

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

**Wednesday, 18 August 2021**

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

## **PREMIER**

**CORRECTED**

**The Committee met at 09:30**

## **MEMBERS**

The Hon. Tara Moriarty (Chair)

The Hon. Robert Borsak (Deputy Chair)

Ms Abigail Boyd

Mr Justin Field

The Hon. Ben Franklin

The Hon. Rose Jackson

The Hon. Taylor Martin

The Hon. Daniel Mookhey

The Hon. Peter Poulos

The Hon. Penny Sharpe

Mr David Shoebridge

## **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 virtual hearing for the inquiry into budget estimates 2021-2022, the first fully virtual hearing in the New South Wales Parliament's history. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of the land on which Parliament sits. I pay respect to Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals viewing this broadcast. Today the Committee will examine the proposed expenditure for the portfolio of Premier. Today's hearing is being conducted as a fully virtual hearing. This enables the work of the Committee to continue during the COVID-19 pandemic without compromising the health and safety of members, witnesses and staff. As we break new ground with the technology, I would ask for everyone's patience through any technical difficulties we may encounter today. If participants lose their internet connection and are disconnected from the virtual hearing, they are asked to rejoin the hearing using the same link as provided by the Committee secretariat.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide the answer within 21 days. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. Today's proceedings are broadcast live from Parliament's YouTube channel, and a transcript will be placed on the Committee's website once it becomes available.

Finally, a few notes on virtual hearing etiquette to minimise disruptions and assist our Hansard reporters. Can I ask Committee members to clearly identify who questions are directed to and could I ask everyone to please state their name when they begin speaking. Could everyone please mute their microphones when they are not speaking. Please remember to turn your microphones back on when you are getting ready to speak. If you start speaking while muted, please start your question or answer again so that we can get an accurate record for the transcript. Members and witnesses should avoid speaking over each other so that we can all be heard clearly. Further, to assist Hansard, may I remind members and witnesses to speak directly into the microphone and avoid making comments when your head is turned away from the microphone. All witnesses will be sworn prior to giving evidence.

**TIM REARDON**, Secretary, Department of Premier and Cabinet, sworn and examined

**KATE BOYD**, Deputy Secretary and General Counsel, Department of Premier and Cabinet, affirmed and examined

**The CHAIR:** Today's hearing will be conducted from 9.30 a.m. to 11.30 a.m. and then from 11.45 a.m. to 12.45 p.m. with questions from Opposition and crossbench members only. If required, an additional 15 minutes is allocated at the end of the hearing for Government questions. There is no provision for any witnesses to make an opening statement before the Committee begins questioning. We will begin with questions from the Opposition. Daniel, are you on mute? We will just give you a second while you sort it out. I think he has logged out and is logging back in. We will give him a second.

**The Hon. PENNY SHARPE:** I am not sure where Daniel is. I can start.

**The CHAIR:** Yes.

**The Hon. PENNY SHARPE:** Here he is.

**The CHAIR:** Okay, we will just try this.

**The Hon. DANIEL MOOKHEY:** Good morning to Mr Reardon and Ms Boyd and thank you for taking the time to appear this morning. Firstly, could I just [inaudible].

**The Hon. PENNY SHARPE:** You are very quiet.

**The CHAIR:** There is noise at least but we cannot really hear what you are saying.

**The Hon. DANIEL MOOKHEY:** [Inaudible]. Sorry, I will have to rejoin at another opportunity.

**The CHAIR:** That is much better. Whatever you are doing now is working.

**The Hon. DANIEL MOOKHEY:** Okay. I was just saying thank you, Mr Reardon, for your appearance this morning and to you, Ms Boyd, as well. Equally, through you, Mr Reardon, to the entire New South Wales public service, thank you for the work that is being performed right now in the middle of this crisis. I was going to start by just asking some questions about government decision-making processes, if that is okay [inaudible]. I think we can infer that the Crisis Cabinet is currently responsible for making all major policy decisions on behalf of the New South Wales Government. I was hoping you would be able to start by just explaining to us what exactly is the scope of its authority and does it have terms of reference?

**Mr REARDON:** I am not sure if I got all of that, Mr Mookhey, but I will try my best. I think your question was about Crisis Cabinet and does it have terms of reference, am I correct?

**The Hon. DANIEL MOOKHEY:** Yes, and the scope of its authority.

**Mr REARDON:** The source of its authority?

**The Hon. DANIEL MOOKHEY:** Scope.

**Mr REARDON:** Okay. The New South Wales Government has a full Cabinet, as you are aware. It has Cabinet committees as the Premier sees fit to prepare. One of those committees is a crisis policy committee. That crisis policy committee is outlined in terms of its functions within the emergency management framework for the State of New South Wales. It is stood up when there is a counterterrorism incident. It is stood up when there is a pandemic, when there is a flood, when there are bushfires and a whole range of other crises, as the Premier of the day sees fit. The responses and the disaster recovery plans and subplans are actually publicly available. I think they have been the same since about 2016. Within those subplans it outlines that there is a crisis policy committee.

Depending on the area of government, or the area of a crisis, different membership may come into the Crisis Cabinet group as the Premier sees fit. For example, the counterterrorism combat agency would be the New South Wales Police's lead. For a bushfire, the Rural Fire Service would be the combat agency lead and equally you would set up a State Emergency Operations Centre to support tasking and the actual delivery of government's decisions. So the crisis policy committee of Cabinet is therefore outlined, as I say, in those subplans—both its membership, which can change from time to time as the Premier sees fit, and its scope is outlined in those documents as well. I can furnish those documents to you if you need them.

**The Hon. DANIEL MOOKHEY:** Thank you, Mr Reardon; that would be helpful. Given that you have [inaudible] the question I will just go straight to it. Which Ministers are currently standing members of that committee for the purposes of managing this particular crisis?

**Mr REARDON:** I will just repeat your question because your microphone is a little bit difficult. You are asking me which Ministers are members of the crisis policy committee at this point in time?

**The Hon. DANIEL MOOKHEY:** Yes, standing members.

**Mr REARDON:** I am not sure if the term "standing members" is appropriate because the Premier can ask for who she sees fit, both ministerial membership and senior public service membership, for attendance at that meeting, and that may change from time to time. So I do not think that you could coin it as a standing membership. Clearly the Premier is there—

**The Hon. DANIEL MOOKHEY:** Who are the regular attendees?

**Mr REARDON:** I was about to go through the regular attendees: The Premier, the Minister for Health, the Minister for Customer Service, the Deputy Premier and the Treasurer. There can be other attendees from time to time.

**The Hon. DANIEL MOOKHEY:** Did you advise the Premier to adopt those members, or has that been a choice of the Premier's?

**Mr REARDON:** I advise the Premier on many things but not on the membership of her Cabinet or her committees.

**The Hon. DANIEL MOOKHEY:** Is there a particular reason that you are aware of why the police Minister is not a regular attendee at the meetings?

**Mr REARDON:** It would be a matter for the Premier to answer that one.

**The Hon. DANIEL MOOKHEY:** Equally is there a reason why the education Minister is not a member, or has that also been a choice of the Premier's?

**Mr REARDON:** It is a choice of the Premier's. Mr Mookhey, there is attendance by other Ministers from time to time which has occurred over the last—let me just be clear—about 20 months leading from bushfires then into COVID at the start of 2020. There has been a range of Ministers who have attended crisis policy committee from time to time, a broad range.

**The Hon. DANIEL MOOKHEY:** Are you able to shed any light on the media reports that have emerged about major decisions being made about the police orders and the police's authority and police recommendations without the attendance of the police Minister at that forum?

**Mr REARDON:** I do not speculate on media reports, and if you have a question about the decision-making within a Cabinet setting you would have to put it to the Premier.

**The Hon. DANIEL MOOKHEY:** Sure. [Inaudible] the Secretary of Premier and Cabinet. Is the police Minister attending all meetings in which police orders are being discussed?

**Mr REARDON:** I am not going to speculate on what goes on in those Cabinet settings. You will have to put it to the Premier.

**The Hon. DANIEL MOOKHEY:** Equally, are you in a position to shed light on whether or not the education Minister is attending all meetings in which major education policy discussions and decisions are being made?

**Mr REARDON:** I will repeat my evidence that I just gave you, which is: From time to time various Ministers on various matters that may relate to their cluster will attend crisis policy committee.

**The Hon. DANIEL MOOKHEY:** Can you take us through which public servants are attending the Crisis Cabinet?

**Mr REARDON:** It varies from time to time and it depends on the nature of the issues of the day. The secretaries of the clusters I outlined previously—Health, Premier and Cabinet, Deputy Premier, being Regional NSW, the Secretary for Customer Service and the Treasury Secretary—are frequent attendees. Others may attend from time to time, including the Chief Health Officer and the Commissioner of Resilience NSW. But again they can change from time to time.

**The Hon. DANIEL MOOKHEY:** Just to be clear, do you invite them or does the Premier?

**Mr REARDON:** The Premier invites them. I do not have jurisdiction to invite people to a Premier's Cabinet committee.

**The Hon. DANIEL MOOKHEY:** Why is it that the head of Resilience NSW is a regular attendee [inaudible]?

**Mr REARDON:** The Commissioner of Resilience NSW is charged with two tasks in his role. One is to look at preparedness for crises—all manner of crises. He looks at the future and what we can do, what we can do better, and what we can learn lessons from, whether they are bushfires, floods, pandemics or anything else. Secondly, he starts working on recovery. You want both the combat agency who is leading the response and you also want recovery. It is the same for bushfires. You basically have the combat agency, being the Rural Fire Service, supported by State Emergency Operations coordinated to task response across government and then you also very quickly want to get on to recovery.

One of the things I have learnt over the last few years is the need for a more consistent, formalised recovery agency. We established Resilience NSW to do just that, so we actually got onto the recovery activity a lot faster. For example, from about March last year to June last year, led by the Deputy Premier and supported by Resilience NSW, we did the massive clean-up of properties following the bushfire, even though COVID had struck. If we did not have an agency dedicated to that task, we probably would not have moved at speed, led by the Deputy Premier at the time, to actually achieve quite a significant clean-up.

**The Hon. DANIEL MOOKHEY:** Is the head of the education department a regular attendee at the meetings?

**Mr REARDON:** The education secretary will attend from time to time, as invited by the Premier, as will the cluster Minister.

**The Hon. DANIEL MOOKHEY:** I am asking you has the Premier been regularly inviting the education department especially with so much [inaudible].

**Mr REARDON:** I repeat what I said before. The Premier will ask who she wishes to from time to time. And if you ask any more questions about who she seeks to have attend at the Crisis Cabinet meeting, or any other committee meeting she has, it is probably a matter for her.

**The Hon. DANIEL MOOKHEY:** Sure. Which ministerial staff are in attendance at these meetings?

**Mr REARDON:** Look, I think I will only repeat my evidence. If the Premier wishes to invite ministerial staff, she can from time to time. I actually [disorder]. I think I have answered the question around our crisis policy committees. Both ministerial staff and senior public servants are invited from time to time.

**The Hon. DANIEL MOOKHEY:** Mr Reardon, [inaudible].

**Mr REARDON:** No, I am hearing what you are saying.

**The Hon. DANIEL MOOKHEY:** Mr Reardon, is it the case that the chiefs of staff for the six regular attendees are invited by the Premier to this meeting?

**Mr REARDON:** I do not know. You will have to ask the Premier.

**The Hon. DANIEL MOOKHEY:** Is it the case that the Premier's press secretary attends these meetings?

**Mr REARDON:** Again, I will repeat my answer. You will have to point those to the Premier. You are talking about ministerial advisers and ministerial office staff. You have decided to have public servants come and give evidence here today, and we will give you evidence on our domain of responsibility. [Disorder]. You are asking me a question about a Cabinet committee that is the domain of the Premier of the day.

**The CHAIR:** I am going to interrupt here. We can only have one person speaking—

**Mr REARDON:** I am trying to give my answer.

**The CHAIR:** Sorry, Mr Reardon. With respect, this is difficult enough as it is in terms of trying to capture everybody. Hansard are trying to record this so that there is an accurate record. We can only have one person speaking at a time. We are all hearing the answer. The questions are in order and you can answer as you see fit, but we need it to happen in that order: question, answer, question, answer. We need to be able to keep a record.

**Mr REARDON:** Understood, Chair.

**The Hon. DANIEL MOOKHEY:** [Inaudible], as the Secretary of Premier and Cabinet, are you distributing the meeting papers for the Crisis Cabinet to ministerial staff?

**Mr REARDON:** You will have to repeat that one. It did not come through clearly.

**The Hon. DANIEL MOOKHEY:** As the Secretary of the Department of Premier and Cabinet, and with your department responsible for the Cabinet papers, are you distributing Cabinet papers to ministerial staff?

**Mr REARDON:** We distribute ministerial papers as we would for other Cabinet and Cabinet committees, as we would normally do.

**The Hon. DANIEL MOOKHEY:** Do ministerial staff have the power to edit the documents and the advice that has been provided to the Crisis Cabinet?

**Mr REARDON:** We follow the same protocols we would for anyone else, which is to put papers to Ministers.

**The Hon. DANIEL MOOKHEY:** Under those protocols, do ministerial staff have the ability to change the papers that are distributed to the Crisis Cabinet?

**Mr REARDON:** So you just again asked me about my scope of role. I have just indicated to you that we would distribute papers for a Cabinet or a Cabinet committee, as per protocol, to Ministers because they are members of Cabinet or a Cabinet committee. What those Ministers then do, Mr Mookhey, would be a matter that you would have to ask those Ministers.

**The Hon. DANIEL MOOKHEY:** Sure. Is it the case—can you respond or shed any light on this report—that the Premier's media director has deleted advice or adjusted the agenda that came from the police department to the Crisis Cabinet?

**Mr REARDON:** I have no idea of the media report you are talking about, and I would not speculate on what it means.

**The Hon. DANIEL MOOKHEY:** It is the report that was on the front page of *The Australian* yesterday—in case you did not see it—in which it was reported that the Premier's media director had removed or otherwise deleted advice that was going to the Crisis Cabinet. I accept that it may not be within your scope to respond, but I want to give you the opportunity to set aside those concerns or at least provide us whether or not that is within the power of the Premier's media director.

**Mr REARDON:** I do not have any concerns; I just do not know. I have said to you over many years I do not really get into the media as much as maybe you or others do, so I did not see that article.

**The Hon. DANIEL MOOKHEY:** How often is the Crisis Cabinet meeting?

**Mr REARDON:** Very frequently.

**The Hon. DANIEL MOOKHEY:** Is it meeting daily?

**Mr REARDON:** Very frequently. At times it can meet daily. At times it can tool down and meet weekly or even fortnightly depending on the stage of—whether it was bushfire. So if you think about an incident like a counterterrorism incident, it may only stand up for a week or a week and a half. For COVID it has been pretty much unprecedented, the amount of meetings that have been had and its rhythm has followed where we are with response and recovery. At times it can be daily and at times it can be less frequent.

**The Hon. DANIEL MOOKHEY:** Secretary, in the last two weeks, for example, has it been meeting daily?

**Mr REARDON:** No.

**The Hon. DANIEL MOOKHEY:** Why hasn't it been meeting daily?

**Mr REARDON:** Sorry, say that again?

**The Hon. DANIEL MOOKHEY:** What are the reasons for it not meeting daily in the current last two-week period?

**Mr REARDON:** There are a whole range of meetings that go on during the week. There is National Cabinet, there is full Cabinet, there is the Expenditure Review Committee [ERC] Delivery and Performance Committee of Cabinet, and the Crisis Cabinet. So there are a lot of meetings. If there is a need to meet, I think the Premier pulls people together to meet. Again you are asking a question which should be directed to the chair of Cabinet and Cabinet committees, which is the Premier.

**The Hon. DANIEL MOOKHEY:** It is the Premier's decision when to convene the Crisis Cabinet. That is clear.

**Mr REARDON:** Yes.



**The Hon. DANIEL MOOKHEY:** And it has not been meeting daily in the last fortnight. Are you in a position to tell us how often it is meeting? Is it every couple of days? Is it once a week? Is it once a fortnight? Given that we are now in week eight of the lockdown, how often is the principal decision-making body [inaudible]?

