

# **PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT**

**Thursday 31 October 2019**

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

## **PLANNING AND PUBLIC SPACES**

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**The Committee met at 9:30**

### **MEMBERS**

Ms Cate Faehrmann (Chair)

The Hon. Ben Franklin

The Hon. John Graham

The Hon. Shayne Mallard

The Hon. Mark Pearson (Deputy Chair)

The Hon. Adam Searle

The Hon. Penny Sharpe

Mr David Shoebridge

### **PRESENT**

**The Hon. Rob Stokes**, *Minister for Planning and Public Spaces*

## **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**



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**The CHAIR:** Welcome to the budget estimates supplementary hearing for the portfolio of Planning and Public Spaces. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respects to the Elders past and present of the Eora nation and extend that respect to other Aboriginal people present. Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses in budget estimates hearings have a right to procedural fairness according to the procedural fairness resolution adopted by the Houses in 2018.

Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Finally, could everyone please turn their mobile phones to silent. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office. I also remind all witnesses, with the exception of Ms Lee and Professor O'Kane, who will be arriving later, that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing of this Committee.

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**MARY O'KANE**, Chair, Independent Planning Commission of New South Wales, sworn and examined

**MARCUS RAY**, Group Deputy Secretary, Planning and Assessment, Department of Planning, Industry and Environment, on former affirmation

**ALISON FRAME**, Group Deputy Secretary, Housing and Property, Department of Planning, Industry and Environment, on former affirmation

**JIM BETTS**, Secretary, Department of Planning, Industry and Environment, on former oath

**JOHN BROGDEN**, Chief Executive Officer, Landcom, on former oath

**SUZANNE JONES**, Chair, Landcom, on former affirmation

**SANDRA LEE**, Executive General Manager, Legal and Compliance, Landcom, affirmed and examined

**The CHAIR:** As there is no provision for any witness to make an opening statement, we will begin with questions from the Opposition.

**The Hon. ADAM SEARLE:** Minister, can you explain why you and your agency Landcom and the planning department have not complied with the order of the Legislative Council to produce the original draft report of Wentworth Advantage into the allegations of bullying against the Landcom chair, Suzanne Jones?

**Mr ROB STOKES:** I will refer your question to the secretary.

**Mr BETTS:** I will have to take that on notice as to the specific document. I understand that there was extensive discussion at the session with the Secretary of Treasury the other day. I am not aware of the department having been in receipt of that report at any point along the way, so that may be the reason why we have not disclosed. But I will have to take that on notice and get back to you.

**The Hon. ADAM SEARLE:** We can ask Ms Lee. Ms Lee, your agency, Landcom, received the draft of Mr Werman's report?

**Ms LEE:** That is correct.

**The Hon. ADAM SEARLE:** Do you have a copy on file?

**Ms LEE:** I do have a copy.

**The Hon. ADAM SEARLE:** You have the original draft and you have also the final report?

**Ms LEE:** That is correct.

**The Hon. ADAM SEARLE:** Can you tell us why Landcom has not produced that to the upper House, as ordered on 17 October?

**Ms LEE:** Landcom has produced that to the Department of Premier and Cabinet and I am not aware of the reason why it has not yet been produced.

**The Hon. ADAM SEARLE:** Can you tell us when it was produced to the Department of Premier and Cabinet?

**Ms LEE:** It was produced this past Monday.

**The Hon. ADAM SEARLE:** Monday of this week?

**Ms LEE:** Monday of this week because we sought a slight extension due to the amendment to the motion that was passed I think it was last Wednesday.

**The Hon. ADAM SEARLE:** But the motion just excised some words, it did not change the number of documents that was being sought. What was the reason for the delay?

**Ms LEE:** Because the original wording, there would have been no return. There would have been a nil return based on the original wording of the motion.

**The Hon. ADAM SEARLE:** But that was changed on Wednesday morning and there is still only one document that falls within paragraph (a) of the order, is there not?

**Ms LEE:** There is more than one document.

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**The Hon. ADAM SEARLE:** There is more than one document?

**Ms LEE:** That is correct.

**The Hon. ADAM SEARLE:** More than one draft?

**Ms LEE:** That is correct.

**The Hon. ADAM SEARLE:** How many drafts were produced to the Department of Premier and Cabinet?

**Ms LEE:** Five.

**The Hon. ADAM SEARLE:** Do you know whether privilege will be claimed over those?

**Ms LEE:** Yes, privilege will be claimed.

**The Hon. ADAM SEARLE:** Minister, that order was due last Thursday. Also due last Thursday were the rulings of the Premier on any applications from Ministers under the Ministerial Code of Conduct. That also was not complied with. Do you know why that was not complied with? I know you were not on the receiving end of that order but two fairly major calls for paper not complied with by Executive government is pretty worrying. Is there a pattern we are seeing here of your Government wanting to cover things up or not produce them?

**Mr ROB STOKES:** No, I obviously deny that because we seek to provide information appropriately and in a timely fashion. My understanding is these documents are coordinated by the Department of Premier and Cabinet and released that way. I cannot account for the internal processes within the Department of Premier and Cabinet. But I can refer you to the secretary to see if he has anything further to add.

**Mr BETTS:** Only that thousands of hours of public service time are spent complying with Standing Order 52s.

**The Hon. ADAM SEARLE:** Both of these are pretty focused; there should not be too many documents.

**Mr BETTS:** I think the Minister is right to say it is a matter for the Department of Premier and Cabinet.

**The Hon. ADAM SEARLE:** Understood, but I wonder whether at a political level we are beginning to see some sort of pattern of resistance by the Executive to requests from the upper House for documents.

**Mr ROB STOKES:** No, not at all. I think the issue is that it is working together to try and refine what is requested so we can do it in a timely way. When a wide net is cast, that can create a lot of internal work to collate and produce documents. If we can work together to find what is specifically required, that will speed the whole process up. I am not sure if the secretary has anything to add.

**Mr BETTS:** No. In relation to your previous question, the department was not in possession of the draft report, hence not disclosing it.

**The Hon. ADAM SEARLE:** In relation to the ministerial rulings issue, production has not been stalled as far as you know because other Ministers, like Minister Sidoti, might have had other property interests affected by planning decisions?

**Mr ROB STOKES:** I cannot possibly answer that. I can only answer things that relate to myself and to my department. If there is anything further to add we will provide that on notice.

**The Hon. ADAM SEARLE:** I believe the disclosures are available for all members of Cabinet to review. As far as you are aware, do any of your colleagues have property interests affected by planning decisions being made by your Government?

**Mr ROB STOKES:** I have no knowledge of any such conflict.

**The Hon. ADAM SEARLE:** In relation to the Landcom allegations of bullying made against the chair, Ms Jones, who is here with us today, last time when we had this discussion it was at a level of hypothetical because the documents were not in the public domain. Subject to a dispute of privilege, there is now a redacted version of the two final reports which are in the public domain. Of the 17 allegations nine were found to be substantiated by the investigator. I note in my dialogue with Mr Pratt that Ms Telfer queried two of the findings but one of those, the assault allegation, was the subject of a second and further report by Mr Werman and he found it was substantiated. Do those findings disturb you as the portfolio Minister? Do you think it is acceptable to have someone in a senior role who has been found to have engaged in those behaviours?

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**Mr ROB STOKES:** Two points here: In relation to the legislation governing Landcom and establishing Landcom there is quite a precise division of ministerial responsibility in relation to the role of the portfolio Minister and the shareholder Ministers. My role relates specifically to the work plan of Landcom and its priorities for delivery of its functions and objects under the Act. In relation to internal governance of Landcom and the constitution of the board, while there is a provision for me to be consulted in these matters, they are primarily matters for the shareholder Ministers. I note that there has been a report that was provided that the Secretary of Treasury made decisions on the basis of that. I understand that Ms Jones has also issued an apology and has agreed to a process of counselling. That is the response that the Secretary of Treasury thought was appropriate. My focus is to ensure that Landcom gets on with its key role in relation to promoting good quality development and being an exemplar developer on behalf of the people of New South Wales.

**The Hon. ADAM SEARLE:** I understand the operational limits on your responsibility but as the portfolio Minister are you at all concerned about the signal this sends to people in the workforce who may be experiencing or seeing bullying: seeing reports made, seeing complaints upheld but not seeing any transparent action taking place?

**Mr ROB STOKES:** I do not necessarily believe the premise of your question. I think there has been transparent action taken. But I also note that these matters are appropriately matters for the voting shareholders and they have acted through the Secretary of Treasury. My focus relates to the work that Landcom does. I take your point in relation to obviously you need a good internal culture to focus the capacity of the organisation to work. Certainly in my dealings with the organisation on a day-to-day basis it is producing work of high quality and it is motivated and committed to public service and that is my focus.

**The Hon. ADAM SEARLE:** I understand. I would have raised this with the shareholding Minister if he had turned up to the supplementary budget estimates hearings. He did offer to come at 7.30 in the morning; we took him up on that offer, which he then withdrew. But the Secretary of Treasury said that he did not find Ms Jones' behaviour acceptable but, nevertheless, he could not provide cogent reasoning as to how he got from that point to there being no obstacle to her returning to duty. Do you share his assessment that the behaviours outlined in the report are not acceptable for someone in her role?

**Mr ROB STOKES:** I cannot speak for the Secretary of Treasury, but I do note—

**The Hon. ADAM SEARLE:** I am asking for your own independent judgement of these matters.

**Mr ROB STOKES:** Again, that goes beyond my role and it is really not appropriate for me to comment in relation to those matters because the Act sets up quite a clear separation of power and of responsibility.

**The Hon. ADAM SEARLE:** Perhaps I should ask Ms Jones, what counselling are you undertaking and what other steps are being taken in relation to your behaviours to ensure they do not reoccur?

**Ms JONES:** Thank you very much, Mr Searle, for the question. As part of resuming my duties I was offered the opportunity of counselling by the board, not by the Secretary of Treasury. I willingly accepted that. I take the opportunity to improve in any way, shape or form that I can willingly and openly. I think all of us are able to improve in what we do and how we behave, and I willingly accepted the opportunity for professional development.

**The Hon. ADAM SEARLE:** But you accept the findings made by Mr Werman?

**Ms JONES:** I accept the comments, the advice to Mr Pratt from Ms Telfer. Ms Telfer was very clear, she said that she noted that for all substantiated claims there were conflicting versions of events and that was for everything except for one particular comment where I have acknowledged and regret making a particular comment that I made in frustration and for which I apologised to those staff immediately the next time I saw them. Ms Telfer also found that two of the allegations were unable to be substantiated, and that included the most nefarious allegation that you continue to refer to, Mr Searle, that I allegedly kicked someone under a table.

**The Hon. ADAM SEARLE:** Just pausing there, Ms Jones. I have read what Ms Telfer said. What she said is she does not understand how Mr Werman formed his view, but Mr Werman nevertheless found that allegation substantiated. That is the case, is it not?

**Ms JONES:** You are asking did I accept Mr Werman's findings?

**The Hon. ADAM SEARLE:** His findings, yes.

**Ms JONES:** No. In relation to that I do not accept his findings. I accept Ms Telfer's findings because in this regard the allegation was made that I kicked someone under the table at a particular theatre event, and part of

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the reason that Ms Telfer was unable to accept that finding was that this allegedly occurred before I was a member of the board, before I had been appointed to the board, and some six months before I first met the complainant.

**The Hon. ADAM SEARLE:** Okay, we might have to come back to that.

**Ms JONES:** And that there were changing of events throughout the investigations.

**The Hon. ADAM SEARLE:** You said you apologised to staff. In fact, after some recent media coverage of this matter there was an all staff email, I think, that you and other members of the board put out and you said that "Ms Jones apologises to staff". Do we take a distinction there that you are only apologising to the existing staff of Landcom for embarrassing them, or does that extend to the staff who were involved in the complaint process?

**Ms JONES:** I apologised before any media, to make that correct. I take my role as a chair of a State-owned corporation exceptionally seriously. Part of that job is asking difficult questions, challenging questions, and what I have apologised for, and I sincerely apologise, is if anyone has ever taken any comment or question that I have made in a manner that it was not intended.

**The Hon. ADAM SEARLE:** All right. So what is it about the counselling and support that you are now receiving that should give people comfort that these behaviours that were documented by Mr Werman, or at least some of them, are unlikely to reoccur?

**Ms JONES:** I think Mr Brogden might also like to comment on this, but the working relationship between the board and management is exceptionally effective. We are trying very hard to get on with what we should be doing for the State and the people of New South Wales in creating affordable and sustainable communities.

**The Hon. ADAM SEARLE:** Mr Brogden, do you have anything further to add to that?

**Mr BROGDEN:** Sorry, I was arranging a glass of water.

**The Hon. ADAM SEARLE:** How is the working relationship?

**Mr BROGDEN:** It is very professional.

**The Hon. ADAM SEARLE:** There has been no reoccurrence of those behaviours?

**Mr BROGDEN:** No.

**The Hon. ADAM SEARLE:** We might put a pin in that and move on to another topic. Minister, the Pymont review. I think in answer to some supplementary questions you stood by the professionalism of the Department of Planning staff in the way they reviewed the Ritz-Carlton proposal and you have no criticisms of the way they did their work, do you?

**Mr ROB STOKES:** No.

**The Hon. ADAM SEARLE:** The review of the Pymont precinct by the Greater Sydney Commission report, which you caused to occur, that is now reported and they do not recommend, per se, any changes to the zonings or planning controls in Pymont, do they; they recommend a place management process, if you will, rather than a specific project-led process for planning decisions? Is that correct?

**Mr ROB STOKES:** That is correct.

**The Hon. ADAM SEARLE:** They do not recommend, for example, that the zonings be changed in line with what The Star application, which is now before the Independent Planning Commission, has in mind.

**Mr ROB STOKES:** Their recommendations were in line with the questions they were asked. Obviously, the time frames for reporting, recommending specific rezonings, is a far more complex question. They did recommend that there be a process for those rezonings to be considered, but, again, for that to be done through a place-based approach rather than a project-by-project approach.

**The Hon. ADAM SEARLE:** Pardon my ignorance about planning matters, but what does that really mean?

**Mr ROB STOKES:** It means effectively that rather than being reactive in terms of reacting to site-specific applications by particular proponents, a better way is to look at the site in its totality, to look at the constraints and opportunities across the peninsula and to look more strategically at how to ensure that there is a strategic process in which applications can be made, so that more guidance is provided to proponents and that

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there is a greater degree of understanding about some of the wider implications of individual developments—for example, of heritage fabric on the infrastructure requirements of the peninsula. Obviously it is a very dense residential precinct, there are a lot of jobs there as well; it has changed dramatically over the past 20 years or so and the planning controls have not kept pace with the rate of change.

