEL MOOKHEY:** Did you have any further—

**Mr BRADY:** I may have something. Land tax is 41 days after issue of the assessment.

**The Hon. DANIEL MOOKHEY:** Why 41?

**Mr BRADY:** It is in the legislation.

**The Hon. DANIEL MOOKHEY:** It is just a slightly arbitrary number. I thought, why 41? That is a unique proposition. Do you have anything further on the use of the private sector debt collection agencies?

**Mr BRADY:** Not yet.

**The Hon. DANIEL MOOKHEY:** Do you have anything further on your interaction with private sector debt databases, as to whether you are reporting data into them?

**Mr BRADY:** I am fairly confident that we do not do that but I will come back to on that.

**The Hon. DANIEL MOOKHEY:** Is the Small Business Commissioner a part of the Treasury cluster?

**Mr PRATT:** Yes, she is.

**The Hon. DANIEL MOOKHEY:** In her absence, are you in a position to answer a couple of basic questions?

**Mr PRATT:** Yes. Ms Wilkie has responsibility for the Small Business Commission.

**The Hon. DANIEL MOOKHEY:** How many FTEs are with the Small Business Commissioner?

**Ms WILKIE:** About 52.

**The Hon. DANIEL MOOKHEY:** Given it is a relatively new job, do you have trend numbers on that?

**Ms WILKIE:** The Small Business Commissioner has been in place for five years. She was just reappointed in February. I will check but the office supporting her has been about 50 people for some time.

**The Hon. DANIEL MOOKHEY:** Do you have data about how many of them are in the dispute resolution unit?

**Ms WILKIE:** It is about half and half. So 25 to 30 people are in the mediation services and dispute resolution unit.

**The Hon. DANIEL MOOKHEY:** The Small Business Commissioner, in her annual report provided how many disputes were there. Do you have any further data that is not in that?

**Ms WILKIE:** Yes. I have information on some of the breakdown of the types of matters that they deal with.

**The Hon. DANIEL MOOKHEY:** If you wish to provide that on notice I am happy or you can give it to us now.

**Ms WILKIE:** Yes, let me find the right piece of paper. As reported in the annual report it was about 950 matters were filed for mitigation. Those were predominantly—about half of those were around contract disputes of various matters. About half of the matters filed are around retail leasing and then a further 12 per cent are around commercial leasing. So not all of those are obviously contracts.

**The Hon. DANIEL MOOKHEY:** The Small Business Commissioner has the power to undertake investigation into unfair contracts. Is that correct? It says so on the website.

**Ms WILKIE:** Yes. Under the objects and functions of her Act, the commissioner can undertake investigation of those sorts of matters. Basically she needs to be in receipt of a complaint.

**The Hon. DANIEL MOOKHEY:** Do you have any data as to how many of those investigations have been undertaken by the Small Business Commissioner?

**Ms WILKIE:** Not specifically on unfair contracts but we can take that on notice for you.

**The Hon. DANIEL MOOKHEY:** These were questions I intended addressing to the Small Business Commissioner so I accept you may not be in a position to answer. The then roads Minister referred to the Small Business Commissioner a request to investigate effectively contract supply chains on government projects. Do you recall this?

**Ms WILKIE:** I am not familiar with that. I do not have information on that but we can take that on notice.

**The Hon. DANIEL MOOKHEY:** From memory, I think 23 recommendations were provided by the Small Business Commissioner for changes. Do you have any information as to where we are up to in applying them? Anything you could provide in that respect on notice would be useful.

**Ms WILKIE:** The thing that sounds familiar from the small amount of information you have given there is that the Small Business Commissioner and the former Customer Service Commissioner had undertaken a review of those issues prior to the election. That report has been provided to the Government. The Government is still considering it and has not formally responded to it yet.

**The Hon. DANIEL MOOKHEY:** That is very useful. Thank you. The Newsagents Assistance Fund, is that something you can give us information on?

**Ms WILKIE:** Yes.

**The Hon. DANIEL MOOKHEY:** How big is it?

**Ms WILKIE:** Initially there was \$15 million provided under that fund.

**The Hon. DANIEL MOOKHEY:** And that arose from the sale of NSW Lotteries, is that correct?

**Ms WILKIE:** It arose from Tabcorp agreeing with supermarket chains to be able to sell lottery tickets and TattsLotto in supermarkets.

**The Hon. DANIEL MOOKHEY:** Has it been used?

**Ms WILKIE:** Yes. There has been the memorandum of understanding to provide assistance under the fund has been extended a couple of times and now goes out until 31 March.

**The Hon. DANIEL MOOKHEY:** Of 2020?

**Ms WILKIE:** Sorry, 2021. Each year there are dispersals of monies under the fund. For example, in the 2018 annual report, the Small Business Commissioner notes there had been 98 applications under that fund and just under \$1 million dispersed.

**The Hon. DANIEL MOOKHEY:** So is it \$15 million in total or \$15 million per annum.

**Ms WILKIE:** It is \$15 million in total.

**The Hon. DANIEL MOOKHEY:** How long has the fund been in existence?

**Ms WILKIE:** It was originally set up in 2017.

**The Hon. DANIEL MOOKHEY:** So in the course of its first two years in operation only one-fifteenth of it has been used.

**Ms WILKIE:** The numbers I gave you would only cover part of the time from when the fund was set up. We can take on notice how much has been dispersed in total and how much is left.

**The Hon. DANIEL MOOKHEY:** That is useful. Mr Gardiner, NSW Procurement. Do you have responsibility for the New South Wales Government's commitment to pay bills within five days?

**Mr GARDNER:** We will be compliant with that but it sits with the Small Business Commissioner.

**The Hon. DANIEL MOOKHEY:** How are we going?

**Mr GARDNER:** The policy does not come into place until later this year.

**The Hon. DANIEL MOOKHEY:** The existing policies we were meant to pay within 20 days. Is that correct?

**Ms WILKIE:** That is correct.

**The Hon. DANIEL MOOKHEY:** How do you monitor that?

**Ms WILKIE:** I am not sure what monitoring arrangements are in place but for payments under \$10,000 where agencies have a PCard in place those payments are instantaneous. Then the more businesses we have registering and agencies using e-invoicing then that will become more compliant, but I am not sure of the compliance numbers at the moment.

**Mr GARDNER:** We will be able to track that through the spend analytics capability that NSW Procurement has.

**The Hon. DANIEL MOOKHEY:** So you currently are tracking it for the 20-day target?

**Mr GARDNER:** We are, yes.

**The Hon. DANIEL MOOKHEY:** And, on notice, you will be able to provide us with as a percentage of bills that are being paid within that period of time?

**Mr GARDNER:** On notice, yes.

**The Hon. DANIEL MOOKHEY:** Great. That is very useful. I am prepared to say with 10 seconds left that I am done.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**