**Mr REARDON:** For periods, Mr Mookhey, it has met daily. For good long periods it has met daily. If there is no need for a meeting—sometimes there can be two meetings in a day. It depends on the issues. Sometimes we can meet on the weekends at very, very short notice. We meet when we need to and the Premier pulls people together to have those meetings. You do not have a meeting for meeting's sake.

**The Hon. DANIEL MOOKHEY:** Can I then infer that, even though in the last week we have been recording the highest ever levels of infection since the pandemic began, the Premier has chosen not to convene this committee daily? Is that a fair inference?

**Mr REARDON:** No, it would not be. I am not sure us having a meeting is going to stop case numbers all the time, quite frankly, so I would not agree with your inference. Basically people are tasked out of Crisis Cabinet to go and do things. The State Emergency Operations is tasked to do things. The Premier has to take positions to National Cabinet. We have to get along with things. We do not have time to sit around and meet for the sake of it. We have to task out through the Secretaries Board. So if we need two meetings in a day, or if we need a meeting every other day, that is what we do. But we certainly do not miss out on what we need to do in terms of our taskings.

**The Hon. DANIEL MOOKHEY:** Secretary, is the Crisis Cabinet or the Premier making decisions via text messages?

**Mr REARDON:** Again you are asking questions that I do not know and cannot deal with. You are asking me a question about how the Premier goes about her business. You should direct those questions at the Government. You have asked us to come to budget estimates and answer questions about our budget, and I am happy to answer all of those questions about our budget. But you are going to keep asking questions that you know have to be directed at a political level. You chose to have the people that are here today for a reason and we will answer everything that it is within our means to answer.

**The Hon. DANIEL MOOKHEY:** Mr Reardon, I have no doubt that you will stay within the boundaries of what you can answer, but I am asking you: Is the [inaudible] Crisis Cabinet always acting on written advice?

**Mr REARDON:** What is the "shadow Crisis Cabinet"?

**The Hon. DANIEL MOOKHEY:** I did not say "shadow". I said is the Crisis Cabinet acting on written advice?

**Mr REARDON:** The Crisis Cabinet would act on many forms of advice.

**The Hon. DANIEL MOOKHEY:** Does that include making decisions via text message?

**Mr REARDON:** [Disorder]. I have no idea. I have already answered that question.

**The Hon. DANIEL MOOKHEY:** You are saying to us, Mr Reardon, that as the Secretary of Premier and Cabinet you have no idea whether the Premier is making decisions via text message, as has been reported? That is seriously the evidence that you are giving?

**Mr REARDON:** Is that a statement or a question?

**The Hon. DANIEL MOOKHEY:** It is a question.

**Mr REARDON:** I have answered it.

**The Hon. DANIEL MOOKHEY:** Is the health advice coming from the Chief Health Officer going directly to the Crisis Cabinet or are Premier and Cabinet or other departments providing any other forms of commentary or intermediation ahead of that advice being received by the Cabinet?

**Mr REARDON:** Your question was: Does the Chief Health Officer offer advice to the Crisis Cabinet? The answer would be yes.

**The Hon. DANIEL MOOKHEY:** I am asking you: Is it the case that that advice is going to the Crisis Cabinet unfiltered, or do other departments have the opportunity to weigh in on it?

**Mr REARDON:** It is a matter that is dealt with in Cabinet. But I can assure you that the Chief Health Officer has an opportunity to brief the Crisis Cabinet at every meeting, and that occurs.

**The CHAIR:** It is now time for the crossbench.

**Ms ABIGAIL BOYD:** Good morning to you, Mr Reardon and Ms Boyd. Thank you very much for your time this morning. I am hoping that this is something that you can answer directly. Obviously during a crisis the rest of the crises in our society do not stop. One of them that I am particularly interested in talking to you about this morning is the domestic violence and abuse epidemic in our society. Looking at the Premier's Priorities and the latest data for how we are tracking against the Premier's Priorities, I notice that the reducing domestic violence recidivism priority is actually getting much worse. We started at a 2015 baseline. We had a target to reduce that by a certain amount. We have actually seen a 1.3 per cent increase in reoffending amongst domestic violence perpetrators six years in. We only have four years left. Is it time to accept that the current work that you are doing on this target is not working?

**Mr REARDON:** You just asked me a policy question. You said that they would be easy to answer.

**Ms ABIGAIL BOYD:** Okay, I will make it easier for you. Has the department changed its approach on the work it has been doing to actually reduce reoffending?

**Mr REARDON:** Thank you. I will do my best. Some of that within the actual cluster that has the lead on that—which is Stronger Communities, Department of Communities and Justice—I might be able to take on notice. The Premier's Priority, as you are well aware, is "Reducing domestic violence reoffending". I will not repeat everything you have said about the statistics. Yes, absolutely, it is challenging. But, as I have said to you before, because you have asked about these things previously, we have a good rhythm in place on good habits with the Premier's priority between Stronger Communities and the Premier's Implementation Unit. That is going well. We are measuring what we are measuring, and they do not sit still in terms of trialling things. If they trial things and they do not work, they will fail and they will fail fast and they will try something else. They are always at it; I can assure you of that. You made a comment about whether it is time to either adjust or look at doing something else. One of the best things about forming habits of staying at very, very difficult Premier's Priorities is to stay at them.

Before you jump to a conclusion and say, "But if it is not working why keep doing the same thing?", we do not do that. We keep tilting and trying to do different things. To give you a more fulsome answer I will probably have to take it on notice. We are well aware of where those targets are up to. We are well aware of making sure that the community are aware that it is top of mind for us and top of mind for the Premier, and we know that they are challenging. We would not have picked them if they were not challenging. From the Premier advising us to do them and us giving some advice about what the benchmarks might be, we are pushed very hard about what the starting baseline would be and what we expected to achieve as a target. They are very challenging by their very nature. If they were achieved easily they probably would not be a priority. I am happy to take on notice any new initiatives we might have underway right now. I just probably do not have enough notes in front of me.

**Ms ABIGAIL BOYD:** I am sure you are correct; I would love to have the policy debate about whether it is a valid priority in the first place but unfortunately we will not have the opportunity to have the Department of Communities and Justice in front of us during these preliminary estimates. On that, specifically, do you have any data as to whether those people who are reoffending are reoffending against the same victims?

**Mr REARDON:** I could probably do a bit of speculation, but I will take it on notice.

**Ms ABIGAIL BOYD:** That would be useful. If you could tell me the percentage of reoffending that is against the same victims, that would be very useful, as opposed to these people moving into another relationship and abusing in a separate relationship.

**Mr REARDON:** If the data is available and I am able to provide it, we will.

**Ms ABIGAIL BOYD:** Thank you. Can you tell me: Has the ReINVEST project received funding in this budget cycle?

**Mr REARDON:** I do not even know that program. I will have to take it on notice.

**Ms ABIGAIL BOYD:** If you go to the Premier's Priorities website and you link through to this particular priority, it will take you to a heading that says, "What are we doing?" One of the things that it says you are doing is this ReINVEST program, which is the Kirby Institute sertraline approach.

**Mr REARDON:** I am aware of some of the Kirby Institute—

**Ms ABIGAIL BOYD:** Does that trigger your memory?

**Mr REARDON:** Yes, the Kirby Institute does but I am not across the detail. I am just not across the detail.

**Ms ABIGAIL BOYD:** Are you able to take on notice whether that has actually been funded again this year?

**Mr REARDON:** To be helpful to you, absolutely. It is a budget question and that is what we should take on notice.

**Ms ABIGAIL BOYD:** Thank you. That would be very useful. Just turning to another one of the Premier's Priorities, this is a priority to increase the number of people with a disability in the public sector. Again this is another one that is described in the budget as "challenging". It is really not doing very well, is it? I will wait for you to get the documents in front of you.

**Mr REARDON:** Yes. It is challenging. You have asked us about it previously. I will go through a few things. As Premier and Cabinet—because that is what you are examining now—that Premier's Priority, "World-class public service", our women in leadership remains above 60 per cent. It has always been strong within the cluster and continues to be so. With the bringing in of Aboriginal Affairs about 2½ years ago from the machinery of government changes in 2019, the department has about 10 per cent Aboriginal employees, so we are very strong there for that obvious reason. For people with disability across the public service I think the number is 2.6 or it may have been 2.5. I cannot remember the percentage right at the moment. Within Premier and Cabinet—

**Ms ABIGAIL BOYD:** Can I just interrupt you? The number of people with disability who have been employed by the public sector in New South Wales has decreased every year from 2012-13 and has flatlined between 2018 and 2020. It has shown no increase at all since that priority was set. Again, what are you doing to change your approach? Because clearly it is not working. I take your earlier comment that sometimes things take a while to come to fruition, but clearly there is a problem here, isn't there?

**Mr REARDON:** I was responding to your question so I will keep going. I am getting to that. The culture of talking about women in leadership and about Aboriginal people and leadership—we are getting there and getting there well. I have a chief people officer who keeps an absolute laser focus on this, takes things very, very hard and is extremely passionate about the third thing, which is people with disability. The people with disability within the Premier and Cabinet cluster is just around 4 per cent. It is not around the mid twos; we are at 4 per cent, so I am much more encouraged about where we are. In saying that, we are putting in very practical steps to try and bring more people in.

For example, through the Public Service Commission—of which I am on the advisory board—we do not just talk about guidelines and policies. Yes, we have to do that because we know we have to get to 5.6. But in Premier and Cabinet itself we are trialling just bringing in more of a bulk recruitment approach for people with disability. We will try and change our marketing. As we did for people with culturally diverse backgrounds and women in leadership, we tried to market ourselves far more effectively in our advertising. We should be held to account over the next 12 months as to how that advertising actually looks. I am quietly confident that we will get there with further increases on those numbers, within Premier and Cabinet at least, over the next 12 to 24 months.

**Ms ABIGAIL BOYD:** In the budget papers there is a projection that the numbers of people with a disability in the public sector will magically jump from the 2.4 per cent envisaged at the moment—I know we do not have the full figures for the 2020-21 year—up to 4 per cent. In the budget papers you have estimated that you are magically going to go from this 2½ per cent to 4 per cent across the public sector. On what basis do you make that projection?

**Mr REARDON:** I do not make that projection myself. We can get the Public Service Commissioner to make some comment on that if we need to. What I am telling you though is the practical realities on the ground of a Premier and Cabinet cluster and the Department of Premier and Cabinet, we are at 4 per cent. So it is not magic for us. We are achieving that. We actually want to achieve a lot higher than that again. The practical measures, as I said, are we are looking at far more granular bulk recruitment of people with a disability and actually engaging organisations that can directly match us with people with a disability and actually get a concierge approach that champions for people with a disability. We are looking to employ one person who will basically stand within our organisation and be the champion for people with disability—not as an advocate but to basically say, "What do you need within our building? What do you need within our organisation, if you are vision impaired or mobility impaired or hearing-impaired, to ensure that your workplace is set up for you?"

We have copied that homework from another cluster because I think that they have done quite well with that approach. That real concierge approach of actually having someone there 24/7, making sure when we recruit someone with a disability, and even before we recruit them, we meet their needs at a far more fine-grain level than we ever have before. I am actually confident that we are taking action at a very, very basic level—not at a policy procedural level but at a very basic level to actually get far more effective recruitment of people with a

disability. We are very, very determined to do so. When we talked about it at the last estimates or the one before that, looking at 2.5 per cent or 2.6 per cent across the public service, we all know we need to do a lot better. The entire Secretaries Board all know and they would all respond the same as I am. But in Premier and Cabinet we are getting there and we are going okay. We are not perfect but we are at 4 per cent and we will grow that.

**Ms ABIGAIL BOYD:** My time is up so I will pass over.

**The CHAIR:** It is still crossbench time, so I will call on Mr Field.

**Mr JUSTIN FIELD:** Thank you, Mr Reardon and your team, for being here today. My questions primarily relate to climate change and the Government's response in that regard. Have you read the latest report by the Intergovernmental Panel on Climate Change [IPCC]?

**Mr REARDON:** No, I have not.

**Mr JUSTIN FIELD:** Have you read the summary for policymakers?

**Mr REARDON:** I am a tad busy on the pandemic response.

**Mr JUSTIN FIELD:** Yes, there are a couple of crises going on in the world at the moment, Mr Reardon. Have you received a briefing on the report?

**Mr REARDON:** No, I have not. I do not have time for it at the moment. I have got a bit of a stack for my personal weekend reading on the very things you are talking about, the IPCC and others, because in my role I have to get across these things, without a doubt. But I just have not had time in the last few weeks to do that.

**Mr JUSTIN FIELD:** I understand. Is it a policy objective of the New South Wales Government to reduce net carbon emissions to zero by 2050?

**Mr REARDON:** That is a policy question; put it to my boss.

**Mr JUSTIN FIELD:** Is it a policy of the Government? You are there to action the policies of the Government, so you must know what its policies are. I am not asking you about whether it is going to take a policy. I am asking you if there is a policy objective of the New South Wales Government to reduce net carbon emissions to zero by 2050.

**Mr REARDON:** I will take it on notice. I have answered the question as best as I can. Otherwise I will take it on notice.

**Mr JUSTIN FIELD:** Is it a policy objective of the New South Wales Government to reduce carbon emissions by 35 per cent by 2030 from 2005 levels?

**Mr REARDON:** I am not sure where this is going with the Premier and Cabinet cluster budget estimates, but I will take it on notice if you wish me to.

**Mr JUSTIN FIELD:** That is exactly what the next question is about. What role does the Department of Premier and Cabinet play in achieving the Government's climate objectives?

**Mr REARDON:** We basically advise the Premier from time to time on the areas of priority that she wishes us to. And at this point in time we are advising her quite a bit on responding to a pandemic.

**Mr JUSTIN FIELD:** When was the last time the Premier asked for advice from her department about climate action?

**Mr REARDON:** I would not know and you would probably have to point that to her.

**Mr JUSTIN FIELD:** What is the most recent carbon emissions data held by the New South Wales Government about the total greenhouse emissions in New South Wales?

**Mr REARDON:** I apologise, Mr Field. Could you repeat that one? I did not get it all.

**Mr JUSTIN FIELD:** What is the most recent annual emissions data held by the New South Wales Government about total greenhouse gas emissions in New South Wales by sector?

**Mr REARDON:** I generically get across a lot of areas of the domain, but you are just asking me a lot of questions that are for the Environment and Energy Minister's portfolio and the Department of Planning, Industry and Environment.

**Mr JUSTIN FIELD:** Actually these are whole-of-government objectives that cross across all sections—

**Mr REARDON:** In your view of the world they may well be. But there is a cluster that takes the lead on that, called the Planning, Industry and Environment cluster.

**Mr JUSTIN FIELD:** I would ask the Planning, Industry and Environment cluster but of course they are not attending a budget estimates hearing in this session [disorder].

**Mr REARDON:** I did not set up the rules for budget estimates. I am here as a witness.

**Mr JUSTIN FIELD:** So, can I just ask again, what role does the Department of Premier and Cabinet play in achieving the Government's climate objectives? If it is none, other than to answer questions as requested by the Premier, just let me know. That is fine.

**Mr REARDON:** I have already answered it.

**Mr JUSTIN FIELD:** How many New South Wales Government agencies completed the process outlined in the *Climate Risk Ready NSW Guide* that I understand was announced in the last budget and is a measure designed to prepare government departments for climate adaptation?

**Mr REARDON:** I do not know.

**Mr JUSTIN FIELD:** Given that all government agencies would be expected, I would imagine, to complete this process, I would have thought that the Premier's department would have some oversight or awareness of how many government departments were actually fulfilling those expectations. You cannot answer questions about that?