It has obviously got some significant constraints because of its geography and that it is a peninsula—land ownership is highly fragmented. So it is quite a unique planning challenge. Unlike a greenfield site or something where you have got a consolidated ownership, here you have got very fragmented ownership and very few opportunities to consolidate sites because you have got such a large residential population, which I think has expanded three times in the last couple of years.

**The Hon. ADAM SEARLE:** It has, and of course one of the issues is that obviously rezoning for residential uses increases the value of some land and the challenge is how to retain a mix of land uses to make sure that you not only have places where people can live but also places where people work.

**Mr ROB STOKES:** This is one of the real challenges in planning for a city like Sydney, highest and best use will always go to residential without a planning process.

**The Hon. ADAM SEARLE:** Or most expensive use.

**Mr ROB STOKES:** Indeed, and the challenge, I suppose, with residential uses is once a use goes to residential it is very unlikely that it will ever change to another use into the future, whereas other uses can change over time. Once it goes residential, for obvious reasons, it is unlikely to change again into the future. So it reduces flexibility to accommodate urban change as the city develops.

**The Hon. ADAM SEARLE:** Through the supplementary questioning process I asked you what your Government's vision for Pymont was and you said I should ask the Premier. But I am now asking you, in receipt of the Greater Sydney Commission's report, what will your administration do with that report in relation to the planning controls?

**Mr ROB STOKES:** The first thing is we accept the recommendations, the chief of which, from memory, was that a place-based process be engaged with over a year to facilitate some specific rezonings to make it clear as to what uses should happen where and to do that in a strategic way, and we have commissioned Charles Moore to undertake that work.

**The Hon. ADAM SEARLE:** What is the time frame for that work?

**Mr ROB STOKES:** I will just refer to the secretary.

**Mr BETTS:** The Greater Sydney Commission recommended a 12-month time frame. We want to make sure it is got right, so we will operate within that. If we can deliver a quality product sooner than that then obviously we will.

**The Hon. ADAM SEARLE:** But it is important to get it right rather than to rush it.

**Mr BETTS:** Absolutely.

**The Hon. ADAM SEARLE:** I suppose Professor Mary O'Kane will be here later but do you know what the time horizon is for the Independent Planning Commission's consideration of the part 3A application by The Star is?

**Mr ROB STOKES:** No, but it is now in the hands of the Independent Planning Commission [IPC]. In terms of its determination I have no knowledge, as is appropriate.

**The Hon. ADAM SEARLE:** As it should be. So this review process and what is flowing from it will have no bearing on the assessment by the IPC of The Star.

**Mr ROB STOKES:** That is a matter for the IPC but it was made clear at the time that the assessment process is entirely independent of the work of the IPC. The IPC, under the planning legislation, can take into regard those matters for consideration that are listed in the planning legislation and they are fairly broad.

**The Hon. ADAM SEARLE:** In relation to the review of the Independent Planning Commission, can you tell the Committee how that review came about? Whose idea was it? Was it your idea?

**Mr ROB STOKES:** It was and it was specifically in relation to a regrettable error in relation to a major project—

**The Hon. ADAM SEARLE:** The Rix mine extension.

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**Mr ROB STOKES:** The Rix mine extension where there was what appears to be an administrative oversight—that a submissions portal remained open during a time when a determination was issued. That was immediately identified and quickly corrected. Nevertheless it exposed an administrative error, to start with, and it was appropriate to reflect upon the processes of the IPC. The IPC has also been operating as a separate organisation for about 18 months, which is an appropriate time to reflect upon its processes.

I do not control the IPC in terms of its decision-making, obviously, but I do in terms of the procedural aspects under the Environmental Planning and Assessment Act. So it is appropriate that we ask questions about its resourcing and processes and those sorts of things and while asking that question I thought it was also timely and appropriate to ask the existential question: Does it remain in the public interest to have an independent, arms-length, expert decision-maker for major projects and to provide the opportunity for the Productivity Commissioner to ask these questions?

Obviously we want to do that in a reasonably timely manner because, for an important administrative decision-making body, it is very important the public has confidence in it and its decision-making. But equally that is another reason to ask these questions—to ensure that any question marks that are raised about an organisation like the IPC have the capacity to be answered independently and in a timely manner.

**The CHAIR:** Thank you, Minister. We move to questions from the crossbench.

**Mr DAVID SHOEBRIDGE:** Thanks, Madam Chair. Minister, good morning. The reason you are seeking a review of the Independent Planning Commission is because it finally made some independent decisions, including the knocking of a coalmine that angered your colleagues. That is what led to the review, is it not?

**Mr ROB STOKES:** No.

**Mr DAVID SHOEBRIDGE:** In your answer to the Hon. Adam Searle you made it clear that one of the questions on the table is whether or not the Independent Planning Commission should remain independent. What do you mean by that?

**Mr ROB STOKES:** I think I explained the reason for that.

**Mr DAVID SHOEBRIDGE:** Because it knocked off a coalmine, that is why.

**Mr ROB STOKES:** No, actually the Rix extension project was approved.

**Mr DAVID SHOEBRIDGE:** But that was the excuse used because you did not like the previous decisions. You did not like what it did about The Star. You did not like what it did about a previous coalmine and you were waiting for an excuse to attack it. That is what happened, is it not?

**Mr ROB STOKES:** No. In relation to The Star, it has not made any determination. The Department of Planning made a recommendation. The IPC has not determined the matter. In relation to Rix Creek, there was an error that did need to be addressed and a review is an appropriate response to that error. It was welcomed by the IPC itself.

**Mr DAVID SHOEBRIDGE:** The IPC had no option.

**Mr ROB STOKES:** And that coalmine was actually approved by the IPC.

**Mr DAVID SHOEBRIDGE:** Minister, the IPC, in its current form, has been going for 18 months. That is an inadequate period of time to do a systemic review for something as significant as the Independent Planning Commission; 18 months is an insufficient amount of time to see if it is working or not.

**Mr ROB STOKES:** I do not agree with that proposition. I think it is a very good time to ask. It has now had 18 months of operation. We have an opportunity to see how it works, to ask questions about its resourcing, and I think it is an ideal time to ask these wider questions.

**Mr DAVID SHOEBRIDGE:** Minister, it is not happening in a vacuum, is it? The Deputy Premier has also criticised the way the IPC has been dealing with climate change. You are aware of that.

**Mr ROB STOKES:** Again, my answer to all of these questions is none of the things you have suggested are reasons as to why we should be in any way concerned about reviewing the operation of an administrative body. In fact, we should keep administrative bodies under constant review and here is an opportunity to ask those questions independently and openly.

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**Mr DAVID SHOEBRIDGE:** Minister, do you agree with the Deputy Premier's moves to prohibit the Independent Planning Commission from putting any conditions on coalmining development related to scope 3 emissions? Do you support the Deputy Premier's position on that?

**Mr ROB STOKES:** Hang on, there are a couple of things there. The role of the IPC is to make decisions in accordance with law and policy issued by government, so that is its role and that is what we are asking questions about. While that review is underway it is not appropriate that I ask those questions because we are asking for those questions to be asked independently.

**Mr DAVID SHOEBRIDGE:** No. The Deputy Premier has said he wants amendments to the Environmental Planning and Assessment Act to prohibit approval conditions relating to downstream emissions—scope 3 emissions. He has come out and said it very clearly. Do you support that?

**Mr ROB STOKES:** Well, that does not relate to the review of the IPC.

**Mr DAVID SHOEBRIDGE:** I did not say it did.

**Mr ROB STOKES:** You did originally.

**Mr DAVID SHOEBRIDGE:** No, I said: Do you support prohibiting the Independent Planning Commission from considering scope 3 emissions in its conditions of approval? That would be the effect of amending the Environmental Planning and Assessment Act. Do you support that?

**Mr ROB STOKES:** You are conflating two issues. One is legislation that is currently before Parliament, so that is a matter for—

**Mr DAVID SHOEBRIDGE:** Do you support that legislation?

**Mr ROB STOKES:** That is legislation currently before Parliament. I understand that, therefore, that is not something I can be asked questions about.

**Mr DAVID SHOEBRIDGE:** Were there any decisions of the IPC which included scope 3 emissions that you are critical of?

**Mr ROB STOKES:** Sorry, any decisions by the IPC? The IPC's decisions stand for themselves. It is not my role to question its individual decisions. It is an independent body.

**Mr DAVID SHOEBRIDGE:** Minister, you are running cover for the climate change deniers in your administration.

**The Hon. BEN FRANKLIN:** Point of order: Madam Chair, the way that these inquiries work best is if someone asks a question and the Minister or the appropriate witness is able to answer the question without being continually run over the top of.

**The CHAIR:** Thank you. I have heard the point of order. However, the Minister is pushing back quite substantially to the questions being asked by Mr David Shoebidge as well. I will allow the question to continue but please try not to talk over each other.

**Mr DAVID SHOEBRIDGE:** A simple question, Minister: Why are you running cover for the climate change deniers in your Cabinet?

**Mr ROB STOKES:** I am not and I do not accept the premise of your question.

**Mr DAVID SHOEBRIDGE:** Then why are you supporting legislation that will prohibit any planning authority making conditions about scope 3 emissions? How could you possibly support that legislation and care about the climate?

**Mr ROB STOKES:** Chair, may I ask whether that question is in order as it relates to legislation that is currently before the Parliament?

**The CHAIR:** It is in order. Members can ask questions in relation to legislation before Parliament. I think you are confusing a question without notice in the House whereas this is budget estimates.

**Mr ROB STOKES:** You are asking me a question about legislation before the House. You will have your opportunity to debate that legislation, which is appropriate.

**Mr DAVID SHOEBRIDGE:** I am giving you a chance now to defend that climate change denial legislation your Government is bringing in. Why are you supporting prohibiting any planning authority from taking into account scope 3 emissions?

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**Mr ROB STOKES:** No, that is not what the legislation does. You have misread the legislation.

**Mr DAVID SHOEBRIDGE:** From putting any approval conditions relating to downstream emissions?

**Mr ROB STOKES:** Again, the—sorry, I am being called by my watch.

**Mr DAVID SHOEBRIDGE:** If you have got something more important to do—

**Mr ROB STOKES:** Mr Shoebridge, come on, let us be mature.

**Mr DAVID SHOEBRIDGE:** You are the one who took a call in the middle of budget estimates, Minister.

**The CHAIR:** Order!

**The Hon. ADAM SEARLE:** Mr Shoebridge, he does not have to be here.

**Mr ROB STOKES:** I did not take the call. I rejected it. I told Ben Taylor that he could call me back later. In relation to your question, I think you do not quite understand the legislation. It does not prevent a consent authority from taking into consideration global greenhouse gases.

**Mr DAVID SHOEBRIDGE:** That is why I phrased my question as "prohibit approval conditions relating to downstream emissions". I have had the benefit of Allens' advice on this.

**Mr ROB STOKES:** The legislation before the House, that you will have the opportunity to debate, seeks to clarify that those conditions of development consent that are applied, once a consent authority determines to approve an application and seeks to impose conditions of development consent, whether they relate to greenhouse gas emissions or some other matter, cannot have extraterritorial effect for the simple reason that it is not possible for a New South Wales government agency to enforce conditions of consent that apply to a different jurisdiction.

**Mr DAVID SHOEBRIDGE:** Minister, it also removes the specific consideration of downstream emissions under the mining State environmental planning policy. You are stripping out the ability of independent planning authorities to consider downstream emissions.

**Mr ROB STOKES:** Again that is not correct.

**Mr DAVID SHOEBRIDGE:** Tell that to Allens.

**Mr ROB STOKES:** Again, if you look at clause 14 (2) of the mining State environmental planning policy there is nothing in that that prevents a consent authority considering global greenhouse gas emissions.

**Mr DAVID SHOEBRIDGE:** We will move on. The Wilton development is in disarray after the Supreme Court decision supporting Country Garden's challenge, is it not? It is in complete disarray?

**Mr ROB STOKES:** No, it is not.

**Mr DAVID SHOEBRIDGE:** The Supreme Court supported Country Garden's challenge because there was not even any road access to that part of the development. How could you possibly have a development at the stage of North Wilton and not have sorted out something as basic as road access? How did you stuff it up so badly?

**Mr ROB STOKES:** Firstly, I do not accept the premise of your question. There are several items, and I think it is probably better I take it on notice but I will happily refer to Mr Betts if he has anything further to add.

**Mr BETTS:** No.

**Mr DAVID SHOEBRIDGE:** The Supreme Court agreed with Country Garden's challenge and a primary basis for it was because there was no road access to an 870 hectare development in North Wilton and you cannot respond in budget estimates? You have nothing to say?

**Mr ROB STOKES:** No, I am saying that there are some specifics to your question that I think it is probably appropriate that I take on notice so that I can consider, rather than trying to provide you an answer—

**Mr DAVID SHOEBRIDGE:** Is there or is there not road access to an 870 hectare development that has been a cause of major local and metropolitan concern for years? Is there road access to the site? It is a simple question.

**Mr ROB STOKES:** The best way to answer, as I have suggested—

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**Mr DAVID SHOEBRIDGE:** Is not to answer it. That is your proposal so far.

**Mr ROB STOKES:** No, that is not what I am saying at all. I am saying that the best way I can provide you an answer to satisfy your concerns with sufficient detail is to take it on notice and give you a considered reply.

**Mr DAVID SHOEBRIDGE:** I have to say that I find it astounding that two days after the Supreme Court decision throws into chaos a significant development in the south-west of Sydney you cannot even tell the committee whether there is road access. Have you made that inquiry of your bureaucrats? You have just closed your eyes and ears for the past two days?

**Mr ROB STOKES:** No, that is not correct at all.

**Mr DAVID SHOEBRIDGE:** What inquiries have you made?

**Mr ROB STOKES:** In fact, you are asking me several questions at once. Perhaps let me answer a question and then we can move on to the next one.

**Mr DAVID SHOEBRIDGE:** I will deal with closed eyes and ears first, and then we will go on to more questions.

**The Hon. BEN FRANKLIN:** How about you treat the witness with some respect and civility?

**Mr DAVID SHOEBRIDGE:** I think he is doing it—

**The Hon. BEN FRANKLIN:** I know that is unusual for you.

**The CHAIR:** Order! Is that a point of order?

**The Hon. BEN FRANKLIN:** That is a point of order. Mr Shoebridge is badgering the witness. It is outrageous and disrespectful to a senior Minister who is not obliged to be here. It is outrageous that Mr Shoebridge is continuing to talk over the top of the Minister. I ask that he to be called to order.

**Mr DAVID SHOEBRIDGE:** To the point of order: I think the Minister is handling himself effectively.

**The Hon. BEN FRANKLIN:** I am not talking about the Minister, he is fine. I am talking about you.

**The CHAIR:** Thank you, Mr Franklin. I remind members that Ministers and witnesses are able to take questions on notice and provide answers at a later date. Mr Shoebridge will allow the Minister to respond and it would be appreciated if he could possibly treat witnesses with as much respect as he can muster.