**Mr REARDON:** I can answer plenty of questions. Mr Field, we have nine clusters and in the work breakdown structure with nine clusters you get accountabilities and responsibilities and leads to many, many of the agencies within those clusters. Many things come through the coordinating centre called Premier and Cabinet, but in a modern, contemporary structure of government to try and deliver, the New South Wales public service is a pretty flat structure. And that means that we have a Customer Service cluster that takes a lead on various things; Planning, Industry and Environment will take the lead on various things; Regional NSW; Premier and Cabinet; and Treasury. We are very, very collegiate how we go about those things but the coordinating and responsible cluster to oversight some whole-of-government activities does not always need to be Premier and Cabinet. We devolve and have delegations to other clusters who do a very good job in that regard.

**Mr JUSTIN FIELD:** And how do disputes, when it comes to policy objectives or different decisions, get resolved as it relates to achieving climate objectives for the Government?

**Mr REARDON:** I think clusters are put together to have like-minded areas of domain together, Planning, Industry and Environment being one of them and the Department of Communities and Justice another with a cluster lead Minister and some Ministers to try and resolve some of those policy contests. That is how they seek to do it.

**Mr JUSTIN FIELD:** When you have competition between clusters—for instance, the Department of Planning, Industry and Environment versus Regional NSW—how do those disputes get resolved?

**Mr REARDON:** They normally go upstairs to a thing called Cabinet.

**Mr JUSTIN FIELD:** That is what I had assumed. Now that we are talking here in budget estimates to a Secretary for Premier and Cabinet, can I ask again: Given that it is actually a policy objective of the Government, as stated on your website, to reduce carbon emissions by 35 per cent by 2030 from 2005 levels—we are less than a decade from that now and carbon emissions have flatlined for the last couple of years through the actions of this Government—how are you going to achieve that objective?

**Mr REARDON:** You asked me about if two clusters have an issue and they take it upstairs to a thing called Cabinet. There is a two-stage process in how we actually take advice and coordinated responses, and a coordinated contest of views from around the public service in that two-stage process. That has been in place, I think, for about six years. That is a very methodical and structured process that I was fortunate enough to basically inherit from my predecessor, who set it up in an eCabinet way. It does allow for a contest of views across all clusters. It allows for no surprises once Cabinet has an opportunity to consider those things. So that allows for a decent contest of views.

**Mr JUSTIN FIELD:** I understand, as you made clear at the start, that you are focused on the pandemic at the moment. Should that pandemic continue for another 12 or so months—and I think it is fair to assume that in some way, shape or form it will be affecting the New South Wales economy and the community in some way substantially for at least that long—at what point will you read the IPCC's most recent report and summary for policymakers? At what point will it start to inform decision-making by the New South Wales Government about how to achieve its own policy objectives to reduce carbon emissions?

**Mr REARDON:** When will I personally read it? I do not know. When I get some time. I try to spend my Saturday nights getting through my more curious bits of reading. I store them up for then. If I can get to it in the next few Saturday nights, I will.

**Mr JUSTIN FIELD:** It does appear that you are treating these questions a bit flippantly, Mr Reardon.

**Mr REARDON:** I am not. I am telling you exactly how I spend my time. [Disorder]. Climate change is very, very important and I will get to it. I keep myself across what is happening around the world as best I can. But when you are with a State government and a sub-sovereign government you have to drive service delivery outcomes. Unfortunately we do have a pandemic and we do have a lot of other business as usual that we are focused on delivering. Whether it is educating kids, whether it is health care, whether it is policing or the transport system, that is what we focus on. Where there are macro policy issues, certainly I am as curious as the next person in my role, without a doubt. And I am not being flippant about your questions—absolutely not. I will go and get myself across those things—and that is when I actually get a bit of bandwidth to do it. So I will get across them—when I do it, I do not know.

**The CHAIR:** We are back to the Opposition now.

**The Hon. PENNY SHARPE:** Thank you, Mr Reardon and Ms Boyd, for being here today. We understand that you are very busy, but these questions are also very important. To follow up on the last round of questions—and you can take these on notice if you need to, Mr Reardon—how many times has the Crisis Cabinet met since 1 June?

**Mr REARDON:** It has been a very large number, Ms Sharpe. I cannot tell you the exact number, but it is quite a considerable amount of times.

**The Hon. PENNY SHARPE:** I am sure it is. Would you be able to provide that to the Committee on notice, please?

**Mr REARDON:** I could count them up but whether I can actually provide it, I do not know. I do not know if that is Cabinet-in-confidence.

**The Hon. PENNY SHARPE:** We are not asking about the decisions; we are asking about the number of times people gathered.

**Mr REARDON:** If I can, I will.

**The Hon. PENNY SHARPE:** Thank you. When you are doing that could you also provide us a list of the times that the education Minister, the police Minister and the mental health Minister attended the Crisis Cabinet with their officials?

**Mr REARDON:** I might just refer a couple of these to Ms Boyd, if that is okay, Ms Sharpe?

**The Hon. PENNY SHARPE:** Sure, that is absolutely fine.

**Ms KATE BOYD:** Obviously the crisis policy committee of Cabinet operates under conventions of Cabinet confidentiality. The membership is at the discretion of the Premier and, to the extent that the attendance of members would tend to reveal the deliberations of that committee, would likely be confidential. But we can certainly provide you with the total number of meetings that have occurred over the period of time.

**The Hon. PENNY SHARPE:** Ms Boyd, just to be clear, are you saying that you will not provide to the Committee the number of times that Ministers outside the five that you have already said attend, which would suggest to me you are able to tell us who attends? The Committee would like to know the other Ministers who are having input and the number of times they have done that. I hear what you are saying, but I really do not believe that is breaching Cabinet-in-confidence or the decision-making; it is simply telling people who is having input into the decisions while the whole State is in lockdown.

**Ms KATE BOYD:** I appreciate the matters that you are raising, and it would be appropriate for us consult with the Premier as chair of Cabinet about whether or not those details are provided publicly. We will do that.

**The Hon. PENNY SHARPE:** Terrific. If you could also provide the number of times that the Premier's media adviser attended those meetings, that would be helpful. I have one more question. In terms of the decisions that are made by the Crisis Cabinet, I assume that there is secretariat support provided by DPC where those are written down and recorded. Is that correct?

**Ms KATE BOYD:** That is correct.

**Mr REARDON:** The usual processes apply.

**The Hon. PENNY SHARPE:** Sure. How are they managed if they are by text?

**Mr REARDON:** Sorry, I do not understand.

**The Hon. PENNY SHARPE:** Mr Mookhey was asking questions in the previous round about whether there had been decisions made at meetings—we understand that this is a very fast-moving environment; we understand that people are doing their best. I am trying to understand whether decisions are made by text and how they are recorded in relation to your system.

**Mr REARDON:** We record the meetings like we would any other Cabinet meeting.

**The Hon. PENNY SHARPE:** Okay, thank you. I want to ask a question now about vaccine rollout. I understand that the vaccine rollout is the domain of the Federal Government and that there has been a lot of commentary about that, but I would like to know the status of the vaccine rollout for the public service in New South Wales. Are you able to give us an overview of planning around that, please?

**Mr REARDON:** I sure can. I will probably just start from the top. The vaccine rollout has accelerated and continues to accelerate quite a deal now. Overnight we probably hit 5.3 million total doses within the State of New South Wales. We hit 53 per cent of first doses within the State of New South Wales, so we are moving at pace. We are over 100,000 on a weekday now. I think last weekend combined we were over 100,000, so it is moving very fast. We talked early on in the pandemic about the high-priority essential workers to be vaccinated. That picked up hotel quarantine, healthcare workers, aged-care workers and those around the hotel quarantine system more generally. That expanded to pick up others, which meant a lot of those very frontline public service agencies who were directly dealing with the COVID response were covered. The next group out—

**The Hon. PENNY SHARPE:** Sorry, can I stop you there, Mr Reardon? Thank you, I acknowledge the work that New South Wales has had to do to get vaccination going given the tardiness of the Federal Government. Are you able to actually tell us, for example, how many healthcare workers working in our hospital system are fully vaccinated?

**Mr REARDON:** I think you might direct that one to Health. Quite frankly, I would not have it in front of me right now. Can I continue with my response?

**The Hon. PENNY SHARPE:** In terms of the answer, what I am really wanting to know is—yes, I accept that vaccinations are essential and going ahead at a pace, which is excellent. But the frontline public service workers in this State—which you are the boss of, technically—I understand are under different arrangements. I am trying to understand how you are tracking that. For example, I want to know what proportion of police are fully vaccinated. I would like to know the proportion of teachers. Last week at the Public Accountability Committee we heard that there is no way to track teacher vaccinations. I am wanting to understand what planning is in place at a State level for our public servants as we try to keep them at work, return them to work and keep the community safe.

**Mr REARDON:** I have a few comments. Yes, I am the head of the public service and their vaccination is top of mind for me, absolutely. As you have seen in a lot of media over the past few weeks—and it will be a moving position in terms of employer relations—it is a voluntary exercise to be vaccinated and it is an individual's choice. How their information goes into the Australian Immunisation Register is a private matter for that individual. So you get vaccinated; I get vaccinated. Mandating an employee to actually provide that information to an employer—even just mandating them providing that information and whether they need to be vaccinated for certain workplaces—is another matter again. We do not track the individuals.

It is a live discussion right out, though, because it is a reasonable question to ask how many people in the New South Wales public service have been vaccinated at this time. The answer to that question at the moment is that the bulk of the adult population is showing up to get vaccinated, including the public service. I will expand on that in a second but the bulk are. I was working through, when I was responding to you, about the very front line of high-risk COVID-19 response and trying to vaccinate and give an opportunity for all of those people to be vaccinated. For example, I think there are 16,600 sworn police officers. We try to give every single one of those an opportunity to be vaccinated. There are well over 100,000 healthcare workers. You try to give every one of those an opportunity to get vaccinated.

Whilst aged-care workers are the responsibility of the Commonwealth's domain, we are doing a lot of the vaccinating with the GPs on those aged-care workers right now, and you want them all to be afforded the opportunity to be vaccinated—and so on and so forth. The next ring we want to get to are people like transport workers, freight workers, food production and distribution workers and construction workers—a lot of those either work directly for the New South Wales public service or they are contracted to the New South Wales public service. We are moving through those at the moment because they are important areas of the economy.

**The Hon. PENNY SHARPE:** Can I just stop you there, Mr Reardon? That is good to hear, and I am very pleased to hear that you are accepting people just outside of the public service who are obviously critical. Does that also include community workers who are delivering services such as child protection and family support during this time being in line?

**Mr REARDON:** Yes, they are all in line. At this point in time it would be fair to say that three months ago people were hesitant and people were having a think about different types of vaccines—without going into brand names. They are not thinking like that anymore; they are rushing to get vaccinated. The fastest way home to get vaccinated is through NSW Health and GPs. They have a fairly significant booking system and people should go to that booking system and book in for a vaccination. Parallel to that, we basically have had a few priority groups coming through now. We have been running Super Sundays, for example, out at Sydney Olympic Park—whether that is the food distribution workers or construction workers. Without pre-empting where we go next, it will be fair to say we will focus on certain high-priority areas of the economy, whether that is transport workers or teachers. We have already had some teacher priority. We will do those in parallel to the vast bulk of bookings.

The fastest way for people to get vaccinated at the moment is to enter into the booking system like anyone else does and go and get vaccinated or, alternatively, go to one of the mass vaccination centres where there may be opportunities for certain priority groups. So we are doing both, Ms Sharpe. Honestly, with over 600,000 doses delivered last week we will have a very large chunk of the job done over the next couple of months. The fastest way to do that is to continue using the current distribution channels, the current supply and the current booking system we have. Yes, we can look to prioritise certain cohorts and we will continue to do that, as I have just pointed out, to move things as fast as possible. NSW Health and the vaccination program through Susan Pearce, the Deputy Secretary and Vaccination Coordinator for New South Wales, is doing a phenomenal job to push things through as fast as possible. Us being able to provide around 5.3 million doses now, if you compare us to any other jurisdiction around the country we are going very, very fast and we will continue—

**The Hon. PENNY SHARPE:** Mr Reardon, I appreciate that. It has been a monumental—

**Mr REARDON:** I will just finish off. If there are any other cohorts you want to put to me—whether it is teachers, whether it is social workers—let me know and I will take those away with me now, if you like.

**The Hon. PENNY SHARPE:** I appreciate that it has ramped up and it is absolutely essential. Everyone should be getting vaccinated and we should be encouraging everyone to do so, but my concern is that there is no way of tracking whether, particularly, frontline workers in the New South Wales public service are vaccinated or not. As we go down this path and as people are able to book—I know you have said it is easy to book and it is easier than it has been. In the past few weeks it has been very difficult and has been very difficult for some age groups. My issue, really, is will there be a system so you will know what percentage of police, hospital workers and cleaners in schools, who are mixing day to day with a lot of people because that is their essential work—even if it is not necessarily individuals within the public service, are we going to be able to know that?

**Mr REARDON:** I think I said at the start that it is a live question right at the moment. People in the media are commenting on vaccine passports where it might not be mandatory to have a vaccination but you will need one for access to various places—whether that is construction sites or to go to another State like Queensland or Western Australia. These things are not mandated but they kind of are. That is a live question. Us recording the amount of New South Wales public servants who have a vaccination—I will go back to what I said: It is an individual choice, it is voluntary and it is collected in the Australian Immunisation Register for that person's private information. It is an open question as to how we might need to go through our own workplaces and workforces and about whether you need a double dose of vaccine to come to a job.

**The Hon. PENNY SHARPE:** To be clear, is that work being undertaken now?

**Mr REARDON:** We have taken some advice on that even earlier in the year, but that is a live question right now, absolutely.

**The Hon. PENNY SHARPE:** So the consideration of vaccine passports and that kind of thing is part of that discussion?

**Mr REARDON:** Yes, whether they are called vaccine passports or just some form of proof to say that you have been vaccinated for a thing called COVID-19—noting also that my personal information on myGov would show COVID, flu vaccine, and COVID vaccine, in that order. So it is about how much privacy goes around this. Personally, I am happy for my employer to know all about it but that is an individual question for people, and employers in the New South Wales public service at this point in time cannot mandate someone showing up and saying, "Show us your COVID-19 proof". It is a live question that we will without a doubt need to do more work on.



**The Hon. PENNY SHARPE:** Terrific, thank you.

**The Hon. DANIEL MOOKHEY:** Can I just follow up on that, Mr Reardon? This could be either to you or to Ms Boyd. Have you actually sought legal advice about whether you have the power, as the employer of over 400,000 people, to mandate vaccination?

**Mr REARDON:** Yes, we took some advice early on in the year because we knew that when the very first work groups got prioritised—you might remember the Federal Government came out with phase 1a, phase 1b and then phase 2—the people in phase 1a wanted to know whether this was mandatory or voluntary and whether you could ask what vaccination status people had. We took some advice earlier on in the year. We have been listening to the debate, quite frankly, and we know we need to do more work on that. At this point in time it is a voluntary exercise. There may be certain workplaces or jurisdictions, as I said, which will require a vaccination to enter and, therefore, proof of that vaccination. But it is not mandatory in a workplace at this point in time because that has been the nature of it, but that is a live question. I will ask Ms Boyd to follow up on that.

**The Hon. DANIEL MOOKHEY:** I appreciate, Mr Reardon, that that was a very good elucidation of what the policy is. Ms Boyd, can you specifically address whether the legal advice you obtained said you have the power, as an employer, to require vaccination?

**Ms KATE BOYD:** I will not go into the specifics of the advice because it is obviously privileged. As a general proposition, employers in New South Wales have the power to give lawful and reasonable directions to employees, including in relation to vaccination. So I will not be drawn on the specifics of the advice. Obviously, just in respect of the risks that apply specifically in the workplace, the general principle is that employers have that power.

**The Hon. DANIEL MOOKHEY:** Thank you. Did you obtain that advice from the Crown Solicitor or did you go to an external firm? Who gave you the advice? Was it a council—

**Ms KATE BOYD:** It would not be appropriate for me to comment on the specifics of particular advice in this forum.

**The Hon. DANIEL MOOKHEY:** I am just interested whether it was in-house advice or external. Can you tell us whether the DPC produced the legal advice with your own lawyers, or did you go elsewhere?

**Ms KATE BOYD:** No, I do not think that is relevant to the Committee's proceedings today.

**The Hon. PENNY SHARPE:** I am sorry, Ms Boyd, can I just stop you there? It actually is relevant to the Committee's questions because we are trying to understand where the advice came from. Similarly, we want to understand who paid for it and how much it cost.

**Mr REARDON:** I think we gave an answer. You have asked us to come to this budget estimates for the Premier and Cabinet cluster and we will struggle to get a budget question, as usually happens. If this was a COVID inquiry, we probably should have called it a COVID inquiry, but it is budget estimates. I do not know if you have anything else to add.

**The CHAIR:** I am going to intervene quickly. With respect to everybody involved and, in particular, the witnesses, the questions are in order. The questions can be whatever members of Parliament wish to ask. You can answer them however you see fit and we understand that there are issues of privilege in relation to actual advice, but I would ask that the questions are not debated. I understand the situation you are in, and we will deal with each one of these as they come up. The questions are in order.

**Mr REARDON:** Thank you, Chair.

**The Hon. DANIEL MOOKHEY:** Mr Reardon, could the policy about deciding whether or not employees of the State are required to have vaccination be determined centrally by either the Public Service Commission or DPC, or is it going to be left to each agency or department to resolve the policy for their employees?

**Mr REARDON:** We will try make it as consistent as we can. Therefore, employee relations sits within Premier and Cabinet and the Public Service Commissioner also sits within the Premier and Cabinet cluster, so they will take a lead on a lot of that advice, also taking advice from general counsel Kate Boyd. We will try to make it as consistent as possible but there will be certain industrial instruments where if that has to vary then so be it. Generally, we will try to make it as consistent as we can, as we have done for pandemic leave, special leave and things like that over the past 18 months.

**The Hon. DANIEL MOOKHEY:** Are you in a position to tell us when that central guidance—for want of a better term—will be provided to the departments and agencies?

**Mr REARDON:** No, not at this point. I will take it on notice because, as I said, it is a live issue at the moment.

**The Hon. DANIEL MOOKHEY:** I appreciate that. Equally, I am asking this given that the New South Wales Government is Australia's biggest or second biggest employer and your standards will heavily determine a lot of behaviour in the private sector as well, just to be clear. That brings me to my other question: Have you sought legal advice about your obligations under the Work Health and Safety Act regarding vaccination?

**Mr REARDON:** I do not know if we have anything specific to flow on from the other advice. I am happy to take it on notice. Just on your comment about being the largest employer, we certainly know our place in the Australian economy and the Australian workplace arrangements. Over the past 18 to 20 months that has been tested over and over, so I am glad you brought it up because when it comes to our return to work policy, social distancing in the workplace and our human resource policies and procedures, the New South Wales public service has played an incredible lead role just purely because of our scale. That has meant we could pilot and test a whole range of things that—you are right—the private sector has followed us on.

**The Hon. DANIEL MOOKHEY:** Sure. Thank you, Mr Reardon. My time is about to expire so I guess my last question is this: Have you sought advice about whether you have an obligation to check the vaccination status of the tens of thousands of people who access government premises in case it poses a workplace health and safety risk to your staff—which, to be fair, is another question a lot of other employers are trying to resolve about your control of your premises—given that is equally a place of disease distribution?

**Mr REARDON:** I think it will be a live question for the next couple of months. We would not have been having this conversation six months ago; we would have been talking about a COVID-safe workplace, which meant spacing, the one per four square metre rule, good hand sanitisation and wearing face masks. Now that we have vaccination it is another string to the bow where we may need to consider those things, but it is a live question. I think we will be working on that for the next couple of months. We will have to resolve it, without a doubt, but it is live. I will take on notice whether we have sought any specific advice on it.

**Mr DAVID SHOEBRIDGE:** Mr Reardon and Ms Boyd, thank you for coming today. Mr Reardon, did I understand your answers correctly that there is some hesitancy from you about telling this Committee when the Crisis Cabinet has met? Do you have some hesitancy about telling this Committee when the crisis committee met?

**Mr REARDON:** No.

**Mr DAVID SHOEBRIDGE:** Well, can you tell us the dates upon which the Crisis Cabinet committee has met since it was formed?

**Mr REARDON:** I just sort of referred to the General Counsel to give a response to what we can and cannot provide, so you can repeat that if you wish.

**Ms KATE BOYD:** I believe we have taken on notice to provide the total number of meetings that have occurred since 1 June and then consult with the Premier about whether or not we can provide information as to the invitees.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, Ms Boyd has said that she is seeking advice as to whether or not she will tell this Committee the basic information—in that case, only about the number of occasions it has met. Mr Reardon, I ask you again: Why is there a hesitancy in telling this Committee when the Crisis Cabinet has met? Why will you not just commit to giving us that information?

**Mr REARDON:** I think we just answered the question.

**Ms KATE BOYD:** What I would say is that the crisis policy committee of Cabinet operates in accordance with conventions of confidentiality, as you are aware, so it is appropriate for us to consult with the chair of that Committee—being the Premier—about the level of detail that we provide in relation to those matters. We are happy to do that.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, this Crisis Cabinet committee—however it is described—has been mapping out the future for more than eight million people in this State and you cannot make a clear commitment today to even tell us when it met. I am going to ask you very clearly: Please tell us the dates upon which the Crisis Cabinet committee has met since it was created.

**The Hon. BEN FRANKLIN:** Point of order—

**Mr REARDON:** Mr Shoebridge, I have answered the question with General Counsel twice so far.

**The CHAIR:** Mr Franklin will take a point of order.

**The Hon. BEN FRANKLIN:** My point of order is simply that the witness has said on a number of occasions that he has taken this question and the specifics therein on notice. I think it is therefore unreasonable for the witness to continue to be questioned and that we should move on.

**The CHAIR:** In relation to the point of order I think it is perhaps worth clarifying what has been taken on notice. The witnesses have said they will provide the amount of meetings but not necessarily the dates of the meetings. That is my understanding of what is being teased out. I accept your point that we do not want to spend another hour repeating the same situation, but I do not know that that question has been properly answered.

**The Hon. BEN FRANKLIN:** The counsel said very clearly that she would ask all of those issues of the chair of that Committee, which is obviously the Premier, which is an appropriate thing to do because you do not want to inadvertently breach Cabinet-in-confidence. This is just insane.

**The CHAIR:** There are issues of privilege, but members are entitled to ask whatever questions they want. They can pursue as much detail as they want and the witnesses can answer in any way they see fit. That is what is happening.

**Mr DAVID SHOEBRIDGE:** To the point of order: The suggestion that telling the people of New South Wales when the Crisis Cabinet met is somehow a breach—

**The Hon. BEN FRANKLIN:** It was not that at all, David. That is insane. You know I am not suggesting that.

**Mr DAVID SHOEBRIDGE:** I let you—

**The CHAIR:** We are not going to have an argument about this.

**The Hon. BEN FRANKLIN:** You are just being ridiculous.

**The CHAIR:** We just need one person speaking at a time; this is difficult enough as it is. I have ruled on the point of order. The question is in order and it can be pursued as it is being pursued and the witnesses can answer as they see fit.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, I will make it simple. When has the Crisis Cabinet met? Please provide all the dates to this Committee.

**Mr REARDON:** Thank you, Mr Shoebridge. I will try to help as best I can. The number of meetings, the dates of meetings, the membership of meetings and other invited guests are the questions I think I have been asked and I will take those on notice. Does that clarify it for you?

**Mr DAVID SHOEBRIDGE:** It will clarify it when I get the answers, Mr Reardon. I note that you are taking it on notice and I look forward to the answers.

**Mr REARDON:** Thank you.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, through the standing orders of the upper House the Public Accountability Committee has requested the production of the health advice provided to Cabinet, including Cabinet subcommittees, from the commencement of the current COVID outbreak. To date, those documents have not been provided to the Public Accountability Committee. Are you and Ms Boyd intending to produce those documents?

**Mr REARDON:** I will make a couple of comments and then hand over to General Counsel. I am assuming, like every other request we have had from the House, we will attend to them as quickly as we can. To give an update on the stats and status, in financial year 2020-21 we produced 160 orders for papers and documents under Standing Order 52. That was about, I think, 1,500 boxes of privileged and non-privileged documents.

**Mr DAVID SHOEBRIDGE:** Chair—

**Mr REARDON:** I am coming to your question.

**Mr DAVID SHOEBRIDGE:** Chair, could I ask you to direct Mr Reardon to answer the question. A general digression on other Standing Order 52s is—

**Mr REARDON:** I am telling you where we spend our time and resources. You have asked me about one specific public account committee. I am telling you that we have had to respond to well over 100—166 in the last financial year—and I have not even got to the current financial year.

**Mr DAVID SHOEBRIDGE:** Mr Reardon—

**The CHAIR:** This cannot continue. Mr Shoebridge and Mr Reardon, we cannot operate like this. It is difficult enough doing this online, as I have said. Hansard need to record it; there needs to be a proper record of this meeting. We cannot have people speaking over the top of each other. Mr Reardon, I understand that you can give some more information around your answers; that is perfectly appropriate. Mr Shoebridge has asked you to be specific in relation to his question; that is also appropriate. If we can be as specific as possible about the question—but I understand if you do need to get some information around it.

**Mr DAVID SHOEBRIDGE:** Madam Chair, to assist Mr Reardon, I will restate the question and make it very clear how narrow it is. It is a question about the production to the Public Accountability Committee of the orders that have been passed under the standing orders by the Public Accountability Committee in relation to the health advice provided. Will you produce them? If so, when? Why have they not been produced to date?

**Mr REARDON:** Is this the matter where I wrote back to the committee in the past week or so?

**Mr DAVID SHOEBRIDGE:** Yes, and you produced documents that did not respond to the order, Mr Reardon.

**Mr REARDON:** I will hand over to General Counsel.

**Ms KATE BOYD:** Thank you. The request from the committee on health advice was acknowledged in accordance with the usual practice. That request was referred to the responsible Minister, being the Minister for Health and Medical Research. I understand that the Minister responded on 9 August, voluntarily providing certain documents to the committee. It is not DPC's place to produce documents of other ministries and other agencies; we simply coordinate the requests from the committee and the House for papers. I understand that that request has been dealt with.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, you would know from your own involvement in the matter that the documents produced do not respond to the order. None of the advice was produced and there was no stated intention to comply with the order. Is that where the matter rests at the moment—no stated intention through you or through Mr Reardon to comply with the order?

**Ms KATE BOYD:** It is not a question for us, I do not think, Mr Shoebridge. I think that is a question for the Minister for Health and Medical Research as to whether or not he wishes to provide any further information in response to that request.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, the convention on the production of documents through the House is that the communication and exchange occurs through the Department of Premier and Cabinet. This is the first time I have seen it suggested that the Parliament needs to negotiate separately with the portfolio Minister. Are you saying that there is a separate process being adopted for this Standing Order 52 or, more acutely, this call for papers?

**Mr REARDON:** Is that to me or to Ms Boyd?

**Mr DAVID SHOEBRIDGE:** I commenced the question by putting it to Ms Boyd, Mr Reardon.

**Ms KATE BOYD:** Not at all. There is no separate process. It is always the case that the responsible Minister is responsible for answering those calls for papers, whether they be from a committee or the House. That is what has occurred. DPC coordinates the initial request, provides it to the responsible Minister and then coordinates the return of papers back to the House so that the Clerk's office only has one point of contact on all requests. But it is not for us to decide what goes back to the House; that is for the responsible Minister. That is simply all I meant.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, is the Government taking the point that it does not believe committees have the power to require the production of documents? Is that part of the Government's response to the Public Accountability Committee's request for documents?

**Ms KATE BOYD:** I cannot speak for Ministers or for the Government, but what I can say is that the Premier's memorandum 2017-01 makes clear that there is some doubt as to the power of committees to call for papers. It is an uncertain field and, given the uncertainty, it is appropriate that where committees want papers they should refer that matter to the House for an order under Standing Order 52. That is the position as per that Premier's memorandum and I simply refer to that.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, you understand that the Opposition and the crossbench have been seeking to cooperate in a public health sense with the Government and have agreed to not having the House sit so as best as possible to assist in dealing with the public health crisis. You also understand that that was on the basis that there would be genuine compliance with the Government and assistance with the Government to the

COVID oversight run through the Public Accountability Committee. Do you understand how a refusal to produce documents is not consistent with cooperation with the Public Accountability Committee?

**Mr REARDON:** I will make a quick comment and then hand across. Your agreements at a political level of what you do is a matter for you, including setting up these budget estimates without any Ministers. It is your business how you do that. I believe that Ms Boyd has just responded in terms of complying with what your request was. I can have her repeat or add anything you wish to.

**Ms KATE BOYD:** I would only say that we fully appreciate the importance of the scrutiny function of the House at this time. From the public sector's perspective all efforts have been made to continue to produce papers to the House under Standing Order 52 and, indeed, by our presence today we are seeking to facilitate that important scrutiny role. I understand Minister Hazzard and Dr Chant also appeared at the Public Accountability Committee hearing on 10 August, so efforts are being made to ensure that the House can continue its important work at this time.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, will you provide to this Committee the public health advice that has been provided to the Crisis Cabinet or the public health advice that has been provided to the Premier?

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

**Mr DAVID SHOEBRIDGE:** Mr Reardon, does the Premier obtain written public health advice from the Chief Health Officer? If so, is it on a daily basis or is there some other regularity to the provision of written advice?

**Mr REARDON:** There is a whole range of advices—written and verbal—from a whole range of areas, whether they are Treasury to Chief Health Officer or any other person who has to brief into a Crisis Cabinet. They are the same as they would be for any other Cabinet or Cabinet committee.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, if you would respond to my question about the advice from the Chief Health Officer rather than a general digression, please.

**Mr REARDON:** I am not giving a general digression. I do not know if I can go into any more detail than I just did. If you want to ask me a specific question, I will take it on notice.

**Mr DAVID SHOEBRIDGE:** On how many occasions has the Chief Health Officer provided written advice to the Crisis Cabinet? On how many occasions has the Chief Health Officer provided written advice to the Premier since this most recent COVID outbreak commencing end of June?

**Mr REARDON:** My response to question one and to question two I will take on notice.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, you have failed to provide a coherent answer to questions that were asked to you about whether you saw text messages being exchanged between Crisis Cabinet members. Surely, Mr Reardon, as the custodian of the Cabinet documents of the Government—which is your role as Cabinet Secretary—you need to actually understand whether or not Cabinet decisions are being made by text message. Why will you not provide clarity on this?

**Mr REARDON:** I thought I did.

**Mr DAVID SHOEBRIDGE:** You did not. As Cabinet Secretary, do you have access to the text messages that are being exchanged between Crisis Cabinet members that are part of the Crisis Cabinet decision-making process?

**Mr REARDON:** I know my role as Cabinet Secretary, as does Ms Boyd. We basically record Cabinet decisions in Cabinet, Crisis Cabinet and any other subcommittee as per usual. The text messages between members of Government are matters that you might ask members of Government.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, if decisions are being made by text message and you do not have access to that, how can you fulfil your role as Cabinet Secretary and the custodian of those documents?

**Mr REARDON:** There was a lot of inference in that. You would have to ask the questions to the members of Parliament who are Ministers about what they exchange in texts and whether they are decisions or otherwise. I could only speculate otherwise.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, you spoke about the vaccine system in place in New South Wales for members of the public to access. What system were you talking about?

**Mr REARDON:** It is a fairly vast vaccine program. To go through it, NSW Health has a vaccination program up and running that involves a very large hub-and-spoke arrangement across the State. That includes a range of mass vaccination hubs. There is one in Newcastle, one in south-western Sydney and more mini ones—

one in Sydney Olympic Park and now another one in Qudos Bank Arena—and various other spokes in both regional cities and smaller towns. Overlaid on that are hundreds and hundreds of general practitioners, plus a range of pharmacists across the State and in-reach programs to areas like aged care and disability care. So it is considerably large.