**Mr DAVID SHOEBRIDGE:** Respectfully Minister, have you closed your eyes and ears for the past two days and avoided getting advice on road access?

**Mr ROB STOKES:** No, I have not. What I will say is because these issues involve a degree of complexity, and I am very mindful that they have been the subject of litigation, the most appropriate way for me to answer your question is in a considered way by providing you an answer on notice.

**Mr DAVID SHOEBRIDGE:** Have you sought advice at any time in the past two days about what effect that Supreme Court decision will have on this 870 hectare development in Sydney's south-west?

**Mr ROB STOKES:** Yes I have, and I constantly seek advice in relation to infrastructure contributions and the infrastructure needs of areas, including specifically Wilton.

**Mr DAVID SHOEBRIDGE:** Have you sought any advice about what the cost will be for augmenting the water supply from Prospect to Macarthur to allow those developments in south-west Sydney to go ahead? If so, who will pay for it?

**Mr ROB STOKES:** Servicing charges for individual lots and individual developments are a matter to be worked out between proponents and Sydney Water. It is also a matter to be determined—special infrastructure contributions generally relate to road access and land acquisition. Servicing charging is generally worked out under protocols with Sydney Water. I am more than happy to refer through the secretary perhaps to Mr Ray for further detail in relation to that process.

**Mr RAY:** Obviously it is very important for all the servicing matters to be dealt with. There is a process for that to actually happen and it will be done in conjunction with Sydney Water. Obviously in the delivery of Wilton it is one of the key things that we have to look at.

**Mr DAVID SHOEBRIDGE:** Minister, there is not enough water to have a new city basically the size of Port Macquarie plonked in south-west Sydney. The only proposal on the table is from Sydney Water to connect

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to the Macarthur and Prospect systems. The Prospect system is already under stress. Is that the proposed answer to build a pipeline connecting the Prospect and Macarthur systems and further drain the existing water supply for Sydney?

**Mr ROB STOKES:** A couple of things—I think in the premise of your question you have suggested that Wilton will be the same size as Port Macquarie. Port Macquarie is a lot bigger than Wilton is proposed to be. Wilton, I understand, will be about 30,000 in population over the next 20 to 30 years. Obviously the servicing will be provided in advance of subdivision, in advance of homes being developed. It is a staged approach. Bingara, for example, is being developed and water servicing has been determined as part of that development. Obviously development is an iterative process. We plan for it. We have a special infrastructure contribution [SIC] that has been exhibited, a series of voluntary planning agreements [VPAs] have already been concluded—I think about \$160 million or so has been collected so far. Where there is a discrepancy between what has been raised under a VPA and the SIC amount then it will be adjusted to ensure that the full amount calculated under the SIC will be levied.

**Mr DAVID SHOEBRIDGE:** Rather than deal with a bunch of acronyms, why don't you deal with the fundamental problem here—

**Mr ROB STOKES:** I explained the acronym. I said it was a special infrastructure contribution.

**Mr DAVID SHOEBRIDGE:** Your Government has rezoned thousands of hectares in south-west Sydney to put in at least 30,000 residents and you have not worked out where the water will come from. How could you possibly rezone thousands of hectares without, first of all, working out whether you have the water for the residents in the first place? How have we got to that point?

**Mr ROB STOKES:** Obviously these constraints are examined as a matter of priority—

**Mr DAVID SHOEBRIDGE:** As a matter priority? We are years down and you have not sorted out the water.

**Mr ROB STOKES:** Mr Shoebridge, if your suggestion is that homes will be built without access to water, that is preposterous. We will ensure obviously that all services and utilities are appropriately connected and paid for in advance of homes being delivered.

**Mr DAVID SHOEBRIDGE:** Minister, my suggestion is this: The planning system is so cooked that you have rezoned thousands of hectares for residential development in south-west Sydney, you have not sorted out road access, you have not sorted out the water and it is a key example of just what is wrong with planning in New South Wales. You cannot even give us an answer on road access.

**Mr ROB STOKES:** No. Straightaway, off the top of my head, I think the special infrastructure contribution—I will seek not to use the acronym—for Wilton suggests that about \$650-odd million will be collected and is in the process of being collected in relation to facilitating road access alone. We do make appropriate provision up-front through a strategic planning process of ensuring that as land value is increased through a rezoning process that the money required to pay for the servicing to facilitate that development is collected from within the increased land value. That is done through the mechanism of the special infrastructure contribution.

**Mr DAVID SHOEBRIDGE:** Minister, most people assume planning is more than just collecting chunks of money. Most people assume planning is having key answers up-front: Where is the water coming from? Where is the road access going to be? When is the public transport going to be built? When it comes to this very large development in south-west Sydney you have not got an answer to any one of those key strategic questions, do you? You have just got a proposal for some buckets of money down the way.

**Mr ROB STOKES:** The important thing about money is that it pays for the infrastructure. You cannot provide the infrastructure without the money. You have got to identify where the money is going to come from. You have got to identify how much the infrastructure is going to cost and you have got to put those things together. That is precisely what the Special Infrastructure Contribution does. That is a process that this Government has facilitated that never took place in the past. We have ensured that that is done up-front and prior to rezonings, or in lock step with rezonings, so that developers can ensure that they cook it into their feasibility to ensure that they are able to provide the financing required to unlock the extra housing supply and jobs that are created by the rezonings.

**Mr DAVID SHOEBRIDGE:** Minister, with all due respect, that is ignoring the reality. You have not even got a business case together to work out what the cost of the water project will be to take water from the

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Prospect to the Macarthur system. You have not even got a business case. How could you possibly be collecting sufficient money for a project you have not even done a business case for? If you do not know what you are going to build you cannot price it.

**Mr ROB STOKES:** I completely reject the premise of your question. I am happy to provide —

**Mr DAVID SHOEBRIDGE:** Sydney Water says it has not got a business case.

**Mr ROB STOKES:** If you would let me answer before you ask me the next question—actually, no, you ask me the next question.

**Mr DAVID SHOEBRIDGE:** There is no business case. You cannot cost something if you have not even got a business case—

**The Hon. BEN FRANKLIN:** We are back to the original question again, are we?

**Mr ROB STOKES:** That is not a question.

**Mr DAVID SHOEBRIDGE:** Minister, you were saying that you have got a process in place to collect sufficient monies to cook into the system sufficient developer contributions to pay for the infrastructure. That was your answer earlier, correct?

**Mr ROB STOKES:** You have just told me.

**Mr DAVID SHOEBRIDGE:** Was that your answer earlier?

**Mr ROB STOKES:** My answer earlier will be on the *Hansard*. I cannot recall what it was.

**Mr DAVID SHOEBRIDGE:** That was your answer. I am saying to you that your answer is misleading in a key way because when it comes to the infrastructure necessary to get water for this project there is not even a business case in place. You cannot cost a project until you have done a business case, can you?

**Mr ROB STOKES:** You have turned it into a question now.

**Mr DAVID SHOEBRIDGE:** It is actually not funny. It is not funny for the thousands of residents looking at the disaster of planning in south-west Sydney. It is not funny. They want a proper answer, not a joke from you, Minister.

**Mr ROB STOKES:** I am not joking at all. I just thought it was humorous that you did not actually ask me a question; you have used this to make a statement. Again, I am happy to answer any questions you have.

**Mr DAVID SHOEBRIDGE:** How do you price something without a business case? That is a question.

**Mr ROB STOKES:** David, this is getting silly. You are interrupting me answering your questions.

**Mr DAVID SHOEBRIDGE:** How do you price something without a business case?

**Mr ROB STOKES:** In relation to the specifics about Sydney Water's business case I am very happy to find answers for you but, again, Sydney Water is not one of my agencies. However, I am more than happy to see what information we can provide.

**The Hon. JOHN GRAHAM:** Minister, I want to ask some questions about your Public Spaces role, firstly in relation to the residual land as a result of the WestConnex project. There were specific plots of land held over until your appointment as Minister in this role. I just want a confirmation first that those plots of land have not been sold at this point?

**Mr ROB STOKES:** That is my understanding. I understand you are talking about the land around Ismay Reserve?

**The Hon. JOHN GRAHAM:** Yes.

**Mr ROB STOKES:** I understand there were some commitments made around the time of the election by the Liberal candidate. We will obviously act in accordance with those commitments. We are proceeding to ensure that that land is incorporated into Ismay Reserve. I encourage members of the Committee to go down there and have a look at what is being done with the transformation of that reserve and returning that land back to the community.

**The Hon. JOHN GRAHAM:** Thank you. Have there been other plots of residual land from the WestConnex projects sold since your appointment?

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**Mr ROB STOKES:** Not that I am aware. Certainly we can find an answer from the appropriate Minister.

**The Hon. JOHN GRAHAM:** I think you are developing a policy for that residual land in this role, is that correct?

**Mr ROB STOKES:** That is right.

**The Hon. JOHN GRAHAM:** What is the timing of that policy?

**Mr ROB STOKES:** We will get some details back to you on that.

**The Hon. JOHN GRAHAM:** Thank you. In relation to—

**Mr ROB STOKES:** What I will say is that it is not specifically in relation to residual land; it is in relation to government land more broadly, which obviously includes—

**The Hon. JOHN GRAHAM:** Okay. But it will also have implications for this land?

**Mr ROB STOKES:** That is right.

**The Hon. JOHN GRAHAM:** In relation to decisions that are made, will these be decisions for another Minister or will you have concurrence in relation to decisions about disposal of this land?

**Mr ROB STOKES:** That involves a little specificity. It is probably appropriate that I take that on notice.

**The Hon. JOHN GRAHAM:** I want to turn now to a separate issue, the questions I was keen to raise about the Campbell's Stores redevelopment at The Rocks. The first thing I would like to do is confirm that you are the Minister responsible. Are you the appropriate Minister to be asking these questions to about that Campbell's Stores redevelopment?

**Mr ROB STOKES:** I am not trying to be unhelpful but I do not know until you ask the questions. In relation to Campbell's Stores more generally, yes, Place Management NSW falls within my portfolio responsibilities.

**The Hon. JOHN GRAHAM:** The reason I ask, Minister, is that on Thursday the Leader of the Government told me to ask you in estimates. On Friday your office and Minister Pavey's office were still debating who should answer the media inquiries on this issue. That is why I ask. However, I am assured by the Leader of the Government that you are the appropriate Minister.

**Mr ROB STOKES:** I would not dare to disagree with him.

**The Hon. JOHN GRAHAM:** He will be very pleased to hear that. What I was proposing to do was ask you a short number of questions on this and return later in the estimates hearing to ask some questions of the agency at a different level of detail. This relates to a direct deal with Government, an historic site right on the harbour. It is the last remaining warehouse of the warehouses that used to dot Sydney Cove at the start of settlement. No Minister has stood up and defended this deal. There have been plenty of Ministers in this Government who have touched on this: Hazzard, Goward, Constance, Perrottet, Dominello—I am not sure that list even captures all of them. No Minister has stood up and said that this direct deal was good value. No Minister has said it was in the public interest. I want to offer you the chance to be the first: Is this a good deal? Is this in the public interest?

**Mr ROB STOKES:** Just so I can be clear, in relation to the deal, you are referring to the lease that was signed back in 2013 or whenever it was?

**The Hon. JOHN GRAHAM:** I am referring to the lease of 2014 for Campbell's Stores, this historic site at The Rocks. Is this a good deal? Is it in the public interest?

**Mr ROB STOKES:** As I understand, the deal—the trick with this is that I was not the Minister at the time that the lease was determined so I do not have access to the facts that were available to the Minister at the time. What I can say—and I stand to be corrected on detail here—is that there has been significant monies invested into the restoration and repair of Campbell's Stores. I think it is well over \$40 million.

**Ms FRAME:** That is correct.

**Mr ROB STOKES:** I think that the lease itself actually suggested a lower amount of expenditure, so it has exceeded the expenditure on heritage restoration. Ensuring that we maintain, preserve and upkeep the heritage fabric of Campbell's Stores is obviously the fundamental issue. In relation to the rental income itself—

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**The Hon. JOHN GRAHAM:** I accept those details. However, have you looked at this? Are you confident this is a good deal for the public? Is this in the public interest? Are you confident of that or not?

**Mr ROB STOKES:** My hesitation in answering it is certainly—the first is that in terms of heritage upkeep and outcomes it looks as if it has been fabulous in achieving a good outcome on those matters, which are obviously foundational. In relation to the rental yield, not being a commercial real estate agent I am not in a position to provide an opinion in relation to the valuations there. However, I am happy to refer to the secretary.

**The Hon. JOHN GRAHAM:** I might come back to the secretary later, just to save time for my colleagues. Minister, are you comfortable that there is one person on both sides of this deal who is working for both the Government and for the developer? Have you had a chance to have a look at that issue? Are you comfortable that there is one person working on both sides of this deal?

**Mr ROB STOKES:** Again, that is not a matter that it is appropriate for me to provide a view on. I will let the secretary answer on that later.

**The Hon. JOHN GRAHAM:** I am happy to return to that later. I will finally ask you this, Minister: A range of inquiries about this have been blocked. For example, in the lead-up to budget estimates I was being told neither Minister would answer this. I am grateful that you have responded. Will you ensure that the department is directed to give full cooperation both to the authorities and also to the Parliament to get to the bottom of these questions? Are you comfortable providing us that reassurance?

**Mr ROB STOKES:** I am very happy to provide that reassurance, with the disclaimer, of course, that I am obviously conscious of the resources of the department. I do not want them to be duplicating their efforts in working with multiple authorities.

**The Hon. JOHN GRAHAM:** Understood. I think that is reasonable.

**Mr ROB STOKES:** But to the extent that it is reasonable, I see it is in the public interest to ensure that we answer all your questions as openly as possible.

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

**The Hon. SHAYNE MALLARD:** That is the way to ask questions, David, the polite way.

**Mr DAVID SHOEBRIDGE:** I did not hear an answer. I was listening carefully. I did not hear an answer.

**Mr ROB STOKES:** To reiterate for the benefit of Mr Shoebridge, the answer is yes, very happy to work with him.

**The Hon. ADAM SEARLE:** Minister, do you have any concerns around the planning approval for the new Sydney Zoo at the Western Sydney Parklands?

**Mr ROB STOKES:** No, I have no reason for concerns but I am happy to furnish you with details. It is not a matter that I have turned my attention to specifically but no concerns have been raised with me.

**The Hon. ADAM SEARLE:** Minister, are you aware that there are concerns there has been a lack of consultation about the impact the new zoo would have on two nearby zoological parks, Featherdale Wildlife Park and Calmsley Hill City Farm?