Supply arrangements come from the Federal Government, as you might be aware from a lot of media around that. Those supplies are provided through a vaccination coordinator general, Lieutenant General J. J. Frewen, who provides those vaccinations to the State of New South Wales on an allocation basis, and then through all of those distribution centres vaccinations are undertaken. The customer, including members of the public in New South Wales, can go through a booking process to receive a vaccination and that is happening in a very large scale. As I said, last week we were above 600,000 doses for the week.

**Mr DAVID SHOEBRIDGE:** You talk about a booking system. The Service NSW app takes you to the Federal booking system. If, for example, you were an 18-year-old at the moment going through that system, unless you had a priority basis for a vaccination—

**The CHAIR:** We have lost Mr Shoebridge. We will give him a second to see if he can reboot. Welcome back, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, I was asking you about the vaccine booking system. If you go to book a vaccine through the Service NSW app, it takes you to the Federal system for booking vaccines. If you are an 18-year-old and you do not have a priority reason for getting a vaccine, it tells you that it will not take a booking from you. Do you think that is acceptable?

**Mr REARDON:** I am not sure I understand the question.

**Mr DAVID SHOEBRIDGE:** The question or the proposition that is put to you is that if you go through the Service NSW app portal to seek to get a vaccination as an 18-year-old and you do not have a priority reason for getting it, you are told you cannot make a booking. Do you think that is an acceptable outcome?

**Mr REARDON:** I will not speculate on opinions on acceptable outcomes. We want to vaccinate everyone in the State above 16 as fast as possible, and that is what we are doing. I will answer your question. The criteria to receive priority for a vaccination has continued to move as we have moved through. The criteria to begin with was aged care—there were a whole range of priority groups within that phase 1a and 1b, which quickly expanded to get people above 70 years old vaccinated as fast as possible. There were a couple of Australian Technical Advisory Group on Immunisation [ATAGI] advices along the way about AstraZeneca and Pfizer, which have been well ventilated in the media. We are now in a position where we are looking to vaccinate very large priority groups who are younger ages. The Premier has just announced that we have received 530,000 extra Pfizer doses to really focus on the local government areas of concern within Sydney right now. There may be some areas where an 18-year-old may only receive AstraZeneca at this point in time because there is no other vaccine available for them, but I think that will quickly move to a position where there are vaccinations available for everyone. If you have a specific—

**Mr DAVID SHOEBRIDGE:** Mr Reardon—

**Mr REARDON:** Sorry, I am just wanting to help. If you have specific customer feedback, let me know because we are looking to vaccinate everyone as fast as we can. If there is a booking—

**Mr DAVID SHOEBRIDGE:** Mr Reardon, this is not a specific customer's feedback; this is about basic access to a life-saving vaccine. When will there be enough vaccine so that everybody in New South Wales—

**The Hon. BEN FRANKLIN:** Point of order: The member is cutting unfairly into the important questions of the Opposition.

**The CHAIR:** Thank you so much, Mr Franklin, for your support. It is the Opposition's time. There is another period for crossbench questions after this.

**The Hon. DANIEL MOOKHEY:** Thank you, Chair. Mr Secretary, has your department ever expressed any concern about how the Transport Asset Holding Entity [TAHE] is recorded in the budget?

**Mr REARDON:** Sorry, has Premier and Cabinet expressed a concern on that—is that your question?

**The Hon. DANIEL MOOKHEY:** Yes, about how it is recorded in the budget.

**Mr REARDON:** Not that I am aware. Wearing a hat from some time ago—as you would be aware, as Transport secretary I certainly had a position on that from that cluster. But not that I am aware. Basically, Treasury and Transport have largely dealt with it. I will take on notice whether there is anything specific on that, but I cannot recall us having a specific position on it.

**The Hon. DANIEL MOOKHEY:** Can you take on notice as well, Mr Reardon, whether your department has expressed any concerns about the safety risks of the TAHE operating model?

**Mr REARDON:** I do not know if I need to take that on notice because the issues raised between the clusters of Treasury and Transport would have expressed their views. I do not believe we have taken a view. When it comes to the safety of transport operations, specifically the safety of rail operations, the Office of the National Rail Safety Regulator has oversight of that. We would not be in a position to provide advice around the rail safety regulatory arrangements. I personally could, but it is not my role in my current role to have a view on that.

**The Hon. DANIEL MOOKHEY:** Sure. As secretary—and, to be fair, as a previous secretary of the Transport department—did you support the establishment of the Transport Asset Holding Entity?

**Mr REARDON:** The Transport Asset Holding Entity was a vehicle to look at centralised asset management and efficient asset management from the start of Transport for NSW in 2011. It was inherently for the efficient bringing together of assets across rail, light rail, roads and ferries. In concept it is a sensible thing to do for a cluster. It accords with Infrastructure NSW's asset management policy and asset management framework, so it is inherently a sensible thing to do. Health could do the same thing—Education et cetera. Beyond that, it is too broad a question to get into what I think about accounting treatments or anything else.

**The Hon. DANIEL MOOKHEY:** I will ask a more specific question. Have you had any meetings with any departmental secretary about the Transport Asset Holding Entity in the last 18 months?

**Mr REARDON:** Over the years as Transport secretary and Premier and Cabinet secretary, absolutely, yes.

**The Hon. DANIEL MOOKHEY:** Did you have meetings last year with the secretaries of Transport and Treasury either separately or together?

**Mr REARDON:** I may have. I can take it on notice but I more than likely did.

**The Hon. DANIEL MOOKHEY:** And what was discussed at that meeting?

**Mr REARDON:** I would not recall. I would have to take it on notice.

**The Hon. DANIEL MOOKHEY:** Did either the Treasury secretary or the Transport secretary express concerns about operating the TAHE model?

**Mr REARDON:** I will line them up. I will take it on notice.

**The Hon. DANIEL MOOKHEY:** Did any of them advise you that there were risks to the budget or risks to the safety operating if TAHE was to commence in July last year?

**Mr REARDON:** This was about—you are talking about meetings last year?

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

**Mr REARDON:** Yes, okay. I will take it on notice. I cannot recall.

**The Hon. DANIEL MOOKHEY:** Do you recall any particular meeting last March with the Treasury secretary and/or the Transport secretary together?

**Mr REARDON:** No. I cannot recall.

**The Hon. DANIEL MOOKHEY:** Were those two secretaries in dispute about the establishment of the Transport Asset Holding Entity?

**Mr REARDON:** There is certainly a contest of views on establishment of the Transport Asset Holding Entity and I believe it made some media attention.

**The Hon. DANIEL MOOKHEY:** Did either of them seek a meeting either through you or independently of you with the Premier to express their concerns?

**Mr REARDON:** I will take it on notice. I just do not—you are asking about diary dates again.

**The Hon. DANIEL MOOKHEY:** No, I am actually asking you about whether or not either of them sought a meeting—

**Mr REARDON:** I cannot remember. I actually do not know.

**The Hon. DANIEL MOOKHEY:** Did the Premier ever raise with you the concerns that had been expressed to her by a departmental secretary about the Transport Asset Holding Entity?

**Mr REARDON:** This matter ended up being considered by Cabinet at various times so I will take them on notice at the moment.

**The Hon. DANIEL MOOKHEY:** Sure, but did the Premier ever seek a brief from your department about the concerns being raised by any department secretary or, specifically, either the Treasury secretary or the then Transport secretary?

**Mr REARDON:** The advisories would have come from Treasury and Transport themselves. They are expert in those areas. I cannot recall whether we were asked for advice. I will take that on notice.

**The Hon. DANIEL MOOKHEY:** I have only got two more questions before I pass to my colleagues on this. Has the Auditor-General asked DPC for access to all Cabinet documents regarding the Transport Asset Holding Entity?

**Mr REARDON:** I understand that is the case.

**The Hon. DANIEL MOOKHEY:** Did the Premier agree to waive Cabinet privilege over all Cabinet documents relating to the Transport Asset Holding Entity?

**Mr REARDON:** Just to be helpful, I will hand that one to the general counsel.

**Ms KATE BOYD:** The Auditor-General's enabling legislation does not allow the Auditor-General to seek or compel the production of Cabinet documents, but the Government has agreed to provide those to the Auditor-General to assist with the audit.

**The Hon. DANIEL MOOKHEY:** Yes, I am aware of the procedures and the powers. The specific question was: Has the Premier waived privilege under the memorandum that gives her that power to produce all the documents that have been requested by the Auditor-General?

**Ms KATE BOYD:** No.

**The Hon. DANIEL MOOKHEY:** Which documents has the Premier withheld from the Auditor-General?

**Ms KATE BOYD:** No documents have been withheld, but no privilege has been waived.

**The Hon. DANIEL MOOKHEY:** So have all the Cabinet documents requested by the Auditor-General been provided to her?

**Ms KATE BOYD:** Yes.

**The Hon. DANIEL MOOKHEY:** When did that take place?

**Ms KATE BOYD:** I would have to take that on notice, but I believe it was fairly recently. The documents have been provided on a confidential basis, so privilege has not been waived in relation to the documents but they have been provided to assist the Auditor-General with her important work.

**The Hon. DANIEL MOOKHEY:** Thank you. I will pass back to my colleagues.

**The Hon. ROSE JACKSON:** I think that is me. I just have a couple of questions and then the Hon. Penny Sharpe might have a few, depending on how we go with the time. I was just wondering if DPC is still considering the unsolicited proposal to either sell or enter into a long-term lease of the heritage-listed 50 Phillip Street building, which is also known as the Chief Secretary's office building.

**Mr REARDON:** Just in terms of unsolicited proposals and the confidential nature of them, the proposal you speak of I am clear about. Whether it is on our website I do not know—

**The Hon. ROSE JACKSON:** It is on your website. I can assure you of that, Mr Reardon.

**Mr REARDON:** So its current status I will take on notice because I am not sure what I can provide—

**The Hon. ROSE JACKSON:** Well, I read on your website that its current status is that it is in stage two, which is intended to be finalised by quarter three, 2021—which is, of course, the quarter that we are in—and then there will be a recommendation as to whether to proceed to stage three. Is it still under active consideration as part of stage two? When is the recommendation in relation to stage three intended to occur?

**Mr REARDON:** Spot on. Word for word for what is on the website. I just caught up to you then, so—

**The Hon. ROSE JACKSON:** I can read.

**Mr REARDON:** Indeed. I just was not sure what was up there. So that is where it is up to. It is under active consideration and timing wise I will take it on notice because, look, there are a whole range of unsolicited



proposals they have there. But I will take it on notice and if I can give you any more information on that timing I will.

**The Hon. ROSE JACKSON:** Most, if not all, of the unsolicited proposals that are listed there relate to planning and development matters. I was wondering if you could clarify how the unsolicited proposal process that is managed by DPC relates to the planning process, in particular in relation to heritage matters.

**Mr REARDON:** So the unsolicited proposals are a commercial proposition that is put to us. It has to pass the limbs as you would be aware if you have read a bit of the website on uniqueness, value for money and a whole range of other considerations. Planning still does its planning approvals process. It can do some of that in parallel but it basically takes it on its merits as it sees fit, including any impacts on the environment and any impacts on heritage. So it does its normal job.

**The Hon. ROSE JACKSON:** And it passes that information to you, to DPC, who makes the final recommendations in relation to the project's proceeding? Is that correct?

**Mr REARDON:** No. It basically undertakes its own planning approval process and it stands on its merits.

**The Hon. ROSE JACKSON:** For example, in relation to the proposal at 50 Phillip Street, has the planning Minister expressed a view in relation to planning processes about that proposal?

**Mr REARDON:** They remain completely separate. The planning Minister may have. I do not know that myself but because the planning Minister and that cluster—Planning, Industry and Environment—have full jurisdiction to approve or otherwise a proposal, they may or may not advise us. We end up being basically a conduit for a proponent to put a proposition forward. If it meets certain criteria under unsolicited proposal guidelines, that is fine, but it then will be planning-assessed like any other proposal. So, whether the planning Minister is across this one, I do not know. It may not be appropriate for him to even express anything back to us. We are here to put forward a proposition that meets certain limbs that becomes a proposal or does not. If it makes it to stage two or stage three, it will then be planning assessed either in parallel or subsequently. Ms Boyd, do you want to add anything?

**Ms KATE BOYD:** No, I have nothing to add to that. That is exactly how it works.

**The Hon. ROSE JACKSON:** Would you be able to take on notice whether the planning Minister or representatives from DPIE, in particular heritage, have expressed a view in relation to the adaptive re-use of the Chief Secretary's office as a commercial hotel?

**Mr REARDON:** My best view would be that they absolutely would have expressed many views on it already and they would be consulted about it already. I will take on notice if that is the general view—are they consulted and where it is up to. What their view is might end up being a matter for them because ultimately they become the planning approver or otherwise. That is kind of a matter for them under the Environmental Planning and Assessment Act.

**The Hon. ROSE JACKSON:** Thank you. I will hand over to the Hon. Penny Sharpe.

**The Hon. PENNY SHARPE:** Ms Boyd, I realise that you have to go very quickly. I just wanted to get some clarity about who drafts the public health orders. My understanding was that Health had been doing them up to a certain date and then there is a role for you and DPC. Could you just explain to us how that occurs please?

**Ms KATE BOYD:** The process has been fairly consistent since the beginning of the pandemic. There is a range of agencies that participate in the drafting process—obviously Police, Health, DPC, the Department of Customer Service to the extent that they produce plain English guidance on the orders on their website. All of the legal teams in those departments participate in the drafting of the orders and the Parliamentary Counsel's Office undertakes the drafting on instructions from either DPC or Health, depending on where the instructions come from.

**The Hon. PENNY SHARPE:** Could you just clarify who gives the instructions? It does not come from you is the central point—is that what you are saying?

**Ms KATE BOYD:** If the decision were to emerge from National Cabinet or the Crisis Policy Committee of Cabinet, it would usually fall to the Department of Premier and Cabinet to lead on the instructions to Parliamentary Counsel, but if the matter was a Health matter—if the health Minister had requested a particular order, then Health may lead. There is a very consultative and collaborative approach and everybody is aware when instructions are going through for a new order.

**The Hon. PENNY SHARPE:** Just to be clear, they are funnelled through you, Ms Boyd.

**Ms KATE BOYD:** I am aware of instructions at all times, yes.

**The Hon. PENNY SHARPE:** And do the instructions then go back to the Crisis Cabinet for approval or are they more implemented after the decisions have been made in Crisis Cabinet?

**Ms KATE BOYD:** Yes, they are implemented after. In the main, yes.

**The Hon. PENNY SHARPE:** I think I am almost out of time. I will ask one final question to Mr Reardon, which actually goes back to some of the issues that were raised by Ms Abigail Boyd earlier about the poor tracking of a number of the Premier's Priorities. In particular, I am interested in the continuing increase in the number of vulnerable children who have been re-reported after the Department of Communities and Justice has closed their cases. Can you tell us what actions are being undertaken in relation to this?

**Mr REARDON:** Look, I have the status and baseline and target in front of me, and I have the current status. I do not have a whole range of commentary on actions for cure and rectification of some of those with me so I will take it on notice. I apologise. I do not have enough detail.

**The Hon. PENNY SHARPE:** No, thank you. As I have said, I know that COVID has dominated a lot of your work but given that your department is responsible for driving the achievement of that and, as I understand it, there is a full subcommittee of Cabinet et cetera that is about dealing with these, I am just wondering what interventions does your department make when it is clear that these targets are failing with an individual agency.

**Mr REARDON:** Sure. I can answer that more fulsomely. The Premier's Implementation Unit is to do exactly that: It is to go and look for more interventions, to think differently about it. If it requires budget supplementation, we will assist the cluster in doing that. You are right. They are business as usual and we get on with them, pandemic or otherwise, and they have been like that for years. As I said before, if they were easy, they would not be priorities, so they are very difficult. Some of them are going very, very well. Some of the Premier's Priorities are going very, very well. Hard ones—

**The Hon. PENNY SHARPE:** Yes, I am across those ones, but I am particularly interested in ones that really are not going so well.