**Mr ROB STOKES:** I am certainly aware that there are those competitive concerns. I am also aware of the High Court decision in *Kentucky Fried Chicken Pty Ltd v Gantidis*, which means that those sorts of questions are not really appropriate for the planning system in relation to how competition operates. There is some well-established case law in relation to what the planning system can appropriately ask questions about.

**The Hon. ADAM SEARLE:** I understand that. In the case of Calmsley Hill City Farm, it is a long-term tenant of the Government, also occupying land that is part of the Western Sydney Parklands Trust. I think the proposed Sydney Zoo is also a tenant. As a matter of fairness, between tenants at least, are you not concerned about the lack of consultation the Sydney Zoo has had with Calmsley Hill City Farm?

**Mr ROB STOKES:** I am not aware that the provisions of the Act in relation to consultation have not been adhered to, and I would assume that they have been adhered to. If consultation requirements have not been adhered to, then obviously that is a matter of concern, but I am not aware that they have not.

**The Hon. ADAM SEARLE:** Minister, are you aware that Calmsley Hill City Farm has written to you and your department about these matters?

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**Mr ROB STOKES:** I am aware of the issues that have been raised. Obviously that is a matter for the assessment of the project. It is important that everyone has the opportunity to have their say. As I say, in relation to matters of competition, there are some limits in terms of the issues that the assessment can have regard to. I might refer to Mr Ray though, to check that I am correct on that.

**Mr RAY:** The Sydney Zoo went through a very thorough assessment process and ultimately it was determined by the former Planning Assessment Commission to give approval to the proposal.

**The Hon. ADAM SEARLE:** Just on that, Mr Ray, that was when the Planning Assessment Commission was a delegate of the Minister?

**Mr RAY:** Yes, before the creation of the Independent Planning Commission.

**The Hon. ADAM SEARLE:** So technically it was still a ministerial decision under delegation.

**Mr RAY:** Yes, in a technical sense. But obviously for all intents and purposes it was an independent decision by the commission. That was a decision that took place after a lot of public consultation with a range of stakeholders, including Featherdale. I am not quite sure whether the farm of which you speak was as actively involved in the actual assessment process. Of course the Minister is perfectly correct to say that financial viability is not an issue that the planning system looks at but the impacts on the services that are provided and the amenities that are provided to the community were matters that the then commission was very aware of and made a very detailed inquiry about the impacts of the zoo. It put I would have to say unprecedented conditions requiring during the development of the zoo before it opened a very great degree of consultation to be carried out by the zoo with other entities, if I could say tourism entities, in western Sydney.

**The Hon. ADAM SEARLE:** Because all three are destinations, they are not just reliant on local visitors.

**Mr RAY:** Yes, and obviously there are benefits in that sort of cooperative approach. I am sure the commission was concerned that there were genuine attempts made to develop a whole-of-area strategy where all parties could benefit from the fact that there were a range of different tourism venues, even though they would appeal to different segments of the market.

**The Hon. ADAM SEARLE:** Just on that, Minister, Calmsley Hill offers a traditional petting farm experience for city children particularly. Featherdale is about conserving and protecting native species, so that is distinct. The proposed Sydney Zoo is said to offer an exotic and imported species experience. Given their proximity and given what Mr Ray has just indicated about the need to balance an appeal to different segments of the tourism market, do you agree it is important that these distinct themes be preserved, particularly given their relatively close proximity in a planning sense?

**Mr ROB STOKES:** Yes, I do. I note that there is an outstanding condition before the zoo can commence operation that asks these questions.

**The Hon. ADAM SEARLE:** This is the exotic animals?

**Mr ROB STOKES:** The wording I have been provided is that it is required to submit—which is currently being assessed by the department—"a report detailing initiatives and consultation undertaking with nearby businesses to enhance regional tourism in western Sydney". Those sorts of issues would be precisely the issues that a report like this would look at to ensure that the whole is greater than the sum of the parts. By working collaboratively together these three destinations can actually support one another.

**Mr RAY:** If I could add, the department has the report. I might have to take on notice whether the department has approved the report—I know that the department has had the report for some time and has been dealing with the issues raised by Calmsley Hill with the zoo—just in case we have actually made a decision on that. I am not aware of it but I take that on notice.

**The Hon. ADAM SEARLE:** Just on that, Minister, the Sydney Zoo has not commenced operation yet, has not opened as yet, has it?

**Mr ROB STOKES:** Again, I will take that on notice.

**Mr RAY:** No, it has not opened.

**The Hon. ADAM SEARLE:** Do you know when it is scheduled to open?

**Mr RAY:** I do not know exactly. I think it is some time before the Christmas holidays.

**The Hon. ADAM SEARLE:** It has not yet started but already it has made an application to extend its—

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**Mr ROB STOKES:** To help you, I have also been advised that there is an approval role in Primary Industries under the Exhibited Animals Protection Act to ensure animal welfare standards at the zoo are met and the zoo cannot commence operation until that approval has been received.

**Mr BETTS:** And the zoo also has not indicated publicly when it intends to open.

**The Hon. ADAM SEARLE:** Before it has opened it has already made an application to extend its operating hours. There are signs that it is trying to acquire both farm animals—which is what Calmsley Hill does—and also some native species—which again is Featherdale's business—which seems to be quite a lot different to what it is supposed to be doing, which is the exotic species experience. Is that consistent with the current planning approval that it has?

**Mr ROB STOKES:** Again I will take that on notice. What I will say though is that, again, my read of the condition that has been provided—their quote again, "a report detailing initiatives and consultation undertaking with nearby businesses to enhance regional tourism in western Sydney"—is the spirit of that condition and would appear to be "Let us figure out how we can work together to provide a regional offering".

**The Hon. ADAM SEARLE:** Mr Ray, did you want to add anything to that?

**Mr RAY:** No, not at this time.

**The Hon. ADAM SEARLE:** We have a situation where three institutions, each with a fairly different mission statement, and one of them, reasonably controversially, before it starts operations seems to be trying to—at least on the complaint of one of the operators—spread itself into other areas already being met by the other two entities. Is that a matter of concern?

**Mr RAY:** Mr Searle, the Sydney Zoo will have to abide by the conditions that were put on the approval by the Planning Assessment Commission.

**The Hon. ADAM SEARLE:** Whose job will it be to make sure that that is—

**Mr RAY:** The department will do that.

**The Hon. ADAM SEARLE:** That is you?

**Mr RAY:** Yes.

**The Hon. ADAM SEARLE:** You will be keeping a close eye on this?

**Mr RAY:** Absolutely.

**The Hon. ADAM SEARLE:** So in relation to the exotic animals experience, what exactly is the requirement? Are they required to just have the exotic animals when the doors open, and then they can take them away a few weeks later, or do they have to maintain this experience through the whole of their operation?

**Mr RAY:** My understanding is that quite a range of exotic animals have been imported to the zoo. I do not have the conditions before me. My understanding is that they will be continual exhibits. So there is not going to be a short term—three weeks—of gorillas and then they will substitute them with koalas.

**The Hon. ADAM SEARLE:** Okay. So it cannot be scammed in that sense.

**Mr RAY:** No. There are particular provisions relating to the display of native animals.

**The Hon. ADAM SEARLE:** Moving on, I know there are the three distinct market segments but it does seem strange, particularly as the Government is the landlord, as it were, of Calmsley Hill and Sydney Zoo, to be having three zoological parks in a fairly confined area, notwithstanding the High Court ruling. Are you aware of who the shareholders and directors of Sydney Zoo are?

**Mr ROB STOKES:** I had a meeting some years ago with the proponents. I cannot recall who they are, but I do remember that they were notable personages. I just cannot remember who they were.

**The Hon. ADAM SEARLE:** Perhaps this will stimulate your memory. Did you meet with Mr Peter Ivany?

**Mr ROB STOKES:** That was one of them.

**The Hon. ADAM SEARLE:** Are you aware that he is a member of a Liberal Party, and a significant donor to your party?

**Mr ROB STOKES:** I did not know that he was a member or a donor.

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**The Hon. ADAM SEARLE:** I think he might be formerly a member of Mr Turnbull's branch.

**Mr ROB STOKES:** I was not aware of that.

**The Hon. ADAM SEARLE:** You are not aware of that. Okay. What meetings did you have with Mr Ivany?

**Mr ROB STOKES:** I recall one meeting some years ago. I am not sure whether it was before or after the provisions relating to disclosure of ministerial diaries. If it was after, the details are there. If not, I am happy to answer whatever questions—

**The Hon. ADAM SEARLE:** But you have not had any recent meetings with representatives of Sydney Zoo?

**Mr ROB STOKES:** No.

**The Hon. ADAM SEARLE:** What about the department, Mr Betts? Has the department had meetings with Mr Ivany or others from Sydney Zoo?

**Mr BETTS:** I have had meetings with Robert Webster about a range of different—

**The Hon. ADAM SEARLE:** Yes, this is the former National Party Minister. Is that the same Robert Webster?

**Mr BETTS:** Former Minister, yes. It was not specifically, as I recall, about Sydney Zoo, but to my understanding he has some involvement in it.

**The Hon. ADAM SEARLE:** All right. Mr Betts, you are aware of the complaints from Calmsley Hill. I do not believe they have been responded to. Do you have a time frame by which you might respond to those concerns that have been raised with your department about this matter—about the mission creep from the other entities?

**Mr ROB STOKES:** Again, I am happy—

**The Hon. ADAM SEARLE:** Mr Ray might have some answers.

**Mr RAY:** The department is acting on the information from Calmsley Hill. I would have to take it on notice.

**The Hon. ADAM SEARLE:** I am happy for you to do so.

**Mr RAY:** I would not be surprised if the department has actually contacted Calmsley Hill, but I will take it on notice and get back to you with details.

**The Hon. ADAM SEARLE:** Okay.

**The Hon. PENNY SHARPE:** Minister, I want to ask you about koala plans of management and I wanted to check with you the number that are before the department and the number that have been signed off.

**Mr ROB STOKES:** I think there are seven before the department, if I am right.

**The Hon. PENNY SHARPE:** They have been there for quite a long time, I understand.

**Mr ROB STOKES:** The challenge here was to ensure that the matters outlined in the Koala Strategy were addressed and also finalising the changes to the State Environmental Planning Policy [SEPP] 44 that had previously been exhibited to make those changes, which I had agreed to make by the end of this year, which will allow those outstanding plans to be finalised. I think that is all correct.

**Mr RAY:** Yes, Minister. The department is working with Environment, Energy and Science and Local Land Services to resolve the issues so that we can fulfil the Minister's commitment to make that change before the end of the year.

**The Hon. PENNY SHARPE:** You will be able to provide the Committee with the exact number of outstanding plans of management—

**Mr RAY:** I think it is seven.

**The Hon. PENNY SHARPE:** That sounds about right. If you can provide which councils—

**Mr ROB STOKES:** Sure.

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**The Hon. PENNY SHARPE:** This Committee is doing the koala inquiry and we spent some time out at Campbelltown. The real challenge here is that planning approvals are being made that directly impact on koala colonies—the Campbelltown colony being a very important one, given it is the only disease-free one in New South Wales and is actually growing. But there are thousands of units being planned to be put in around that area. My concern is that Campbelltown council has spent a lot of time and effort doing its koala plan but it just sort of sits there while we wait for everything else to be done. In the meantime the approvals keep coming. So you can just talk to the Committee about how you are going to try to resolve that matter. I appreciate your saying that you are going to have that done by the end of the year, but some of these have been in for several years I understand.

**Mr ROB STOKES:** I understand the original Campbelltown strategy was put in a couple of years ago. It was sent back because there were issues that were not consistent with SEPP 44. Council has responded and that is currently under assessment at the moment. In relation to housing approvals in the Macarthur region, we have the Macarthur strategy that identifies land that will be acquired through infrastructure provisions to preserve corridors. Where the corridors have been identified—the north-south corridors and the east-west corridors—already the Government has started by earmarking 800 hectares of government land that will form the core of koala habitat to the east of Appin Road, which will be added to over time. I am aware, for example, that there is conjecture about Lendlease's plan to submit a plan proposal for Gilead stage two. It has not done so, as yet, so there is nothing for the department to consider there, so—

**The Hon. PENNY SHARPE:** I understand that. We are aware of that. What I am trying to understand is how you are going to bring all of that together. There is a recognition that koalas are going to become extinct in this State by the middle of the century—all the scientific evidence suggests that that is the case—and we have a healthy colony in Campbelltown. A lot of work has been done by locals and also the council over a long period of time. There just never seems to be the point where this meets and there is proper consideration of it. It is death by a thousand cuts and death by a thousand decisions. I know that there is a proposal for a national park. Labor took that to the last election; that was our plan. I am trying to understand how you are going to reconcile protecting that koala colony, if we think it is important enough. How does it fit in with the decision-making? I think it is being done separately, and I think the colony is in danger.

**Mr ROB STOKES:** Obviously, securing the future of koalas in south-western Sydney is a critical concern for the Government. It is a shared concern across all political stripes and colours. In relation to our planning processes, we started with the biodiversity constraints and opportunities. That is where we started from. We will ensure that the planning proposals do not move ahead of identifying and preserving the necessary corridors, as well as identifying what needs to be done in relation to the road network—obviously facilitating crossings over Appin Road and making sure the road network itself operates in such a way that it slows traffic down because we know that vehicle strike is one of the key—

**The Hon. PENNY SHARPE:** It is killing about 10 per cent of the population every year.

**Mr ROB STOKES:** The great work that was done in the Koala Strategy has identified to us what the key threats to the koala are. As part of our planning processes we will identify where those issues are and resolve them. Obviously when you come to a more detailed planning stage, when you are further down the development track, you can then identify where fencing is required and you can identify things like setbacks for swimming pools and all those sorts of things, but in the first instance you have to identify the corridors and mechanisms to preserve them. That work has been done or is in the process of being done and I will refer to—

**The Hon. PENNY SHARPE:** Can I just clarify something in that answer? Does that mean, for example, that Lendlease stage two would not be considered until the koala plan is finalised?

**Mr ROB STOKES:** Under planning law they have a right to submit their planning proposals whenever they want. They have not done so yet, so I cannot comment on a hypothetical.

**The Hon. PENNY SHARPE:** Minister, you just said in your response that you would not be making planning decisions and releasing new arrangements until that was finalised. How does that work?

**Mr ROB STOKES:** We would not be making decisions; that is correct. We would not be making decisions until we were satisfied that those biodiversity issues relating to koalas have been resolved to the satisfaction of the department and to my satisfaction. But in relation to the timing of when Lendlease might submit a proposal—

**The Hon. PENNY SHARPE:** No, I get that.

**Mr ROB STOKES:** I am very happy to provide the Committee with a commitment that we would not be signing off on any planning proposal that has not yet been submitted. We certainly would not be determining

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it until we were satisfied that biodiversity concerns, particularly securing the rehabilitation corridor, for example, were properly addressed.