**Mr REARDON:** Yes, I understand, which is why they are Premier's Priorities and we are held to account for them. So, you are spot on. The Premier's Implementation Unit works with each cluster, does it in a very collegiate fashion. There is no watchdog; there is no autocratic approach to it. It is very seamless. They do a lot of fieldwork. So, they get out and actually know how many homeless people are out there at any particular time. They do a lot of fieldwork with Bump It Up for Aboriginal kids undertaking the HSC. They do that across the domain. The ones that are really difficult—we continue to work with particularly the Stronger Communities Cluster. We will have to redouble our efforts in some of those if we are to achieve those targets, but they are well known. COVID has impacted some of them for obvious reasons in terms of some impact but, to be frank with you, there is always something happening in the world and we need to respond to them. They are targets. They have not moved in terms of the targets we have to reach and we have to do better than we are right at the moment on some of them.

**The Hon. PENNY SHARPE:** Yes, these are the difficult ones. I know that Ms Boyd asked about domestic violence and a few others, but with everyone in lockdown the concern very much from child protection workers, from teachers and from health professionals is that there are very few eyes on kids who are probably suffering from neglect and abuse under lockdown. The reporting issues are very strong. I suppose that is a long way of me saying: Are the Premier's Priorities going to have to be reviewed given the impact of COVID? I am particularly thinking about the NAPLAN issues. I am thinking about increasing rates of reoffending for domestic violence and obviously the increased reporting rates of vulnerable children. Is there a point in having a target that you are not going to meet? Are you going to have to review those?

**Mr REARDON:** The target will remain as it is at this point in time. The Premier will make up her mind about whether she wants to do anything. Culturally, holding on to the targets no matter what is in front of us has been a consistent approach since 2015 because it holds us to account. We push hard. You ask the difficult questions about what are you doing about achieving them and that, culturally, has sort of assisted us, I have found. At some stage, clearly the impacts of COVID—they are constantly monitored in terms of what is happening with mental health, with what is happening in homes where there are less eyes. That very comment has been made by the Stronger Communities Cluster. So, you are spot on.

The Premier will decide if she ever wants to change a target and advise us, but in the interim we just continue working with the cluster looking for new ways of achieving things as best we can. If something is going in the wrong direction, we try to put a cure in on it but there are two or three of them right at the moment that are difficult. We are held to account for them. They are not going as well as they should—not through the lack of

effort from the clusters, not through the lack of effort of putting resources towards it. People are working like you would not believe in those areas of domain, but they are in very difficult circumstances. They are having to do a lot of digital and online catch-up to deal with things that would have been far better dealt with out in community, as you would be well aware. So it is not easy but at this point in time—to answer your question—targets are remaining the same. Do we revise as we go through COVID? Absolutely, we do about interventions. There is no monopoly on good ideas, as I have said to you many times before.

**The Hon. PENNY SHARPE:** I also [disorder].

**The CHAIR:** We are into the crossbench time now. I will hand over to the crossbench.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, we have just had the disturbing news that there are 633 new local cases of COVID-19 in New South Wales in the last 24 hours. When will everybody in New South Wales who wants to get a vaccine have ready access to a vaccine? At what date will people be able to get that protection from their Government?

**Mr REARDON:** I can control what I can control. I will say a few things. Vaccine supply is coming from the Commonwealth. The Commonwealth, I think, have made lots of comments about bringing forward as much supply as possible. We are doing that into New South Wales. We have brought forth for a whole range of authorised and priority workers within south-western Sydney I think 100,000 over the last few weeks, and we are doing those right now. We have brought forth HSC students to get them back into education within south-western Sydney and western Sydney local government areas of concern. We have now just had another 530,000 Pfizer land to again go into priority areas. All that is going on while we continue to go on with the mass vaccination across the State.

At the current run rate, we are at 53 per cent first dose. The National Cabinet and the national plan advised on moving through certain phases—one at 70 per cent, another one at 80 per cent. On our current run rate we will get to 70 per cent and 80 per cent first dose in the fairly near future. We are going quite fast. You can track it daily as you see fit, we are going up about a percentage a day. The second doses by their very nature will follow either three or six weeks after that, so over the next few months we will be at a very high vaccination rate and looking towards those 70 per cent and 80 per cent vaccination targets. To your more micro point about when can everyone actually book in to get a booking for a vaccination, the place has been in the last month or two swamped. Therefore, we are looking to get as many people through as we can. Some are not as quick as we would want but with the supply we have had and the ramp-up we are having right now, I am confident we will get through fairly quickly, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, when will there be enough supply to meet demand? When are those two curves going to intersect? You must have some visibility on this. When are you expecting those two curves to intersect? What date?

**Mr REARDON:** We do but, to be frank, in the last few months—having more demand about two or three months ago than supply. We want to be awash with supply without a doubt, but actually having a very strong demand was not a given just three months ago because there was so much chatter about hesitancy, about who was going to take what type of vaccination. All those things are now set aside and the demand is very, very strong. We actually want the demand to stay very, very strong for the next couple of months for obvious reasons. The supply—I cannot comment for everything the Commonwealth does but they have given us extra doses. We get basically an allocation over several weeks in advance of Pfizer and AstraZeneca as base that goes through GPs, that goes through NSW Health. The 530,000 that we just received the other day is on top of that, so our supply issues are starting to be overcome. The Commonwealth have indicated that even more supply will come in September; therefore—

**Mr DAVID SHOEBRIDGE:** Mr Reardon, my question was the date. When are you expecting there to be enough supply to meet demand?

**Mr REARDON:** I do not know if there is a ready answer to that. If we had a perfect piece of paper in February this year and this was a far more orderly process at that point in time in terms of supply—at this point in time, Mr Shoebridge, operationally we are simply vaccinating 600,000 people a week and we will continue to do that. I do not think there is a ready answer to that. I understand the nature of your question if I was sitting there filling an empty train with people and how many customers to fill it, but we are right in the middle of it right now.

**Mr DAVID SHOEBRIDGE:** Well, Mr Reardon, is the issue now the delivery? This is why I am asking the question. Is the issue now constraints in the capacity of the State to deliver vaccines or is the reason why people cannot get a vaccine now because there is not enough supply coming from the Federal system? It is pretty straightforward [disorder].

**Mr REARDON:** I understand [disorder].

**Mr DAVID SHOEBRIDGE:** If you let me finish that will help Hansard.

**Mr REARDON:** I thought you had.

**Mr DAVID SHOEBRIDGE:** So, I will ask again. Is the issue here a lack of supply or bottlenecks in the service delivery? What is preventing everybody in New South Wales from getting a vaccine right now if they want it?

**Mr REARDON:** Capacities continue to increase and I do not know what maximum capacity that might be. All I know is how much supply comes along. So, to try and answer your question, every dose we get now is basically going into an arm without a doubt. If you say that that is still a supply constraint, possibly, but we continue—the reason it is difficult to answer is we continue to go up every single week and we have not gone backwards in it. So I can take on notice and give you some maths but we just continue to increase and that is the positive thing. The best thing we can all do is go and encourage everyone to be vaccinated and let NSW Health, GPs, pharmacists and other sorts of clinics that are in reach get on with their business.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, moving to a different subject, on 1 June 2017 Mr Chris Hanger, an executive director in the Department of Premier and Cabinet, wrote to Infrastructure NSW and said that following a request by the Premier they were seeking a reassessment of a business case for the Australian Clay Target Association. What role did the Premier have at that point in the project and the assessment of the project?

**Mr REARDON:** I really do not have detail. I would not know what role the Premier had but if I could hand this one to Ms Boyd.

**Ms KATE BOYD:** Sorry, Mr Shoebridge, could you repeat the last part?

**Mr DAVID SHOEBRIDGE:** On 1 June an executive director from the Department of Premier and Cabinet wrote to Infrastructure NSW and said that following a request by the Premier they were seeking a reassessment of a business case for the Australian Clay Target Association. How is it that the Premier had that role in seeking a reassessment? What was the Premier's role at that point?

**Ms KATE BOYD:** Look, I do not think it would be appropriate for us to comment on the substance of matters that are clearly currently under investigation by the ICAC. I believe this matter is one of them, so I ask that you defer any questions on that.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, I will not. I am going to ask again. What was the Premier's role on 1 June 2017 in relation to the Australian Clay Target Association's proposed grant for \$5½ million? Why was the Premier dipping her oar in at that point?

**Ms KATE BOYD:** I just refer to my previous answer.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, that is not an answer. The fact that something is being investigated by ICAC—and I am glad you are telling us that this is now being investigated by ICAC—does not prevent the Parliament from asking questions as well. Again, I ask you: What was the Premier's role on 1 June 2017 in relation to a \$5½ million grant of public money to the Australian Clay Target Association in Wagga Wagga?

**Ms KATE BOYD:** Look, in addition to the matters that I have raised, I am actually not aware of what the Premier's role was in that so we would have to take that on notice and consider an appropriate response.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, what, if any, documents were before the Premier at the time the Premier sought the assessment of the updated business case on 1 June 2017? What did the Premier have before her that motivated her to make that request?

**Mr REARDON:** I would not know and I would have to take it on notice.

**Mr DAVID SHOEBRIDGE:** Did the Premier at any point provide a statement indicating that there was a conflict of interest in relation to her role in this \$5½ million grant, given that the key proponent for this grant was Mr Daryl Maguire and at the time the Premier had a close personal relationship with Mr Maguire? Was there a conflict of interest declaration made by the Premier, given her role?

**Mr REARDON:** I would not know but I am happy if Ms Boyd has any comment to make.

**Ms KATE BOYD:** No. I mean, I would just repeat our previous answer that it is just not appropriate for us to pre-empt or undermine the ICAC's investigation. As you are aware, Operation Keppel is still underway and it just seems it would not be appropriate in this forum for us to give a response.

**Mr DAVID SHOEBRIDGE:** Well, Mr Reardon, I press the question. Again, I am glad that you have made it clear that ICAC is investigating this matter—I think that is important—but that does not stop Parliament from undertaking its role of scrutiny. Mr Reardon, again I ask you: Did the Premier put a conflict of interest declaration on the record given the fact that she was in a close personal relationship with Mr Daryl Maguire, who was the key proponent for this in the Government? Was that on record? Can you identify that?

**Mr REARDON:** I repeat Ms Boyd's response.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, why is it so difficult to answer fairly straightforward questions about whether or not basic conflict of interest arrangements were in place? And here we are talking about the handing out of \$5½ million of public money on a reheated business case in relation to a facility in Wagga Wagga. Why can't you just give us an answer on the record on this?

**Ms KATE BOYD:** Mr Shoebridge, I think these matters have been traversed with the Premier in public hearings before the ICAC and we will not go into those matters here. It would not be appropriate.

**Mr DAVID SHOEBRIDGE:** Ms Boyd, the Parliament has an obligation to oversight the expenditure of public money. In this case the Premier personally intervened to get a reassessment of a business case for a \$5½ million grant to a facility in Wagga Wagga, the key proponent of which in government was a person with whom the Premier had a close personal interest. These are budget estimates hearings. I think it is only right that you tell us whether or not a conflict of interest was ever declared by the Premier. This is not the Premier's money. It is not your money. It is the public's money and we deserve answers.

**Ms KATE BOYD:** Look, I cannot agree with the inferences that you have raised there. I am not aware of the relevant facts but if you would like to ask the Premier whether she declared a conflict I think that is a question for her. It would be inappropriate for us to provide that answer here.

**Mr DAVID SHOEBRIDGE:** I am asking whether or not the records of the State of New South Wales, the records of the Department of Premier and Cabinet, contain any record of a conflict of interest. It is well within your capacity to answer that, Mr Reardon. Do the records of the Department of Premier and Cabinet contain any record of a conflict of interest?

**Mr REARDON:** I do not know but I am happy to take anything on notice that I can. But I would repeat what Ms Boyd said about procedures underway elsewhere.

**Mr DAVID SHOEBRIDGE:** Have you taken that on notice, Mr Reardon?

**Mr REARDON:** If I can, I will. I will take it on notice and then I will take some advice on it.

**Mr DAVID SHOEBRIDGE:** Mr Reardon, there is a very short amount of time so I will just ask you one simple question about the local government elections. Has the NSW Electoral Commission or the commissioner of New South Wales sought additional funding to provide for postal votes for the local government elections?

**Mr REARDON:** He may have. He has not knocked on my door to do so, but he may have. Ms Boyd?

**Ms KATE BOYD:** Yes, we have received representations from the Electoral Commissioner foreshadowing that additional funding will be required given the postponement of the local government elections. I understand that the Treasurer yesterday replied to those representations and indicated that the Government would obviously provide the funding it required as a result of the postponement of the elections. It is now up to the Electoral Commission to provide more detail as to the actual funding required.

**Mr DAVID SHOEBRIDGE:** And is there a willingness in Government to provide whatever funding is needed including, if it is necessary in an emergency, for an entirely postal vote for the local government elections? Is that a commitment that has been made by the Government?

**Ms KATE BOYD:** Look, I think those questions are probably better directed to the Electoral Commissioner himself. He can provide more detail on what has been conveyed to him in that regard.

**The CHAIR:** Mr Reardon and Ms Boyd thank you for your attendance. The Committee secretariat will be in touch with you to follow up on the questions that were taken on notice. Thank you to the Committee. We will now break and return at 11.45 a.m.

**(Short adjournment)**

**(The witnesses withdrew.)**

**PETER HALL**, Chief Commissioner, NSW Independent Commission Against Corruption, sworn and examined  
**PHILIP REED**, Chief Executive Officer, NSW Independent Commission Against Corruption, affirmed and examined

**ROY WALDON**, Executive Director, Legal Division and Solicitor to the Commission, NSW Independent Commission Against Corruption, sworn and examined

**JOHN SCHMIDT**, NSW Electoral Commissioner, NSW Electoral Commission, affirmed and examined

**The CHAIR:** Thank you all for joining us today. We will start off our questions with the Opposition.

**The Hon. DANIEL MOOKHEY:** Thank you to all the commissioners and associated personnel for your appearance today. I might just direct these questions to the Chief Commissioner of the ICAC. How many referrals have you received from government agencies in the past financial year?

**Mr HALL:** I am afraid I will have to take that on notice. I do not have the figures readily to hand.

**The Hon. DANIEL MOOKHEY:** Okay. On notice, are you also able to provide us with references you have received from the police as well? If you can isolate that particular piece of information that would be useful, and any other general statistics you can would be most useful.

**Mr HALL:** Very well. We will check our records and let you know.

**The Hon. DANIEL MOOKHEY:** How many referrals are still at the preliminary assessment stage?

**Mr HALL:** I cannot give you an exact number but I think it is of the order of about eight or 10. Perhaps Mr Reed, I do not know whether he is able to assist on that one. But, again, we would need to check our records, which are readily available.

**Mr REED:** Philip Reed here.

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

**Mr REED:** Can we just clarify. That was referrals that are still being assessed, was it, that you were asking about?

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

**Mr REED:** As distinct to matters that have become our preliminary inquiries. I think that is where—

**The Hon. DANIEL MOOKHEY:** Well, let us break it down by stage. If we can get the information as to how many are being preliminarily assessed and how much have proceeded beyond that stage as well—

**Mr REED:** So, to the end of 2020-21 we assessed 2,916 matters and we commenced 16 preliminary investigations, four SIRU preliminary investigations and seven new full operations. We will get you those figures, but that gives you the figures to the end of 2020-21.

**The Hon. DANIEL MOOKHEY:** Thank you. That is very useful, Mr Reed. Can I just ask you about some specific matters that have been identified to the Parliament and are in the public domain. I want to start with, firstly, the Government or Transport for NSW's acquisition of 4-6 Grand Avenue, Camellia, for the purposes of the construction of a light rail stabling yard. Are you aware of that particular matter?

**Mr HALL:** Yes, I am. It has been referred to us. It is not a matter that I think I should be discussing, however, at this estimates Committee as it is a current investigation.

**The Hon. DANIEL MOOKHEY:** Sure, of course, but I was just seeking whether or not you had seen the finding by the Auditor-General.

**Mr HALL:** Yes. I have read the—

**The Hon. DANIEL MOOKHEY:** The first finding.

**Mr HALL:** I have read the complete report of the Auditor-General, yes.

**The Hon. DANIEL MOOKHEY:** Yes. Are you able to provide us any information as to where that is up to in your assessment process or are you not able to provide that information?

**Mr HALL:** No, I am not in a position. I could but I cannot because of the secrecy provisions.

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

**Mr HALL:** However, I can say that—sorry, it is a matter that, as you know, has been referred to us. I have spoken to the Auditor-General about the matter. We have had a meeting about it. We have a program that is in place for the matter to be progressed. I think beyond that I really am not at liberty to disclose as to where we are at precisely in the matter. Not wanting to be difficult about it, but I think you understand my position.

**The Hon. DANIEL MOOKHEY:** Chief Commissioner, I do. I will not press you any further on that particular matter other than: Do you have—and you do not need to tell me what this is if do you—a timetable for when you feel like you will have completed your assessment of that matter or can you provide us any guidance as to how much time you think it might take before you reach those decisions?

**Mr HALL:** Of course, we have our key performance indicators [KPIs] for by which time various stages have to be achieved unless they have to be extended. No, I am not in a position to be able to say when our inquiries at this stage will reach the current conclusion of the present stage. It is a matter which is the subject of the commission's attention and the time is a matter about which I am not in a position to give you any specifics.

**The Hon. DANIEL MOOKHEY:** Thank you, Chief Commissioner. Just turning to another matter, in the February budget estimates hearings it was established that the Department of Planning, Industry and Environment [DPIE] had made a reference to ICAC about planning processes affecting Rhodes East. Do you have recall of that particular matter?

**Mr HALL:** Sorry. Affecting planning of what?

**The Hon. DANIEL MOOKHEY:** Rhodes East. Planning matters affecting Rhodes East.

**Mr HALL:** Rhodes. Sorry, it is Rhodes streets, did you say?

**The Hon. DANIEL MOOKHEY:** Yes, Rhodes. R-H-O-D-E-S.

**Mr HALL:** Yes. I am aware of a matter concerning the Rhodes area. I am not sure whether it is the same matter that you are interested in.

**The Hon. DANIEL MOOKHEY:** Well, it is to do with the planning process or the priority precinct process to do with Rhodes East. Firstly, from public hearings that ICAC has already held I infer that you are looking at various matters to do with, I think, Rhodes West or Five Dock, which is not too far from it, which might be but this is a separate matter. It is to do with the involvement of a particular developer and MP around the planning processes of Rhodes East. Does this spark any recall?

**Mr HALL:** No, that is not enough information for me to be able to pinpoint it. We have a number of matters which come and go that we assess. I think you are asking for details about current matters. I am not in a position to provide in-house information as to various stages that we are at in different inquiries.

**The Hon. DANIEL MOOKHEY:** Chief Commissioner, I am not going to push you if you feel like you are not in a position to provide the information. If you are able to provide any information about where that particular matter is in terms of the assessment process given that, firstly, it has surfaced in Parliament and, secondly, it has surfaced in the public and the third question—I will ask you those two questions first before I ask you the third of that, because the third is more about policy than a particular matter.

**Mr HALL:** I'm sorry. Is that a question?

**The Hon. DANIEL MOOKHEY:** Yes. I am asking: Are you in a position to provide us with any information as to how long it will take you to assess that particular matter?

**Mr HALL:** I will take that on notice. We will have a look at our records. If we can provide you with any information once we have properly identified the matter you are referring to, we will provide it if we can.

**The Hon. DANIEL MOOKHEY:** Is it your policy to return a matter to the department or an agency that has referred it to you for them to undertake their own investigation into a matter?

**Mr HALL:** In some cases we do that. It depends on the factual circumstances of a matter. It may also depend on whether we are satisfied that the agency has the investigative capacity to do a proper investigation. But there is always a request to report back and provide us with the outcome of those investigations.

**The Hon. DANIEL MOOKHEY:** And what policies or procedures do you have in place to prevent a conflict of interest by that department affecting its investigation?

**Mr HALL:** We would examine whether or not, for example, any persons, being public officers of DPIE who may have had some involvement in decision-making or any material involvement in the matter, would be certainly a matter which would weigh heavily against referring it to the referral. Yes, we do have a policy that if

there is a conflict of interest we would not leave the matter in the hands of the agency. I am talking in very general terms, you understand.

**The Hon. DANIEL MOOKHEY:** Sure. The scenario in which the department itself feels like its staff may have been subject to either a corruption risk, or themselves have engaged in forms of corruption, is it appropriate for them to be investigating their own staff and their own conduct?

**Mr HALL:** It depends what the allegations are. If it was an allegation of serious corruption then it would obviously not be appropriate for it to be left with the agency. We would be duty bound to take it on initially by way of assessment and then preliminary investigation and so on.

**The Hon. DANIEL MOOKHEY:** In respect to that policy of returning matters to an agency to investigate itself, have you done that in respect to referrals received about Insurance Care NSW, otherwise known as icare?

**Mr HALL:** I will take that question on notice. I may or may not be able to provide you with information.

**The Hon. DANIEL MOOKHEY:** On notice, are you also able to tell us how many references you have received, or the ICAC has received, about icare in the last three years and what the outcome of each assessment was?

**Mr HALL:** We are in a position to provide figures. Those matters have been, as it were, segmented and dealt with significantly over time. I will be able to have our files checked to see if we can provide you with the information you are after.

**The Hon. DANIEL MOOKHEY:** I just want to ask you—

**Mr HALL:** I am sorry, I was just about to say there were quite a number of matters arising out of that agency.

**The Hon. DANIEL MOOKHEY:** There were. I agree with you. I want to ask about two specific ones and allow you to reply to, effectively, what icare has told the Parliament and hear your view of it, to the extent to which you are able to. The first is in respect to a decision to award a contract to a company secretly owned by a staff member of icare and his son for which—to be fair to icare—it referred to you. The correspondence that has been tabled in Parliament shows that you returned the matter to them to investigate. Firstly, does that prompt your recall? Are you aware of that matter?

**Mr HALL:** No, I do not recall the matter. Mr Mookhey, I do not want to cut across your line of questioning but some of these questions are directed to specific matters that the commission is either currently dealing with or has recently reached a final stage or an interim stage on. I am just simply not in a position, and I do not know whether an estimates hearing is the appropriate forum to be digging into the facts of particular cases. I have a reluctance to go there for the reason—

**The Hon. DANIEL MOOKHEY:** Commissioner, I will, of course, respect the boundaries that you said, but in respect to this particular matter it has been completed, and what I was going to ask you, certainly according to icare and certainly according to the evidence that they have given to the Parliament, and equally according to them the matter was completed in 2018, I would ask you to respond to, if you can—not to go into any details about any particular investigation—but they have said publicly that, having not heard from ICAC, that they therefore infer that there is no corruption risk and no further action is warranted. Is that an appropriate statement for an agency to be making?

**Mr HALL:** I am not going to comment on that.

**The Hon. DANIEL MOOKHEY:** Fair enough. In respect to the other icare matter, were you asked to investigate the circumstances in which the CEO of icare awarded a contract to his wife?

**Mr HALL:** I am not in a position to divulge that sort of information.

**The Hon. DANIEL MOOKHEY:** Fair enough. Is that particular matter that you referred back to icare to investigate itself?

**Mr HALL:** Again, Mr Mookhey, the provisions of our Act—the Independent Commission Against Corruption Act—simply stand like a roaring lion in the face of your questions, I am afraid. I am not at liberty to be imparting information on particular cases.

**The Hon. DANIEL MOOKHEY:** Mr Chief Commissioner, is a lack of resources ever a factor which may lead ICAC to return a matter to an agency to investigate itself?



**Mr HALL:** Yes, it is frequently a matter we have to consider, take into account, along with a number of other matters as to whether we should handle the matter or whether we should not. And if we are not going to deal with it, what is the appropriate course to follow. But resources certainly is always an issue.

**The Hon. DANIEL MOOKHEY:** Yes, and in respect to the 2,000-odd matters that have been referred, are you in a position to provide us any information about how many of those matters have to be returned to an agency to investigate itself due to a lack of resources?

**Mr HALL:** That might be difficult because, as I said, the reason we might refer it back to an agency could be a combination of reasons. Resources may be one but it may not be the overriding reason we are sending it back to the agency. I think it would be difficult for us to get statistics on those specific matters. We can give a certain amount of information about referrals, statistic information.

**The Hon. DANIEL MOOKHEY:** Yes. I am just picking up on what you said. Chief Commissioner, you said that it was a frequent reason. Are you able to expand on that or provide any explanatory detail about that?

**Mr HALL:** It depends upon whether or not the matter is going to be resource intensive or whether it is not. It would depend upon what our capabilities are resource wise. I am talking now about funding, how we can best use and deploy limited funding resources. Obviously a matter that is suggestive of a serious corrupt conduct, which is the area, or systematic corrupt conduct, which are the areas that we are particularly required to deal with, those matters would be unlikely to be referred back. But, again, we would need to determine how best to handle it from a resource point of view so that we do not disrupt the timetable and program for other matters. It is a balancing act and, as I have said before, resources is an issue we do consider. It may be a problem, it may not be, depending upon how much funding we have got available at any given time, the seriousness of the matter or if the matter is not regarded as serious—whether it is a low-grade matter. These all go into the mix in deciding, case by case, whether we refer it or whether we do not.

**The Hon. DANIEL MOOKHEY:** Chief Commissioner, are you currently facing resource constraints?

**Mr HALL:** There are always resource constraints—always.

**The Hon. DANIEL MOOKHEY:** Is the order of magnitude of those constraints greater or lesser than usual?

**Mr HALL:** I am sorry, could you repeat that?

**The Hon. DANIEL MOOKHEY:** Is the order of magnitude of your current resource constraints greater or lesser than usual?

**Mr HALL:** I can say it is probably lesser than usual at the moment. That is largely due to the COVID impact on our capacity to operate in the normal way so hence we are not consuming and using our financial resources at the same rate to the same extent as in normal times. It does not mean that we are not active. We are active but not to the same level as normal.

**The Hon. DANIEL MOOKHEY:** Have you made any request for any supplemental resourcing in the last 12 months?

**Mr HALL:** In the last 12 months? Mr Reed might have a better recollection.

**The Hon. DANIEL MOOKHEY:** Have you made any recent requests for supplemental resourcing?

**Mr HALL:** Not that I can think of.

**Mr REED:** I can answer that question. We sought, through the budget process for 2021-22, \$8 million from the Government as additional appropriation funding. We received \$5.6 million from the Government as additional appropriation funding and that is what we are operating on at this point. Last financial year we sought \$4.9 million and we received in two chunks that \$4.9 million during the course of the year, which has meant that we have not sought supplementary funding in the last financial year and we are at the beginning of this financial year.

**The Hon. DANIEL MOOKHEY:** Were you provided the reasons why the full \$8 million was not granted? That is for Mr Reed, I presume.

**Mr REED:** No, is the short answer.

**The Hon. DANIEL MOOKHEY:** Did you have that interaction with Treasury or with Premier and Cabinet?

**Mr REED:** We submit our bids—so-called parameter and technical adjustments—through Treasury. We get advice back from Treasury. We may then get correspondence from the Department of Premier and Cabinet as to the outcome, but we find out directly from Treasury what is actually going to be put into the budget for any one financial year in the forward estimates as well after it has gone through the Expenditure Review Committee process et cetera.<sup>1</sup>

**The CHAIR:** We will come back to this line of questioning. It is crossbench time.

**Mr DAVID SHOEBRIDGE:** Thank you all for your attendance and your work throughout the year. It is much appreciated by all of us. Whilst we are on the question of funding, it might be useful to ask you, Mr Hall and Mr Schmidt, about the joint letter that was sent between the three agencies I think on 15 July this year to the Government concerning, the description is, "the negotiations about an independent funding model". Mr Hall, could you give us any context for that letter and, Mr Schmidt, if you might follow up?

**Mr HALL:** Mr Shoebidge, I could go on at some length but I will try to keep it as tight as I can. The position has been made clear that funding under the present arrangements is not only not satisfactory or appropriate but it is not in accordance with law. Though, extraordinarily enough, the Executive Government has been involved in determining the funding of the commission for close to over 30 years now, it was not until last year that it was identified that there is a serious question as to the legality of the Executive Government being involved in the processes that lead to the funding decisions by Parliament in the appropriation and in relation to supplementary funding.

That legal position has been unchallenged. It is to be taken as the correct statement of the law, and that is to say that the funding of the commission should be done, and is the responsibility of, the Parliament. That position has been consolidated by the Auditor-General's report given later in October of last year, which has highlighted the problems associated with it, in particular, the risks posed to the independence of the commission—and I could elaborate on the way in which those risks have come home over time, and do impact on the commission's capacity. It is a serious public interest issue. The Government said that they would consider the Auditor-General's report, along with the PAC report, in determining its response and to that end we were advised that Minister Harwin was conducting a review.

The review, as we understand it—and we do not have much information about it—has been ongoing now for some time. Mr Waldon and Mr Reed have met on a couple of occasions with ministerial advisers to determine the parameters of this review and where it is going and how we can assist. It was of some concern to us that this whole review—this issue—that has been thrown up by the Walker opinion and the Auditor-General's report be conducted on a basis that does recognise not only that Parliament has a role but it is responsible for what Mr Walker determined in planning and implementing a parliamentary solution. We are concerned as to whether that is going to come to pass; we were not encouraged by the two meetings we have had with ministerial advisers that that was a matter in focus in the course of this review.

The commission has its particular concerns over that matter. It wants to ensure that the review does proceed along a pathway that does indeed lead to a new approach to funding but one in which the Parliament and not the Executive plays the role in funding the commission. We have some issues in common with our brother or sister independent agencies—in particular the one Mr Schmidt is here today representing—because issues we saw did constitute common ground between the agencies and that we ought to make it known to the Government that we share a concern to ensure that any review of the current arrangements is in accordance with principle and will serve the public interest of the independent agencies.

It is important, I think, to emphasise that the funding of the commission from our point of view is a matter that has to be ultimately one in which the Parliament is centrally involved in the processes that lead both to preparation, remuneration or appropriation of resources as well as supplementary as necessary, given the eligibility of the work we do. There has not been recognition, I think, over the last 30 years as to why funding has just gone off the rails for the ICAC and that is that we are, and the other independent agencies are, what can be termed "parliamentary agencies". That phrase is not often used. In fact, it is never used but it has been used to emphasise the independent status of these bodies involved [inaudible] in them.

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<sup>1</sup> In [correspondence](#) to the committee received 9 September 2021, Mr Philip Reed, Chief Executive Officer, NSW Independent Commission Against Corruption, requested a correction to his evidence by removing the word "may", and by replacing the words "Department of Premier and Cabinet" with the words "Secretary of NSW Treasury".

So that is a long way of saying, Mr Shoebridge, that it is absolutely critical that any review of the current system of funding does not produce an outcome whereby the form, or some changes are made to it, but the reality is that the principle I have been referring to are not given a fair [inaudible] consistent with the Government and the Premier in particular—and the Premier has, thankfully, agreed to meet with the agencies jointly so that this matter can be discussed. We do not want it in a position whereby outcomes are decided without us being able to understand the direction it is taking.

**Mr DAVID SHOEBRIDGE:** Thanks, Mr Hall. I really do appreciate that detailed consideration, given the lengthy history. It basically would come as no surprise to you that, as Chair of the Public Accountability Committee, I would be very, very keen to see this reach a conclusion sooner rather than later which would put parliamentary sovereignty over Executive sovereignty. Mr Schmidt, did you have anything to add to that?

**Mr SCHMIDT:** If I could just add a couple of comments. My views have been made plain before various parliamentary committees that the current funding arrangements are not fit for purpose. Having gone through the most recent budget round of bids, where we had mixed but ultimately serious lack of success in important matters, I believe this is a matter which must be resolved. We have your Committee's report, we have got the Auditor-General. As for the approach to the Premier about the meeting, obviously time was in the correspondents' minds with the date for the response to be tabled.