**The Hon. PENNY SHARPE:** That would also include getting the sign-off on the koala plan?

**Mr ROB STOKES:** I will take advice on that. I will take that question on notice.

**The Hon. PENNY SHARPE:** One final question, which is about the biobanking arrangements at Campbelltown. Minister, are you concerned that biobanking sites are basically double-dipping; areas that are already preserved and reserved are then being used twice rather than adding to koala habitat that is in a similar area? What is your general view about that?

**Mr ROB STOKES:** Biobanking is an interesting process. I do not say this in a partisan way but it was introduced by the Labor Government as a means of facilitating development where it would not otherwise be allowed in return for securing benefits elsewhere. It would certainly go against the spirit of biobanking arrangements if land that was under no threat of any urban development or any other development in the future was being used in such a way that it was not adding to the overall conservation benefit. But one of the benefits of biobanking is it can ensure that land that might otherwise be at one point in the future vulnerable to development—to ensure that that is preserved. Certainly that is the spirit of what is intended to be achieved by biobanking. I will not for one moment suggest it is a perfect solution, but it is in keeping with the general objective of securing sustainability. We need to work hard to ensure it works even better. In relation to specifics, I am more than happy to provide further detail on notice.

**The Hon. PENNY SHARPE:** I am concerned that at Campbelltown there are things that are already being protected that are basically going to be doubled up. Noorumba Reserve—

**Mr ROB STOKES:** One important thing we are doing is the Cumberland Plain Conservation Plan, which is a vast piece of work. It is trying to ensure that we are strategic about what land needs to be acquired and preserved into the future. That plan will be released for exhibition next year. I am sure it will create lots of noise at the time because there will be a series of landowners that will not necessarily be happy with what it says, but it is very important that we do this in a strategic way. Ultimately, it is the best way to ensure we have orderly development in Sydney's south-west. We know there are areas that are going to be developed in the future. It is very important early on that we identify those areas that are off limits because they provide such critical habitat for flora and fauna.

**The Hon. PENNY SHARPE:** Connectivity in wildlife corridors is obviously the key, given it is so fragmented across the basin.

**Mr ROB STOKES:** That is right. We have an opportunity because quite a lot of land, more through accident than design, has been preserved and we need to ensure that that land is protected. We also need to look for connectivity to try and restore lands that have been degraded. I point to some of the great work being done by the team at Western Sydney Parklands for example. That is reforesting land that has been degraded grazing land in the past, which often happens with these peri-urban areas. The exciting thing is to look to restore areas to what they were prior to European settlement.

**The Hon. PENNY SHARPE:** Can you provide to the Committee an update on expenditure in relation to the planting of trees commitment, the number of trees that have been planted and whether you are on track for that in terms of that commitment?

**Mr ROB STOKES:** The online register should give you a daily figure as to how many we are up to.

**The Hon. PENNY SHARPE:** It does, but we are in drought. Trees are going in, but whether they are living is something that is of great interest to me, and whether if it has gone in and died, is it still counted as a tree that has been planted. I would also like an answer to that.

**Mr ROB STOKES:** Sure. I will get you those figures but can I say, the issues you raise are very germane. They are issues that we are grappling with. Obviously, we are very aware of the drought and very aware of water restrictions and if the trajectory of our dams continues the way it is going, water restrictions may well be increased. That creates a challenge with young trees, trying to ensure that they live. We have got to ensure we are planting the right species in the right places and also have the right watering regimes to ensure these trees can survive beyond the current drought. That remains a key accountability that the Premier has given me. It is a courageous trajectory in relation to a million trees by 2022, but we are committed to get there. Certainly the target relates to trees planted, but obviously there is little point planting trees if they are not growing to maturity. We do recognise that not every tree will grow to maturity. There is obviously going to be some attrition rate, but we have

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got to work out how we can do it effectively. Particularly the great opportunities in the South Creek area as part of the aerotropolis development—that is a great opportunity with water sensitive urban design to plant trees in that corridor. That is where we are looking to get one of the really big hits towards the total.

**Mr BETTS:** I just add that as of two weeks ago, the tree planting register recorded that 166,753 trees have been planted.

**The Hon. PENNY SHARPE:** When you say trees planted, that does not include the seeds that are in the milk cartons?

**Mr BETTS:** I will have to check on that.

**The Hon. PENNY SHARPE:** You have got some fancy marketing materials that say this is one of the five million trees or whatever that is being planted, but basically it is a seed in a milk carton.

**Mr ROB STOKES:** Can I add, my daughter did plant one of those trees and it was—

**The Hon. PENNY SHARPE:** Hopefully it is alive. If it was up to me, I would probably kill it, but I am hoping that others can keep them alive.

**Mr ROB STOKES:** The last I saw of the tree, it had not done anything, but hopefully we will see it—

**The Hon. PENNY SHARPE:** That is not a good sign, Minister. I will finish there.

**The Hon. ADAM SEARLE:** Minister, I take you back to the Menangle Park issue, which I think I asked both you and Mr Brogden about on the last occasion.

**Mr ROB STOKES:** Yes.

**The Hon. ADAM SEARLE:** Recently there has been an application by Dahua to increase the number of housing lots. I think their application was to take it to 5,250 and the planning panel late last week approved 4,000. In any case, it is a significant increase on what was previously agreed upon in terms of the land release. Are you expecting a general increase in the proposed density in the Greater Macarthur land release area?

**Mr ROB STOKES:** In one sense it is difficult for me to speculate on what might happen. Clearly planning processes seek to provide certainty in relation to expected yields and that is important also as we plan for infrastructure. I cannot provide a commentary in relation to the panel's decision, but as a general proposition we plan for a certain number of dwellings and a certain yield. If that is changed by decision later on, my assumption is that is based on agreement or changes in relation to the funding of infrastructure or the quantum that is provided to support those houses. It can be complex because often it is not just a change in the total number of homes or units, it is their make-up, which will depend upon things such as the number of schools that might need to be provided or the impacts on the road network. It will depend on what the make-up of individual homes and units is.

**The Hon. ADAM SEARLE:** I understand that, but in 2015 your Government announced the Greater Macarthur land release was to be 35,000 dwellings. That was the overall cap and as part of that Menangle Park was to have 3,400. I think that was the agreement, give or take, between Landcom and Dahua when they were selling Landcom's land to Dahua. That was the understanding, but now we have seen Dahua apply for over 5,000 dwellings. They have been given 4,000. That is a significant uplift of about one-third of what they are currently allowed to do. How does this interact with the overall 35,000 dwellings in the Greater Macarthur land release area? Does that cap remain 35,000? In which case, will other developers in that envelope now have to reduce the amount of dwellings they were proposing to develop?

Or are we going to see an overall lift in the cap of 35,000 by your Government?

**Mr ROB STOKES:** The first thing is to say that whenever we release an area the predicted yield of new homes is never characterised as a cap.

**The Hon. ADAM SEARLE:** So it is not a cap?

**Mr ROB STOKES:** It is never characterised as a cap, that is just not what it intends to be, but it is what we anticipate into the future over a long period of time and we obviously ensure that infrastructure is provided to support the number of homes that are to be provided and the number of jobs and the number of people. Obviously, through the effluxion of time, those numbers may go up, they may go down; various developments that may be feasible at one point in time may then cease to be feasible. So things change over time and planning is an iterative process. In relation to the implications of that decision, I am happy to refer to Mr Ray, if he has got anything further to add.

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**Mr RAY:** No, that is right. It is an expected yield and then all the processes that need to take place in individual development applications, discussions about what infrastructure needs to be provided, if there are additional dwellings to be proposed, they all go through independent processes. That was the Independent Planning Panel. The assessment was by the council.

**The Hon. ADAM SEARLE:** Just to be clear, the 35,000 was an estimate based on your current—

**Mr BROGDEN:** It was 3,500.

**The Hon. ADAM SEARLE:** That is for Menangle Park.

**Mr BROGDEN:** Sorry.

**The Hon. ADAM SEARLE:** The 35,000 was for the Greater Macarthur land release. I will come back to that. So that was not a cap; it was an estimate. We have seen Dahua lift its number of dwellings from 3,500 to— I think it has now got planning permission for 4,000, but it has signalled pretty clearly it wants to go north of 5,000.

**Mr ROB STOKES:** But from what you told me, the planning panel rejected that.

**The Hon. ADAM SEARLE:** I am still looking into it. The documentation I have seen suggests they got 4,000, but that is still a significant increase percentage-wise. There is nothing to stop any of the other developers in that envelope coming back to the planning department and the IPC also trying to now increase the number of dwellings they are proposing, is there? There is no protection for the people living in that catchment from a further intensification of development.

**Mr ROB STOKES:** This is the nature of planning law; it recognises that private property owners have the right to put forward ideas of how they want to use their property. It also holds that surrounding owners and the public at large have the opportunity to provide their comment as to whether they think it is a good idea or not and there is also provision for the council in this case, as the custodian of the public interest, to actually look at it from a technical perspective to see whether that increase can be supported or not. Then there is an independent panel that looks at all of the submissions, looks at what the proponent seeks and their arguments for it, looks at what objectors might have to say and their arguments, and looks at the information that council provides and the recommendation that council provides and makes a view. That has always been the system; that is a democratic planning system.

**The Hon. ADAM SEARLE:** I understand that is your view. So that 35,000 estimate could well end up being 50,000 if the other developers take the same approach as Dahua and seek to intensify the proposals they currently have. Is that correct—in theory?

**Mr ROB STOKES:** Theoretically, there could be a whole range of things that could happen. There could be—and I certainly hope there is not—some significant economic downturn or global shock that means that we do not get anywhere near 35,000. But you set out your plans based on your best estimate of what is likely to happen in the future and then you set a system where the public are involved, where you are transparent about what you are seeking to achieve. The process of planning is the process by which the public make decisions about alternative futures. That is what we expect to happen, that is what we are planning toward. Certainly, if better ideas come along about how to potentially get more homes in a particular region, if there is a good argument for it then those proposals are likely to succeed if they are in the public interest; if they are not they will not.

**The Hon. ADAM SEARLE:** Campbelltown Hospital is already pretty under-resourced, understaffed and stretched in terms its capacity. What steps is your Government going to take to make sure that infrastructure like hospitals, but also including roads and schools, is going to be provided in a timely way to meet population growth or to develop density in the Greater Macarthur area as this development rolls out?

**Mr ROB STOKES:** I point to you, for example, in the case of Wilton where we are—

**The Hon. ADAM SEARLE:** Wilton Junction?

**Mr ROB STOKES:** Wilton Junction where we are particularly advanced in relation to planning a new town there. More than \$30 million, for example, has been earmarked toward the provision of a K-12 school, for example; around \$655 million has been earmarked toward road upgrades in that precinct, and that has been determined in anticipation of development, again so that that value can be extracted from the increase in land value. So that effectively the landowners who get the benefit of the rezonings are paying for the infrastructure on behalf of the public to support the new homes and businesses in the area.

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**The Hon. ADAM SEARLE:** Minister, I know your time is short—I think you are only going to be with us for another few moments—so I will start on this and I am sure Mr Brogden can continue. Last time I was asking questions about Menangle Park and about the special infrastructure contribution regime. I think currently the planning department has on exhibition a proposal of \$39,000 to \$49,000 per lot or dwelling, and of course the issue about how many dwellings would be in the Menangle Park area was a matter of some financial concern. Again, accepting that there is a range of values that might apply, given that planning approval has now been given for 4,000 dwellings in Menangle Park, that would leave Landcom, I guess, with a financial liability of somewhere between \$156 million to \$200 million, based on the indemnification you have given Dahua in terms of these developer contributions. In answers to questions on notice I think you said you have estimated now \$22 million for settled blocks in terms of Landcom's financial liability, and \$68 million for unsettled blocks. That is \$100 million in total, but the total liability could be double that. Have you got any revised estimates about what you are expecting the financial impact on Landcom to be?

**Mr BROGDEN:** The first thing to say is that the approved rezoning to 4,000 lots is on land that Dahua has and is buying from Landcom as well as land that they already owned outside the Landcom parcel. So the increase from 3,500-ish to 4,000 is not all on Landcom's land from which they purchased. The second thing to say is that you are correct, the voluntary planning agreement is out on exhibition until 5 November 2019, is our advice from the department, and then would return to the department and go through the usual process.

**Mr RAY:** My understanding is the rezoning has not been done. The rezoning is in process—

**The Hon. ADAM SEARLE:** I think it was only approved last Thursday or Wednesday.

**Mr BROGDEN:** If we leave the rezoning approval and talk about the VPA process, which deals with the special infrastructure contribution and how it is paid effectively, Landcom has also made a commitment, which is very well received by the department, to invest up-front in the infrastructure in building the Spring Farm Parkway, as an example. You ask a specific question with respect to the commerciality of the arrangement between us and Dahua. We continue to be in negotiations with Dahua with respect to that and I am not in a position at the moment to give you an answer in detail.

**The CHAIR:** Order! It is 11 o'clock. We will just pause there and allow the Minister to be on his way. Thank you, Minister, for appearing.

**The Hon. ADAM SEARLE:** I have got more questions for you. I will have to put them on notice as supplementary questions.

**Mr ROB STOKES:** I could probably stay for another five minutes.

**The Hon. ADAM SEARLE:** I do appreciate that, Minister. My question then, on a different topic, given you are staying, is both you and the Deputy Premier have responded to the member for Maitland's concerns about a proposal to move 200 jobs out of the Maitland electorate. I think you said something like, "The Department of Planning, Industry and Environment has a number of employees working in Maitland and is committed to maintaining a presence in Maitland for its employees". Are you ruling out moving jobs out of the Maitland electorate to other places such as Newcastle?

**Mr ROB STOKES:** We do not make our staffing decisions on the basis of electorates.

**The Hon. ADAM SEARLE:** I understand. This is the status quo. You have a number who do work in the Maitland electorate.

**Mr ROB STOKES:** But I understand there are a few leases that have been consolidated, which makes sense to save unnecessary money on superfluous leases. I think it is more a question of consolidating people in the area but I will refer it to the Secretary.

**Mr BETTS:** We have a directorate of resources and geoscience based in Maitland, largely based in Maitland, and we also have the resources regulator there. There is no intention to relocate those jobs out of Maitland.

**The Hon. ADAM SEARLE:** So how many jobs is that?

**Mr BETTS:** I would have to take that on notice—a few hundred.

**The Hon. ADAM SEARLE:** Please do. Minister, are you aware of past proposals to move staff in the department out of the Maitland area to other places?