I had had some preliminary conversations with both the Premier's and Mr Harwin's office but I think the general feeling between the agencies—and I am speaking on my own behalf here—was that it would be good to have a chance to put our views directly to the Premier because it would be far better to try to canvass and clarify issues directly from us prior to the Government going out and nailing its colours to the mast, as it were, only to have us come back with serious misgivings. Here's hoping that that meeting proves to be the start of a constructive dialogue.

**Mr DAVID SHOEBRIDGE:** Is there a date for that meeting? As I understand it, the deadline for a response has now been moved to 29 October this year. Has a date been set for the meeting with the Premier?

**Mr HALL:** I can answer that. Yes, we have an appointment to see the Premier on 21 September next and hopefully that will be timely enough to ensure that we have been adequately heard and the representations we make are given serious consideration. Could I just add one matter, and that is this: So far as the funding of the independent commission is concerned—speaking now the commission—it is plain that the designation that I referred to earlier as "parliamentary agency" that we are a parliamentary agency. That designation is in the WA Inc royal commission report. It was written by Sir Ronald Wilson, who was a highly esteemed judge for many years in the High Court of Australia, and Justice Kennedy, who was a highly regarded member of the Supreme Court of Western Australia.

It was their words, that that designation that an anti-corruption commission they were addressing is a parliamentary committee in three important senses: firstly, appointments to the anti-corruption commission; secondly, and I use their words in quote, "in their funding"; and, thirdly, Parliament receiving their reports and recommendations. The commission was established by the Parliament. The commission is responsible, is accountable, to the Parliament. The commission is obliged to provide its reports to the Parliament and it is the Parliament that has the power under the Act to fund the commission, which it does. The Parliament should not be shouldered out of the way of the processes that lead to proper funding of this commission in the public interest, the public interest being the paramount consideration as the terms of the Act reflect.

The Parliament has to be right in front and centre of any review; whether commences by way of a joint parliamentary committee or however it is done, it has to be done. So they are aspects that I think need to be considered in the course of this review not only as to what should be done but how it should be done, and that is my concern that we do not end up in the situation, heaven forbid, in another 30 years' time and somebody else says, "They identified the problem back in 2020-21. They thought they fixed but they didn't. We are still here with an independent commission meant to be protecting the public interest, however, it is still subject to the control and influence from the Executive Government"—something the founder of the commission in the Parliament, Mr Greiner said "should not, cannot happen." That is why this matter has risen to a higher level by way of a joint representation to ensure this matter stays on course and is dealt with properly in the public interest.

**Mr DAVID SHOEBRIDGE:** Thank you, Mr Hall. It is hard to see how you can have genuine statutory independence if you are subject to financial strictures from those you are oversighting. That is a much longer discussion point. Could you provide to the Committee the correspondence that you sent?

**Mr HALL:** Yes, that will be done.

**Mr DAVID SHOEBRIDGE:** Thanks very much. Mr Schmidt, we heard from Mr Reardon that you had some good news yesterday from the Treasurer about a funding request that you had made in relation to local government elections that had been agreed to. Can you shed any light on that?

**Mr SCHMIDT:** Yes, thank you, Mr Shoebridge. I know you specifically referenced postal voting. If you would bear with me for one minute, I just want to put it on the record—and this is not meant to be a criticism of government or councils or any parties or Independents in the Parliament because I know a range of views have been expressed on this issue—in July last year I wrote to the Government recommending that the local government elections be held in a fully postal fashion, supported by internet voting to a limited extent if it could be arranged in time. The decision was taken to continue with the arrangements in the legislation as they are now with in-person voting, supplemented by postal and internet voting.

Part of the reason I asked for that was because—and this goes back to some of my perennial problems—the nature of my election systems mean that I cannot rapidly pivot from one form of election to another so a significant period of time is required. If I was going to move from a mixed-channel local government election to full postal, I estimated at that time it would take 12 months so the elections were postponed for 12 months. A full postal election also requires significant logistical engagement with the providers of the service—the printers, the fulfilment, which means putting the postal packs together and sending them out. There are limited providers in Australia who do that. So existing contracts would have to be renegotiated. Another element, of course, with postal voting is if we move to full postal voting the legislation has to change. It is open to any member of Parliament to bring a bill forward to introduce full postal voting—I will not pursue that any further.

In the absence of a legislative change, I am required to offer in-person voting. The elections will fail unless I do so and as part of that I will continue to provide postal and internet voting. It is too late now to move in December to a full postal vote. It just cannot be done in that time. I also, with my current ageing electoral systems which I received no money for in the budget to correct ongoing problems, cannot run simultaneously a full postal election in some councils and mixed-channel elections in others. Our system cannot cope with that and would potentially fall over. I cannot run State by-elections while I am running a full local government election because my systems cannot maintain that and could potentially fall over.

There is a risk, of course, with COVID that there may be further issues with the December local government elections. I am looking at alternative scenarios which would potentially push into next year. Of course, now we run into the problem that we are preparing for the State general election with my ageing systems, which cannot rapidly shift from one to the other, with a limited number of subject matter experts who I cannot convert to ongoing employment because I cannot get funding to convert them to ongoing employment. So I will work to look for options for reform, but the Government has given me comfort in the letter that additional money required to make preparations for the local government elections will be made available, and of course I will have to provide details in due course of what that might look like, but I can proceed on that basis. I just wanted to give you a little bit of a flavour of the challenges that I am dealing with at the moment.

**Mr DAVID SHOEBRIDGE:** Mr Schmidt, that sounds—I am trying to think of a polite adjective to attach to it—troubling, is the summary I would take from that. Maybe we will go back to first principles. Have you been able to get some clear public health advice about whether or not it is likely to be safe to have people attending polling booths across New South Wales in the first week of December? Have you got written public health advice that assists you with that?

**Mr SCHMIDT:** We have a working party with Health and other agencies—Education, police et cetera are represented on that. I have not asked for written advice as to a projection, as it were, at the first week in December or the two weeks leading up to that because of early voting. In light of the current fluid nature of the discussion, I am not sure what advice Health would be able to give me. But the ultimate point is, regardless, if I am providing elections I must do it within the confines of the legislation as it currently is. It would be good if there were some COVID-specific provisions which were in various bits of legislation which have now lapsed which allow flexibility about extending times, changing approaches to the extent that they can be accommodated. But, again, there is no legislation currently before the Parliament. I think there might be a bill in the lower House which came down from the Legislative Council just before the recess which has some of those elements in it.

**Mr DAVID SHOEBRIDGE:** And which the Government has refused to—

**The CHAIR:** It is now Opposition time for seven minutes.

**The Hon. PENNY SHARPE:** Mr Schmidt, thanks very much for coming in. You have obviously just outlined some really significant issues in relation to the constraints in trying to run a statewide local government election. I want to ask about a couple issues. The first one is obviously we have indications that you have had a letter from Treasury saying, "Yes, we will provide money." I assume there is no quantum for that?

**Mr SCHMIDT:** Not as yet, no.

**The Hon. PENNY SHARPE:** I also assume that you have made previous requests in relation to the cost of postal voting and the cost of iVoting. Are you able to provide us with some information about that?

**Mr SCHMIDT:** Are you asking cost if we move to full postal/iVoting?

**The Hon. PENNY SHARPE:** Yes, and obviously we have not even touched on cybersecurity issues, which we may get to in my seven minutes. These issues are not new. You have indicated that you have written to the Government previously about it, but it sounds to me that you are still at step one in terms of "Yes, we will give you some money", "How much do you want?" I am asking you what do you need and what have you asked for specifically in relation to postal voting and iVoting?

**Mr SCHMIDT:** When I made my recommendation in July last year about a full postal/iVote election, I predicted—I cannot think of the exact figures but there would have been significant savings—some tens of millions of savings if we did not have in-person voting. On top of that, of course, since the pandemic has expanded, we have received all the money that we have asked for for the local government elections. We received an extra \$37 million for COVID safety measures and, as we discussed just a moment ago, I will be going back and seeking an additional amount of money, which will be, I suspect, some tens of millions of dollars to aim for using the current channels for voting in the beginning of December.

**The Hon. PENNY SHARPE:** Just to be clear: Without legislative change, it is postal votes, plus iVotes, plus in-person?

**Mr SCHMIDT:** That is correct.

**The Hon. PENNY SHARPE:** Of course the issue, if there were to be any changes, is the Parliament is not currently sitting, which makes passing legislation fairly difficult—

**Mr SCHMIDT:** Just to clarify, even if legislation was passed now when Parliament resumes in September, it is too late to shift my systems from the current configuration to a full postal.

**The Hon. PENNY SHARPE:** How long would it take you? I am sorry if you have answered this earlier, but how long would it take you to move to full postal?

**Mr SCHMIDT:** We predicted it would take approximately 12 months when we gave advice in July last year. I believe it could be done in a shorter time frame but I do not know what that is as yet. But also, it may well be just purely logistically with the system capacity and the ability of service providers to do the fulfilment for the postal packs going out et cetera, even then we might have to split the election into tranches to cover the entire State, which is obviously eating into more time in the coming calendar year, at the same time as gearing up for the State general election. So there are a number of challenges inherent in that proposal.

**The Hon. PENNY SHARPE:** Yes, extremely challenging. Can I clarify if the elections had to be delayed, based on what you have just said, there is no way you could run them all on 4 December. Again, that requires a change in the law, doesn't it?

**Mr SCHMIDT:** My understanding is that if these elections—and I am not giving you legal advice—

**The Hon. PENNY SHARPE:** No, no. I am not asking that, but I just feel you would probably have the best idea of anyone here.

**Mr SCHMIDT:** My belief is if these elections were to fail—in the sense in which that word is used for the local government legislation—it then falls to the returning officers to set the new dates. There is a time frame—it might be three months—within which the new date would have to be set. It would be a very challenging process because one would assume there could be further failures so you would have a rolling sequence of events and delivering elections in those circumstances would have its own challenges.

**The Hon. PENNY SHARPE:** Given all of those things—which, can I just say, are very troubling—what do you advise needs to be done to ensure that we can have elections for local government?

**Mr SCHMIDT:** At this stage I would prefer to keep my own counsel because I am still considering the options and meeting with the Office of Local Government senior officials to talk about options. So I would beg your indulgence on that for the moment.

**The Hon. PENNY SHARPE:** It is all right. I will not press you too hard. Clearly, there are no good options here; it is all very difficult. I accept that. In terms of the redistribution for State electorates, my understanding is that that is due any time now. Can you give us the time frame for that, please?

**Mr SCHMIDT:** Yes, the determination is scheduled to be given to the Governor on Friday and then it is out of the panel's hands and it is a matter to go through the process of gazettal et cetera.

**The Hon. PENNY SHARPE:** My final question is: Will you take on notice how much you think it will cost and what you have previously asked for in relation to dealing with the full postal ballot?

**Mr SCHMIDT:** To the best that I can, I will.

**The Hon. PENNY SHARPE:** That's fine. That is the end of my questions. Thank you, Mr Schmidt.

**Mr DAVID SHOEBRIDGE:** Commissioner Schmidt, I have a few more questions about the local government elections. You are caught in an almost impossible situation, aren't you? If the legislation requires you to have polling booths open for a particular date that does not have any allowance for taking into account the public health orders and the nature of the pandemic at that time. Can you talk us through that problematic conflict.

**Mr SCHMIDT:** Just more context, one of the issues which influenced me in seeking the three months' deferral as it is the basic issue of getting in the temporary workforce we need. We are having additional polling places to enable there to be social distancing and that is good but it does not work if, through fear, people decide not to take up that employment opportunity for that period. I am sorry, I have lost my train of thought for the rest of your question.

**Mr DAVID SHOEBRIDGE:** It was the fact that the Local Government Act, which I think is the primary Act that deals with the elections for local government councillors, does not have any reference to the Public Health Act and the public health orders and even if there is a pandemic crisis you may be statutorily compelled to open up polling booths and allow people to come out in public and vote, even if the public health advice says that is a very bad idea.

**Mr SCHMIDT:** There are provisions in the local government regulation about a polling place failing to open, and that includes health concerns as well. What would happen is if a polling place fails to open, then if it is in a ward the election for that ward is held over—I forget the period of time—and, similarly, if it is an undivided council the election is held over again. I suspect if you did not reopen within the statutory or the regulatory time frame the election would be considered to have failed and would have to be held again. But in the absence of that we have to offer in-person voting.

**Mr DAVID SHOEBRIDGE:** And encouraging people, on one level, to come out to vote when all of the public health messaging is "Stay at home" that conflict must be almost impossible for you to try to resolve?

**Mr SCHMIDT:** It is a difficulty and also we cannot of course, even though the categories for postal vote have been widened—I think it now includes an apprehension of COVID-19 risk—at this late stage push everybody into that stream because logistically there we would have failures. Internet voting is only being arranged for a certain capacity and some people are more comfortable with postal; some people are more comfortable with in-person voting. These are challenges which we face.

**Mr DAVID SHOEBRIDGE:** Commissioner, you first alerted the Government to these very real concerns in July of last year by correspondence. Could you provide the Committee with that correspondence?

**Mr SCHMIDT:** Yes.

**Mr DAVID SHOEBRIDGE:** If the Parliament was to return in the first week or so of September and make an emergency provision for a postal vote to allow you to undertake a statewide postal vote for local councils and then provide a timing that would allow that to actually happen, can you give an indication about what sort of time frame you would need, or envelope you would need, to have that workable?

**Mr SCHMIDT:** I would have to come back with that information. I could come back to the Parliament if such legislation came forward. For it to work, the Parliament would really—and this is not my role—if I were drafting it really has to give the Minister for Local Government, I think, the authority to make some determinations about dates and channels and are fairly open, obviously COVID emergency, COVID limited. And that decision would be in consultation with myself and we would have to work out an appropriate time frame.

**Mr DAVID SHOEBRIDGE:** I think I will try to work my way through to get a time frame out of that, Commissioner. Do I understand at the moment that if the COVID-19 situation continues and there continue to be real restrictions on the ability and willingness of people to come out to polling booths that there is a real likelihood that the December local council elections could fail in all or part of the State?

**Mr SCHMIDT:** If I am unable to open polling places then elections could fail. If people are unwilling to turn out there is no minimum requirement for the number of people to vote at a particular election but whether the Court of Disputed Returns—in this case, I think it is the Land and Environment Court—whether that would

be a legitimate election would be a matter for others to consider. But obviously participation is something—we are here to promote democracy; we want people to participate.

**Mr DAVID SHOEBRIDGE:** One of the potential outcomes is we have a local council election in December where we have a minority of voters to attend and then a world of political and legal uncertainty that flows from that. That must keep you awake at night, Commissioner.

**Mr SCHMIDT:** I have a number of things that keep me awake at night.

**Mr DAVID SHOEBRIDGE:** To be clear, is it your best advice that the thing to do would be to empower an emergency postal vote, if needed, and have a legislative framework and resourcing necessary so that that can be implemented if that is the only safe way of holding a local council election?

**Mr SCHMIDT:** I think that would be a sensible fallback to have in place to such an eventuality, yes.

**Mr DAVID SHOEBRIDGE:** Do you have any indication of what kind of additional funding would be required to enable that to be delivered through your commission?

**Mr SCHMIDT:** There are two elements to that. One, I am not saying it would save money because of sunk costs to date with running the preparations, which are sunk costs for the deferred and postponed elections to date, but the cost of running a full postal is not as great as an attendance vote. So that may be something. But my bigger concern then begins to swing towards what capacity I need to build up almost a shadow operation within the commission to ensure that I can continue the necessary preparations for the State general election at the same time. So there are a few factors at play there.

**The CHAIR:** That concludes crossbench time. Do Government members have any questions? No. I thank you all for your attendance. Thank you Chief Commissioner Hall, Commissioner Schmidt, Mr Reed and Mr Waldon for attending and participating today. We appreciate it. The Committee secretariat will be in touch with you about the details of any questions that were taken on notice and the arrangements for providing the information to the Committee. Thanks again for your time. I thank you for the work you do.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**