**Mr ROB STOKES:** No. Certainly not during my time as Minister. I am not aware of any proposals.

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**The Hon. ADAM SEARLE:** That is that topic. I have other questions. I could keep going but if you want—

**Mr ROB STOKES:** I have until 11.05 a.m.

**The Hon. ADAM SEARLE:** That is fine. Mr Brogden, just so I understand you, so mindful of the financial impact of the arrangement on Landcom's finances, you are in discussions with Dahua—

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** But, obviously, they are sensitive and you do not want to disclose those.

**Mr BROGDEN:** At this stage.

**The Hon. ADAM SEARLE:** Okay, that is fine. In relation to the question I asked last time—I think, Minister, this does go to your core responsibilities with Landcom, and I would be interested in Mr Betts' take on this too because I think there might be a difference of opinion—the legislation for Landcom says that there shall be a board of seven members but, I think, Mr Brogden—we had a discussion—mostly there has been three directors in office.

**Mr BROGDEN:** There are four directors.

**The Hon. ADAM SEARLE:** Sometimes four or sometimes five. There are four now.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** On notice, you said that the constitution of Landcom provides that effectively three directors is sufficient to conduct the business. The constitution does not have the same status as the legislation. So the legislation says there shall be seven. I think we have agreed there has never been seven. The constitution says you can get away with three. Minister and Mr Betts, has the department taken legal advice about whether Landcom is properly legally governed by the right number of directors, given the multimillion-dollar transactions it has been engaging in as a stock?

**Mr ROB STOKES:** Can I provide a couple of observations in relation to that? Firstly, in relation to the issues concerning the board and governance, they are appropriately matters for the shareholding Ministers. So it is not advice I would seek. Certainly I would be interested in the answer.

**The Hon. ADAM SEARLE:** Are you not the Minister with custody of the legislation?

**Mr ROB STOKES:** Yes, it is in my administration of Acts but I do not have a role in relation to—I guess I could, technically, propose a member but it would have to be selected by the voting shareholders and I would get consulted. So I have a role more to be consulted once a nomination has been made but there is nothing to stop me suggesting that these could be some good people. We do have a challenge in relation to having people with the right skills to meet a skills matrix who are also not conflicted in New South Wales and also have appropriate knowledge of the property market in New South Wales. So that has always been a bit of a challenge in finding appropriately qualified people with the right expertise who do not have conflicts.

**The Hon. ADAM SEARLE:** Minister, so we understand each other, I am not saying there should be seven or whether three is okay.

**Mr ROB STOKES:** Whether it is legally constituted.

**The Hon. ADAM SEARLE:** I am simply saying the legislation says there shall be, so that is different to other legislation that says you can have a board of "up to". It says "there shall". That is pretty definitive. Can you see whether you have had legal advice about this?

**Mr ROB STOKES:** No, I have not. The observation you make is a good one and I think they are inquiries we should make and I am happy to give that undertaking to the Committee. The only disclaimer is whether that should be our department or whether it should be Treasury.

**The Hon. ADAM SEARLE:** I understand that but the constitution, I think, is permitted under the legislation but does not have the weight of legislation. My concern is—again, no reflection on any individuals—whether these multimillion-dollar transactions have been properly and lawfully signed off by the right number of directors. It is a pretty important issue. I am happy for you to come back.

**Mr ROB STOKES:** Of course. My instinct is it is probably an appropriate one for Treasury but we can sort that out.

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**The CHAIR:** Thank you, Minister.

**(Minister for Planning and Public Spaces withdrew.)**

**The Hon. ADAM SEARLE:** Professor, I noticed that last week you gave evidence to the ICAC inquiry into lobbying. I think it was on 22 October?

**Professor O'KANE:** It was certainly the Tuesday.

**The Hon. ADAM SEARLE:** Tuesday, yes. I understand you gave a fairly comprehensive overview about where the Independent Planning Commission came from.

**Professor O'KANE:** Yes.

**The Hon. ADAM SEARLE:** And I think, if I have understood your evidence correctly, in part it stems from a 2010 ICAC report about the then Planning and Assessment Commission, where it noted that a lot of decisions were being made at arms-length from the Minister but it recommended additional legal independence.

**Professor O'KANE:** That is my understanding, without a detailed knowledge of the history.

**The Hon. ADAM SEARLE:** At the moment your body, the Independent Planning Commission, makes decisions that are legally independent of government. Is that right?

**Professor O'KANE:** Yes. It makes independent—

**The Hon. ADAM SEARLE:** Again, Mr Betts, feel free to chime in if I have this wrong, but the 11.6 staff who I think you have supporting your operations, they are not staff of the commission, they are staff of the Department of Planning, Industry and Environment. Is that correct?

**Professor O'KANE:** They are, and I think the number might have varied a bit in recent times.

**The Hon. ADAM SEARLE:** Okay. What is your understanding of the number of staff at the secretariat in the IPC?

**Professor O'KANE:** Let me look it up for you. As of today there is 13 full-time equivalent but it has moved around in recent weeks, so the department has been kindly providing some extra help for us. But the proposed establishment is 12.6.

**The Hon. ADAM SEARLE:** I note in the answers to supplementary questions to the department and the Minister, that 0.6 of a staff member is a secondment from the Crown Solicitor's Office. Is that correct?

**Professor O'KANE:** That is correct.

**The Hon. ADAM SEARLE:** That is a correct assessment?

**Professor O'KANE:** Yes, that is correct, and there is, just started the other day, the Crown Solicitor's Office has also given us—I will need to take it on notice—I think it is 0.8 of a more junior legal person; a paralegal.

**The Hon. ADAM SEARLE:** Is that the full extent of the legal support that the commission has available to it?

**Professor O'KANE:** No. Of course, we have counsel assisting the commission. Ms Anna Summerhayes, who is here, is acting executive director of the secretariat at the moment and the senior person you referred to from the Crown Solicitor's Office is backing up in her role. But, of course, we seek legal advice on particular cases and on process from the private sector, particularly from barristers.

**The Hon. ADAM SEARLE:** The budget of the commission for 2018-19 was \$4.8 million, I think, from the budget papers, but the budget for this year, 2019-20, is \$4.7 million. Is that a—

**Professor O'KANE:** No, I have been advised that it is \$5.84 million.

**The Hon. ADAM SEARLE:** Current budget?

**Professor O'KANE:** The current budget. Because the Minister and Mr Betts—understanding we had a Treasury bid in that was not successful but the Minister felt we needed further help and Mr Betts arranged to get us more funding.

**The Hon. ADAM SEARLE:** That is good news. When did that occur?

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**Mr BETTS:** Ms O'Kane and I discussed it when it became clear around the middle of the year what the budget outcome was in relation to the proposal that the IPC had put forward through us to Treasury. I gave a commitment to Ms O'Kane at that point that we would fully fund the budgetary ask that the IPC had put forward.

**The Hon. ADAM SEARLE:** Is that in the budget papers or is it the 4.7 that is in the budget papers?

**Mr BETTS:** I probably should know the answer to that but I do not off the top of my head.

**The Hon. ADAM SEARLE:** For some reason I thought it was the 4.7. It looked like there had been about a \$100,000 cut to the budget in the budget papers.

**Mr BETTS:** No, I can assure you on oath that that is not the case.

**The Hon. ADAM SEARLE:** That is good news. There is now a review into the Independent Planning Commission—

**Professor O'KANE:** Yes.

**The Hon. ADAM SEARLE:** The first term of reference is whether there should be an independent planning body. Given the history of what led to the creation of the Planning and Assessment Commission and the controversy previously around part 3A, do you have a view about whether there should be an independent planning consent authority however it is constructed?

**Professor O'KANE:** I do not think it is appropriate for me. I think that is for Government.

**The Hon. ADAM SEARLE:** I will not press that. In relation to the budget enhancement and given the controversy over the Rix's mine extension where a period of nine days was assumed rather than seven days or vice versa—that was an administrative mishap—that happened in your previous budget year, is that correct, before the enhancements came through?

**Professor O'KANE:** No, it happened in this budget year but we were still bringing resources together after a major secretariat restructure that the department undertook, and that is still ongoing. There has also been certain misfortune with regard to the secretariat. The executive director is severely ill and another person died in childbirth. So it has been a very unstable period in the secretariat sphere.

**The Hon. ADAM SEARLE:** Is it fair to say that the Rix's mine extension—I will call it a mishap—was an administrative error that occurred at a time when resources had previously been very tight—

**Professor O'KANE:** Absolutely tight—

**The Hon. ADAM SEARLE:** But you had not been able to upskill.

**Professor O'KANE:** Yes, that is true.

**The Hon. ADAM SEARLE:** What steps have been taken since that occurred to guard against a recurrence?

**Professor O'KANE:** As I said, a few more staff have been provided but particularly looking at relatively simple processes like double-checking arrangements off check lists and also making sure decisions are held for a day or so before they are released—

**The Hon. ADAM SEARLE:** Have another look?

**Professor O'KANE:** Have another look.

**The Hon. ADAM SEARLE:** Fair enough. In relation to your budgeting—and Mr Betts I am happy for you to contribute—does the Minister approve the final budget allocation for the IPC before it is set down?

**Professor O'KANE:** I think that is a question for Mr Betts.

**Mr BETTS:** I am not sure actually.

**The Hon. ADAM SEARLE:** I am happy for you to take it on notice. It is not a trick question.

**Mr BETTS:** Yes. I think the Minister would approve the whole package of appropriations and the allocation of funding within the cluster rather than specifically funding for IPC. But I was very clear on the basis of the conversations that Ms O'Kane had had with both of us, with the Minister, that the department would find funding that was requested.

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**The Hon. ADAM SEARLE:** I think this occurred in previous supplementary questions that the Government did not separately fund the IPC to undertake additional and specific tasks that it had been directed to by Government. Is that a policy that you are considering changing, again given the very tight resources and the level to what I shall politely refer as scrutiny of the IPC's output?

**Mr BETTS:** Again I do not want to pre-empt the review that Mr Achterstraat is undertaking, and you will see from the terms of reference that resourcing within the IPC is very much within those terms of reference—

**The Hon. ADAM SEARLE:** I asked Mr Achterstraat about this yesterday in some detail.

**Mr BETTS:** My view is that the IPC is a critical part of the contemporary statutory planning framework in the State and without pre-empting the outcome of the review, where it is asked to undertake functions by Government or required under legislation then it should be appropriately resourced to do that. And that is my commitment in discussions with Ms O'Kane.

**The Hon. ADAM SEARLE:** Again I am not seeking to prejudge the outcome of the review but I note that the IPC has a very important legislative charter which is independent of Executive government but currently its staff are I guess your staff in the Department of Planning, Industry and Environment. How is that tension about those staff really being Executive government staff being managed in terms of—I am not saying this would be anyone's deliberate attempt but there is a lot of scrutiny, some criticism of the IPC, and yet people working there in terms of their career progression want to progress in the service. How are you guarding to protect those people from that issue in and around those tensions at the interface?

**Mr BETTS:** That is a very legitimate question and one which is caught by the terms of reference. My clear view is that where staff are working for the IPC they are working for Ms O'Kane and for the IPC and they are not under any form of direction from the department, and it would be entirely inappropriate if they were.

**The Hon. ADAM SEARLE:** Of course.

**Mr BETTS:** We have a memorandum of understanding which has recently been revamped and executed between ourselves and the IPC which affirms our commitment towards the independent operation of the IPC. But I think it is legitimate for us to let Peter Achterstraat look at the current arrangements and make recommendations to us if he thinks an alternative staffing or funding arrangement is appropriate and would lend even great solidity to the independence of the commission.

**The Hon. ADAM SEARLE:** Given that a review is underway, I will pause there. Mr Betts, in supplementary questions I asked you about the position of Dr Sarah Hill, who is one of your deputy secretaries and is also the Chief Executive of the Greater Sydney Commission, which is in the Premier's portfolio.

**Mr BETTS:** Yes.

**The Hon. ADAM SEARLE:** I assume you drafted the answers—

**Mr BETTS:** I would not make that assumption.

**The Hon. ADAM SEARLE:** Dr Hill is not employed by you; she does not report to you; is that correct?

**Mr BETTS:** Correct. Her employer is the Greater Sydney Commission, which sits within the cluster of the Department of Premier and Cabinet. When I became secretary I observed that there had been some tension between the department and the Greater Sydney Commission, and that was a matter of public record and was commonly observed. Yet I found that I had had an excellent working relationship with both organisations in my former capacity at Infrastructure NSW. I thought it would send a powerful signal culturally and otherwise across government if Ms Hill was brought onto our leadership team, not for the purposes of taking any direction from it but for the purposes of making sure that her expertise and perspectives could be built into the cultural reform of the planning system that Minister Stokes and I and Mr Ray and others are involved in.

**The Hon. ADAM SEARLE:** Unlike other deputy secretaries she is not answerable to you—

**Mr BETTS:** Correct.

**The Hon. ADAM SEARLE:** You are not her employer?

**Mr BETTS:** Correct.

**The Hon. ADAM SEARLE:** Mr Betts, regarding deputy secretaries, last time we talked about pay equity across the sector more generally and in relation to Department of Planning, Industry and Environment. For example, I asked whether the two male group deputy secretaries who were then sitting at the table were both paid

**UNCORRECTED**

more than the two female group deputy secretaries. Your answer was, shall we say, a little bit opaque. It was, in the broad, across the whole of the executive—

**Mr BETTS:** Can you point me to the reference?

**The Hon. ADAM SEARLE:** On page 51 I asked:

Again, I am not going to ask you for how much they are actually paid but can I ask you to take on notice whether the men at the table are being paid more than the women?

You said:

I am advised that across the department women at executive level earn marginally less than men on average and the department reiterates the secretary's commitment to addressing equality.

**Mr BETTS:** Yes.

**The Hon. ADAM SEARLE:** Again I ask a specific question. Are both of your male group deputy secretaries paid more than the both of your female group deputy secretaries?

**Mr BETTS:** I will provide you with that information on notice. I would be grateful if—

**The Hon. ADAM SEARLE:** I am not asking for the dollar figures; I do not want that.

**Mr BETTS:** I completely accept and appreciate that. However, given that the selection of witnesses is not necessarily reflective of the wider sample of the leadership team within the department and the broader span of deputy secretaries, I might also provide you with information about pay equity more broadly within that group of 12 members.

**The Hon. ADAM SEARLE:** I would be grateful. There is pay equity, of course, across your agency but there is the executive level and then I assume the group deputy secretaries have a slightly different status to other deputy secretaries in the organisation?

**Mr BETTS:** Yes. They have what we call within our terminology Band 3s reporting to them.

**The Hon. ADAM SEARLE:** I might have some other questions in that space but I will—

**Mr BETTS:** Sure. Without breaching the privacy of anybody's remuneration—

**The Hon. ADAM SEARLE:** I would not want you to do that.

**Mr BETTS:** —and I know you are not asking for that but I think it is extraordinarily important that there is public disclosure around gender pay equity. If you are not prepared to acknowledge it then you are not prepared to fix it.

**The Hon. ADAM SEARLE:** I make it very clear that I am not seeking to be critical. I am just seeking the information to provide a benchmark.

**Mr BETTS:** Absolutely. I am on the same side as you on this one.

**The Hon. ADAM SEARLE:** Indeed. Mr Brogden, last time we had a lighthearted discussion about whether there were security cameras in the MLC Centre office of Landcom.

**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** I think the answer was that there are. Can you tell us where they are located?

**Mr BROGDEN:** The answer was that I did not know.

**The Hon. ADAM SEARLE:** That is right, sorry. But on notice you have given the answer.

**Mr BROGDEN:** Yes. I can confirm that when you asked that question there were three cameras: one in the foyer and two in other places in the office.

**The Hon. ADAM SEARLE:** In the public spaces?

**Mr BROGDEN:** Workspaces, yes.

**The Hon. ADAM SEARLE:** When were they installed?

**Mr BROGDEN:** They were installed when we moved into the office some months ago. We became aware that we had not undertaken the correct procedure, which is to advise staff they were being installed, so—

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**The Hon. ADAM SEARLE:** You did that?

**Mr BROGDEN:** Sorry?

**The Hon. ADAM SEARLE:** You did inform staff?

**Mr BROGDEN:** Not initially. You will be pleased to know your question prompted us to realise that we had not done that appropriately, so we turned them off immediately and then undertook the process of advising staff. We have now turned them back on. The reason for them is because of the nature of that office, which is a city splashdown, for want of a better phrase. Nobody works there permanently. Some people will use it for two hours, for a whole day, for two days in a row. We do actually have situations where there are one, two, three or four staff, a small number of staff in the office. For security reasons, we want them to be protected when there are very few people in the office.

**The Hon. ADAM SEARLE:** I think your evidence was in moving to, I think the current parlance is an agile workplace.

**Mr BROGDEN:** I have never used that.

**The Hon. ADAM SEARLE:** No. I think what that means is you do not have a desk, or a permanent desk.

**Mr BROGDEN:** A permanent desk, that is correct.

**The Hon. ADAM SEARLE:** I think it was your evidence that usually there are about 25 to 30 people working there but there could be less.

**Mr BROGDEN:** No, not usually. There are about 14 work desks, as such. There are two little pods. There are three meeting rooms.

**The Hon. ADAM SEARLE:** Were the cameras there when Landcom moved into that office or did someone in Landcom make the decision to have the cameras installed?

**Mr BROGDEN:** The latter. It was a complete refurbishment.

**The Hon. ADAM SEARLE:** Whose decision was it to install the cameras?

**Mr BROGDEN:** It would have been our facilities staff.

**The Hon. ADAM SEARLE:** What happened to the vision that was recorded? Where was it kept? Who had access to it? How long was it kept?

**Mr BROGDEN:** I do not know but I will find out for you and come back to you.

**The Hon. ADAM SEARLE:** I think it was your evidence just earlier that staff had not been consulted initially, but in relation to it being raised that has now happened?

**Mr BROGDEN:** Yes. We shut it down straight away. Your questioning alerted us to that. Then we went through the consultation process and have subsequently turned them back on. I will just confirm, they are in the reception, in the office space and in the hallway between the reception and the office space.

**The Hon. ADAM SEARLE:** And you are now comfortable that Landcom is meeting all its obligations under the workplace surveillance legislation?

**Mr BROGDEN:** I am.

**The Hon. ADAM SEARLE:** In relation to the issue of pay equity that I was discussing with Mr Betts, have you done any analysis of the pay equity generally in Landcom and more particularly at the senior employment level?

**Mr BROGDEN:** You raised this last time and you might recall that I indicated that we had actually just had a subcommittee meeting of the board, the People, Culture and Nominations Committee meeting of the board. That committee had asked us to undertake that work. We are undertaking that work. You will find our annual report also indicates of the executive by gender within pay scales.

**The Hon. ADAM SEARLE:** I will have a close read of that.

**Mr BROGDEN:** Yes. It also compares year on year.

**The Hon. ADAM SEARLE:** Returning to the issue of the Werman report—

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**Mr BROGDEN:** Yes.

**The Hon. ADAM SEARLE:** I think last time you said that Mr Pratt did not give you a copy and you did not have a copy.

**Mr BROGDEN:** Correct.

**The Hon. ADAM SEARLE:** Or to put it another way, he said he was not going to give anybody a copy.

**Mr BROGDEN:** Yes. They were the words he used with me.

**The Hon. ADAM SEARLE:** But even at that time you had produced a copy to the Legislative Council, which I think through your supplementary questions you said Ms Lee had provided to you, that she had them. Is that correct?

**Mr BROGDEN:** The Secretary of Treasury had a report. He indicated he had maintained privilege and given nobody a copy, myself and the chair included. Because we had started the investigation process at Landcom, our then general secretary, Ms Lee, continued the process working with Treasury and with the law firm that we engaged, Minter Ellison. Ms Lee had a copy of the report over which she maintained privilege and she did not release that, as with Mr Pratt, to anyone else in the organisation. When we received your Standing Order 52 request through the Legislative Council we replied to that and its request for whether a series of bodies, including us, had a series of documents. We did have that document and we provided it.

At the time we provided it to you—and as you will recall, we provided it as a privileged document; you subsequently challenged that successfully—it was still privileged to the Secretary of Treasury and to our general counsel. At the time of the last estimates I had not seen the report, nor had Ms Jones nor had any other staff beyond that small group—well, our staff beyond that one person.

**The Hon. ADAM SEARLE:** Okay. We will put a pin in that and come back to it.

**The CHAIR:** I have some questions going back to the issue of koalas and draft koala plans of management. I am curious as to what the process is internally in relation to approving those draft koala plans of management.

**Mr BETTS:** I might ask Mr Ray to comment.

**Mr RAY:** The process is that they are assessed by the department. That includes people from NSW Environment, Energy and Science [EES], the former Office of Environment and Heritage [OEH]. They are assessed to see whether they meet the required standards and—

**The CHAIR:** Maybe talk me through it in a little bit more detail. You have a draft koala plan of management, it comes into the department. Where does it go—which section of the department? We have just heard so much about delays so I am just trying to get a sense of what the internal process is.

**Mr RAY:** If I might answer it in this way. In relation to the draft koala plans of management that are yet to be approved, which I think is the main question of delay, the issue there is that the definitions of core koala habitat and the tree species in which koalas are found need to be updated. At the moment the SEPP 44 does not align with the latest information from the former OEH, NSW Environment, Energy and Science. There has been an examination within the department, with the planning part of the department and the environment part of the department working closely together to make those assessments. It has been identified for some time that SEPP 44 needs to be updated, so the list of feed trees which now, provided with the best science, are where koalas are likely to be found or could be found. That is the SEPP amendment that the Minister has committed to having made before the end of the year.

**The CHAIR:** So the number of koala feed trees has changed and that has now been agreed to between the planning department and EES?

**Mr RAY:** Yes. So in the recently published koala database there is now a list of feed trees broken up into seven or eight regions of—

**The CHAIR:** Do you know how many feed trees in total?

**Mr RAY:** I would have to take that on notice. There are quite a number of feed trees and they vary in likelihood and probability depending on the region.

**The CHAIR:** If the delay was because the feed trees were being updated, if you like, in terms of SEPP 44, what were the reasons then that the planning department asked Campbelltown City Council to revise its

**UNCORRECTED**

draft koala plan of management last year? I understand it was based on koala feed trees. But if you are telling me now that the delay was because there was uncertainty, why would the department have asked the council to change it, considering theirs was based on the best available science and the more current available science?

**Mr RAY:** I would have to take that on notice. But I can offer a few comments about the process.

**The CHAIR:** You are aware of the draft koala plan of management for Campbelltown City Council, I am assuming?

**Mr RAY:** I am aware that they lodged a draft plan of management and there have been discussions between the department and Campbelltown City Council.

**The CHAIR:** Have you had any involvement in that particular draft koala plan of management personally?

**Mr RAY:** No, I have not. But what I can say is as scientific knowledge has improved over a period there have been a series of updates, if you like, to the list of koala feed trees. It is not just that the recent koala database is the only update. There have been a series of updates.

**The CHAIR:** Thank you, I am aware of that because that was similar to your previous answer. Are you inferring then that the department suggested to Campbelltown City Council to update their draft koala plan of management because the feed trees were not—was it based on the old SEPP 44 feed trees?

**Mr RAY:** For accuracy I would have to take that on notice. I do not have that information in front of me.

**The CHAIR:** Your response before was that the koala plans of management have been delayed because of this change in relation to koala feed trees and SEPP 44. A different question but similar: How then has the department been able to approve individual koala plans of management? I understand there are something like 40 koala habitat assessments, including 12 individual koala plans of management for Campbelltown City Council, and that they require the concurrence of the planning department. What feed trees are used in determining and giving all of those individual koala habitat assessments concurrence then?

**Mr RAY:** There are two processes. There are processes that can be based on individual applications, and there is a process that is based on a local government area-wide, or areas within an LGA-wide, which is the koala plan of management process. I do not have the particular details of the individual matters that have been approved in Campbelltown. What I can say is doing the koala plan of management is about the identification of the feed trees.

**The CHAIR:** Are the individual koala habitat assessments also assessed against koala feed trees as well?

**Mr RAY:** Well, yes, but also more detailed information in relation to actual surveys of whether koalas have been found. The koala plan of management is an overarching database, if you like, and a regulatory instrument and then more work has to flow with individual applications. There would be more detailed work individually identifying the feed trees done on an individual basis, then moving to surveys and then decisions were made on the basis of more detailed information. That is my understanding of the process but I do not have the details here. I am happy to get them on notice—as to each of the particular cases of individual applications that were approved what that process was.

**The CHAIR:** In relation to the Cumberland Plain Conservation Plan, which I think the Minister referred to earlier, just to clarify, will the Campbelltown koala plan of management be taken into consideration? Is that being overlaid against the Cumberland Plain Conservation Plan? How do the two relate to each other?

**Mr RAY:** As to whether it will be replaced, I am not entirely sure about that.

**The CHAIR:** Not necessarily replaced but taken into consideration.

**Mr RAY:** They will be taken into account, yes. Because the work has been done—

**The CHAIR:** The work has been done on which ones?

**Mr RAY:** Obviously the koala plan of management has been prepared, so the information that is in that plan of management will be taken into account, or is being taken into account in the preparation of the draft strategy.

**The CHAIR:** What is the time frame for the Cumberland Plain Conservation Plan?

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**Mr RAY:** I think it is due to be out on exhibition early next year.

**The CHAIR:** Remind the Committee as well of the timetable for the SEPP 44?

**Mr RAY:** The Minister has asked us to ensure that he is able to make the SEPP 44 amendment before the end of the year, which will then allow those seven koala plans of management to be finalised in accordance with the new provisions of the SEPP.

**The Hon. PENNY SHARPE:** That is good, but in terms of the actual finalisation of those seven, the SEPP allows them to be finalised but it does not mean that they will be finalised by the end of the year, does it?

**Mr RAY:** No, they will not be finalised by the end of this year. It is unlikely that they will be finalised but obviously they will be processed as quickly as we can process them, assess them, afterwards. We know what the issues are.

**The Hon. PENNY SHARPE:** As you know, they have been sitting there for a while.

**Mr RAY:** Yes, sure.

**The Hon. PENNY SHARPE:** Do you know how long it will take for them to be assessed?

**Mr RAY:** No. I can get an answer for you on that.

**The Hon. PENNY SHARPE:** You can come back to us?

**Mr RAY:** Yes.

**The Hon. MARK PEARSON:** It has been pointed out that koalas are dying while this is all going on. I think that is part of the frustration from the communities, the koala protection groups and the Committee. Is there any attempt in the assessment of the koala management plans to ascertain as to whether there are any situations where the animals are in crisis and therefore urgent work needs to be implemented now rather than waiting for the plans to be overall approved? Is it not possible or are there any strategies in place to identify crisis aspects of what is going on here and having that work put in place, for example the roadkills, and addressing those issues first and then looking at the other?

**Mr RAY:** The announcement of the Koala Strategy last year, which involved \$44 million of government funding to a number of initiatives, included the construction of nine kilometres of fencing along Picton Road and also protection of 7,000 hectares of koala habitat. So, yes, measures are being taken now and not waiting on the koala plan of management. Koala plans of management relate to individual development application decisions but the Government has through the Koala Strategy committed to a range of matters to protect koalas.

**The Hon. MARK PEARSON:** Is there a time frame that we have for the implementation of those strategies?

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

**The Hon. JOHN GRAHAM:** Mr Betts, I turn to the questions that I was keen to ask the agency about this lease in The Rocks.

**Mr BETTS:** Sure.

**The Hon. JOHN GRAHAM:** I ask firstly about where we left things at the first estimates hearings. I raised my concerns about the document, that it did not appear to be provided in a return to the Independent Commission Against Corruption. I thank you for investigating that. It now has been supplied.

**Mr BETTS:** I think it was supplied on the day or shortly after.

**Ms FRAME:** On the day.

**The Hon. JOHN GRAHAM:** I appreciate that. I ask firstly about that document, which is dated 29 April 2013. The reason it attracted my concern was it identifies Tim Andrews as being in the negotiations for the lease in relation to this property. He was subsequently employed by the Government. It does not equivocate. It states "the team that will be actively engaged" and six individuals are named. This is one of the individuals. Can you tell us what is the agency's view about this and how this relates to the broader set of questions here?

**Mr BETTS:** I am going to ask Ms Frame to respond to that.

**Ms FRAME:** Certainly I can respond. Thank you. The document you refer to suggests that Mr Andrews may be involved, or is one of the people who might be involved. To the best of our knowledge, and we have

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interrogated all the records that we have found thus far, we can find no evidence that Mr Andrews was involved for Tallawoladah in any way. You would need to discuss that with Tallawoladah but my understanding is that Tallawoladah has also confirmed that he was not involved. There was a document that says he may be, but to the best of our investigations—obviously I have only been in this role for six months.

**The Hon. JOHN GRAHAM:** Understood.

**Ms FRAME:** But the investigations that I have presided over have uncovered no evidence that he was involved for Tallawoladah.

**The Hon. JOHN GRAHAM:** I accept that you are putting the position that he never turned up. I understand that position. I do not accept that this document says he may be involved. It is very explicit. It talks about the team that will be actively engaged and names the six individuals. So I accept the evidence that you are giving in the second instance—

**Ms FRAME:** That that did not eventuate.

**The Hon. JOHN GRAHAM:** Yes. I understand that that is the position. Essentially you are relying on the information supplied by two Government employees at the time close to the negotiations?

**Ms FRAME:** That is my understanding, yes. We have spoken to employees who were there at the time, one of whom I am aware of, has offered to sign a statutory declaration attesting to his involvement in the process and confirming what he knows and what he saw to be the case, which was that Mr Andrews was not involved for Tallawoladah in any of those negotiations.

**The Hon. JOHN GRAHAM:** Thank you. I want to turn now to the information that was supplied in response to the initial queries from the commission. That says, in part, that Mr Tim Andrews was also appointed as a leasing agent for Tallawoladah Pty Limited in mid-2015. When did that occur?

**Ms FRAME:** I am sorry, I do not have that information. The information I have is the same as what you have received under Standing Order 52, which confirms that he notified of commencing as a leasing agent with Tallawoladah—

**The Hon. JOHN GRAHAM:** The developer.

**Ms FRAME:** —in 2015, and entered into a management plan. We have records of a management plan that has also been provided.

**The Hon. JOHN GRAHAM:** Why was that months later? That happened on 18 August of that year. Why was that months later?

**Ms FRAME:** It was potentially six weeks later, or whatever that time frame was. It was six weeks to two months. I cannot confirm, on the records that we have available to us, why that conflict of interest plan was formalised in August 2015. It may be that it was in a draft form. I am sorry, I do not have any more information.

**The Hon. JOHN GRAHAM:** It is not six weeks. You cannot tell me how long because you do not know when, in mid-2015, he commenced. Presuming it was April, we get to 18 August. So it is certainly longer than six weeks. It is more likely to be 3½ months.

**Ms FRAME:** I have just been given some more detailed information that says that in July 2015 an extension to Tim Andrews' contract was negotiated for the period 1 July 2015 to 30 June 2016. The conflict management plan was signed in August 2015.

**The Hon. JOHN GRAHAM:** Okay, but he was previously an employee before 1 July 2015.

**Ms FRAME:** That is correct, from December 2014.

**The Hon. JOHN GRAHAM:** Yes. So from December 2014 until August 2015 there is no conflict of interest management plan?

**Ms FRAME:** When he commenced with Sydney Harbour Foreshore Authority [SHFA] he was required, as a leasing agent, to abide by the code of business ethics of the Department of Finance, Services and Innovation, which was the department at the time. He signed that and indicated he would comply with it. That includes obligations ethically to declare any actual, perceived or potential conflicts of interest as soon as such matters arise. So we have a record—

**The Hon. JOHN GRAHAM:** And that did not happen?

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**Ms FRAME:** No, that did happen. We have records that that happened.

**The Hon. JOHN GRAHAM:** Yes.

**Ms FRAME:** Then the next record, as you know, is the August conflict of interest management plan.

**The Hon. JOHN GRAHAM:** When was the conflict declared?

**Ms FRAME:** In August 2015 the conflict management plan was—

**The Hon. JOHN GRAHAM:** When was the conflict declared?

**Ms FRAME:** I do not have that information.

**The Hon. JOHN GRAHAM:** Could you take that on notice.

**Ms FRAME:** I would assume it was immediately prior to the conflict management plan being put in place, but I can take that on notice.

**The Hon. JOHN GRAHAM:** So there is this period between December and 18 August where a conflict exists but has not been declared?

**Ms FRAME:** We do not know whether a conflict existed. Based on our records we do not know whether there was any conflict—

**The Hon. JOHN GRAHAM:** I do not accept that. On the information you have provided you cannot tell me how long it existed for, but you know it existed, and you know it existed prior to 18 August.

**Ms FRAME:** Actually, I do not know, because it could be that he commenced with Tallawoladah at the time that the conflict of interest plan was put in place.

**The Hon. JOHN GRAHAM:** I would accept that except that it is not what the agency has told the Independent Commission Against Corruption. The advice is that he was appointed in mid-2015 and it was not until later that this conflict of interest management plan came into place.

**Ms FRAME:** As I said, he was reappointed from 1 July, and the conflict of interest management plan was formalised in August. I do not have any more records available to affirm whether there was a conflict that existed in the six months prior. As I said, he did sign a document, when he commenced with SHFA, that he would make SHFA aware of any conflict—

**The Hon. JOHN GRAHAM:** Yes, understood.

**Ms FRAME:** —and that conflict management plan was put in place in August 2015.

**The Hon. JOHN GRAHAM:** How much is this 55-year lease deal worth to the public?

**Ms FRAME:** I can give you some figures about the value of the lease and also some more detail on the figures Minister Stokes provided about the investment to date.

**The Hon. JOHN GRAHAM:** Yes.

**Ms FRAME:** At the time of the practical completion of the structural repairs and the heritage restoration works in March this year, Tallawoladah had spent \$41 million on construction at Campbell's Stores building. That amount has been independently certified earlier this year. They have commenced paying, on the commencement of the lease, an annual rent of \$1.15 million indexed at 2.75 per cent annually. They also pay an annual licence fee for outdoor seating of \$252,000 with another 2.74 per cent indexation, and an annual capital works contribution of \$272,000, again with the 2.75 per cent indexation.

**The Hon. JOHN GRAHAM:** Understood. So when you add all that up how much is this deal worth to the public?

**Ms FRAME:** This is the value that the public has received to date in these figures.

**The Hon. JOHN GRAHAM:** Yes. Over the course of the 55-year lease, what is the value of those things, taking into account indexation?

**Ms FRAME:** The value to Tallawoladah or the value to the public?

**The Hon. JOHN GRAHAM:** The value to the public.

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**Ms FRAME:** The value to the public will be the rent payments, the investment to date and all the payments that I have just outlined that will be indexed annually. The value obviously is that the—

**The Hon. JOHN GRAHAM:** What is the total value?

**Ms FRAME:** I do not have it. I would have to aggregate that for you.

**The Hon. JOHN GRAHAM:** On notice. I would be very happy with that. What is the deal worth to the developer over the course of the lease? What information can you provide us about that?

**Ms FRAME:** I cannot provide any information on that because I do not know what sub-lessees they may put in place going into the future. Obviously the value to Tallawoladah of the lease will depend on their successful leasing of the premises.

**The Hon. JOHN GRAHAM:** This was modelled, was it not, as you went through deciding on whether to issue a lease?

**Ms FRAME:** The arrangement was entered into on the assessment of the value to the New South Wales Government and taxpayer. As you know, it was a process that was commenced in the global financial crisis when there was a decision by the then Government to contemplate the opportunity for direct capital contributions to upgrades of buildings. That was the funds that they did not have available at the time. So it was assessed according to the criteria for that program and the negotiations proceeded over the ensuing four or five years and culminated in the signature of the agreement for the lease and the lease in 2014.

**The Hon. JOHN GRAHAM:** Agreed.

**Ms FRAME:** There was a lot of scrutiny of that process throughout about meeting ICAC's guidelines for direct dealings and probity advisers and assurances that any deal entered into constituted value for money for the New South Wales taxpayer.

**The Hon. JOHN GRAHAM:** I understand. You would agree, though, that some of that advice to SHFA at the time recommended that this be not a direct deal, that it be sent out to tender. Do you agree that that was some advice?

**Ms FRAME:** I will have to take that on notice.

**The Hon. JOHN GRAHAM:** I am happy to supply the details of that.

**Mr BETTS:** It is all within the ICAC guidelines. We took independent advice at the time and the matter is before ICAC in terms of interpretation of the documents which have now been comprehensively provided by the department.

**The Hon. JOHN GRAHAM:** Thank you, Mr Betts, I appreciate that. What responsibilities under the head lease does the agency have to monitor what is going on with the leases? There has been some publicity recently about some of the dealings. What responsibilities sit with the agencies about making sure that is appropriate?

**Ms FRAME:** I can get you some information about the provisions of the lease and the obligations of Tallawoladah as the head lessee. Obviously, SHFA, or Place Management NSW, have the head lease with Tallawoladah and it is incumbent on Tallawoladah to negotiate with sub-lessees and potential sub-lessees.

**The Hon. JOHN GRAHAM:** Yes, I agree.

**Ms FRAME:** Place Management NSW do not have a direct relationship with sub-lessees.

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

**Ms FRAME:** It is only where there is evidence or a complaint lodged with us that would constitute a breach of the lease that Place Management have with Tallawoladah that there would be grounds for Place Management to intervene and become involved.

**The Hon. JOHN GRAHAM:** Has evidence been lodged with you or has a complaint been made?

**Ms FRAME:** No. There was one complaint I am aware of that occurred last year, before my time in this role. A complaint was made about the potential use of public land as part of a lease. I am not sure of the specifics but there was a meeting between the then CEO of Property NSW and the complainant. There was clarification provided and I understand no further action was required and it was not considered to constitute a breach.

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**The Hon. JOHN GRAHAM:** But you are aware of the recently publicised examples of high-profile restaurateurs claiming there was some misrepresentation in relation to sub-leases about outdoor seating. Those claims have aired publicly now. Are you aware of those?

**Ms FRAME:** Yes, we are aware.

**The Hon. JOHN GRAHAM:** But you have not received complaints yet in relation to them?

**Ms FRAME:** That is correct.

**The Hon. JOHN GRAHAM:** Have you investigated those at all or undertaken any inquiries as an agency?

**Ms FRAME:** As I have explained, we would investigate and follow up if an issue was raised with us by a potential sub-lessee directly.

**The Hon. JOHN GRAHAM:** They are public but they have not been raised with you, so nothing has happened at this point?

**Ms FRAME:** Nothing has happened at this point. Also we would need to determine whether the allegations would, in effect, constitute a breach of our lease and whether that had occurred.

**The Hon. JOHN GRAHAM:** Are there 40 outdoor seats available for sub-lease at this location?

**Ms FRAME:** I will have to take that on notice.

**The Hon. JOHN GRAHAM:** Why has the head lease not been lodged with the Land Titles Registry? It should have been done by now?

**Ms FRAME:** I have some information on that. It is pressing, it is imminent and will be lodged soon. There have been some issues with easements and some subdivision issues related to easements and ensuring public access.

**The Hon. JOHN GRAHAM:** What is the nature of that subdivision issue which has delayed this by about a year?

**Ms FRAME:** As I said, it is ascertaining easements. I will get the exact information for you. It is related to identifying where the easements are and ensuring that public access is maintained in the subdivision plans that will be lodged as part of the lease with the City of Sydney.

**The Hon. JOHN GRAHAM:** When will that head lease be lodged?

**Ms FRAME:** Lodged in six weeks.

**The Hon. JOHN GRAHAM:** Does the agency have concerns with what you are aware of publicly about the way some of these sub-lease issues have been dealt with?

**Ms FRAME:** We have had one issue raised late last year. That was responded to. There is nothing else at the moment that Place Management NSW are investigating.

**The Hon. JOHN GRAHAM:** Mr Betts and Ms Frame, I do have some further questions. My proposal would be, if you were comfortable with this, given the Minister's offer, I would be happy to seek those answers by way of an offline briefing. I do not particularly want to ask questions about the individuals concerned. If you are happy to agree with that, I would be content to pursue that in that forum.

**Mr BETTS:** We are always happy to provide you with briefings.

**The Hon. ADAM SEARLE:** Mr Betts, in the absence of the Minister, during budget estimates I asked the energy Minister a number of questions about planning approvals for renewable energy projects. I do not expect you to have the answers to this but in relation to 41 (b) and (c), the question was, "What was the consent authority for each project?" and "At what stages in the planning system are the other projects?" His response was, "That is a matter for the Minister for Planning and Public Spaces." I will provide you with the details through the supplementary questions process to get that detailed response.

**Mr BETTS:** Thank you.

**The Hon. ADAM SEARLE:** Mr Brogden, I asked you some questions about the financial liabilities of Landcom during the last budget estimates. At page 67 of your annual report the liabilities for 2017 were \$264 million but for 2018 were \$667 million, which was a significant increase. My question to you was what

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explained the difference. I think you referred to the financial notes on pages 84 and 85 of the report. I am not an expert in reading these but as I looked at the numbers they did not add up to explain the \$500 million difference in total. Can you lead me through the different matters that led to the increase in liabilities?

**Mr BROGDEN:** Not in detail but I am happy to go through them in response to you if you lodge it as a question on notice or we take it from here.

**The Hon. ADAM SEARLE:** Maybe I will seek a briefing from you offline. That might be a better way of doing it.

**Mr BROGDEN:** Yes, very happy to provide that.

**Mr BETTS:** Could I provide you at least a preliminary response to one of your earlier questions?

**The Hon. ADAM SEARLE:** Please.

**Mr BETTS:** I am advised that, on average, of the four Department of Primary Industry witnesses at the original estimates hearing the female executives are paid more than the male ones.

**The Hon. ADAM SEARLE:** Both of them?

**Mr BETTS:** I think that is both of them but I will clarify that on notice and I will provide the supplementary information that I promised.

**The Hon. ADAM SEARLE:** Thank you for that. Going back to the Independent Planning Commission—and again I will provide this in more detail in terms of supplementary questions—given what we now understand to be the budget position for the Independent Planning Commission, can you provide a detailed breakdown as to how that will be allocated in the current year, bearing in mind there is an element of uncertainty because of the review about staffing, salaries, legal expenses and the other breakdowns?

**Professor O'KANE:** I will have to take that on notice. The 5.8, it was only confirmed yesterday.

**The Hon. ADAM SEARLE:** I absolutely understand that.

**Mr BETTS:** I am also happy to tell you that 12,000 trees have been planted and registered since 18 October.

**The Hon. PENNY SHARPE:** I hope they are still alive.

**The Hon. ADAM SEARLE:** Was that 12,000 trees?

**Mr BETTS:** Yes, 12,000 trees since 18 October.

**The Hon. ADAM SEARLE:** In the last 10 days?

**Mr BETTS:** Yes, gangbusters.

**The Hon. ADAM SEARLE:** In terms of the process of the Werman report we were discussing earlier, Mr Brogden, you were saying that Ms Lee had custody of them—

**Mr BROGDEN:** And maintained privilege.

**The Hon. ADAM SEARLE:** Ms Lee, I want to confirm that is correct?

**Ms LEE:** That is correct.

**The Hon. ADAM SEARLE:** The draft reports and the final reports did not go to Mr Brogden or his office, they did not go to Ms Jones, they did not go to anybody else in Landcom other than you?

**Ms LEE:** That is correct. Nobody else in Landcom was given a copy of that report until it became public as a result of the parliamentary process.

**The Hon. ADAM SEARLE:** You have provided them to Mr Brogden in order that he could sign the letter to the Department of Premier and Cabinet and provide them to the Parliament?

**Mr BROGDEN:** No.

**Ms LEE:** No. Even at that time he was not provided a copy of it.

**The CHAIR:** The time for questions has concluded. In fact, this session has concluded. Thank you for attending the hearing. The Committee secretariat will be in touch in the near future regarding any questions on

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notice and supplementary questions, answers to which will be due in 21 days. Thank you very much for giving us your time today.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**